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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

Questions
Child Poverty Unit 547
UK Exports 550
Taqiyya and Al Hijra 552
Northern Ireland: Legacy Agreement 555
The Process for Triggering Article 50
Statement 556
High Speed Rail (London-West Midlands) Bill
Report 574
Bank of England and Financial Services (Consequential Amendments) Regulations 2017
Motion to Approve 630
Equality Act 2010 (Gender Pay Gap Information) Regulations 2017
Motion to Approve 633
Important Public Services (Border Security) Regulations 2017
Important Public Services (Education) Regulations 2017
Important Public Services (Fire) Regulations 2017
Important Public Services (Health) Regulations 2017
Important Public Services (Transport) Regulations 2017
Trade Union Act 2016 (Political Funds) (Transition Period) Regulations 2017
Motions to Approve 656

Grand Committee

National Policy for the Built Environment
Motion to Take Note ....GC 97

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

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House of Lords

Tuesday 24 January 2017

2.30 pm

Prayers—read by the Lord Bishop of Durham.

Child Poverty Unit
Question

2.36 pm

Asked by ***Baroness Lister of Burtersett***

To ask Her Majesty's Government why they have abolished the Child Poverty Unit which was sponsored by the Department for Work and Pensions, the Department for Education and HM Treasury.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Henley) (Con): My Lords, tackling child poverty and disadvantage is a priority for this Government, and we are convinced that there is a better approach than the one driven by the Child Poverty Act 2010 income-related targets. This is why we replaced them with statutory measures of parental worklessness and children's educational attainment—the two areas that can make the biggest difference to children's outcomes. We will build on these measures through our forthcoming Green Paper on social justice.

Baroness Lister of Burtersett (Lab): My Lords, that does not actually answer the Question. The abolition of the cross-departmental unit is widely seen as downgrading and weakening the government machinery dedicated to the eradication of child poverty. Could the Minister explain how the abolition of a cross-departmental unit co-sponsored by the Department for Education is consistent with the Government's own analysis of the root causes of poverty as partly lying in children's educational achievement? Surely their own approach, which rejects what they call a narrow income-based approach, strengthens rather than weakens the case for a cross-departmental unit.

Lord Henley: My Lords, I am terribly sorry to say this, but I think I did answer the Question directly. What was the purpose of the child poverty unit? Its purpose was to measure the income-related targets set up by the previous Government. Those targets were a waste of time and we got rid of them. We have now set up something better—the Social Mobility Commission secretariat, based in the Department for Education. As I said in my original Answer, the appropriate measure for these things should be parental worklessness—a responsibility of the Department for Work and Pensions—and children's educational attainment, and those are the two that we will look at.

Lord Bird (CB): Have the Government measured in any way the impact on people who fail at school and their relationship to child poverty? Are there any facts and figures so that we can chart whether the policies that the Minister is talking about actually work?

Lord Henley: My Lords, I cannot give the noble Lord the precise figures he asks for, but what I can say is that we have a secretariat based in the Department for Education looking at these matters, and that goes across the department. If there are any appropriate figures, I would be more than happy to send them to the noble Lord and set out just why, as I made clear in my original Answer, I think that this approach is better than the original measures of child poverty.

Lord Farmer (Con): My Lords, it is encouraging that the Government have committed to make and measure progress against the root causes of poverty—not only worklessness and educational failure, but also family breakdown, addiction and problem debt. Can the Minister inform this House what progress they have made in developing the additional measures and policies promised?

Lord Henley: My Lords, focusing these matters on the Social Mobility Commission secretariat is, I believe, the right way forward. As I also made clear in my original Answer, we will publish a social justice Green Paper shortly. I hope that that will set out what we hope to do, and we look forward to my noble friend's comments, and those of others, on it. I say again, as I said in my original Answer, that I believe the focus on worklessness and a child's educational attainment is the proper measure of these matters.

Baroness Corston (Lab): My Lords, the evidence shows that the last Labour Government lifted 1 million children out of poverty. That record is unarguable. The Resolution Foundation has estimated that in 2016 alone, 1 million more children, mostly from working households, have been forced into poverty. How on earth can any Government be proud of such a record, particularly one who say that they are in favour of those who are just about managing?

Lord Henley: My Lords, on the measures that the previous Labour Government set forward, we found that in a recession the number of children allegedly in poverty went down, and when incomes were rising, it went up. They were not measuring the right thing. On current measures, using households below average income surveys, we have seen 100,000 fewer children in relative low-income households and 300,000 fewer people in relative poverty. Those figures are before housing costs. We are making progress, and I made it clear in my original Answer that the original measures were not the right way forward and that the child poverty unit was not the right approach.

Lord Storey (LD): My Lords, the Minister surely agrees that no child should live in poverty. He might not have any figures but the Institute for Fiscal Studies estimates that we will see a 50% increase in child poverty in the UK. That is a shocking figure. Perhaps I could be helpful and turn to my area of responsibility: education. The pupil premium has been immensely successful in helping disadvantaged children. Would the Minister let us know, perhaps in writing, whether the electronic eligibility checking system has increased or decreased the number of children who have now been given the pupil premium? I realise that this is not his area.

Lord Henley: My Lords, the noble Lord asks me to write to him with those figures and I am more than happy to do as I do not have them in my brief.

Baroness Meacher (CB): My Lords, is the Minister aware that, according to the most recent survey, rent arrears are a serious problem for 85% of new universal credit claimants, which is, of course, a disaster for children in those families? What plans does he have to cut the six-week average waiting time for families to get their rent when they claim benefits, change the system of payment in arrears, particularly for rent, and enable tenants to have the rent element of universal credit paid direct to landlords to prevent these debts arising?

Lord Henley: My Lords, these matters were discussed at some length during the passage of the then Welfare Reform and Work Bill last year, and I do not want to rehearse all those arguments. However, I can assure the noble Baroness that some 90% of work benefits were paid on time. We accept that there can be problems with delays for some, and we will deal with that where appropriate. I do not believe it is right that we should start paying benefit direct to landlords. Just as people in work have to pay their rent to landlords, it is right that people on benefit should have the same opportunity.

The Lord Bishop of Durham: My Lords, I know the Minister will agree that no child chooses to live in poverty, so when a child is hungry or lives in poor housing, will the Minister and the Government recognise that these are our children, as a society, and that that means we must have good joined-up structures which tackle these issues? Does he also recognise that the abolition of the CPU does not hint at good joined-up structures?

Lord Henley: My Lords, I am very grateful to see the right reverend Prelate; in fact I am very grateful to see quite so many most reverend Primates and right reverend Prelates on this occasion. May I assure the right reverend Prelate that we are committed to tackling poverty? We accept that no child has a choice in this matter, but we also say that we have joined-up government on this matter. We have the Social Mobility Commission secretariat based in the Department for Education, which looks at these issues cross-party. We have a social reform Cabinet Committee, chaired by the Prime Minister, that includes all the other crucial members of the Cabinet. As the right reverend Prelate and the whole House will know, the Prime Minister herself has made clear her commitment to dealing with such matters.

Baroness Sherlock (Lab): My Lords, I have one very quick question. The Minister said that when the Government abolished our child poverty targets, they were going to replace them, the Prime Minister then said, with a life chances strategy. We finally discovered in December that it had died before it was even born, the debate of the noble Lord, Lord Farmer, notwithstanding. Now the Minister mentions a social justice Green Paper in the new year. Can he tell me two things: when will we get it and what is he going to do in the meantime about the scandal of child poverty in Britain?

Lord Henley: My Lords, as I made clear in all the answers I have given, we are making progress on child poverty. We are doing so by using the proper measures, unlike the measures put forward by the previous Government. The noble Baroness asked when we will have the Green Paper: shortly.

UK Exports

Question

2.45 pm

Asked by ***Baroness Quin***

To ask Her Majesty's Government what are their current priorities for the promotion of United Kingdom exports of goods and services.

Baroness Mobarik (Con): My Lords, our priority is to put government resources where they can have the greatest impact on UK businesses. The Department for International Trade runs 200 high-value campaigns across a range of markets and sectors. We have a proven framework for analysing where government interventions can add the most value for the benefit of the whole of the UK.

Baroness Quin (Lab): My Lords, surely it is right that, while we should seek to get a bigger share of new and expanding markets in the world, we also need to have an active export promotion strategy with regard to Europe. Will the Minister confirm that being in the single market is no barrier to trading elsewhere, as demonstrated by the fact that Germany exports four to five times as much to China, for example, as we do? Will she also confirm that, while we at present send just under half of our exports to Europe, in some parts of the country that percentage is much higher? In the north-east it is 58%. For our automotive and aerospace industries in particular, which are very heavily integrated in Europe, the European market is going to be vital.

Baroness Mobarik: The noble Baroness is absolutely right. I can reassure her that the Prime Minister has been clear: we seek a bold and ambitious free trade agreement with the European Union, covering tariff and barrier-free trade in goods and services, offering the fullest possible access to the single market for British companies. In relation to particular areas and sectors, since 2015 the Department for International Trade has carried out extra northern export missions and since 2016, Midlands missions. We have introduced teams to lead investments in the north and the Midlands. We are looking at a whole array of different measures to improve our exporting.

Lord Purvis of Tweed (LD): Both the noble Lord, Lord Bridges, and the noble Lord, Lord Price, have told committees of this House that the Government have been conducting an exercise to consider what the costs and burdens on British business would be in leaving the customs union. Now that the Government have their policy to leave the customs union, presumably that assessment has been concluded. Will they publish it so that Parliament is able to consider this before it is asked to vote to trigger Article 50?

Baroness Mobarik: I do not have the exact details, but we are looking at all the measures and all the issues moving forward.

Lord Naseby (Con): Is the Minister aware that her first Answer was deeply encouraging? However, are there not areas where further work needs to be done, particularly, for instance, in revamping the Queen's Award for Exports, which has not been looked at for decades, or in bringing together the chambers of commerce? Those chambers need to have some form of encouragement to go overseas, particularly in the two or three years ahead.

Baroness Mobarik: I assure my noble friend that the Department for International Trade has been engaging widely with individual businesses and trade associations since the referendum and will continue to do so. We are committed to fully understanding the views of stakeholders, limiting uncertainty and ensuring that we build a trading environment that works for everyone.

Lord Rooker (Lab): What percentage of companies in the UK that the Department for International Trade has been dealing with are owned outside the UK so that the key decisions are made in boardrooms outside this country?

Baroness Mobarik: I am afraid that I do not have the exact numbers but I will endeavour to write to the noble Lord with that information.

Viscount Waverley (CB): My Lords, are the Government sufficiently satisfied with the uptake by United Kingdom companies on the export finance facilities, and does the Minister believe that the offerings by government are sufficiently robust to act as a tool for post-Brexit export prowess?

Baroness Mobarik: The noble Lord asks a valid question. In the last year, UK Export Finance supported the highest number of UK exporters in a quarter of a century, 23% more than in the previous year. However, UKEF is not complacent. The doubling of its capacity announced by the Chancellor will enable even more UK businesses to export. UKEF's offering is a key component of the UK's success as a global trading nation.

Lord De Mauley (Con): My Lords—

Baroness Jones of Moulsecoomb (GP): My Lords—

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, there is time enough for two more questions. We can go first to my noble friend and then to the noble Baroness, Lady Jones.

Lord De Mauley: My Lords, services are particularly important to the United Kingdom's economy, but they by no means always play a prominent part in trade agreements. Can my noble friend assure me that the Government will make it a priority that our services will receive prominence in all trade negotiations?

Baroness Mobarik: I agree with my noble friend that services are an important part of our economy. However, we work in a whole range of different sectors and we have market sector priorities; for example, every year we consider which country sector combinations the Government can add most value to. Services are of course a huge part of that. We have to keep it in mind that the UK is the fifth-largest economy in the world. We have leading universities, low tax, low regulation, an economy fuelled by some of the most skilled workers, and the World Bank continues to rank the UK as the highest major economy for ease of doing business, which is one of the reasons so many firms, such as Snapchat, Rolls-Royce, and Nissan, are choosing to invest in the UK.

Baroness Jones of Moulsecoomb: My Lords, according to the Office for National Statistics, the exports for low-carbon businesses fell by £1 billion between 2014 and 2015. Can we assume that the Government have no interest in promoting such low-carbon businesses?

Baroness Mobarik: I can reassure the noble Baroness that we are promoting all parts of our economy.

Taqiyya and Al Hijra

Question

2.53 pm

Asked by ***Lord Pearson of Rannoch***

To ask Her Majesty's Government whether, as part of their strategy against Islamist terrorism, they will encourage United Kingdom Muslim leaders to re-examine the Muslim tenets of Taqiyya and Al Hijra.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, as I stated before Christmas, freedom of speech and religion are core values that make our country great. Britain is home to diverse communities, which are free to practise their religion in accordance with the law. The Government's strategy for tackling Islamist terrorism is firmly based on strengthening our partnership with communities, civil society groups and faith organisations across the country.

Lord Pearson of Rannoch (UKIP): My Lords, I thank the noble Baroness.

I am advised that Taqiyya allows Muslims living outside the Muslim world to be deceptive in their promotion of Islam and that Al Hijra encourages Muslims to emulate Muhammad's emigration from Mecca to Medina, which he then took over.

Do the Government agree with the most reverend Primate the Archbishop of Canterbury, who I am glad to see is in his place, who said recently that religious leaders must stand up and take responsibility for extremists who do things in the name of their religion; that in order to defeat terrorism, we need to understand the mind-set of those who perpetrate it; and that it is not helpful to go on claiming that ISIS has nothing to do with Islam?

[LORD PEARSON OF RANNOCH]
Is it not time we had an open, national debate about these matters, preferably led by our peaceful Muslim friends?

Baroness Williams of Trafford: I most certainly agree with the most reverend Primate, who speaks so much sense on so many things. I also agree that Daesh has nothing to do with Islam. As for the noble Lord's original Question, both Taqiyya and Al Hijra are very old terms in Islam. We can think of all sorts of terms in all sorts of religions that can seek to misrepresent those religions, and we must take that in context and not allow poisonous twisting of religion to disrupt our society.

Lord Lamont of Lerwick (Con): My Lords, is the noble Baroness aware that, according to the authorities that I have consulted, Taqiyya refers to the Prophet's flight from Mecca to Medina and is about concealing your own religious beliefs when confronted with the threat of persecution and death? Surely it would be as wrong to criticise Taqiyya as it would be to criticise Jews who concealed their identity in Nazi Germany, or Christians in Raqqa. Is there not a great danger that the remarks of the noble Lord, Lord Pearson, will be interpreted as meaning that Islam promotes deceit and lies, and is it not important that he should make clear that is not what he meant?

Baroness Williams of Trafford: I totally agree with my noble friend, and as he was asking that question I was thinking about Catholics during the Reformation and Jews during the Second World War. Sometimes religions have to preserve themselves not by denial but by concealment on pain of death.

Baroness Uddin (Non-Afl): My Lords—

Baroness Afshar (CB): My Lords—

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, it is the turn of the Cross-Benchers.

Baroness Afshar: My Lords, since the noble Lord is so familiar with the Koran, he will know that it is addressed directly to the believers, and that there are no intermediaries between the Koranic texts and the believers. It is also the case that many of the so-called Muslim terrorists have probably never read the Koran. What is important is not to define terrorism in terms of a faith, but rather to think about why some of the brightest and best young Muslims turn to terrorism, and look at the roots of despair that cause that.

Baroness Williams of Trafford: The noble Baroness is addressing her question to the noble Lord, Lord Pearson, but I hope I can answer it. We all know that terrorism and terrorist ideals have absolutely nothing to do with faith; they are used to stir up hatred against different faiths. In fact, some of the biggest victims of Daesh have been Muslims.

The Archbishop of York: My Lords—

Baroness Uddin: My Lords—

Earl Howe: My Lords, I think the House wishes to hear from the most reverend Primate the Archbishop of York.

The Archbishop of York: My Lords, first, would the Minister agree that the term Taqiyya came into being at a time of terrible persecution? It did not get invented because people did not want to be difficult or awkward. Of my friends who escaped Amin's torture, some left dressed as women. You would not say these Christians wanted simply to be deceptive; things have to be read in context. Secondly, the lecture by the most reverend Primate the Archbishop of Canterbury was a one-hour lecture in France; he is more than happy to repeat it if your Lordships' House wants.

Baroness Williams of Trafford: I am sure that this House would be very happy and more educated for hearing from the most reverend Primate the Archbishop of Canterbury. I thank the most reverend Primate the Archbishop of York for putting the whole thing into context. Fleeing persecution is not the same thing as denying your religion.

Lord Paddick (LD): My Lords, we should leave to one side what appear to me to be blatant attempts to stir up hatred against the Muslim community. Instead, I want to ask the Minister a question on what she said in her Answer about strengthening partnerships with communities. Do the Government agree with the Independent Reviewer of Terrorism Legislation, David Anderson QC, the Joint Committee on Human Rights and the Home Affairs Select Committee that there should be an independent review into the Government's Prevent strategy, and if not why not?

Baroness Williams of Trafford: The noble Lord will know that we regularly review Prevent. In fact, Prevent has been reviewed quite recently, and has been seen to help those who might be targeted by people who wish to put poisonous ideologies into their heads—in other words, the victims of these people—to turn their lives around.

Baroness Uddin: My Lords, given that the meaning of the two concepts has been well laid out before us by the noble Lord, Lord Lamont, and their relationship to one another, I wonder whether the intention of the Question is to put British Muslims on notice. Therefore, does the Minister accept that terrorism has no home in any religion and that, in his Question, the noble Lord, Lord Pearson, is either being naive or it is a wilful act of incitement to Islamophobic prejudice with the presumed intent to insult Islam?

Baroness Williams of Trafford: I do not know what is behind the noble Lord's Question. This is his second Question of the year and perhaps in a future debate he will explain. However, yes, terrorism and religion do not sit together. No religious text promotes terrorism, and terrorism just seeks to twist what our faith teaches us.

Northern Ireland: Legacy Agreement
Question

3.01 pm

Asked by ***Lord Robathan***

To ask Her Majesty's Government, further to the remarks by Lord Dunlop on 18 January (HL Deb, col 218) that the "current situation is unsatisfactory", what action they are taking to implement the legacy package of the Stormont House Agreement.

The Parliamentary Under-Secretary of State, Northern Ireland Office and Scotland Office (Lord Dunlop) (Con): My Lords, the current situation is unsatisfactory, focusing disproportionately on the 10% of deaths caused by the police and Armed Forces rather than on the 90% caused by terrorists. This Government are committed to implementing the legacy bodies proposed in the Stormont House agreement to ensure a balanced, proportionate and fair approach to addressing Northern Ireland's past. The Secretary of State has regularly met political parties, victims and their representatives on these issues, and will continue to do so ahead of taking the proposals to a public phase.

Lord Robathan (Con): My Lords, I am delighted with the response from my noble friend the Minister. Successive Governments, over several decades, sent soldiers, including myself, to Northern Ireland to protect the population from terrorism and violence, be they Catholic or Protestant. Now, some 40 years and more later, old soldiers are being dragged before courts, although there is no new evidence against them. Given the lack of devolved government at the moment, could not Her Majesty's Government impose the legacy package of the Stormont House agreement—after all, it has been agreed—leading to more proportionate legacy investigations? Secondly, in the particular case of Dennis Hutchins, which my noble friend may not wish to mention, he has been investigated on several occasions—the last time in 2013. He has been told that there is no case to answer, including by a previous Director of Public Prosecutions. Can the Minister perhaps explain how it can be that he is now being dragged before courts at the age of 75, when all his defence witnesses—former soldiers—have died?

Lord Dunlop: First, I recognise my noble friend's great experience of these matters, having himself served, as he said, in the Armed Forces in Northern Ireland and as a Minister in the Northern Ireland Office. We remain unstinting in our admiration and support for the police and the Armed Forces. We clearly want to build consensus on the way forward on how to deal with the past. I do not think that it would be right to impose. We want to build that consensus, and that is what we will focus on in the weeks ahead.

Lord McAvoy (Lab): My Lords, in dealing with the past, the Labour Party totally agrees with the Minister that there has to be a consensus. I have reluctantly come to the conclusion that, on balance, party contacts with Ministers during an election could prove too difficult. But the Secretary of State and his team should use the time, along with the Irish Government as guarantors, to prepare for a full reinstatement of Stormont. There is nothing more important than the restoration of Stormont so that the legacy issue can be carried forward with agreement. Does the Minister also agree that the Secretary of State should instigate proposals to facilitate this and be a driver in this process?

Lord Dunlop: Re-establishing a fully functioning Executive after the election is an absolute priority for the Government. As I have said in this House many times before, we will leave no stone unturned to achieve that. Dealing with legacy is absolutely one of those issues where we require fully functioning devolved institutions. We need to build on the discussions that the Secretary of State has already had with the political parties so that we can move forward as soon as we can after the election.

Lord Maginnis of Drumglass (Ind UU): My Lords, amid the political turmoil and lack of decorum in the Northern Ireland Assembly and among its politicians, will the Government ensure their full support for Secretary of State Brokenshire in his responsibility to prevent Barra McGrory being allowed to intimidate and threaten the press, hence hindering people like me by the supposedly confidential instructions he has issued from his office? I point out for the benefit of those who do not know that Barra McGrory is the Northern Ireland Director of Public Prosecutions, was a one-time adviser to Adams and McGuinness and was the person who advocated that IRA terrorists should not be prosecuted for historical crimes.

Lord Dunlop: The DPP is independent, and prosecutorial decisions are independently taken. I do not think it would be right for me to comment further.

The Process for Triggering Article 50
Statement

3.07 pm

The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con): My Lords, with the leave of the House I will now repeat a Statement made in the other place earlier today by my right honourable friend the Secretary of State for Exiting the European Union. The Statement is as follows.

"With permission, Mr Speaker, I will now make a Statement on the Government's response to today's judgment by the Supreme Court.

This Government are determined to deliver on the decision taken by the people of the United Kingdom in the referendum granted to them by this House to leave the European Union. So we will move swiftly to do just that. I can announce today that we will shortly introduce legislation allowing the Government to move ahead with invoking Article 50, which starts the formal process of withdrawing from the EU. We received the lengthy 96-page judgment just a few hours ago. Government lawyers are assessing it carefully.

But this will be a straightforward Bill. It is not about whether or not the UK should leave the EU. That decision has already been made by the people of

[LORD BRIDGES OF HEADLEY]
the United Kingdom. We will work with colleagues in both Houses to ensure that this Bill is passed in good time for us to invoke Article 50 by the end of March this year, as my right honourable friend the Prime Minister has set out. This timetable has already been supported by this House.

Let me now go through the issues step by step. The Government's priority following the European Union referendum has been to respect the outcome, as promised by both sides in the campaign, and to ensure that it is delivered in the interest of the whole country. This House voted by six to one to put the decision in the hands of the voters, and that Bill passed the other place unopposed. So there can be no going back. The point of no return was passed on 23 June.

The Government have also always been clear that we must leave by following the process set out in Article 50 of the Treaty on European Union. People want and expect us to get on with implementing the decision that was made.

Let me now turn more specifically to the process for invoking Article 50 and the issues that arise from today's Supreme Court judgment. The Government's view, which we argued in both the High Court and subsequently in the Supreme Court, was that it was constitutionally proper and lawful for the Government to begin to give effect to the decision of the people by the use of prerogative powers to invoke Article 50. Today the Supreme Court has agreed with the High Court's view that prerogative power alone is insufficient to give notice under Article 50, and that legislation is required in order to provide the necessary authorisation for this step.

In addition, the Supreme Court considered the roles of the devolved legislatures in the process of triggering Article 50. On this, the Supreme Court ruled:

> 'Relations with the EU and other foreign affairs matters are reserved to UK Government and parliament, not to the devolved institutions'.

The Supreme Court's summary goes on to say:

> 'The devolved legislatures do not have a veto on the UK's decision to withdraw from the EU'.

I will come back to our collaboration with the devolved Administrations later in this Statement.

The Government have been giving careful thought to the steps that we would need to take in the event of the Supreme Court upholding the High Court's view. First of all, let me be clear that we believe in and value the independence of our judiciary, the foundation on which our rule of law is built. So of course we will respect this judgment.

Secondly, as I have already made clear, this judgment does not change the fact that the UK will be leaving the EU, and it is our job to deliver on the instruction that the people of the UK have given us. Thirdly, we will within days introduce legislation to give the Government the legal power to trigger Article 50 and begin the formal process of withdrawal. It will be separate from the great repeal Bill that will be introduced later this year to repeal the European Communities Act 1972. This will be the most straightforward Bill possible to give effect to the decision of the people and respect the Supreme Court's judgment. The purpose of the Bill is simply to give the Government the power to invoke Article 50 and begin the process of leaving the EU. That is what the British people voted for, and that is what they would expect. Parliament will rightly scrutinise and debate this legislation. But I trust that no one will seek to make it a vehicle for attempts to thwart the will of the people, or to frustrate or delay the process of our exit from the EU.

Fourthly, our timetable for invoking Article 50 by the end of March still stands. That timetable has given valuable certainty to citizens and businesses in the UK and across Europe. It is understood by our European partners and provides a framework for planning the negotiation ahead. This House itself backed this timetable by a majority of 373 in December. So we look forward to working closely with colleagues in Parliament to ensure that legislation on Article 50 is passed in good time to allow us to invoke it by the end of March, as planned.

The Government's fifth and final principle for responding to this judgment is to continue to ensure that we deliver an exit that is in the best interests of the whole of the United Kingdom. The Supreme Court has ruled clearly in the Government's favour on the roles of the devolved legislatures in invoking Article 50. But while this provides welcome clarity, it in no way diminishes our commitment to work closely with the people and Administrations of Wales, Scotland and Northern Ireland as we move forward with our withdrawal from the European Union.

Let me conclude with a word on what today's judgment means for the United Kingdom, and the nature of our democracy. I know that this case, on an issue of such importance which arouses strong views on all sides, has not been without controversy. But the court was asked a question, a proper, thorough and independent process was gone through, and it has given its answer in law. We are a law-abiding nation: indeed, the United Kingdom is known the world over for the strength and independence of its legal system. We will build on this and our many other strengths as we leave the European Union. We will once again be a fully independent, sovereign country, free to make our own decisions.

The Prime Minister has already set out a comprehensive plan, including our core negotiating objectives. She has been clear that we want a new, positive and constructive partnership for the United Kingdom and the European Union—a partnership that would be good for the United Kingdom and good for the rest of Europe.

Today we are taking the necessary step to respect the Supreme Court's decision, by announcing a Bill. It will now be up to this Parliament to respect the decision it entrusted to the people of the United Kingdom—a decision they took on 23 June. I commend this Statement to the House".

3.15 pm

Baroness Hayter of Kentish Town (Lab): I thank the Minister for repeating the Statement. I thank also the Supreme Court judges for doing their constitutional job: as they made clear, not commenting on the wisdom or timing of Brexit, but on how UK law—our law—requires the Government to act.

So here we have it. The Government failed to make the referendum binding, leaving it advisory, which helped to fuel the uncertainty that has ended only today. Once we knew the outcome of the referendum, the Government failed to take the sensible route: to get Parliament, effectively, to ratify the outcome by agreeing to trigger Article 50. Then the Government failed to heed the High Court view that it was for Parliament, not Ministers, to take this step. So the Supreme Court has ruled—as we expected—that Parliament must authorise the Prime Minister to start the exit negotiations by invoking Article 50.

So we are today where we should have been on 24 June: with Parliament to take the decision, albeit with the Government determining the timetable. The court has ended the uncertainty over the process for triggering Article 50. However, there is still one large, outstanding matter—the remaining uncertainty. What is the plan? What is the framework which the Government intend should guide their negotiations on our relationship with the EU 27 post exit? What is the plan for how we leave and for our future trading and other relationships with the EU 27?

It is no good saying that the plan is a speech that the Prime Minister gave, not even in Parliament but to ambassadors at Lancaster House. That is not sufficient for Parliament—for this House, the Commons or indeed the Select Committee—to be able to scrutinise whether the Government's objectives are the right ones for the UK and whether their negotiations are achieving those objectives.

We need to know how the emerging post-Brexit relationship will promote jobs and the economy; how it will protect environmental, social and consumer rights; how it will ensure that all parts of our nation—rural areas as well as cities—will benefit; and how the Government will ensure that our trade with the EU—and beyond—can be free of tariff and non-tariff barriers.

This House needs to examine the Government's exit plan. Our EU Committees are doing splendid work on the detail of available options. We need to measure the Government against the evidence that they are producing on costs and benefits.

Today simply says how the exit process should be started. Will the Minister say when the Article 50 Bill will be published and whether it will include a plan for how we exit the EU? We will be watching the Government from now on, to ensure that they negotiate in the interests of all our people, and with the consent of this House and the other place.

Lord Newby (LD): My Lords, I thank the Minister for repeating the Statement.

We should at least be grateful for the clarity of today's ruling. This was, however, a completely unnecessary legal procedure. If the Government had brought forward shortly after the referendum the Bill which the court has now forced upon them, it would now be safely enacted and much time, effort and cost saved. It is a sign of the robustness of our constitutional arrangements that a private citizen can require the Government, against their will, to play by the rules, but it is greatly to the Government's discredit that this was ever necessary.

Now we have the Bill, I should make clear what the stance of these Benches will be. On 23 June, the British people did not vote for a particular version of Brexit, and the majority of people certainly did not support leaving the single market—a course on which the Government are now firmly set. We will therefore seek to amend the Bill to provide for a referendum to be held when we know the terms the Government have been able to negotiate. The Government may have a mandate to start Brexit negotiations; they certainly do not have a mandate to impose harsh Brexit terms on the country.

Can the Minister give us any further information about the planned timetable of the Bill through your Lordships' House? It will clearly not be possible to maintain the normal minimum intervals between stages of the Bill if we are to deal with it by the end of March. We understand that but can the Minister give an assurance that the Government will not attempt to ram the Bill through in a few days, as appears to be the case in the Commons?

The Government say that the timetable for invoking Article 50 by 31 March,

"has given valuable certainty to citizens and businesses in the UK and across Europe".

Can the Minister explain precisely what certainty has been given to the millions of EU citizens living in the UK, and those UK citizens living in the EU? The Government's Statement says that they will,

"work closely with the people and Administrations of Wales, Scotland and Northern Ireland as we move forward".

Can he tell the House exactly what form that commitment will take over the period between now and 31 March?

Finally, in view of the Government's reluctance to involve Parliament in triggering Article 50, can the Minister confirm that as the negotiations unfold the UK Parliament will, as has been promised, receive information on their content and progress to at least the same extent as the European Parliament will be informed about progress by the EU Commission?

Lord Bridges of Headley: I thank the noble Baroness and the noble Lord for their statements—that revealing statement, indeed, which I will come back to. Let me first pick up the noble Baroness's point about the process the Government have followed to date. It is clear, as I have repeated at this Dispatch Box and as my right honourable friend the Secretary of State has repeated at the Dispatch Box in the other place, that the Government believed in the use of the royal prerogative on this matter from 23 June. We made our case to the High Court and we believe that this is of considerable constitutional significance. It obviously has an impact on the triggering of Article 50, but goes beyond that. There was a point at which we believed that we needed to clarify this and have the certainty of the proper way forward. That is why we took the action that we did.

As regards the plan, last week my right honourable friend the Prime Minister set out our approach and answered in considerable depth and detail questions that a number of your Lordships and Members of the other place, including those on the Labour Benches, have legitimately been asking. We have set out our approach. Let me just set out what we have said because the issue here is one of outcomes, is it not? It is what we are intending to achieve in the negotiations.

[LORD BRIDGES OF HEADLEY]

For the avoidance of doubt, let me list for your Lordships what the Prime Minister said. She said that we will leave the single market. She set out our aims as regards customs arrangements. She said that we would no longer be a part of the CET and the CCP. She set out the type of free-trade agreement that we are after, and a broader partnership on issues such as justice and home affairs. She set out our wish for closer co-operation on international issues. She said that we wished no longer to be part of a European Court of Justice but recognise that most international agreements require some form of dispute recognition. She said that we aim to negotiate such an agreement within two years but that we want a smooth transition—an implementation phase, as many treaties have. She said—the noble Lord, Lord Newby, asked about this—that we wish to have a speedy resolution to the issue of EU UK nationals and that we would raise it as soon as we could. She said that we wish to take control of immigration, to protect workers' rights and to bring EU law into UK law, which we will do under the great repeal Bill. She said that we will maintain the common travel area with Ireland and that we will continue to co-operate with EU partners on science, research and development.

The Prime Minister set out in some depth and detail what is in our national interest; our overall approach to the key issues; what we intend to achieve, and what happens if we do not achieve it. The only answers we have not given fulfil the principle that I have set out from this Dispatch Box from day one: it must be in the Government's interests not to give away anything that could be in the national interest when it comes to the negotiations.

Regarding the reaction to the speech last week, let me remind your Lordships what our European partners have said. Have they said that they wish for more clarity? The German Chancellor said, "The Prime Minister has given us a clear impression of how the UK wants to move forward". The Belgian Prime Minister said, "The Prime Minister has clarified the future for her country". The Hungarian Foreign Minister welcomed the speech as "straightforward, open and clear". The Slovakian Prime Minister congratulated the Prime Minister for clarifying the position of the British Government: "It brings a clear signal about the direction the British Government want to take". That is the Government's position. That is how we set out the approach and this is the way we are going.

On what the noble Lord, Lord Newby, said, I know it has been his party's position for some time to have a second referendum. For those who wish to have certainty, there is nothing worse than having a second referendum at the end of this process. Secondly, I would gently point out to the noble Lord and to noble Lords around him that we in this House, as an unelected Chamber, need to tread with considerable care on this issue as we proceed.

The process of the Bill will be a matter for the usual channels, and I expect there will be a Business Statement in due course. There will indeed be room for scrutiny of the Bill and, on that note, I will sit down.

Baroness Goldie (Con): My Lords, the time for Back-Bench questions has been extended to 40 minutes. I invite your Lordships to observe the usual rotational sequence—or Buggins's turn, for want of a better phrase. Of course, the shorter the interventions, the more contributions there can be.

3.27 pm

Lord Lang of Monkton (Con): My Lords, your Lordships' Constitution Committee expressed the view that it would be constitutionally appropriate that Parliament should be consulted before the triggering of Article 50. We therefore welcome the outcome of the Supreme Court judgment, even though we might not have chosen the route whereby the Government approached it. I congratulate my right honourable friend the Lord Advocate for Scotland on winning the Supreme Court's unanimous rejection—including by two Scottish judges—of the Scottish Government's attempt to extend their powers into reserved matters, even though the risk of that was engendered by somewhat unwise wording in the Scotland Act 2016. Are there other implications for the Sewel convention in the future handling of Brexit?

Although I believe the Government were right and it was their duty to pursue the appeal to obtain clarity on the position of the royal prerogative overall, can my noble friend confirm that the royal prerogative is unaffected by the judgment, except in so far as it affects the triggering of Article 50?

Lord Bridges of Headley: I thank my noble friend for the work of his committee and take this opportunity to thank all the European Select Committees in this House and the other committees that are making such a valuable contribution in scrutinising Brexit. Long may this continue.

It is very useful that the ruling gave such clarity on the position of the devolved Administrations. It is a 96-page ruling. Our lawyers are studying it in depth and detail. I will not go further at this juncture about the royal prerogative; nor, likewise, about the Sewel convention.

Lord Ashdown of Norton-sub-Hamdon (LD): My Lords, would the Minister be kind enough to provide the House with the Government's best estimate of the percentage of people in Britain who voted for the hard Brexit chosen by the Prime Minister?

Lord Bridges of Headley: My Lords, I dispute that the Prime Minister has chosen what others label a hard Brexit. I know noble Lords on the Liberal Democrat Benches may disagree. The view of those on the Labour Benches in the other place, and certainly of the Government, is that we are negotiating a new partnership and a free trade agreement with our European partners. This approach is one that honours and respects the views of the British people, as set out in the referendum. They voted to leave the European Union. The noble Lord, Lord Ashdown, is shaking his head. I am very sorry but that is what we are going to do.

> "It is our duty as those who serve the public to make sure the country does the best it can with the decision they have taken. In. Out. When the British people have spoken you do what they command".

I very much hope that the noble Lord, Lord Ashdown, agrees with that because those were his own words on the night of the referendum.

Lord Hannay of Chiswick (CB): My Lords, I am most grateful to the Minister for repeating the Statement. When the Prime Minister spoke at Lancaster House, in a very welcome statement right at the end of her speech she said that both Houses would have an opportunity to pronounce on the outcome. Will the legislation that the Government bring forward encapsulate that undertaking in some form? Will the time available for both Houses to comment on the outcome be sufficient?

Lord Bridges of Headley: I believe we will have sufficient time. On the content of the Bill, I have to say to the noble Lord that good things come to those who wait.

Lord Kinnock (Lab): My Lords, is it not clear that one speech by the Prime Minister at Lancaster House—not even in Parliament—full of aims and intentions, does not constitute a coherent Brexit plan? It does not safeguard national well-being, nor does it begin to satisfy the requirements of parliamentary scrutiny. Will the Government now heed and implement the unanimous recommendation of the House of Commons Select Committee on Brexit in seeking a White Paper to put before both Houses of Parliament that will give proper detail to negotiating priorities and, crucially, specify how the Government's commitment to conclude a comprehensive free trade agreement can feasibly be fulfilled by the end of the two-year negotiation triggered by Article 50—in the Minister's own words—given that Article 218 of the treaty on the functioning of the European Union will require the assent of 27 member states, 37 regional and national parliaments and the European Parliament?

Lord Bridges of Headley: The noble Lord speaks with considerable experience of the EU, and I absolutely heed that. I have little to add to what I said a moment ago about the plan. The noble Lord raised a number of points in his question. With regard to the timeframe, we are approaching this from a unique position. We have been a member of the EU for over 40 years and, as such, many of its laws and regulations are deeply embedded in our way of life. Therefore, unlike other member states that have negotiated agreements with the EU, we are starting from a position not just of convergence but of being completely identical to the EU. This puts us in a great position for getting to a position where we can reach such an agreement, which I believe is in the interests of our country and the EU.

On safeguarding the prosperity of this country, the position that the Prime Minister set out in her lengthy speech last week will do just that. It will be a matter for negotiation but we are seeking to achieve the freest and most frictionless access to European markets, which I believe is something that the Labour Party also agrees with, which is extremely welcome.

Lord Howell of Guildford (Con): Will my noble friend accept that I welcome this Statement and this procedure—although, frankly, it would have been rather better if it had been earlier, and indeed it would have been a lot less expensive? But that is by the way.

I ask him to answer two questions arising. First, can he confirm that HMG can now get on with discussing free trade arrangements and similar trade-smoothing arrangements with all the large markets of the world, regardless of any rulings that may come from Brussels about limitations on doing so? Can we get on with that informally? Secondly, when it comes to objectives, is not the point that we cannot possibly set our final objectives in stone when there are so many doubts about what the rest of the EU really wants? As the noble Lord, Lord Kinnock, has just reminded us, there are many voices. If we do not know what they really want from the system, how could it be right to set our own objectives firmly in stone in advance?

Lord Bridges of Headley: I start by thanking my noble friend for his advice and wisdom in many fora. He says lawyers are expensive. Yes, some lawyers are expensive, as a number of your Lordships will know. As regards free trade agreements, the key word he used was "informally". We are bound by the duty of sincere co-operation, which means that at this juncture we should not be entering into formal negotiations with non-EU states. It is absolutely right that we continue to honour the spirit and the letter of that because we have said all along—and we shall continue to abide by this—that we wish to negotiate in good faith with our European partners.

As regards the objectives, clearly we have set out our overall aims. The Prime Minister did so last week. There will be a matter of negotiation and it will be a matter of negotiation among our European partners. As with any negotiation, we shall see what emerges from that.

Lord Wigley (PC): My Lords, is the Minister, in referring to the commitment of the Government to work closely with the devolved Administrations, aware of the opportunity arising from the White Paper published yesterday morning here in London by the First Minister of Wales, Carwyn Jones, with support from Plaid Cymru and the Liberal Democrats, based on the possibility of a single market linkage scheme? This might well meet the difficulties being faced in both Scotland and Northern Ireland. Will he give a firm assurance that the details of these proposals will be considered carefully?

Lord Bridges of Headley: I thank the noble Lord for that. It gives me a good opportunity to say yes, absolutely. If he would like to meet me to discuss it I should be happy to do so. The proposals issued by the Scottish Government are also being given careful consideration. We shall continue to co-operate and consult with representatives of the Northern Ireland Assembly and the devolved Administrations in Scotland and Wales. As I said last week, despite events in Northern Ireland, we shall ensure that the views of the Northern Irish politicians and their representatives are properly heeded.

Lord Harries of Pentregarth (CB): A strong theme running through the Statement is that the British people have given an instruction that must be acted on. Indeed, the Minister himself has just talked about a command that must be obeyed. How does this square with the Burkean understanding of our representative democracy whereby Members of Parliament are elected not to carry out the commands of people but to use their best judgment for the well-being of the United Kingdom as a whole?

Lord Bridges of Headley: I thank the noble and right reverend Lord for that contribution. I would be happy to have a long debate about the role of referenda in our constitution. We had such a debate when the referendum Bill was passing through this House and the other place. As I said in the Statement, it was a choice that the representatives of the people made to give this choice to the British people. We could start pinging quotations from Burke between us. I could quote back to him from what I seem to remember was a 1911 lecture by Dicey in which he said that the role of referenda trumped the role of party and extolled its virtues, but maybe we could leave that for another day.

Lord Wallace of Saltaire (LD): The leave campaign spent a lot of time emphasising the importance of parliamentary sovereignty. We fought a civil war 360 years ago about parliamentary sovereignty versus the royal prerogative and, as the Government know, the parliamentary side won. We fought two wars in the 20th century during which Parliament went on sitting and scrutinising the Government and debating government policy in the way they conducted the war. We defended parliamentary democracy. I do not see how this Government can say that they cannot fully engage Parliament and inform Parliament on something that is not as dreadful as a war but has major implications for the economy, the political system, the foreign policy and the security of this country to carry Parliament with them, because we are a parliamentary democracy.

Lord Bridges of Headley: I heed some of the points that the noble Lord is making, but I simply point out the process that was gone through. There was a general election in which the Conservative Party promised to hold a referendum. Then this House and the other place passed the legislation to give that choice to the British people. The British people then made the decision. Now we will have a series of votes: one on the triggering of Article 50; another on the great repeal Bill to repeal the ECA; others will follow on both secondary and primary legislation—I suspect that we will be here for a number of hours debating those, to say the least. After that, at the end of the process, as the noble Lord, Lord Hannay, said, there will be a vote on the treaty.

That is how we will continue to engage Parliament. It is a substantial process. Let me repeat a point that my right honourable friend the Secretary of State for Exiting the European Union has made many times. It would be completely unacceptable for the European Parliament to get more information than this House and the other place. Therefore, we will endeavour to ensure that this House gets as much information as the European Parliament.

Lord Cormack (Con): My Lords, I am sure that we are reassured by those last comments, but does my noble friend accept that those of us who were disappointed by the result of the advisory referendum nevertheless accept that the constitutional position of this House is inferior to that of the elected House, and that it is therefore important that we do not take action in this House that seeks to frustrate the will of the elected House?

Lord Bridges of Headley: I thank my noble friend for those very wise words. I heed them and very much welcome the statement that the noble Baroness, Lady Smith, made some time ago that the Labour Benches do not seek to block the triggering of Article 50.

Lord Blunkett (Lab): My Lords, following that question from the noble Lord, Lord Cormack, my heart and emotions are with Edmund Burke, but my political head tells me that we are in 2017, with an extraordinarily delicate situation in terms of the way in which the British people regard politicians of all ilks and the establishment. Would it not be foolish in the extreme if this House, as an unelected body, placed itself in confrontation with the bulk of the British people, many of whom will have voted to stay in the European Union but would find it inexplicable if this House blocked in any way the forthcoming single clause Bill to allow the Government to implement Article 50? It would be unthinkable to do so. I appeal to your Lordships' House not to place itself in confrontation with the British people.

Lord Bridges of Headley: I thank the noble Lord for those extremely wise words. I concur with him absolutely. As I said, the Government are intent on delivering the outcome of the referendum, and we will see that through.

Lord Lisvane (CB): My Lords, would the Minister like to hazard a guess as to whether provision for a post-negotiation referendum would be within the scope of an Article 50 Bill?

Lord Bridges of Headley: I think the noble Lord answers the question himself by asking whether I would like to hazard a guess. I do not like guessing at the Dispatch Box.

Lord Soley (Lab): I welcome the clarity of the court's decision, which is good and desirable, but should not have been necessary because, just as the Minister says that the rule of law is very important, so too is the supremacy of Parliament. That made the first application to court unnecessary, in my view. I go to what I think is a crucial issue. Recently, the Prime Minister and one or two other Ministers have been making the point that the end product must be a very close partnership between the UK and EU. What has troubled me throughout this process has been people talking as if that is of minor importance. We do not know how these negotiations will pan out, but I know that if the EU and the UK do not have a close partnership economically and politically, the only people who will benefit are those who do not want the European Union to succeed and are not friends of the United Kingdom.

Lord Bridges of Headley: The noble Lord makes a good point which I endorse and echo. Let me repeat what I said at the Dispatch Box last week and the Prime Minister said in her speech. It is absolutely in our interests, as the noble Lord has implied, that we continue to see a strong, stable and prosperous European

Union, and that we continue to collaborate closely and co-operate wherever possible. The intent behind the approach the Prime Minister set out in is to form a new partnership along those lines. It is therefore not in our interests to see instability across Europe nor to see Europe, in the words of the noble Lord, falling apart in some way.

Lord Spicer (Con): The answer to the Burkeian point is surely that we have not been elected to anything. On that basis, it would be unthinkable for us to frustrate the will of the people at whatever stage.

Lord Bridges of Headley: I am delighted that consensus is breaking out between this side of the House and the Benches opposite on this point. I do hope that other noble Lords will bear that in mind.

Lord Rooker (Lab): I do not want to upset anybody but the reality is that this House is nothing more than a very large sub-committee of the other place. We do not have the last word—that lies with the elected House. The only real function we have when revising legislation—and this is misunderstood outside—is to ask the other place to think again. The means we have for doing that is sending amendments. It would be very useful if, when we debate this Bill and there are opposing views and we ask the other place to think again, we do not have Ministers, or anybody else, talking about constitutional crises. This place cannot have the last word. A Government defeat in your Lordships' House is simply a request to the Commons to look at the issue again—that is all it is.

Lord Bridges of Headley: I agree with the noble Lord but although I am a relative newcomer to your Lordships' House I certainly would not call it a sub-committee. I believe that this House performs a valuable role in scrutinising legislation and, as I have said all along, in kicking the tyres of government policy to see that it is both roadworthy and does the right thing. That is something the Government wish to see right the way through the process of Brexit and I am delighted with, and thankful for, the contribution your Lordships have made so far.

Lord Hamilton of Epsom (Con): Does my noble friend accept that if Parliament were to accept the advice of the noble Lord, Lord Harris, to treat the referendum as advisory and then decided that this country should not leave the EU, there would be no option for those of us who were in the majority in voting to leave other than to take to the streets and probably start breaking things?

Lord Bridges of Headley: My Lords, I can only say that I very much hope that that does not happen. Considering the comments that your Lordships have made and the very constructive approach of the noble Baroness, Lady Hayter, I am sure that we will avoid it.

Viscount Waverley (CB): I understand that all the national parliaments in the European Union will be requested to ratify this process. If any of them votes against it, will that in anyway complicate Brexit?

Lord Bridges of Headley: That is a very interesting point. We need to be clear about the processes for ratification. The noble Lord, Lord Kerr, who I do not think is here, is the author of Article 50 and is bound to correct me but as I understand it Article 50 sets out one process and there may be another process for the final treaty. That process could be mixed if it is an extensive deal, or not. So, there are a number of routes forward on this point.

Lord Lea of Crondall (Lab): My Lords, the refrain we have heard time after time is, "The people have decided". Does the Minister not agree that as the weeks and months go by, simply saying, "The people decided this, the people decided that", will hardly be satisfactory, especially when the debate comes to tariffs and specifics? Does the Minister agree that answering every question in that way over the next year will simply not wash?

Lord Bridges of Headley: I am sorry but I have to gently disagree with noble Lord on this point. As I said, we did not simply arrive at this situation through the people's decision. Representatives in this place and, most notably, the other place, made decisions and voted on legislation—especially the decision to give the British people the choice in the referendum. That is how this was decided.

As to the specifics, we are getting to the nub of the matter here. If we start having debates in this House about the process of negotiation on certain levels of tariffs, or other such things, that would be a considerable gift to those on the other side of the negotiating table. I say again: we must ensure that we do not get to that situation. We will, of course, give further information where we can, but we have to guard the national interest.

The Archbishop of Canterbury: Does the Minister agree that the Bill which will come to this House is essentially about process, not outcomes? The way we handle our processes is different from how we may argue about outcomes at the end of this whole two-year period. The use of language which may occasionally sound threatening is very unhelpful if, at the end of the two-year period, we are to end up with a country which can go forward in a reconciled, prosperous and flourishing way. I hope the Minister agrees that those who, like the judges, have quite rightly come to an unbiased and impartial opinion, should be defended against criticism, as should the person who brought the case. We need to take our processes calmly and quietly, without issuing threats and with an eye to the unity of this country.

Lord Bridges of Headley: I entirely endorse every word said by the most reverend Primate. I completely agree about the substance of the Bill: this is about the process. That is made quite clear in the summary of the judgment itself. Regarding language, we need to try and build a national consensus, as far as possible, around the approach we are taking and intemperate language will certainly not help that. We will disagree, in this House and in the other place, but we need to respect where others are coming from while respecting the views of the British people as expressed in the

[LORD BRIDGES OF HEADLEY]
referendum. The most reverend Primate is absolutely right about the process we have just gone through. Due process was followed; individuals, completely at liberty to exercise their rights, took the decision to bring a case and it was heard. That is their right; the court has spoken and we will now respect its judgment.

Baroness Stowell of Beeston (Con): Does my noble friend agree that the analysis made by the noble Lord, Lord Rooker, about this House and how we relate to the other place is absolutely right? Building on the theme raised by the most reverend Primate, we need to bear in mind over the next few months that a lot of people who voted for Brexit—and people who did not necessarily vote to leave but who are behind the change that underpins the referendum—will be looking to the motives of this House when we table amendments and debate them. Does my noble friend agree?

Lord Bridges of Headley: I thank my noble friend for her thoughtful contribution, with which I entirely agree and which builds on what I was saying. We need to proceed with respect for differing opinions and for the outcome of the referendum itself. We need to continue to build a national consensus around our approach in which people are not questioning the motives of those who wish to debate the issue.

Lord Scriven (LD): My Lords, is it not the case that, in a democracy, there are those who agree and those who disagree with a decision. Some 48% of the population disagreed with the way the Government are now going. Is there not democratic legitimacy in standing up for those 48% who voted against?

Lord Bridges of Headley: My Lords, I disagree on the basic principle. The Government wish to deliver on the outcome of the referendum, pure and simple, and that is what we intend to do.

Lord Lexden (Con): Will my noble friend confirm that the Conservative manifesto at the 2015 election contained a clear commitment to implement the outcome of the referendum, whatever that outcome was? Surely the conduct of negotiations on international matters is a matter for the Executive, with Parliament then to scrutinise their outcome? That is the way we have done things throughout our history.

Lord Bridges of Headley: My noble friend knows a lot about our nation's history and he is absolutely right. As I said, we will furnish Parliament with the necessary information to do that. Surprisingly enough, I have the Conservative manifesto in my folder. On page 72 it says, very clearly:

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

Lord Tomlinson (Lab): As the Minister has the manifesto with him, can he quote to us what that same manifesto said about our commitment to the European single market?

Lord Bridges of Headley: Yes, I am happy to do so. That was in relation to the negotiations that we wished to conduct. We have conducted them. Now that the people have said in the referendum what they wish to do, we are going to leave the EU—and in that process we will leave the single market.

Lord Empey (UUP): My Lords, in the Statement the Secretary of State indicated that there would be consultation with the devolved institutions. The Minister will be aware that the Northern Ireland Executive are out of business, and while some Ministers are hanging on, they have no power to speak on behalf of the Northern Ireland Assembly. How then do Her Majesty's Government intend during this critical period to ensure that there is proper consultation with the parties, given the fact that even on the best estimates there will be no Executive in place before Article 50 is triggered?

Lord Bridges of Headley: The noble Lord raises an extremely good point. As I intimated earlier, we are taking due steps to ensure that the views of the Northern Irish people are heard in this lull. I am happy to meet the noble Lord and discuss that—with my ministerial colleague, Robin Walker, who is also intimately involved—and to explain exactly what we are doing.

Baroness Kramer (LD): My Lords, can the Minister explain to me why his Government are so afraid to put the final deal agreed back to the British people for their vote? If the Government were confident that it would be a deal that the British people felt fulfilled the promises and commitments made, and was good for the future of the country, they would be confident of an overwhelming victory in that referendum. Is it because they believe the British people would be so disappointed and feel such a sense of betrayal that they dare not put the final deal back to them? Is that the rationale?

Lord Bridges of Headley: No, my Lords, I dispute that, because I do not think the British people will feel a sense of betrayal, given the approach that the Prime Minister set out in her speech last week.

Viscount Ridley (Con): My Lords, does my noble friend welcome the fact that the Supreme Court, while asking Parliament to take the decision to trigger Article 50, also made it very clear that it was not its own job to decide how that Bill should be phrased or how that question should be put to Parliament? Was that not a helpful constitutional clarification?

Lord Bridges of Headley: It was indeed. There are a number of important constitutional clarifications on that point, and on the Sewel convention. As I have said, our lawyers are studying the judgment in full, and I am sure there will be other issues that noble Lords may wish to raise in due course, once your Lordships too have had the opportunity to read all 96 pages.

Lord Kilclooney (CB): My Lords, since the Minister has set out clearly the process—we are discussing the process and not the outcome—what will be the process after the European Parliament rejects the agreement with the United Kingdom?

Lord Bridges of Headley: The noble Lord is now jumping several steps ahead, and making a big assumption. I am sure that the Members of the European Parliament, too, will see sense when this is presented to them.

Lord Grocott (Lab): My Lords, has the Minister sought any clarity on the position of the Liberal Democrats, who have been so passionately in favour of decisions being made on a proportionate basis of votes, and who now seem to consider that 48% is a majority? Could he also clear up with them, while he is at it—as they were so strongly opposed, in the initial stages, to having one referendum, yet now seem to want two—whether two would be sufficient for them? Or maybe we would need more after that.

Lord Bridges of Headley: The noble Lord makes a very good point. I must say that it does not seem very liberal, or very democratic, to say that the views of the majority should be ignored—and I very much hope that the Liberal Democrats will help us ensure the speedy passage of the legislation that the Government will put forward in due course.

Lord Pearson of Rannoch (UKIP): My Lords—

Baroness Hussein-Ece (LD): My Lords—

Lord Faulks (Con): My Lords—

Baroness Goldie (Con): My Lords, I think fairness indicates that we expect to hear from UKIP and then from the Lib Dem Benches.

Lord Pearson of Rannoch: My Lords, can I press the noble Lord on his answer to the noble Lord, Lord Kilclooney? What happens if we get to the end of this process and the European Parliament does not agree the result? At that point would the Government be prepared to consider the sanctity, or otherwise, of Article 50? In that respect, are the Government aware of the article in *MoneyWeek* on 21 November from Dr Ingrid de Frankopan, who advises merely following the first clause of Article 50, which says that a country can leave the European Union,

"in accordance with its own constitutional requirements"?

Our constitutional requirements could be an Act of Parliament and the will of the British people, so at that point will we still feel bound by Article 50? It is, after all, only a clause in an international treaty, and we are covered for our withdrawal from that treaty by the Vienna convention on treaties. Will the Government get ready to flex their muscles if the European Parliament behaves as unreasonably as it usually does?

Lord Bridges of Headley: I am not going to get into hypotheticals, as I said to the noble Lord, Lord Kilclooney, a moment ago. The noble Lord, Lord Pearson, threw a phrase into his question when he said that Article 50 is only a clause, as if it is something that we could ignore. That has not been the Government's position all along. We believe that we need to abide by and observe our obligations and responsibilities as set out in the treaties that we have signed up to as a member of the EU. That is what we will continue to do. As regards the end of the process, the process has not even begun so I am not even going to start to hypothesise as to where we might be towards the end of it.

Baroness Hussein-Ece: My Lords, as the noble Lord has rightly pointed out, we must respect the fact that the majority—52%—voted to leave the European Union. However, it is in everyone's interest—even the 48% who voted against—to know how we are going to do that, and what that means for them. Many of the people who are speaking want to know more about the implications. People out there in the country are very concerned. They feel insecure about their future, their jobs and their children. The young people in particular to whom I have spoken express great concern about what the future holds for them. Surely we are talking about process. The implications were not on the ballot paper. No one said anything about leaving the single market and what the implications of that would be. No one ever mentioned that. In fact, when it was mentioned, it was dismissed as scaremongering by the leavers, so very many questions were never answered properly during the campaign that now need to be answered and addressed. My next point is very important. Will the noble Lord put on record that the abuse Gina Miller has had to endure—I heard her on the radio today speaking of death threats and the like—has no place in our society?

Lord Bridges of Headley: I completely agree with the noble Baroness that such abuse has absolutely no place in our society. As I said to the most reverend Primate, there is absolutely no reason for that. The court was simply doing what it is there to do, which is to hear a case. People are entitled to bring those kind of cases and they should continue to be entitled to do that. That is what the basis of our rule of law is all about and we must do all we can to protect it. As regards the first part of the noble Baroness's question, I dispute what she is saying in the sense that I believe that the implications of leaving the European Union were set out pretty clearly in the referendum campaign by both sides. Indeed, I have somewhere here long lists of those on both sides of the campaign saying what a vote to leave would mean, especially that a vote to leave would mean leaving the single market. Therefore, I do not believe that that was unclear. As regards the uncertainty, I concur: obviously there will be uncertainty in a period of change such as this. The Government are doing what they can to set out wherever possible how we will bring certainty to the situation that we are in. As I said a moment or two ago, the whole thinking behind the great repeal Bill is to port EU law into UK law, so that on day one we are certain about where we stand. I think that is a good approach to follow and I hope that over the weeks and months ahead people will understand that better than they may do at the moment.

Lord Faulks: My Lords, I very much welcome the fact that, in the Statement, the Government have made it absolutely clear that they respect the judiciary's independence and accept this judgment, and have done so promptly. It is, of course, a sign of a functioning democracy that the Government, however irksome that they might find it, will lose cases from time to time.

[LORD FAULKS]
Turning to the democratic legitimacy of the referendum, this was an Act of Parliament giving a vote to the people. Does the Minister agree with me that it is a somewhat imaginative interpretation of that vote that what the people of the country were really saying was that they wanted a second referendum?

Lord Bridges of Headley: I entirely agree with my noble friend. As I said before, a second referendum would lace a situation that the noble Baroness spoke of a moment ago—in which people feel uncertain—with even more uncertainty. This is absolutely not what we wish to have.

Lord Birt (CB): My Lords, may I return to the role of Parliament? The Government failed today in the Supreme Court in their first attempt to circumnavigate Parliament at the first stage of this lengthy process. I entirely agree that Article 50 must be triggered; I also agree that the Government must be allowed the freedom to negotiate, but does the Minister accept that that cannot mean that Parliament—as the country is faced with the most challenging set of issues since the Second World War—has no role? There must be a role for Parliament over these next two years in meaningfully discussing the many different choices that this country faces.

Lord Bridges of Headley: I thank the noble Lord for that question. I disagree somewhat with his characterisation of our approach. We were not trying to circumnavigate Parliament: we believed that there was a case for using the royal prerogative to trigger Article 50. At any rate, we are where we are: Parliament is now going to have a vote. In regard to the role of Parliament going forward, there will obviously be that vote; there will be the vote, as I said a moment ago, on the great repeal Bill, and there will be votes on the subsequent pieces of legislation, of which, I expect, there will be a considerable number, both primary and secondary. Then, as my right honourable friend the Prime Minister said in her speech last week, there will be a vote in both Houses on the treaty. Meanwhile, there is nothing to stop your Lordships from having other debates. I very much look forward to being at this Dispatch Box on Thursday, to have a debate with the noble Baroness on similar subjects to those that we have been discussing this afternoon.

Baroness McIntosh of Pickering (Con): My Lords, I very much welcome the decision of the Government to import the acquis communautaire into UK law. However, in the event that we withdraw from the jurisdiction of the Court of Justice and there is a dispute on the interpretation of the acquis communautaire as it will apply in English or Scottish law at that time, which body will interpret and give a ruling on that dispute?

Lord Bridges of Headley: My Lords, the UK Supreme Court would interpret at the end of the day if it were to come to that, but the noble Baroness makes a very good point. I can assure her and the rest of your Lordships that when it comes to the great repeal Bill, we will set out our approach, hopefully in considerable detail, in regard to all these issues.

High Speed Rail (London-West Midlands) Bill

Report

4.08 pm

Relevant documents: 7th and 14th Reports from the Delegated Powers Committee

Clause 1: Power to construct and maintain works for Phase One of High Speed 2

Amendment 1

Moved by ***Lord Bradshaw***

1: Clause 1, page 1, line 11, at end insert—

"( ) Construction work otherwise authorised by this Act may not begin until—

(a) the Secretary of State has commissioned a review of the merits of establishing Old Oak Common station as an interim eastern terminus for Phase One of High Speed 2, with the provision of convenient access arrangements with London Overground routes to the east and west of the station, and

(b) the report of that review has been published."

Lord Bradshaw (LD): My Lords, I would like to make it absolutely plain at the outset that we wholeheartedly support the intentions of the Bill. We are concerned, for example, that all the routes out of London to the north are now overloaded. They are unreliable and extremely difficult to expand. There would be absolutely years and years of delay if such expansion were attempted. Our concern is that the HS2 scheme as it now stands, and as we now understand the costings to be, does not comply with the funding envelope contained in the Minister's answer to this House in December of last year. We do not believe that the costings of HS2 are soundly based. We will explore in more detail why that is, but they are not up to date and have not been prepared by people who are absolutely competent to do so. A question of financial propriety is involved as regards whether the Government should get involved in the scheme as it now stands with such flimsy cost estimates. We further believe that if economies are not made now in the part of high-speed rail that goes from London to Birmingham, there will not be enough money in the funding envelope to extend HS2 north of Birmingham. As that is the principal purpose of the line, it seems rather odd that we would not manage to complete the line as planned.

The principal economy that it is possible to make concerns Old Oak Common, where the first London terminal is, and Euston station, which it is proposed will be reached at a further stage. Old Oak Common is a large area. It is connected to Crossrail 1, Heathrow and, obviously, to Canary Wharf. I further suggest that that station should be designed so that it is easy to turn trains around there, provided that there are sufficient staff; and that the connections between Old Oak Common station, the West London line and the line from Richmond —the two lines of London Overground—would in fact give a lot more facility for people to be dispersed from the railway. This would require Old Oak Common to be the interim terminus in London. While most people do not even know where Old Oak Common is,

it is not far from London; it is well connected by road; and because of the good connections which I have described and the potential good connections which could be provided, I do not believe that when trains come from Birmingham or the north, if they could go to Euston, people would choose to stay on them as far as Euston. They will get off at Old Oak Common and disperse from there.

A huge amount of money is involved in the extension of High Speed 2 from Old Oak Common to Euston, and that represents a large economy, which would help the project to stay within the funding envelopes which the Government are providing. It is therefore time to re-examine and reappraise the Euston connection to see what benefit it will bring. However, there is no reason in the interim why Network Rail should not get on and modernise Euston station, which sadly needs it, and of course it would provide an interval during which people could decide whether extending the railway from Old Oak Common to Euston was a good proposition. I have set out simply what we are trying to do: we are trying to protect HS2 in its projection to the north of England, and to bring financial discipline to the whole project, which has not been done. I beg to move.

4.15 pm

Lord Berkeley (Lab): My Lords, Amendments 1 and 6 are also in my name. The noble Lord, Lord Bradshaw, has set out the reasons behind them very clearly, but there is a continuing worry about what is proposed at Euston. I think this is the eighth attempt by HS2 to come up with a scheme. If you produce something eight times, you begin to wonder what the problem is. The latest scheme is going to cause 19 years of construction or rebuilding of the station itself. That is a very long time for any project—very much longer than London Bridge, and that is not a great success—and there are ways of doing it much more cheaply. It would work to do it more quickly and within the Euston width —many people have heard us speak about that before—but my worst worry is about the cost, and I shall speak on that more generally in a minute.

In one of his helpful responses in Committee, the Minister said that lots of cost estimates had been done for both Euston and the whole scheme. The fact remains that the last one that was published—*Additional Provision 3*, issued about 18 months ago in September 2015 by Simon Kirby, the then chief executive of HS2—said that the total cost of the additional provisions was £66 million and that the cost of compensation was £97.8 million. Only a few months later Professor McNaughton, who was the man leading on HS2, told me and several colleagues that the compensation cost was actually going to be £1 billion at Euston. I cannot see how anyone can be happy with something that is out by a factor of 10. I think that there are still civil engineering problems there and, as one noble Lord asked about in Committee, that there are still plans to redesign the portal; we hope that it will be an improvement. It would be nice if noble Lords were told about this. There are quite a few residents I know in Camden who know about this, but none of us has been told, in spite of quite a lot of asking.

Euston may well be the right location, and we can debate the best way into Euston. In France and Germany, when a high-speed service has been built over the years, the last few miles into the city centre have generally been on the classic tracks because of the cost and disruption of knocking down enormous numbers of properties. Why we should be different, I do not know—we can ask ourselves the question. The reason for this amendment is to try to squeeze out of the Government their plans for Euston. If they do not have any, let us see if we can have an interim station that would really work at Old Oak Common, as the noble Lord, Lord Bradshaw, said.

Amendment 6 is grouped with this amendment. I will not repeat what I said in Committee, because it is clearly on the record. We organised costings with Michael Bing, a quantity surveyor who has written the textbook of costings for Network Rail; that is two years old now, so I hope that it will implement it soon, because there are problems with costs on the classic network. He concluded that the cost of HS2 at Euston, with the tunnel as far as Old Oak Common, was £8.25 billion. That did not fit well, in my mind, with the total committed expenditure limits from the Government for the whole of phase 1 of £24 billion, because it is about one-third of it for eight kilometres out of 200. So I asked the same gentlemen, using the same methodology and rates, to cost the whole of phase 1, and it came out at about £54 billion, which is actually double the Government's estimate they published in a Written Answer to me on 21 December.

I am very grateful to the Minister: we had a meeting on this last week and agreed to look at it further. However, my worry is that the original costings that we produced have never been challenged by government. You would think that the Government would have come to me or my colleagues to say, "You've got it wrong. You are using the wrong assumptions and the wrong design", or whatever. Well, we could not use the wrong design—it was their design that we were using—but nobody has come back to me to say that we got it wrong. That rather leads me to believe that we probably got it quite right—or nearly right. The consequence of that is that the £54 billion we have calculated for phase 1 is actually the total expenditure limit that the Government have announced for the whole project, including phases 2 and 3. As the noble Lord, Lord Bradshaw, said, we do not want to stop at Birmingham. It is the sections north of Birmingham that are, in my view, more in need of improvement—at Manchester, Crewe, Leeds and beyond—than the southern sections are in the first phase.

It is very important that we get a handle on the costs. It is right that we should be talking about this at Report because it is surely up to us as parliamentarians to challenge the Government so that they know what the costs are before they start work. It is very easy on a project to start work and, then, after a few years, to scratch your stubble and say, "Oh dear! I got it wrong", and go back for more money. It is quite possible to get the costings right. Noble Lords may have heard somebody from Crossrail on the "Today" programme this morning talking about its success. It really is a success: it is on time, I believe, and it is certainly on budget. So it is

[LORD BERKELEY]
possible to do it. My argument, and my plea to the Minister, is: can we not get the same discipline attached to HS2, before it is too late?

Lord Brabazon of Tara (Con): My Lords, I have one question. Perhaps it is for my noble friend the Minister or perhaps it is for the noble Lord, Lord Bradshaw. My understanding was that if Old Oak Common were to be used as the terminus for this railway, even in the interim, a completely different design would be required for Old Oak Common than is currently in the Bill. It would therefore require the Bill to be re-hybridised, and would put an almost endless delay on the whole thing.

Lord Snape (Lab): My Lords, I find it somewhat bizarre that we should be discussing these particular amendments at this particular time. I find it even more bizarre that these amendments should be moved by the noble Lord, Lord Bradshaw, and my noble friend Lord Berkeley—both of whom are normally extremely supportive of railway matters. The effect of accepting either or both these amendments, as I am sure the Minister will tell us, would be to delay considerably the project as a whole. I am sure that that is not the noble Lord's intention, but I hope he will agree with me that that would be the result. He shakes his head—he can come back to me on that in a moment.

I do not think that you could have a re-costing of a project this size and then say, "We will have Third Reading of the Bill in a week's time, and that's the end of it". If the noble Lord, Lord Bradshaw, is saying that, he is an even bigger financial genius than I thought he was previously. The fact is that there would be further delay. It is seven years since my noble friend Lord Adonis, as a Minister in the last Government but one, came forward with the project—and here we are at the end of a seven-year period discussing two amendments that would, I would guess, have the effect if not of putting the project back another seven years then certainly putting it back for some considerable time.

As far as Old Oak Common is concerned, I say again to the noble Lord, Lord Bradshaw, that he has to answer the point put by the noble Lord, Lord Brabazon, a former Transport Minister. The fact is that Old Oak, as it presently is, is in no way suitable to be a main terminal. I do not mean to be facetious when I say that if you asked people coming to London where they were going to when they got there, comparatively few would say Old Oak. In Great Western days there was a steam engine shed there, I understand, so trainspotters might well have gone there 50 years ago—but I cannot see there being a great demand to terminate trains at Old Oak, no matter how good the connections will be.

The noble Lord, Lord Bradshaw, talked about developments at Euston. He has an amendment which I am sure we will be discussing later about access around Euston station, which is the natural terminus. He makes the very relevant point that, for example, on the TGV in France, high-speed trains stop short of the main terminus, which is the reason for the delays that quite often occur. It seems to me to be a much more sensible engineering prospect to run high-speed trains into the centre of a city rather than making them share crowded tracks with other trains, as they do in other countries. So perhaps on this occasion we got it right.

Finally, whatever estimates are made of these projects often turn out, in the long term, to be unrealistic. My noble friend talked about Crossrail. I was on the Crossrail Bill, and it was said at that time that the estimates for Crossrail were unrealistic—but they proved not to be so. With all due respect to my noble friend's opinion, he is no better a financier than the noble Lord, Lord Bradshaw, as far as this project is concerned. So if the noble Lord presses this to a Division, I hope that those of us who want to see this project, after seven years, get the go-ahead will vote in the Not-Content Lobby.

Baroness O'Cathain (Con): My Lords, I am disturbed that this amendment has come up because, first of all, we have no figures for people who would be very pleased to be dispersed—as the noble Lord, Lord Bradshaw, said—at Old Oak Common. Having been to Old Oak Common on one of our visits, I would not like to be lumbered with getting from Old Oak Common to anywhere in London; it just seems crazy. Secondly, the noble Lord, Lord Bradshaw, said that the forecasts were not up to date. He also cast aspersions on the people who did the forecasts. He said that the forecasts were prepared by people who were not capable and that they were flimsy. This is really too late in the project to make those sorts of comments.

The noble Lord, Lord Berkeley, said that he was interested in financial discipline; we are all interested in financial discipline. But not making any forecasts of the people who would be,

"dispersed from Old Oak Common",

just does not make sense. It seems to me to be a delaying tactic, without actually getting the basis of proper forecasts of people who are going to use Old Oak Common. Coming from Birmingham to Old Oak Common? I ask: who would really want to?

4.30 pm

The Earl of Glasgow (LD): My Lords, I support the amendment of my noble friend Lord Bradshaw and the noble Lord, Lord Berkeley. This seems an eminently sensible suggestion. At the moment, people are trying to make out that this is an attempt to delay HS2; that is the last thing that I would like to do. The amendment would in fact allow it to go ahead. They are talking about a temporary terminal there, for possibly five years or maybe even less.

There are three very good reasons why this is a sensible idea. The first is that we have not yet decided how the route of HS2 will go from Old Oak Common into Euston. There are two or three different routes and I do not think we should be delayed any further on that. That can carry on after the Bill has already gone through. The second thing is what the noble Lord, Lord Berkeley, said. This is a way of cutting costs, if necessary. The five miles between Old Oak Common and Euston are almost certainly the most expensive five miles of the entire route. Therefore, if we can delay the building of that but still continue with the Bill and get the rest of HS2 on the move, so much the better.

The third reason that this is a good idea is that we will have to make a decision about something that is not part of the Bill at the moment. Some time in the future we will have to join HS2 to HS3. One way would be through Old Oak Common, where it can join the present HS1. It is going to be very difficult to make that join somewhere in Euston or St Pancras station. So the amendment is eminently sensible. It has nothing to do with delaying anything: it is very much the opposite. It makes it possible to start the building of HS2 almost immediately.

Lord Snape: Has the noble Earl read the amendments that he has just spoken to? Amendment 1 states:

"Construction work otherwise authorised by this Act may not begin until".

That is, the works at Old Oak Common. Amendment 6, in the name of my noble friend Lord Berkeley, states:

"Cost estimate … The nominated undertaker must not commence any Phase One construction work until the Secretary of State has published",

and so on. It goes on to talk about a review of the finances. That is not a couple of weeks' delay; it is years. For the noble Earl to suggest anything different indicates to me that he has not actually read the amendments he supports.

The Earl of Glasgow: There is a huge amount of work to be done in building HS2 and we should be able to get on with that. If what the noble Lord is saying is correct, I may have misunderstood.

Baroness Buscombe (Con): I intervene to remind noble Lords that this is Report. The rules of debate state:

"On report no member may speak more than once to an amendment, except the mover of the amendment in reply or a member who has obtained leave of the House".

Lord Faulkner of Worcester (Lab): Will the noble Earl take the trouble to read the very wise words of the noble Lord, Lord Brabazon, who spoke a few moments ago about the consequences of accepting these amendments? If one of them were passed, the Bill would have to be re-hybridised. It would have to go back to the hybrid Bill Committee and months and months would be taken up by looking at the Bill again with these provisions in it.

I cannot believe that the House would want to do that, bearing in mind the exceptionally good job that the hybrid committee did. I see a number of its members are in the Chamber at the moment and they deserve the thanks of all of us for looking at this Bill in such detail and displaying such patience in listening to huge numbers of petitions and far too many lawyers who were presenting them on behalf of people with, in some cases, entirely spurious objections. The committee went through that very well and came up with a series of recommendations for change, and the Government, to their great credit, have accepted them all either in spirit or literally. The fact that the committee has done that job and we have a Bill to which we can give Third Reading and get work under way is very important.

Old Oak Common is a wonderful place. It is where my great-grandfather lived in a Great Western Railway house when he was a top link driver on the railway in the early years of the 20th century. But it is not a place where people want to go when they are travelling on high-speed trains from Birmingham or the north of England. Indeed, the practicality of finishing a journey there has been addressed by Transport for London. It answers the point made by my noble friend Lord Berkeley about Crossrail. Yes, Crossrail is going really well and will be a great success. But when HS2 arrives at Old Oak Common, it is estimated that about a third of the passengers will get off, get on to Crossrail and go into the City. However, if they were all required to go on to the City, the difference between these two—HS2 terminating at Euston or at Old Oak Common—would, in the words of Transport for London, be the difference between Crossrail coping and Crossrail falling down. That would be the implication of accepting this amendment.

Lord Young of Norwood Green (Lab): My Lords, it is nice to be thanked for one's work. I see several Lords from the eclectic group who served on that committee, including the noble and learned Lord, Lord Walker of Gestingthorpe, whom I must congratulate on the way he handled both the hearings and the committee.

I have recently been reading a book—I hope this slight digression will be acceptable, as it relates to this amendment—called *Mr Barry's War*, by Caroline Shenton, one of the archivists. The bit that I like is when she talks about an attempt by Barry and a group of architects—someone called William "Strata" Smith, a great geologist, was also involved—to find stone to build this place. They travelled all over the UK. They get to Lincoln, with its magnificent gothic minster, the Ancaster stone quarries—said to be Roman—then Grantham, Stamford and nearby Burghley House. Once they get through Kettering and Northampton by coach, they,

"made their way back to London by the novel means of Robert Stephenson's thrilling new London and Birmingham Railway, which had opened along its whole length just five days previously on 17 September. This was the first London intercity rail line, and Euston station the first mainline terminus in a capital city anywhere in the world. Its magnificent Doric Propylaeum"—

I do not know if I pronounced that correctly—

"or entrance archway, made of millstone grit, stood for 125 years until pulled down by modernist planners in 1962".

I could not help feeling that that was rather a propitious bit of reading prior to this debate.

We did not debate the overall cost—that was not in the committee's remit—but we certainly debated some costings by my noble friend Lord Berkeley and his expert witnesses. I regret to say, however, that they did not stack up. Neither did Old Oak Common. I had to smile when someone said, "It's just an interim stop". We all know that if it finishes at Old Oak Common it will be a real stretch of the imagination to believe that that will be interim.

The noble Earl, Lord Glasgow, said that the route had not been decided. It has been decided, and we had a debate, I assure noble Lords, on whether it would be more desirable to terminate at Old Oak Common. That was not the view of the committee after listening to a range of expert witnesses and for some of the reasons cited by my noble friend Lord Faulkner.

[LORD YOUNG OF NORWOOD GREEN]

We can all have a view, if you like, about people's motives and intentions—I will assume that they are motivated by the best of all reasons—but one thing you cannot assume is that the process would be speedy, for either the first or the sixth amendment. This will be a lengthy process, and, as has been said, we are now seven years—I was going to say "down the track" but that is an unfortunate pun; if only we were. We have some way to go. As someone who, like the noble Lord, served on Crossrail, I remember just as many criticisms of that. Now it is all enthusiasm, but it was not at the time, I assure noble Lords; there were just as many doubters and naysayers.

My view—and you have heard from other colleagues on the committee—is that we gave this a thorough examination, and I am certain that we also debated it in Committee. I cannot remember how many times I have heard this debate. As a former Attorney-General once said, repetition does not necessarily enhance the value of your contribution. I am beginning to feel that way in this case. I hope noble Lords will not support these amendments; I do not believe they add anything to the existing analysis. As I recall, in the recent Grand Committee debate the Minister reported to us that the National Audit Office has run its calculators over this. Every time there has been a challenge on the costings done by HS2—the classic one was on the tunnel costings in Wendover, which we may unfortunately return to again—they were independently checked. The proposed tunnelling at Colne Valley was independently validated and HS2 was found to be correct in those circumstances. I listened carefully to the argument but I incline to the views expressed by so many of my fellow committee members, and by my noble friend Lord Faulkner.

Lord Adonis (Non-Afl): My Lords, I echo my noble friend Lord Faulkner's thanks to the Select Committee. There are no greater tasks which Members of your Lordships' House take on than being members of these hybrid Bill Committees, which are like the Committee of Public Safety. I think they were sitting for four days a week over many months. Those noble Lords made a huge commitment to the work of the committee and at this very late stage—this last stage of the Bill's passage through the House—we should certainly not seek to substitute our judgment, on the basis of a short debate, for the exhaustive examination which your Lordships' Select Committee gave to this issue, among many others which are on the Marshalled List for later in our debates.

I hesitate to arbitrate between my noble friends Lord Faulkner and Lord Snape on the beauty of Old Oak Common, which depends very much on whether you have a great admiration for railway architecture of the Victorian age. It will become a thing of great beauty when the High Speed 2 station and all the wider development is completed there, but that will take some time. I do not think anybody could pretend now, when passing through it at not particularly high speeds on trains coming out of Paddington, that it is a great beauty spot—it is next to Wormwood Scrubs. However, a critical issue for us to consider this afternoon is its utility as a transport interchange. That was the issue considered by the Select Committee.

It is important for the House to understand that once HS2 is completed, we would be talking about all the traffic from Birmingham, Manchester, Leeds and the East Midlands coming in to one terminus if you allow only for Old Oak Common to be built. That is the equivalent of the entirety of the intercity traffic which currently goes into Euston and a good part of the intercity traffic which goes into King's Cross. All of that would be going into one terminus station and all served by one line, Crossrail. As my noble friend Lord Faulkner emphasised, the resilience of that arrangement could not remotely be regarded as adequate for all the traffic going from the Midlands and the north into one station.

The estimate has been made that a third of passengers will transfer to Crossrail. I think some will get off at Old Oak Common and transfer on to Heathrow, which will be 10 minutes away in the other direction, but most of them will transfer on to Crossrail going east. That proportion may be higher. It is hard to know what transport patterns will emerge but when that interchange is available, it will be an extremely rapid and efficient connection not just to the City but to the West End as well. The next stops up from Paddington will be Bond Street, Tottenham Court Road, Farringdon and then Bank. It then goes on to Canary Wharf, so it will offer a range of fast and high-quality connections.

However, even if you stretch that third to a half—since no one can be sure what patterns will develop—still a very substantial proportion of the passengers would, on the projections made, wish either to regard Euston as their destination or to interchange there. By having the interchange at Euston we would then serve another large swathe of London directly, including that huge and important centre which Euston, King's Cross and St Pancras will form themselves. Massive development work will be taking place there, which will be attracted there in no small part because of the development of the HS2 station. We also have there the Victoria and Northern lines, and in due course Crossrail 2, which will serve the new Euston terminus as well. When one considers that these termini will have to deal with all the traffic coming not just from Birmingham but from Sheffield, Crewe, Manchester and Leeds, as well as services going further north up to Scotland, it looks as though there will be a requirement for more than one dispersal point.

All these issues were gone into at great length by committees of both Houses. Their conclusion was that the Government's proposals were correct in requiring an extension from Old Oak Common through to Euston. At this very late stage in the passage of the Bill, to pass an amendment calling for a further review—the only impact of which could be substantial delay and uncertainty—would not be wise.

4.45 pm

Lord Rosser (Lab): My Lords, after what has been said, I suppose I ought to add my thanks to the members of the Select Committee. In saying that, I did express my thanks to them in Committee. I also expressed my relief that I was disqualified from sitting on the committee at all.

The amendments in this group call for,

"a review of the merits of establishing Old Oak Common station as an interim eastern terminus for Phase One of High Speed 2",

with construction work not beginning until the report of the review has been published. This debate has not done much to put Old Oak Common on the tourism map, despite the later comments of the noble Lord, Lord Adonis, about its future.

We had some discussion about Old Oak Common in Committee. An amendment was moved calling for a spur from it to the West London line north of Shepherd's Bush to improve access to HS2 for people to the south of London. I seem to recall that I asked the Government if they were looking at improving connections between HS2 and other suburban lines in the vicinity of Old Oak Common to improve access to HS2. In his response, the Minister said that the West London Line Group, which had put forward proposals for the link from Old Oak Common to the West London line, had met DfT officials to discuss their proposals and that those discussions would continue. Perhaps the Minister could give us an update on the progress being made in these ongoing discussions.

I understand that the issue of Old Oak Common was considered during the Lords Select Committee hearings—noble Lords on the Select Committee confirmed that in their contributions today. The committee has not made any recommendations on this matter nor suggested that the Government should consider going down the road called for in the first amendment. In the light of this, we do not intend to either.

The second amendment in this group calls for an estimate of the costs for carrying out all the phase 1 works, with the breakdown set out in the amendment to be published, and the construction work not starting until that has been undertaken. What has prompted both the first and second amendments in this group is a view that the work cannot be carried out within the overall figure given by the Government. In Committee, the noble Lord, Lord Bradshaw, said that there was a good case for having an independent assessment of the costs and particularly for considering such things as how long HS2 could terminate at Old Oak Common. This could, perhaps, be a considerable period of time which could save a considerable sum of money. Costs are vital. The noble Lord, Lord Adonis, said in Committee:

"I cannot emphasise enough that the single biggest threat to this project is cost overruns in building the core of it, between cities where there is massive traffic—namely, Birmingham, Manchester, Leeds and London".—[*Official Report*, 10/1/17; col. GC 62.]

The Government have committed themselves to a figure for the construction of HS2 stage one. Different bodies, including the National Audit Office, have looked at the figures and some have produced reports. The costings will, I understand, continue to be the subject of consideration by these bodies as the work progresses and more detailed figures are available. If the overall figure for the cost of construction is breached, it is the Government who will be held accountable—not least by us—since it is the Government who have said that the figures are accurate and can be trusted. They will have to explain why they got their figures wrong if the overall cost is breached, and why it would not have been possible to have got those figures right before construction started.

We do not want to go down the road of further amendments that could delay the starting of this project, which has already been the subject of so much consideration by so many people and bodies, including a Select Committee of this House. If the Government want to go down the road of the second amendment in this group without delaying the start of the project, that is a matter for them. However, one suspects that the production of further figures that have not been produced already, which presumably is what is being sought, would not bring the issue of costs to a conclusion, since there would inevitably then be challenges to the further breakdown of costs provided and the basis on which they were calculated. Our position, as I have said, is that we do not wish to see further delay to the start of this project, and behind the first amendment is clearly a major potential change.

On costs, at this late stage after so much consideration and examination of the project, it is now the Government and the Government alone who will be held accountable for any figures that prove significantly wrong and for any consequential cost overruns, since they have a responsibility to satisfy themselves that the cost estimates they have given are credible and accurate.

The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con): My Lords, I thank all noble Lords who have participated in the debate on these amendments. I join other noble Lords, including the noble Lords, Lord Faulkner, Lord Adonis and Lord Rosser, in adding my thanks—I did so in Committee and I do so again—to the Select Committee and all its members, some of whom are present, for their diligence, perseverance and indeed thorough examination of the raft of different petitions that were presented to them. Indeed, we have reflected on them already in Committee.

I start with an appreciation. The noble Lord, Lord Berkeley—and, in moving the amendment, the noble Lord, Lord Bradshaw—made it clear in their overall intent that they are both supportive of the Bill and indeed of the construction of HS2. Indeed, the majority in your Lordships' House recognise the importance of this railway in terms of our future railway infrastructure.

I turn to the amendments. Whether there is an advantage in using the proposed new station at Old Oak Common as a temporary London terminus for phase 1 of HS2 was, as we have heard, examined in detail by Select Committees not just in your Lordships' House but in the other place. As was set out, the proponents of this option believe that using Old Oak Common as a temporary terminus would provide several advantages, including less impactful construction works at Euston, less disruption to services on the west coast main line and the opportunity to allow a more comprehensive redevelopment of Euston to be undertaken. I do not dispute the intentions behind the amendment but it is for that reason, as noble Lords will appreciate, that the Government have already investigated these proposals in detail. I am minded to agree with my noble friend Lord Brabazon, who speaks with great expertise in this area, that the implication of accepting such an amendment would impede the progress of the Bill.

[LORD AHMAD OF WIMBLEDON]

I will go briefly into the detail of this. We looked at many options put forward by petitioners to the Committee in the other place about options for terminating HS2 services at Old Oak Common temporarily or permanently, as well as splitting the termination of services between Old Oak Common and Euston station. I do not wish to go into the detail on the permanent use of Old Oak Common as a terminus or a splitting of services, as those issues are not the subject of the noble Lord's amendment and would go against the principle of the Bill as has been agreed by both Houses. However, I note that the overall outcome of the work that was undertaken on those options demonstrated that a complementary solution of two stations at the start of services in London would be the best for HS2 passengers. Putting all our new passengers in one station would overload that station, and it is also important for the strategic objectives of HS2 to bring the benefits of the new railway to as wide an area as we can.

Permanently terminating a portion of HS2 trains at Old Oak Common, in order to be able to descope the proposed Euston station and reduce its footprint as a result of having to cater for fewer passengers, was also considered. The conclusion was that this would, as we have heard from my noble friend Lady O'Cathain, still result in most of the passengers who terminated at Old Oak Common having to change trains in order to reach Euston and incurring several minutes of additional journey time and inconvenience in doing so.

The detailed work that the Government undertook to investigate using Old Oak Common as a temporary terminus, primarily in response to the petitioners from the Camden area, looked at a number of scenarios and demonstrated that using Old Oak Common as a temporary terminus would not eliminate the construction effects and impacts in Euston. This was because there would still be a requirement to construct the tunnels into Euston in order to facilitate the fit-out of the railway further south—that is, the long rails, the overhead line and the other control systems that go with it—which as I understand it will go through sequentially from Old Oak Common, indeed from the depots north of Old Oak Common. It would not be practical to do that fit-out once we had started running trains in any economic fashion.

We also considered using a temporary terminus at Old Oak Common to allow staging of works if one part of the railway construction was slightly delayed by a few months or to facilitate a kind of test-run phase. We concluded that while it would be possible to turn round a few trains at Old Oak Common since the station will have the resilience to do so, this is not the same as turning round trains to a timetable or turning them round without delay. Old Oak Common has been designed as a through station. It will have the ability in emergency situations, such as security or safety events, to be used to get people off trains and turn trains round. However, that is an emergency situation, not a timetabled commercial service situation. I also note that while Crossrail would be able to provide onward journey opportunities for passengers alighting at Old Oak Common, if HS2 passengers consumed the capacity to get into the city centre it would be to the detriment of the capacity and growth opportunities which would otherwise be possible on that new Crossrail service.

The new station at Old Oak Common will facilitate an interchange between HS2 services and the national rail and Crossrail networks on the west coast main line. We consider that between a quarter and a third of all HS2 passengers will choose to use Old Oak Common rather than come to Euston, mainly for those destinations best served by the new Crossrail line. The remaining two-thirds of passengers who are still on the train beyond Old Oak Common will, as we heard from the noble Lord, Lord Adonis, have good access across both central London, London suburbs and to other mainline stations.

I hope that by listing the consideration that was given, I have demonstrated that the temporary termination of HS2 services at Old Oak Common has already been fully explored. That work showed no further merit in investigating this option further and indeed as neither of the Select Committees of either House that also examined this issue saw fit to make any recommendations regarding it, I suggest that the details of this amendment have been looked at. I therefore hope that the noble Lord will withdraw it.

With respect to the amendment of the noble Lord, Lord Berkeley, on cost estimates, as the noble Lord himself acknowledges, last week I met him to discuss the work that he had commissioned on the costs of phase 1. Indeed, Mr Bing, to whom he referred, was also present with officials from my department and from HS2. I disagree with the noble Lord, Lord Bradshaw, when he says that the figures presented are flimsy. They are not. I am confident of the robustness of our costs. Indeed, Mr Bing himself acknowledged the expertise of those present from HS2 in terms of providing and determining these costs. What was clear from the costs that Mr Bing had presented vis-à-vis the costs that the HS2 technical experts were presenting was that there was a difference in the basis on which they were detailed. That said, we are confident of our own cost analysis. In response, and in the spirit of openness that I hope I have demonstrated during the passage of this Bill, I have suggested to the noble Lord, Lord Berkeley, further work on how the differences in cost estimates occurred so that these issues may be addressed. I believe that he has taken up this offer with Mr Bing.

The Government in no sense underestimate this issue of costs. Infrastructure projects are a serious matter and—as the noble Lord, Lord Berkeley, has acknowledged on the Crossrail project—their costs are a major determinant of their success. Therefore, as many will be aware, an updated cost estimate for the project is being published at each iteration of the business case, the next such iteration being due in the summer of this year.

The project as a whole, including its cost estimate and business case, is, as we have heard from several noble Lords, subject to regular independent reviews from the Infrastructure and Projects Authority and the Public Accounts Committee. Having illustrated the checks and balances and our continued belief in the robustness of the costs that have been presented—a point validated in the assessments made by various

other bodies, including the Public Accounts Committee—I do not feel that a further independent review is necessary and hope that on the basis that I have detailed, the noble Lord will be minded to withdraw his amendment.

5 pm

Lord Bradshaw: My Lords, I thank the Minister for his response. First, in answer to the noble Lord, Lord Brabazon, I have checked that the termination of trains for a period at Old Oak Common would not rehybridise the Bill, because it would not deviate from what has already been agreed. Secondly, I fully go along with the urgency of the project. It is a very sensible project and I have always thought it necessary; I do not argue with it. I am concerned that it will be subject to a lot of cost overruns because I do not believe that the preparatory work has been done as thoroughly as it should.

Reference was made to Old Oak Common by the noble Baroness, Lady O'Cathain. I have managed the railway at Old Oak Common. It has never been a station. It has been a locomotive depot with lots of sidings, but it gives an opportunity. It is a vast area. There are no buildings of architectural merit there, so it is possible to clear an area. There is no reason why a station should not be constructed at Old Oak Common so that trains can be turned around. In phase 1, the trains from Birmingham will be no more than commuter trains. If they take 30 or 40 minutes to get to Old Oak Common, that will not be a long journey and it will not be difficult to turn them around and send them back to Birmingham quite quickly.

I want real attention focused on how we get economically from Old Oak Common to Euston, because I very much fear that the costs of that last bit as they now stand will explode the issue and, as I said, unless the Government make more money available, stop the extension beyond Birmingham.

These are serious issues. I have listened carefully to what the Minister said. However, I started with the issue of financial propriety. I think it is our duty to say to the Government that this has not been properly costed from one end to the other. We should get on with the bit that we know—or think—is sound, and push the other one, not to a long delay, but until such time as the figures can be agreed. I beg to test the opinion of the House.

5.03 pm

Division on Amendment 1

Contents 80; Not-Contents 261.

Amendment 1 disagreed.

Division No. 1

CONTENTS

Addington, L.
Ashdown of Norton-sub-Hamdon, L.
Bakewell of Hardington Mandeville, B. [Teller]
Barker, B.
Beith, L.
Benjamin, B.
Berkeley, L.
Bhatia, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradshaw, L.
Brinton, B.
Bruce of Bennachie, L.
Burns, L.
Burt of Solihull, B.
Cameron of Dillington, L.
Clancarty, E.
Clement-Jones, L.
Cotter, L.
Deech, B.
Dholakia, L.
Fearn, L.
Featherstone, B.
Foster of Bath, L.
Framlingham, L.
Garden of Frognal, B.
German, L.
Glasgow, E.
Goddard of Stockport, L.
Grender, B.
Hamwee, B.
Harris of Richmond, B.
Hollick, L.
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jolly, B.
Kerr of Kinlochard, L.
Layard, L.
Lee of Trafford, L.
Lester of Herne Hill, L.
Loomba, L.
Maddock, B.
Meacher, B.
Miller of Chilthorne Domer, B.
Newby, L.
Northover, B.
Oates, L.
O'Neill of Bengarve, B.
Paddick, L.
Palmer, L.
Parminter, B.
Purvis of Tweed, L.
Randerson, B.
Razzall, L.
Rennard, L.
Roberts of Llandudno, L.
Rowe-Beddoe, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Shipley, L.
Smith of Newnham, B.
Stoddart of Swindon, L.
Stoneham of Droxford, L. [Teller]
Storey, L.
Stunell, L.
Suttie, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Tonge, B.
Tope, L.
Turnbull, L.
Tyler of Enfield, B.
Wallace of Saltaire, L.
Walmsley, B.
Williams of Baglan, L.
Willis of Knaresborough, L.

NOT CONTENTS

Adams of Craigielea, B.
Adonis, L.
Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Armstrong of Ilminster, L.
Ashton of Hyde, L.
Astor, V.
Attlee, E.
Baker of Dorking, L.
Barker of Battle, L.
Bassam of Brighton, L.
Bates, L.
Beecham, L.
Bell, L.
Berridge, B.
Best, L.
Bew, L.
Billingham, B.
Blood, B.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Bridgeman, V.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Buscombe, B.
Byford, B.
Caine, L.
Caithness, E.
Campbell-Savours, L.
Carlile of Berriew, L.
Carrington of Fulham, L.
Cashman, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chester, Bp.
Chisholm of Owlpen, B.
Clark of Windermere, L.
Colwyn, L.
Cope of Berkeley, L.
Cormack, L.
Corston, B.
Courtown, E. [Teller]
Coussins, B.
Couttie, B.
Cox, B.
Craig of Radley, L.
Craigavon, V.
Crathorne, L.
Crickhowell, L.
Cumberlege, B.
De Mauley, L.
Deighton, L.
Dixon-Smith, L.
Donaghy, B.
Drake, B.
Dunlop, L.
Eames, L.
Eccles, V.
Elder, L.
Erroll, E.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Falkland, V.
Fall, B.
Farmer, L.
Faulkner of Worcester, L.
Faulks, L.
Fellowes of West Stafford, L.
Fink, L.
Finlay of Llandaff, B.
Finn, B.
Fookes, B.

Ford, B.
Fraser of Corriegarth, L.
Freeman, L.
Freud, L.
Gadhia, L.
Gale, B.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Giddens, L.
Gilbert of Panteg, L.
Gold, L.
Goldie, B.
Goodlad, L.
Gordon of Strathblane, L.
Grade of Yarmouth, L.
Green of Hurstpierpoint, L.
Greenway, L.
Griffiths of Fforestfach, L.
Grocott, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Hanham, B.
Hannay of Chiswick, L.
Hanworth, V.
Harris of Peckham, L.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Helic, B.
Henley, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howarth of Newport, L.
Howell of Guildford, L.
Hoyle, L.
Hunt of Chesterton, L.
Hunt of Wirral, L.
Hutton of Furness, L.
Inglewood, L.
James of Blackheath, L.
Janvrin, L.
Jay of Ewelme, L.
Jay of Paddington, B.
Jones of Whitchurch, B.
Jopling, L.
Kalms, L.
Keen of Elie, L.
Kennedy of Southwark, L.
King of Bridgwater, L.
Kinnoull, E.
Kirkham, L.
Kirkhill, L.
Laming, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Lea of Crondall, L.
Leigh of Hurley, L.
Lennie, L.
Lexden, L.
Liddle, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lothian, M.
Low of Dalston, L.
Luce, L.
Lupton, L.
Lytton, E.
McAvoy, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McIntosh of Hudnall, B.
McIntosh of Pickering, B.
Mackay of Clashfern, L.
MacKenzie of Culkein, L.
McKenzie of Luton, L.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Manzoor, B.
Mawson, L.
Mendelsohn, L.
Mitchell, L.
Mobarik, B.
Morris of Aberavon, L.
Morris of Bolton, B.
Morris of Handsworth, L.
Morris of Yardley, B.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Norton of Louth, L.
O'Cathain, B.
O'Loan, B.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Patel, L.
Pitkeathley, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Prior of Brampton, L.
Prosser, B.
Puttnam, L.
Ramsay of Cartvale, B.
Rawlings, B.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ridley, V.
Risby, L.
Robathan, L.
Rogan, L.
Rosser, L.
St John of Bletso, L.
Sandwich, E.
Sassoon, L.
Sawyer, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selsdon, L.
Sharples, B.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Sherlock, B.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Simon, V.
Skelmersdale, L.
Slim, V.
Smith of Hindhead, L.
Snape, L.
Soley, L.
Spicer, L.
Stedman-Scott, B.
Stirrup, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Sugg, B.
Suri, L.
Sutherland of Houndwood, L.
Taylor of Bolton, B.
Taylor of Holbeach, L. [Teller]
Thurlow, L.
Touhig, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Tunnicliffe, L.
Uddin, B.
Ullswater, V.
Vere of Norbiton, B.
Verma, B.
Wakeham, L.
Walker of Gestingthorpe, L.
Warsi, B.
Wasserman, L.
Watkins of Tavistock, B.
Wei, L.
Wheatcroft, B.
Wheeler, B.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
York, Abp.
Young of Cookham, L.
Young of Hornsey, B.
Young of Norwood Green, L.
Younger of Leckie, V.

5.18 pm

Amendment 2

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

2: Clause 1, page 1, line 11, at end insert—

"( ) The scheduled works may not commence until the nominated undertaker has consulted appropriate bodies representing the interests of landowners about its disposal of surplus land policy, and has published a report on that consultation."

Lord Stevenson of Balmacara: My Lords, I draw your Lordships' attention to my interests as declared at the Committee stage of the Bill and earlier. The subject of the amendment was discussed in Committee and the Minister made a helpful response at that time. The issue was also raised in the Select Committee of your Lordships' House, as it engages the private interests of many petitioners, and that committee made a strong recommendation, to which I wish to refer. We also now have the Government's response to the Select Committee, which raises the point that I want to raise with the Minister.

The Crichel Down rules have governed the selling of surplus land following compulsory purchase for over half a century. Although there are said to be problems with them—that is perhaps a matter for another day—they are respected as the rules of the game. This issue has great importance, as there is no real accessible right of review once land has been taken, as judicial review is effectively out of the financial reach of most landowners.

The problem is that HS2 Ltd has decided that, rather than simply follow the Crichel Down rules, as has been the established practice, it will introduce alongside those additional exceptions under which it will not offer, in the first instance, land that it has compulsorily purchased back to the original landowner. These exceptions include, it says,

"where it makes sense to pool the land with adjoining ownerships in a joint disposal".

What this might mean, of course, is that where HS2 Ltd thinks that it will be better for it financially to keep the land it no longer needs and sell it in a different parcel, it will. It will not be offered back to the owner whose land it was originally. The Lords HS2 Select Committee recognised this and recommended in its report:

"We strongly urge the Secretary of State not to add further exceptions to what is already … a long list of cases … in which the

original owner will not be given first refusal to reacquire the land at its then market value. Apart from other more principled reasons, which we need not repeat, it would be odd if one Department of State had its own version of the rules".

The Government say at paragraph 122 of their response:

"The Promoter is prepared to reconsider the additional exceptions set out in the Information Paper in the particular circumstances of each case".

It is that phrase to which I would like a response from the Minister. Obviously, if that means that no decisions will be given in general but only in particular cases, there is no certainty for the landowner, who would have to wait each time for HS2 Ltd to decide, presumably towards the end of the time for which it needed the land, whether to keep it. HS2 Ltd would still have the power to keep any land it wanted—for example, for a development—which it would have acquired at much below the market rate. Is that fair?

HS2 Ltd has provided no details of what criteria it would use to undertake case-by-case reviews. If a case-by-case approach is used, these criteria should surely be in the public interest. That makes the case. I look forward to hearing from the Minister. If he cannot agree to review, perhaps he would be prepared to write giving examples of what criteria would be used. I beg to move.

Lord Ahmad of Wimbledon: My Lords, as I am sure the noble Lord is aware, the policy regarding the disposal of surplus land received an extensive examination by the Select Committees of both Houses with regard to individual cases, to which he referred, and more broadly when they heard from representative bodies such as the National Farmers' Union and the Country Land and Business Association. I am sure the noble Lord has noted this, but I say for the benefit of your Lordships' House that paragraphs 417 and 421 of the Lords Select Committee's report set out its conclusions in detail.

The Secretary of State is under a general duty to minimise land take for the railway, whether permanently or temporarily. In general terms, any land that is surplus following construction will be disposed of in accordance with the Crichel Down rules. These rules provide for the circumstances in which land acquired by compulsory acquisition, but no longer required, will be offered back to the former owners. The rules have been developed over the course of half a century and have been endorsed by previous Governments. The basic principle is that former owners will, as a general rule, be given the first opportunity to repurchase any surplus land at current market value provided it has not materially changed in character since acquisition, such as new buildings having been built on it.

The rules set out a number of other exceptions to this general principle, which HS2 follows, but have also added two further exceptions to cater for the special circumstances of the HS2 scheme. These exceptions would allow the Secretary of State to retain land acquired for the project where a site is needed for regeneration or where it is needed for the relocation of a business directly affected by HS2. The Select Committee report recommended that the project remove these two additional exceptions. In their response, the Government have noted, and agreed to reconsider, the additional exceptions in the particular circumstances of each case.

I hope the fact that we are proposing to use a very well-established approach for this policy and have further agreed to revise that approach to make it further in line with the original policy demonstrates that this amendment is unnecessary. I hope that the noble Lord is minded to withdraw his amendment.

Lord Stevenson of Balmacara: I thank the Minister for that response. I look forward to reading it in more detail in *Hansard.* For the moment, however, I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendment 3

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

3: Clause 1, page 1, line 11, at end insert—

"( ) Before the date on which the nominated undertaker commences any works authorised by this Act, the Secretary of State must publish a cost-benefit analysis of the environmental impacts of the proposed works within Phase One of High Speed 2 and connected construction works in the Chilterns Area of Outstanding Natural Beauty.

( ) The report must include an explanation of the methodology used to value the savings in environmental impact that would have arisen from more extensive tunnelling."

Lord Stevenson of Balmacara: My Lords, I will speak also to the other amendments in this group. We are at the end of a very long and extensive planning process, which, while not as lengthy as the planning inquiry for T5, I think could be agreed all round to have been quite a marathon. Despite the scrutiny of the public aspects of the Bill in this House and in the other place—and in particular, the excellent and thorough work done by the Select Committees, which was heroic in all respects, and to which I have already paid tribute in Committee, and about which others have spoken again today—I have a view that the public interest has not yet been fully satisfied. So I would like to make a couple of points arising from these amendments.

There are, of course, a number of problems to do with the hybrid Bill process. This has been described in earlier discussions as a hangover from the Victorian era, and it is probably going to be reviewed in the light of the fact that a Joint Committee has been set up of both Houses. We are aware that comments in the Select Committees of both the Commons and the Lords have been also been made, and it is a matter of some regret that your Lordships' House has not had the opportunity to discuss the report of the Select Committee of the Lords that looked at this Bill in detail. If we had had that chance, some of the points that I am going to make could have come up at that time. I am not going to continue on process issues, however, because I think that they will be the subject of a report from the Joint Committee, and I hope that this House will have a chance to discuss this later on. I myself have submitted evidence, and I know that a number of other noble Lords have done so as well.

My argument in very skeletal form—and I hope that I am not engaging with any of the points that might be raised by members of the Select Committee who are present today, because this is a matter about

[LORD STEVENSON OF BALMACARA]
public interest, not private interest—is that the procedures of the two Houses, more by accident than design, dealing with the public aspects of the planning Bill as in the case of HS2 through the Public Bill procedure, and the private aspects through Select Committees, somehow manage to exclude a full consideration of public interest issues. I want to argue that point in relation to these three amendments.

My three areas of concern are not matters that I expect your Lordships' House to consider for amendment to the Bill. They were not put down as wrecking amendments; they are not intended to delay the progress of the Bill through to Royal Assent. But I hope that, at some point in the future, they will be open to interrogation by those responsible for delivering the Bill. They might well ask themselves important questions about whether what has been decided in the Bill through the processes that I have described is in the best possible form that it could be.

In Amendment 3, my question is not whether we should open the case for a through-the-Chilterns tunnel but to ask for transparency over how that decision was reached. Everyone will say that the Select Committee process, both in this House and in the other place, has done this issue to death. My point is that it probably has done it to death from the point of view of the private interest—but not from the point of view of the public interest. This is partly because the process engages with private interest from the start, and that tends to drive the way the debate is going. It is also a reflection of where we are today in relation to public bodies funded from public funds, which find it very difficult to put up arguments that are opposed to those that are made by a government department, such as the Department for Transport in relation to HS2. In that sense, there is a danger that the public interest would not be fully considered.

So I have two particular questions for the Minister. We are told in two or three places in the Bill documents that the statutory tests that are required by the Countryside and Rights of Way Act were undertaken by the Secretary of State. This was referred to by the Lords Select Committee. But what precisely were the tests and why is the information that was used to determine these points not made available? Surely it would be in the public interest to be transparent on this point, and I look forward to hearing from the Minister on this.

We read in both Select Committee reports—from this House and the other place—that a full-bore tunnel through the Chilterns AONB was considered, but rejected on cost grounds. If that is so—and I have no reason to doubt that it was done properly—why is that information not published and made available? The amendment states:

"The report must include an explanation of the methodology used to value the savings in environmental impact that would have arisen from more extensive tunnelling".

Again, this is a matter of public interest, and I would be grateful if the Minister could respond. These requests are not disproportionate; they are in the public interest and should be answered, and I look forward to hearing what the Minister has to say about them. If he chooses to write in more detail, I will be happy to receive a letter from him at a later date.

On Amendment 4, the arguments are much the same —although, because it is a modest project, the costs here are much less. Again, we find that the tiny village of Chetwode, which is in north Bucks, argued persuasively for a bored tunnel, which was refused by the Commons Select Committee "on grounds of cost". The Lords Select Committee also received this and said that it,

"reluctantly reached the same conclusion".

We have not seen the figures. Again, that is an issue of public interest, and I would be grateful if the Minister could provide them now—or, if he wishes, in a letter.

5.30 pm

I will leave the main burden of speaking to Amendment 5 to my noble friend Lord Berkeley, but Members of your Lordships' House might wish to be made aware that this amendment was first raised by the noble Viscount, Lord Astor, in Committee, who may wish to contribute on this point. Rather than going through any of these issues, as they are not specific to the point I am making, I will make a slightly different point. In projects of this type, issues will arise during the process of planning and design of the final stages when other good ideas, which are not in the main Bill, come up. There may be flexibility in the framing of the Bill—an ability to make changes. However, on the sort of proposal that has been made by the Wendover community, which has been rather badly treated by the railway as regards how it has been routed, if it was possible for that community to come up with a good idea, even at this late stage, what is the process by which it might be considered? If, for example, it showed that demonstrable savings or huge environmental benefits would result, are there flexibilities in the process going forward? I am not talking about mistakes made or in any sense going back—I want to interrogate the question of what happens now. Can the Minister reassure us that there would be an opportunity for such schemes to be given proper evaluation and discussion at the appropriate stage? I beg to move.

Lord Berkeley: My Lords, since we appear to be merging the two groups together, I will speak briefly to Amendment 5, which is about Wendover. I do not want to rehearse what we have already spoken about this afternoon or elsewhere. However, I have a question for the Minister. Now that we are moving towards Royal Assent—this may come up in discussions about any changes that may happen at Euston to keep the trains running, which is in a later amendment—to what extent is the successful contractor able to come up with his own ideas for either doing some of the work more cheaply or with less environmental impact? Wendover tunnel comes to mind, because I am advised that building a tunnel in place of the open cut and viaduct is cheaper—and of course it has a much reduced environmental impact. Provided that he does it within the limits of deviation and all the other limits on the drawings, presumably it is up to the contractor to propose it to HS2—which presumably will accept it if all those conditions are met.

Alternatively, is there another way to do this? I will be interested to hear the Minister's response, because tunnels are cheaper—somewhat surprisingly, but we discussed it in Committee—and would obviously have

a reduced environmental impact. If it is within the limits of deviation and the other limits on the legislation, it would be good if the contractor just chose to do that—in which case there would be benefits all round.

Baroness Pidding (Con): My Lords, I support Amendment 3, in the name of the noble Lord, Lord Stevenson of Balmacara. Before speaking, I draw noble Lords' attention to the declaration of interests that I made in Committee.

I am aware that this issue was raised in Committee, but I fear that we did not get the fulsome response that we hoped for from the Minister. I would hope that all Governments, particularly a Conservative Government, would be interested in value for money. As the noble Lord, Lord Stevenson, said, we are told what the total cost of the railway is—although it seems to change every time I see a figure, and few believe that it will stop there. But surely this is only half the issue. The environmental impact of this line, particularly over the Chilterns AONB, has not been costed, and the Government have been strangely reluctant to provide figures or the methodology used. Can the Minster let us have this information? At this stage a full explanation is imperative.

If the people of this country are going to get behind this project, surely we ought to be transparent about the figures that have been used to decide that 8.7 kilometres of additional tunnelling, which would preserve the AONB, is "too expensive" because the benefits to the environment are insufficient to outweigh the additional cost of tunnelling. If the figures stack up—I have no idea whether they do—we will at least have been transparent in the process. Surely the public, who will have to pay for this project in so many ways—and of whom relatively few will see any actual benefit—are entitled to a proper cost-benefit analysis before our countryside is destroyed.

If we destroy the AONB—and it will be destroyed—without making a proper cost-benefit analysis of what we are doing, we will not be forgiven. Indeed, not having such a cost-benefit analysis would be regarded as pure vandalism. I urge the Minister and the Government just to do what is requested in this sensible amendment.

Lord Young of Norwood Green: My Lords, I am surprised that yet again we are exploring the wonders of Wendover—which was one of the many exotic foreign trips we went on. It was important that we went out to see these places. I think it was a slight exaggeration when the noble Baroness, Lady Pidding, said that the area of outstanding natural beauty would be destroyed. There will be changes, but I do not believe that the area will be destroyed—and neither do members of the committee.

I return to the point made by my noble friend Lord Stevenson, who says, yet again, that we have not fully and transparently explored this issue. In fact we did—and of course it was done not only by us but by the Commons, who after two years of hearing petitions extended the tunnel by a significant amount. The next challenge that was put to us when we examined this in Committee was a challenge to the promoters' assessment of tunnelling costs: "They would say that, wouldn't they? They would make them come out cheaper". The integrity of that costing procedure was disputed. In a way, that was a useful challenge, because we needed to be assured that that costing gave us a fair and accurate cost comparison of whether extending tunnelling even further—whether it was mined or bored—would achieve savings, which my noble friend Lord Berkeley also insisted would be the case.

That was a legitimate question until we got to the point of the proposed Colne Valley viaduct, where petitioners were asking for a fully bored tunnel instead of a viaduct. Those HS2 tunnelling costs were assessed in an independent cost analysis and were validated. So the idea that at this stage we have not had a full debate on this is preposterous, given everything that has happened—and, again, the idea that the public interest has not been protected is fallacious.

It is true to say—perhaps it is the one point on which I agree with my noble friend—that the hybrid Bill process is not ideal. We and the Commons agreed on that. As a committee we put in our view of how this Victorian process, as my noble friend rightly called it, could be improved. But that is one thing; it does not take away the main point of this amendment, which somehow seems to suggest to the House that, first, the public interest has not been fully served, and, secondly, that this has been a flawed process. I and the rest of my committee colleagues do not believe that to be the case. Again, I trust that noble Lords will reject this amendment.

Baroness O'Cathain: Maybe my memory is deceiving me, but the mined tunnel was through chalk, was it not? There was a problem about the slurry and it would not have been a practical proposition to go through—rather than a bored tunnel. I would like clarification on that, specifically the mined tunnel. Can the noble Lord, Lord Young, help me?

Lord Young of Norwood Green: No, I am not going to because I have just remembered that Peers are allowed only one contribution on an amendment.

Lord Snape: My Lords, I am not quite sure whether I can help the noble Baroness. I asked the same question about a mined tunnel in Committee and the noble Viscount, Lord Astor, explained it all to me. The problem is that I have forgotten the explanation. It sounded very plausible at the time. I am sure if the noble Baroness consults her noble friend she will get all the details of what should be done.

I listened to the noble Baroness who spoke earlier from the Conservative Benches. She made a fleeting appearance in Committee and said pretty much the same thing; I hope she will forgive me for saying so. I do not think emotive language about a two-track railway destroying the countryside takes this House or this debate any further forward. What did she say: "Just another 8.7 kilometres of tunnel"? That is in addition to the 47 kilometres of tunnel out of the 210 kilometres of the high-speed railway line. This is expensive lunacy in my view. I make a plea again on behalf of those who travel by train. People do not travel by train to gaze at a tunnel wall. Some of the semi-hysterical comments—I exempt my noble friend Lord Stevenson, he will be relieved to know—about

[LORD SNAPE]
the damage that the railway line will do to the Chilterns are just that, sheer hysteria. They were all made 30 years ago at the time of High Speed 1 across Kent, and none of it proved true then. Indeed, the economy of Kent has benefited enormously from High Speed 1.

The secondary point—the great unmentionable in this debate on the demand for tunnels—is of course that some people making these points about additional tunnelling do so on the grounds that there is no benefit from high-speed rail passing through the Chilterns to those who live there because there are not any stations. Well, there may be at some time in the future, as we have heard. Again, I exempt my noble friend from that; he is my Whip and I had better tread carefully. Once you get out of London, the M40 passes through the Chilterns without a mile of tunnel. Has that motorway destroyed that part of the world? I do not think it has. My noble friend nods his head but I do not think most people agree. Mind you, of course many of them use the M40 and that they are not going to be able to use the train is behind a great deal of the opposition, in my view. I hope that the Minister resists temptation. Whether it is cheaper to build a mined tunnel or go ahead with the existing proposals, as the Select Committee recommended, I know not. Nobody could have worked harder than the committee to look at those objections. I think there is quite sufficient tunnelling already so far as this high-speed railway is concerned, much of it expensive and unnecessary.

Lord Grocott (Lab): Will my noble friend answer a question that I feel I should know the answer to? How much has all the additional tunnelling that has come on as a result of the various stages of this Bill added to the cost of HS2? I have a slight suspicion that there may be the odd person—I am sure no one in this House—who has demanded a tunnel, for whatever reason, and then complains about the overall cost of the railway once the tunnelling has been accommodated.

Lord Snape: I am sure that the Minister, who is listening, will be able to give my noble friend a detailed answer to that question. We see with this project, as we have seen with others, that many of those against the project as a whole for reasons including its cost are the first to demand special provision in their part of the world, regardless of the additional cost. I hope the Minister will resist temptation, as 47 kilometres out of 210 is—I repeat—quite enough for me. Whether or not I will be around in 2026, who knows, but I will do my best and I wish the same to other noble Lords on both sides of the House. I think we deserve better than an extended view of a tunnel wall. Let us see this glorious countryside, that we hear so much defence of in the context of this Bill—mistakenly in my view.

5.45 pm

Lord Faulkner of Worcester: My Lords, I pick up the theme of my noble friend Lord Snape and express my disappointment at the lack of ambition that some Members of this House seem to demonstrate towards our capacity as a nation to build wonderful railways. Some of the finest structures created in the 19th century were built by railway engineers, whether it was viaducts through the Peak District or magnificent railway stations. To have such a lack of ambition and to say, "Gosh, this new line must all go in tunnels because it's going to be so obtrusive", is very disappointing. Also, as my noble friend says, it is very expensive. I remember at one of the early briefing meetings given by Sir David Higgins I asked him, "Wouldn't it be possible to reduce the cost of the project if we didn't have so much tunnel in it?". He said, "Yes, but I'm not allowed by the Government to answer that question". I am not sure whether it was this Government or the previous one who made it impossible for him to answer, but it has undoubtedly added to the cost.

I also make a plea for the people who like travelling by train and love the Chilterns and want to be able to see them. There is no reason why we should not be able to see them rather than the inside of a tunnel from the railway. Look at the other engineering projects in the Chilterns. The M40 is a six-lane motorway which carved a swathe through the Chiltern escarpment, and probably the largest intrusion into an area of outstanding natural beauty in the south of England. There was a lot of objection. It is used by very large numbers of people, but it still causes an intrusion and environmental damage far greater than the two-track railway that we are discussing this evening. Wendover benefits from a new bypass, which is being constructed to one side of the existing Chiltern railway line and is producing a huge amount of noise and traffic. It is very nice for the town because traffic is taken out of the town, but the new railway is going to go alongside that as well. Why is that somehow unreasonable compared with the road that is already there?

The Chilterns are beautiful. The environment of the Chilterns will be enhanced by the building of the railway, and many more people will be able to enjoy them. There is no need for these amendments.

Lord Ahmad of Wimbledon: My Lords, I thank all noble Lords for their participation and contributions to the debate. I am minded to start with the comments of the noble Lord, Lord Snape. Certainly when he suggested that I should not be tempted by these amendments, I was reminded that we start proceedings in the House every day with the Lord's Prayer, which says:

"Lead us not into temptation".

I will fulfil that prayer's requirements in my response this afternoon.

We have already touched, even this afternoon, on the cost of HS2. I say again to all noble Lords that the costs of HS2 have been the subject of intense analysis and review over several years, as we have already heard. As I indicated earlier this afternoon, we will continue to review costs for years to come. Let me once again praise the incredible work done collectively by the two Select Committees of both Houses. Let us put this into perspective: it is a combined period of two years of hearing evidence, considering all aspects of the proposed Bill, and on many occasions reviewing the costs for elements of the phase 1 scheme when asked to consider potential alternative options. It is sometimes suggested, and has been suggested again, that somehow there has not been an exhaustive

examination; I challenge that. The best way to do so is to read the detailed analysis, recommendations and reports of both Select Committees. I recommend that to all noble Lords who have not yet had the pleasure.

I thank the noble Lord, Lord Young of Norwood Green. As he noted in Committee, and as he has reminded us, the Select Committee considered all options that were presented for additional lengths of tunnelling in the Chilterns and in Wendover. It was not convinced of the need to recommend any further work on any of these options. As I have already said, these were exhaustive discussions, and I believe that that decision should be respected.

The Select Committees of both Houses also considered in detail the provision of additional environmental mitigation measures. It pains me to say it, but I disagree with my noble friend Lady Pidding that the Government have not published details of how certain things have been considered during the process of the Bill. It is worth noting, as I hope my noble friend will acknowledge, that many assurances have been given to the areas covered by the Chilterns area of outstanding natural beauty, including the provision of a £3 million fund for additional environmental mitigation measures.

My noble friend raised the issue of publishing tunnelling costs. The information used to assess the decision on whether it is appropriate to undertake a bore tunnel past Wendover and an extended bore tunnel through the Chilterns was published as part of the exhibits placed before both Select Committees that were used to establish the Government's position regarding the decision not to provide any additional tunnelling. It was that information that the Select Committee—I refer to the Commons Select Committee here—used to recommend an extended tunnel in the Chilterns and an extension to the tunnel in Wendover. The exhibits included figures for several Chiltern tunnel options, which I mentioned in Committee. They range from £82 million to £485 million. The additional extension of 2.6 kilometres to the Chilterns tunnel, which I hope my noble friend acknowledges, was agreed following a specific recommendation from the Select Committee in the other place. That was at a cost of £47 million.

Turning to the costs more generally, an updated cost estimate for the project is published, as I said earlier this afternoon, at every iteration of the business case. I repeat that the next iteration is due for publication in the summer of 2017. The project as a whole, including its cost estimate and business case, is subject to regular independent review from the Infrastructure and Projects Authority—

Lord Grocott: I could not keep all those figures in my head. Will the Minister be able to tell us at some stage, not necessarily now, the total additional cost of tunnelling on top of the other costs of the railway?

Lord Ahmad of Wimbledon: I referred to the specific addition, but I note what the noble Lord has said. I will write to him in that respect and ensure that a copy of the letter is laid in the Library of the House for the benefit of all noble Lords. I reassure noble Lords that this is an area that the Government have considered very carefully. Indeed, it has been scrutinised specifically by the Select Committees of both Houses.

I want to pick up on a couple of points that have been raised. The noble Lord, Lord Stevenson, asked specific questions. I will write to him in detail on some of the issues that he raised, but my understanding is that the response on Section 85 was set out in the Government's response to the 2011 consultation, which was subsequently published in January 2012. The other issue, of environmental mitigation, is also included in the business case, as was assessed according to the department's guidance. As I said, the noble Lord raised some specific points and I will write to him in that respect.

The noble Lord, Lord Berkeley, raised the issue of the ideas that contractors may put forward. As I am sure the noble Lord is aware, contractors come under the powers in the Bill, including the limits on deviation. Contractors are also limited by the environmental statement. Within those limits, contractors will be encouraged to be innovative. Indeed, a key commitment to Parliament in the environmental minimum requirements is that we will seek to reduce the environmental effects beyond those in the environmental statement itself. That will be done by innovation, much akin to what the noble Lord suggests.

I reiterate the point that the Public Accounts Committee in the other place and the National Audit Office will continue to examine the costs of HS2 as we move into the detailed design and construction stage and more detailed cost information becomes available. I hope my detailed response demonstrates what has been done, the analysis that has been undertaken and the revisions that have been made in response to issues that have been raised, particularly in the area of the Chilterns. I hope it demonstrates to noble Lords that the tabled amendments before us this afternoon are unnecessary. I underline that these issues have been fully examined, not by one Select Committee but by two. I have already underlined the amount of time they took and detail they went into in their careful consideration. As a Government, we feel that any further cost review at this stage would serve only to delay the railway, which I am sure is not the intention of the majority of Members in your Lordships' House. I hope that, with the detailed explanation I have given, the noble Lord is minded to withdraw his amendment.

Lord Stevenson of Balmacara: I thank all noble Lords who contributed to this brief debate. I expected to be vilified and attacked, and that all happened in due order. I have no comments to make on that—it goes with the burden of trying to stand up for things that you believe in. At least my noble friend withdrew the idea that I might be hysterical, which was only marginally worse than getting a low 2.2 for drafting when we introduced the discussions on the higher education Bill a few weeks ago.

I had a good response from the Minister on the particular questions I raised, and I thank him for that. On whether the statutory duties required under the CROW Act had been dealt with, he said he thought that they had been published. I would be grateful if we could perhaps have a further discussion on that when I have seen the letter that he will write. My impression was that they were not spelled out in the detail that I

[LORD STEVENSON OF BALMACARA]
am looking for. I am sure that we will get to that point, so I am not worried. I look forward to corresponding with him on that.

The second point is on the cost of tunnelling, a question that came up several times from noble Lords. I understand the point that has been made but, as was said, I think, by the noble Baroness, Lady Pidding, to know the cost of building the whole railway is important, but it is not the only factor that we need to know. What savings have been built into the overall cost by not doing other things that would have cost more money or, indeed, less? It is that argument that we are lacking information about. If it is true that the tunnelling is providing environmental benefits, those benefits need to be taken into account in the total value for money—a point that was made. It is that issue that we do not get.

For instance, my noble friend Lord Young raised the issue of the Colne Valley, which was not part of the amendments I put down, although it could have been. He said, as has been said elsewhere, that this was independently assessed and so is okay. But when you learn that the independent assessor was a non-executive director of the Department for Transport, which authorised the review, you wonder whether that is truly independent. Again, the point is: what does that show us? If the figures provided by the promoter are correct, that is one aspect, and it is very useful. But it does not tell you what would have been the cost had it been done a different way, such as by tunnelling. If you do not cost in the environmental benefits, that is an issue.

The Minister mentioned a range of costs for different tunnels. The figure that we most often hear, and therefore the one we are using, is about £485 million—I do not want to go into this in any detail—for the extension of the tunnel from where it comes out in the AONB in the Chilterns to Wendover. It is that figure that I want to measure against the savings that would occur from the environmental benefits preserved—the lack of building of viaducts and the requirement not to build bunds and sound-proofing. That is the figure we never hear.

Lots of people who have been engaged in the process say that they have read the reports and seen the figures. They always say that it is okay, but they never tell us what the figures are. Do noble Lords not find that just a little odd? That is why I say that the public interest needs to be satisfied and why I put down these amendments. However, I am satisfied that we have had the debate that I wanted to have at this stage. I look forward to the letters from the Minister and, with that, I beg leave to withdraw the amendment.

Amendment 3 withdrawn.

Amendments 4 to 6 not moved.

6 pm

Amendment 7

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

7: After Clause 34, insert the following new Clause—

"Traffic regulation

Schedule (Traffic regulation) contains provision relating to traffic regulation."

Lord Ahmad of Wimbledon: My Lords, I will speak also to the amendments tabled in my name. Amendment 7 seeks to ensure that traffic regulation orders—or TROs—which are a mechanism for local highway authorities to make temporary or permanent restrictions on the use of highways, do not frustrate the construction of the railway. These orders can be used to stop up roads, by restricting them to one-way operation or restricting them so that they cannot be used by lorries. A local authority could, therefore, put a lorry ban on a road that is needed to reach an HS2 phase 1 construction site or point.

Before I go any further, it is important to say that this amendment replaces the one put forward by the Government in Grand Committee, where several noble Lords on all sides of the House, including Members of your Lordships' Select Committee, expressed a number of concerns. Indeed, the noble Lord, Lord Rosser, expressed concern at the lack of consultation with the local authorities. I withdrew the amendment at that time, and I agree that the lack of consultation was regrettable and is not the way that amendments should be developed or presented; for that, I apologise. However, I am happy to confirm that, even while the Grand Committee was taking place, my officials were having constructive discussions with local authorities, and these amendments are the result of those discussions.

We believe that the amendments address the substantive concerns that local authorities were expressing. This new clause and schedule will ensure that the local highway authorities consult the Secretary of State for Transport before making any orders that affect either specific roads identified for use by HS2 or other roads related to HS2 construction works, avoiding the risk that TROs could inadvertently cause problems for the construction of HS2. It also allows the Secretary of State, if required, to make TROs himself, and to prohibit or revoke TROs that unnecessarily hinder the delivery of the railway.

We have accepted that, as previously formulated, the relevant roads to which the provisions would have applied were too broad. The revisions we have made to the amendment include enabling the Secretary of State to specify particular roads that the provisions will not apply to and removing the specific issue of the,

"1 kilometre from the act limits",

boundary for relevant roads. We have also revised the amendment to allow the Secretary of State to specify types of traffic regulation orders that we will not be concerned about, which will provide further clarity to local authorities. Furthermore, we have introduced into the provisions a sunset clause relating to the consultation requirement. This means that the Secretary of State will need to make a Statement when consultation is no longer required in a local highway authority area due to the phase 1 construction having been completed in that area. The circumstances in which the Secretary of State may use these powers has been tightened, so the Secretary of State must consider that the use of the powers is necessary for the timely, efficient and cost-effective construction of HS2 and is reasonable in the circumstances.

Additional changes include a duty that will mean that any temporary traffic regulation order that the Secretary of State asks a local highway authority to make is for only a reasonable period of time, with reference to the length of the relevant construction works. The amendment also requires the Secretary of State to produce guidance on how these powers will operate. In addition to these revisions, we have agreed to provide specific undertakings that these powers will not be used to affect any existing busways, cycleways or the London Safer Lorry Scheme. Clearly, we hope that there will be little or no need to rely on these powers, as the regular meetings established with local highway authorities will be used to consult, agree and monitor local traffic management plans. However, these powers are needed to ensure that if these arrangements fail, HS2 can be delivered in an efficient manner.

Given the impact that traffic regulation orders could have on the construction of HS2, it is prudent for us to take these powers, and the changes that we have made will now provide the local authorities with the clarification and additional protections they sought in relation to these provisions. I note that the noble Lord, Lord Berkeley, has tabled several amendments regarding this amendment that are listed further down the Marshalled List. I will be happy to address the issues raised in those once the noble Lord has had an opportunity to speak to them. I beg to move.

Lord Berkeley: My Lords, I will speak to the remaining amendments in this group, starting with Amendment 14. First, I should express my gratitude to the Minister for the way he took on some of the comments and criticisms in Committee. I am aware of a number of meetings that have taken place between his officials and representatives of some of the local authorities up the route—from Transport for London to the West Midlands and some in between—and I think there has been a lot of progress.

The problem for these authorities is that this kind of detailed legislation should have been in the Bill before it even started its passage through either House, so that the local authorities could have prepared petitions if they did not like it and had a detailed discussion in either or both of the Select Committees. It is quite difficult and time-consuming to try to resolve these issues on Report. I received a number of comments from local authorities, some from TfL in particular, which are quite important. They would be much happier if all these issues could be resolved before Third Reading and would be happy with the undertakings that I believe the Minister said he would offer—although I have not seen them, so I cannot comment on them. As a matter of principle, I hope that the Government will not do this again—rush something as complicated as this at the very last stage. I am sure they had a very good reason for it, but perhaps we will learn from the next stages of phase 2—phases 2A and 2B—and anything else that happens, such as Crossrail 2. As the Minister said, there is a need to ensure that what is required on the traffic side to build HS2 is not compromised. However, it also needs to be balanced by the needs of local people getting to work, driving up the motorway or using local train services, and that is what these regulations are designed to do. There are a few other things that probably need doing.

The Minister invited me to speak to these amendments. I will do so in four small groups, as quickly as I can. Then I hope he will be able to say what he can do and whether he agrees with them or not. Amendments 14, 15 and 16 involve a duty to consult, the power to direct and vary TROs, and so on. We are getting down to the definition of what is called a "relevant road"—at which some noble Lords might start glazing over and wonder what we are talking about, but it is quite important. HS2 has already sought approval, in Schedule 17, for many roads. In respect of Transport for London, it sought approval in respect of the entire GLA road network, which covers all the red routes in London. That seems a little excessive because there are an awful lot of red routes in London, and not many of them are near Euston or the roads in. I am sure it will not need to use these roads, but the burden of consultation on the local authorities is quite severe. This amendment is intended to reduce the need for consultation once HS2 has decided where it wants to run its tracks and other transport. It will not restrict the use of these roads to other traffic by having these requirements on all the red routes through London. I understand that the department has offered an undertaking to TfL, but I hope that this could apply in a similar way across the country, from the West Midlands downwards and to all the local authorities in between.

Harking back to the last debate about tunnels, we forget that nearly all the tunnels are in the southern half of the route—we can debate the reasons for that. But the line goes through a lot of urban areas in the northern half of the route and to some extent the transport problems may be even worse there than in the south. I hope the Minister will consider this amendment as a way of restricting the amount of consultation required. Consultation is obviously a good thing, but there is a limit to how much a local authority can cope with consultation on these TROs. They have to do many other bits of consultation at the same time. The amendment is therefore intended to give local authorities much greater certainty and avoid an excessive, disproportionate and unjustifiable burden on them.

When he introduced this group of amendments, I think the Minister hinted about Amendment 17. There is already a need for the Secretary of State, when he makes, varies or revokes a TRO, to consult with a traffic authority. The purpose is currently limited to ensuring public safety, reducing public convenience and taking into account the requirement to which the traffic authority is subject. But there is nothing that says account should be taken of the environmental effects. That should be added, because some of the plans—which may or may not be necessary—could have a significant, adverse environmental effect if there is too much construction traffic. I know there has been a very full environmental study of the whole route, but when we are getting into the detail, people will worry locally about where the traffic is going. If the environmental effects are not allowed to be considered, that would cause problems locally.

Amendment 18 relates to deadlines for the release of guidance. The proposed new schedule includes an obligation on the Secretary of State to prepare a guidance statement under paragraph 13, having consulted traffic authorities in respect of a traffic authority's

[LORD BERKELEY]
duty to consult under paragraph 1(2) and how the Secretary of State proposes to exercise his powers in respect of making, varying or revoking TROs under the schedule. This requirement is a welcome step. It ensures that the traffic authorities have the opportunity to be consulted, give their opinion and so forth. But what is missing is a deadline within which this guidance should be offered.

I have received strong pressure from some traffic authorities, saying that they need the guidance statement to be produced within three months of Royal Assent. As I said, they often have to process hundreds of these TROs a year. It is a big workload. They do not complain because it is the right way of doing things, but it would be good to have the guidance at an early stage so that they can take it forward in a structured way. I understand that the department has offered, in the form of an undertaking to a number of traffic authorities, an obligation to produce the guidance within three months. If the department is happy to offer that deadline, it raises the question of why that cannot be included in the Bill. Maybe I am too late with that, but it is a pity it was not included in the Bill.

I have nearly finished. Amendment 20 is confined to London roads. It comes from the fact that the road structure in London is different from the rest of the country. The duty to maintain a public highway falls on a number of different public bodies. The Secretary of State is of course the highway authority for motorways and trunk roads. Outside London, the county council, metropolitan council or unitary council has responsibility for the roads in the relevant area, except for motorways and trunk roads. But in London it is slightly different. TfL is the highway authority for Greater London Authority roads and then each London borough is the highway authority for all other roads in its area. Generally, the highway authority is also the traffic authority for the road. Traffic authorities have the power to manage traffic and can make TROs.

6.15 pm

The problem with the new schedule as drafted is that it does not take into account some of the peculiarities of the situation in London. The current drafting of the definition of traffic authority in the schedule cross-refers to the definition in the Road Traffic Regulation Act 1984. In that definition, it states in Section 121A:

"Transport for London is the traffic authority for every GLA road",

and a GLA road is defined in the Highways Act 1980.

However, there is another category of road in London—the GLA side road. I was not aware of such a thing until I received this briefing, but I am convinced that there is such a thing. They are peculiar in that the relevant London borough is the highway authority for them but TfL is the traffic authority. The logic for GLA side roads is that they are roads that adjoin GLA roads and to properly regulate traffic entering or leaving GLA roads, TfL also needs traffic regulation powers over GLA side roads. Noble Lords may have studied which traffic lights in London are on TfL roads and which are on borough roads. This explanation confirms what I have thought for a long time: it is a bit of a mess. When we debated some of this 10 years ago, we did not have the experience, but we are where we are.

As presently drafted, the new schedule, by referring only to the definition in Section 121A of the Road Traffic Regulation Act 1984, would not properly capture the fact that TfL is the appropriate traffic authority for GLA side roads. Amendments 19 and 20 would remedy that. They would also clarify that, unlike other traffic authorities, TfL does not have an exclusive area as such, but rather a network of roads within the areas of other traffic authorities. As such, the frequent references in the schedule to a traffic authority's area should read in the case of TfL as a reference to its highway network.

That is the end. I tried to make it a short description but, as noble Lords will have understood, it is quite complicated. The Minister may say in reply, "Trust me, guv", which is a reasonable response. But in talking to the local authorities there is a feeling that sometimes, as this Bill has passed through both Houses and the local authorities have been involved, there is a lack of confidence that HS2 will do what the Minister says if it does not feel like it. I do not think we will see any more of the aggression from HS2 that we have seen in the past, but I hope the Minister will consider this. I am sure there will be more meetings before Third Reading, but these issues need sorting out. Whether that is in the form of assurances or whether the Minister comes back at Third Reading with some of these amendments drafted in his own hand so that they will be correct, I look forward to his response.

Baroness Randerson (LD): My Lords, as I have not spoken before at this stage of proceedings, it is appropriate to me to preface my remarks by joining others in thanking members of the Select Committee for all their hard work and truly amazing perseverance with the Bill. The report is excellent in many respects. There is no doubt about the thoroughness of it. But of course the amendments in the name of the Minister relate to something that the committee did not examine.

That previous set of amendments was brought forward in Committee without prior consideration. I am, therefore, pleased to see that considerable progress has been made since the Minister agreed to withdraw them. Camden Council is undoubtedly very much happier with the new set than it was with the previous set.

There are, however, outstanding issues, some of which the Minister referred to, including the impact on bus lanes, cycleways and the Safer Lorry scheme. He did not, however, unless I missed it—and I was listening carefully—refer to the congestion charge zone, and I would welcome clarity on whether these powers will affect that.

He also made it clear that there were issues where there was some distance between the Government and Camden Council and others. Can I have the Minister's assurance that discussions are ongoing, and that the Government are looking for further progress? Although his assurances are very reassuring, they do not go the whole way towards addressing the concerns of the areas that would be considerably affected by these traffic regulations.

Lord Rosser: I will make a few brief comments. First, I thank the Minister for the consultation that has taken place since Committee with local highway authorities, and for the retabling of the new schedule. Certainly, as a result of what has happened since Committee, a lot of the sting seems to have been taken out of the issue.

However, as the noble Baroness, Lady Randerson, said, there are still some outstanding issues. The noble Baroness mentioned Camden Council. It has indicated to us—and to the noble Baroness—that it is still pursuing certain points with the promoter. It has indicated—no doubt to all of us—that it wants the Secretary of State to provide a justification when using the powers around traffic management in the new schedule.

The noble Baroness, Lady Randerson, referred to the issues of bus lanes, cycleways, the Safer Lorry scheme and the congestion charge zone, and the Minister has already touched on that. However, Camden Council, as I understand it, is asking the Government to agree to specific provisions to ensure that these powers will not affect bus lanes, cycleways, the Safer Lorry scheme and the congestion charge zone, and I would be grateful if the Minister could say whether he feels that he has already met, in his earlier comments, the wish of Camden Council for those specific provisions.

The third request by Camden Council is for an assurance that the promoter of HS2 will meet the costs incurred by local authorities in putting in place, and removing, traffic regulation orders required by the Secretary of State. Perhaps the Minister could comment on that. If he feels that he covered it in his introductory comments, I apologise for raising them again. I am, however, raising them just to make sure that they have been covered.

Will the Minister also say how many organisations or local highway authorities are still making representations to him on this issue? Is the number considerable, or is it fairly limited? Is the number of outstanding points fairly limited? As I understand it—as others have said—discussions are still taking place, and it would be welcome if the Minister could let us know, either now or at Third Reading, whether those outstanding issues have been addressed. It is not unreasonable to ask the Minister to say something at Third Reading, bearing in mind the late arrival of the amendment in Committee and the fact that the Minister agreed to withdraw it and we are having our first discussion on the schedule only today. In that context it is not unreasonable to ask the Minister to update us today, and indeed at Third Reading, on whether there are outstanding issues with local highway authorities.

Lord Ahmad of Wimbledon: My Lords, again I thank the noble Lords, Lord Berkeley and Lord Rosser, and the noble Baroness, Lady Randerson, for their contributions, and for making time to meet me and my officials to discuss this issue. As I said in introducing the amendments in my name, I have made full acknowledgement, both in Committee and earlier this afternoon, about the way the amendments were originally presented. We learn from some of the issues that arise both from the legislative process and from the scale of a project such as this. As the noble Lord, Lord Berkeley, said, there are occasions when challenges arise and we try to deal with them. Equally, with infrastructure projects—not just HS2 but other projects coming forward—it is important to learn from experience, as we have from Crossrail. We have been putting in place much of what we have learned from the Crossrail experience, which has been positive, in our discussions.

I will speak to the specific amendments tabled by the noble Lord, Lord Berkeley, and I will address some of the issues raised by the noble Baroness and the noble Lord on issues around existing provisions and assurances. First, I put on record my thanks to the noble Lord for his specific help with the further development of the Government's amendment on TROs. As I noted earlier, I totally understand the sentiment and I acknowledge the contributions made in this regard.

The noble Lord, Lord Rosser, asked about ongoing discussions. My understanding is that there are ongoing discussions but that they are mainly with TfL. Indeed, the latest meeting took place only a few hours ago—and, as I told the noble Lord, Lord Berkeley, outside the Chamber this afternoon, these discussions are going forward in a positive way, in terms of understanding and taking account of the concerns of, in this case, TfL. I will check, but my understanding—as I said to the noble Lord, Lord Rosser—is that the discussions are only with TfL and that the concerns of other local authorities have been addressed. If that is not the case I will confirm it to the noble Lord, as he suggested.

Lord Berkeley: We are all rushing to get the latest information, but I understand from my meeting with TfL and others yesterday that most of the issues under discussion cover the whole route, except for my last amendment, which was specific to TfL—but I may be wrong.

Lord Ahmad of Wimbledon: I will address those points specifically as I come to each amendment.

Amendment 14 affects only TfL and no other traffic authority. My officials have now shared a draft undertaking with TfL which addresses this issue and indeed goes further than what was raised. The amendment agrees a number of London boroughs in which the Secretary of State will issue the notice that this consultation requirement will not apply. Given that this issue, in terms of the undertaking, is already addressed in a legal contract, there is no need to include this proposal in legislation.

Similarly, Amendments 18, 19 and 20 are included in the same undertaking, which deals specifically with the concerns in a manner that will also avoid any issues with the potential rehybridisation of the Bill at this late stage—which I fully acknowledge is not the intention of the noble Lord.

Amendments 15 and 16 relate to roads on which the secretary of State can exercise his powers to make TROs, and seek to limit these to roads in relation to which a local authority must consult the Secretary of State. In this case I can assure the noble Lord that, as I said in my opening remarks, the powers of the Secretary of State to direct can be exercised only in the limited circumstances where it is necessary for HS2 and deemed reasonable. If it is necessary for the timely, efficient and cost-effective construction of HS2, and reasonable, the Secretary of State will be able to make the TRO.

6.30 pm

Amendment 17 is also unnecessary, as Clause 20 already limits the planning permission provided by the Bill to the environmental effects assessed in the environmental statement. The environmental minimum requirements further require the nominated undertaker to reduce the environmental impacts.

I will turn to a couple of specific questions. The noble Baroness, Lady Randerson, asked about the congestion charge. This provision will not affect the existing congestion charge or any existing environmental weight limits. The noble Lord, Lord Rosser, asked about Camden Council. It is my understanding that we have concluded discussions on much of the concerns. Again, there were further meetings with TfL and I believe that some of the issues are being routed through that channel. That meeting was also positive—but if the noble Lord wishes to raise with me any specific issues which have come to his attention, I will of course be happy to look into them in more detail.

He also asked about the justification for the use of powers. This is included in the undertaking and guidance will include a justification for why they should be used. As noble Lords know, the undertaking is a legal contract, so the commitments are legally binding. I understand that we are also exploring the appropriate way to address the issue of costs with local highway authorities, which are very much part of those discussions.

As I said to the House earlier, we are having ongoing discussions and they have moved on in a number of areas that the noble Lord touched on in his amendments. We have now also included them in the undertakings. Discussions will continue between now and Third Reading to address any outstanding issues. I will of course keep noble Lords abreast of any issues, either at or before Third Reading, and will update them as I have sought to do during the different stages of the Bill.

The noble Lord, Lord Berkeley, said that I might well say, "Trust me, guv". I would not dream of calling him "guv", but I do say, "Trust me, my Lords", in the sense that we seek to work constructively and positively with local authorities, traffic authorities and TfL. I am confident that we will continue to address the concerns that they have raised. I hope that, in light of the assurances I have given and the fact that discussions continue with TfL on the further details of the legal undertaking, which will be agreed jointly as we address remaining concerns, the noble Lord will be minded not to press his amendments.

Amendment 7 agreed.

Amendment 8

Moved by ***Baroness Randerson***

8: After Clause 35, insert the following new Clause—

"Plan for restrictions on lorries and road use

Within three months of the start of the scheduled works, the nominated undertaker must publish a plan setting out, for each construction site in the Euston area being used or to be used for the scheduled works, how the number of lorries delivering to or from the site could be limited in order to meet the following restrictions by weight of materials transported by road—

(a) no more than 50% of excavated spoil and demolition material;

(b) no more than 25% of concreting aggregates;

with the remainder in each case being carried by rail."

Baroness Randerson: My Lords, Amendment 8 is in my name and that of the noble Lord, Lord Berkeley. It seeks to reduce the impact of many years of construction work on the residents of Euston and on our environment generally. In the light of earlier amendments, there is no way in which this amendment could be argued to be delaying anything going ahead with HS2. It is a detail relating to the operation of construction works. It is clear from the committee's report, which goes into this issue in great detail, that it has concluded that the impact of construction works on the Euston area will be massive. We discussed the issue of compensation in Grand Committee, when the Minister said that he hoped to be in a position to produce further information about the compensation scheme that the Government are considering for the Euston area. Is he able to give us further information now?

In Committee, we put down an amendment that dealt with the transport of materials along the whole line but today we are concentrating on Euston, which is where the impact will be greatest. However, I argue that the same principles should apply throughout the whole project. Put simply, this amendment seeks to reduce the impact of construction on the beleaguered residents of Euston and the surrounding area by reducing the quantity of spoil and construction materials carried by road. The committee itself noted that areas of Camden suffer levels of air pollution well in excess of EU limits, which is a compelling reason to choose to transport by rail whenever possible.

The Euston area will suffer from more than a decade of disruption. Homes will be demolished, as well as a large office block, so there will be a lot of spoil as well as the building materials required for the new part of the station and the line itself. Your Lordships should bear in mind that after the HS2 part of the station is built, residents face disruption from the promised rebuilding of the existing station. The committee's report notes that the shortest journey by road from Euston to the nearest landfill site is 26 miles, one way. As I said in Committee, one train can move as much material as 124 HGV lorries so the argument is very strong: as much material as possible must go by rail. If not by rail, it needs to go by river, which would of course necessitate putting the spoil or material into a lorry first to take it to the Thames. It would therefore not be as good as putting it straight on the railway.

HS2 is currently committed to moving 28% of excavated soil and 17% of construction materials by rail. It simply must do much better than that. Disappointingly, the committee did not recommend targets but major recent construction projects demonstrate that it is reasonable to expect a much higher percentage to go by rail. I give the House the examples of the Olympics, the tideway tunnel and Crossrail as construction projects which have been very successful in transporting by rail. Crossrail managed 80%, so the 50% target in our amendment is not that ambitious if looked at in that way. These figures are certainly not plucked from the air, as the Minister suggested in his

response in Committee, but based on previous large construction projects and what could be reasonably expected.

In his response in Committee, the Minister also warned of the potential disruption to other rail services of using freight trains for this work. At the rate I quoted, with one train potentially carrying the load of 124 HGVs, we are talking about a small number of trains per day—say four or five. That is as nothing compared to the disruption to London traffic from many hundreds of HGVs every day. The Minister told us that it was premature to set targets but I was certainly not clear from his answer whether the Government intend to set targets at any stage. I believe that targets are a useful tool for encouraging HS2 to think more ambitiously. I am not clear whether HS2 is going to set the maximisation of spoil removal by rail as a requirement of its contracts with contractors. I am interested in whether the Government consider that this is something that they should be doing. There is also the issue of the control of subcontractors. Corners are often cut in large construction projects at this level.

I am certainly not arguing that transport by rail is the only measure needed. There are many others, as the noble Lord, Lord Berkeley, indicated in Committee. As yet, there are few signs that HS2 is taking the holistic approach to environmentally friendly construction that is desperately needed at this complex and congested site. Best practice at other large construction sites in central London demonstrates that this is perfectly feasible. TfL is leading the way in working with other contractors. For example, at one large building site near the Shard, it is estimated that 876 HGV trips were saved by a variety of other complementary measures. On its own, each one is simple and common sense, but easily ignored in the pressures of a large project where the requirement is to cut costs and keep to time. I am talking about limiting the empty running of vehicles by ensuring that reverse loads are available. There is the use of consolidation centres, so that lorries always arrive on site absolutely full. Of great importance to Camden residents will be strict enforcement of rules to prevent the running of engines in stationary vehicles. Fundamental to all this is the better use of arisings, such as the recycling of concrete and the better use of inert earth, for example for flood defences and landscaping.

All this requires imagination and co-operation, not just between HS2 and its contractors, but with other development sites and other local authorities. So far, the stated aims of HS2, the responses of the Minister and the evidence of the committee's report, have not convinced me that HS2 is prepared to push the boundaries of best practice. This is what they need to do, because this is an extraordinarily disruptive development in Euston and the surrounding area. It should be the role of government to defend its citizens; I would say that the citizens of Camden do not feel that they are being defended at the moment.

I will listen carefully to see whether the Minister is able to give us greater assurances than he was able to give in Committee. I am grateful to the noble Lord for the time he has given in meeting me to discuss various issues associated with this Bill. But I regret that f he is not able to give greater assurances, I am minded to divide the House on this amendment.

Baroness O'Cathain: My Lords, every time we talked about how to get the spoil from the site through to the rail holding, the fundamental issue we discussed was moving more by rail. The problem is that people think a great job was done with the Olympics and with Crossrail. As was pointed out by the proposer, the geography of the area from where the spoil would have to be removed means that it was nothing like as easy. In some cases it would take a double journey to get the spoil to the railway. Every sinew was strained to overcome this. I hope that some other noble Lords who were on the committee will say how it was; the first thought was getting the spoil to a railhead or to a railway and reducing the number of HGVs on the road. I am sure that there must be something in our report on this—I will find out.

6.45 pm

Lord Young of Norwood Green: My Lords, to concur with what the noble Baroness, Lady O'Cathain, said, we did discuss this at great length in the committee. A target of 28% target has been set; it is certainly not a maximum, as I am sure the noble Baroness, Lady Randerson, knows. Most of the points that she made are valid, except for the comparison. We are not comparing like with like. In Crossrail, for example, although a significant amount of spoil was shifted using the river, it had to get to the river first. That was part of the problem. This is an unrealistic target, which does not mean to say that we should not be ensuring that the contractors make every effort to take the maximum amount by rail. They have an incentive to do so but there are limitations—for instance, as to how much you can take out of Euston by rail and the times at which it can be done. All that was discussed.

Although it appears reasonable to set this kind of target, I concur with the noble Baroness, Lady O'Cathain, that it is not the right way to go about it. There should be—the Secretary of State will ensure that there will be—very significant pressure on the contractors to take the maximum amount off the road, for all the reasons that the noble Baroness, Lady Randerson, said. I look forward to hearing what further assurances the Minister can give.

Camden may not have got everything, but it received 100 assurances, which were legal requirements, given by the promotor during the course of its own negotiations, and further additions that we made as the result of our hearings.

Lord Berkeley: My Lords, I declare an interest as chairman of the Rail Freight Group. I think I have some good news. I pay tribute the Select Committee's work on this. I know that it tried very hard and quizzed lots of people as to how it could be done. As is so often the case, when it gets to the stage of involving contractors, sometimes contractors have good ideas. I was talking to some of them and their specialists last week. One of the key ideas is if you bore tunnels from Old Oak Common to Euston and you complete at least one at any early stage, you can take the spoil out

[LORD BERKELEY]
through the tunnel. This is a very good idea because you can then deal with it at Old Oak Common. I am told it is possible; they are trying to work it into the programme. If it is possible, the figure for getting spoil and demolition out would probably go up to above 50%—I was told 70% or 80%—which is really good news. In other words, they have come up with some creative ideas. Maybe we were wrong to criticise HS2 in the past for not coming up with such ideas. It has given us a lot of debating time and the committee several days of discussion, but at least people have come up with a good idea. I think four contractors are tendering and I do not know whether they will all adopt this, but it demonstrates that it is possible. I hope Ministers will do all they can to encourage the contractors to be similarly creative.

There is another issue. In Committee we discussed concreting materials and other materials. The present amendment covers just concreting materials. The creative people are now saying, quite rightly, that they cannot bring cement in by train because it takes too long to unload, but that they can bring in most of the concreting aggregate by train and they can put a batching plant for mixing it somewhere on site. I am sure the committee looked at different locations for that; I have, and it is possible. As the noble Baroness said in her opening remarks, there is not a capacity problem for these trains going into Euston at night. It could easily be done.

I hope the Minister will accept these amendments as pointing the way forward to encouraging HS2 to continue to be creative like this. We do not want 1,500 trucks a day in Camden because the construction will last for 19 years—not that all those trucks will be there for 19 years, but they will still there be there for a considerable period. The basic movement out of spoil and demolition material by rail and bringing in concreting aggregate by rail would make a lot of people happy. I am convinced that the project can be done on that basis without any adverse effect on its programme or cost. If it is set up to do that, the contractors will do it well and it will work well.

Lord Rosser: As has been said, the amendment calls for a plan to be published for each construction site in the Euston area to show how the number of lorries delivering to or from the site could be limited to meet laid-down restrictions by the weight of materials transported by road, with the remainder being carried by rail. As has been said, this is an issue to which the Lords Select Committee, on which the three main parties and the Cross Benches were represented, gave consideration. The committee said in paragraph 411 of its report:

> "We are very strongly of the opinion that as much material as possible should be moved by rail, so as to reduce road traffic congestion and air pollution. However, we are convinced by the evidence that this aim will be significantly more difficult to achieve at Euston, as compared with most of the other projects referred to by Mr Dyer and Lord Berkeley. We are satisfied that HS2 is taking this responsibility seriously, and we are hopeful that significant progress will be made as the time comes for contractors to be appointed and become involved in the detailed planning. In the meantime we see no useful purpose to be served by attempting to set fixed targets. It would be little more than plucking aspirational figures out of the air".

We do not diverge from the position of the Select Committee. Since it is also our view as much material as possible should be moved by rail, we will not vote against the amendment if it is put to the vote. Indeed, we want to see the "significant progress" made with contractors to which the Select Committee referred in its report.

The amendment does not indicate what should happen once the plan has been published. The plan would be required to set out how the number of lorries could be limited to deliver the restrictions on movement referred to. Presumably, this would be without any detailed reference to costs or any other potential implications. Frankly, rather than the terms of the amendment, with what the Select Committee might or might not regard as its aspirational figures, surely what is required to deliver for the citizens of Camden is a firm commitment from the Government to hold HS2 to the undertaking it has given to maximise the movement of materials by rail, including in the Euston area, despite the difficulties referred to by the Select Committee, with a view to its going well beyond the guaranteed baseline for moving materials by rail of 28% of excavated soil and 17% of imported construction materials. Paragraph 117 of the promoter's response to the Select Committee's special report says:

> "The Promoter reiterates its overarching commitment to continue to seek to maximise, as far as reasonably practicable, the amount of material that can be moved by rail, and the underlying commitments it has given the London Borough of Camden".

I hope the Minister will address this point about how the Government intend to ensure that maximising the movement of materials by rail is delivered.

Lord Ahmad of Wimbledon: My Lords, I thank all noble Lords who have taken part in this debate. I do not think there is a difference of opinion over the intent here, whether in the amendment that the noble Baroness has tabled, in the comments of the noble Lord, Lord Rosser, with which I find it very hard to disagree, or the findings and recommendations of the Select Committee. As I noted in Committee, I agree with the ambition to maximise the use of rail for the transportation of material in relation to HS2. The Government absolutely share the concerns about the impact of HS2 construction on the road network, and have already made commitments with similar intentions. I assure the noble Baroness that we have also committed to maximise the volume of excavated and construction material to be brought in and removed by rail. This will need to be done while balancing the wider environmental impacts on the local community and on passenger services.

In moving the amendment, the noble Baroness talked about specific infrastructure projects; indeed, she mentioned Crossrail. Firm targets on this issue are not the manner by which previous infrastructure projects, which she mentioned, were managed, and that includes Crossrail. The amendment as tabled suggests those particular targets. It is not that we are shying away from targets but, as I have said—perhaps I can reassure her again—we are already committed to work with local traffic management authorities in developing plans in liaison with the relevant highway and traffic authorities, which will be the means by which we agree, manage and monitor lorry traffic flows. Ultimately,

and I emphasise this point to the noble Baroness, it is also the local authority that must approve the local routes used in connection with HS2.

The noble Lord, Lord Rosser, asked about the Government's position. A commitment is an assurance to Parliament, and all assurances will be passed to the contractors in the contracts that are negotiated.

To come back to Crossrail, what worked so well was the fact that the agreements were locally negotiated. I totally concur with the conclusions of the Select Committee, which the noble Lord, Lord Rosser, alluded to in his comments; he mentioned quite specifically that setting targets now would mean plucking figures out of the air. This does not take away from the importance of HS2; indeed, the noble Lord, Lord Berkeley, talked in his contribution about the intent that has already been shown in the response to the Select Committee by HS2 regarding the important issue of moving material as much as possible by means other than roads. I come back to the key point that those local plans must be agreed by the local authority.

I hope the noble Baroness is not just assured but reassured by the commitments that I have given. I have listened very carefully to her contributions and those from the noble Lords, Lord Berkeley and Lord Rosser, and I do not think there is a difference of opinion about material—excuse the pun—or the substance of what is being proposed and the way forward. This is about ensuring that HS2 works hand-in-glove with the local authorities to ensure that, whatever local targets are set, it maximises the use of alternatives to roads, and that any roads that lorries may use in removing such soil is approved by the local authority and the local traffic management authority. I hope that, with the assurances I have given, the noble Baroness will be minded to withdraw her amendment.

Baroness Randerson: My Lords, there is a certain irony in building a railway but not using rail to transport materials because it is too difficult. That idea has been suggested by some noble Lords in this debate.

7 pm

Lord Ahmad of Wimbledon: The noble Baroness has made a point, and I would like to provide clarification. As I think that the noble Lord, Lord Berkeley, mentioned, HS2 is very much committed to using alternative sources. We need to put any other suggestion to rest. In no way are either the Government or HS2 suggesting that we look towards the roads. Indeed, I emphasise again that we shall maximise alternatives to roads and ensure that spoil can be removed accordingly. I hope that the noble Baroness accepts that point.

Baroness Randerson: I accept that point, but the noble Baroness who was a member of the committee talked about the complexities of carrying materials by rail in this case, and the committee's report refers to this. I accept that Crossrail and other sites that I mentioned are not the same. Of course they are not, but Crossrail achieved 80%. Therefore in terms of percentages, our amendment is relatively modest.

The Government face a huge problem with air quality in central London. They need to do everything in their power to encourage every construction site to transport as much as possible by rail or to use environmentally friendly methods. I say to the noble Lord, Lord Rosser, that the experience of other sites shows that the type of measure to which I referred in my speech, including transport by rail, reduces overall costs. However, to the Minister I make the fundamental point that the idea of targets has been accepted. HS2 has targets. It is simply that these need to be more ambitious. Locally agreed targets and arrangements were of course appropriate for Crossrail because Crossrail affected diverse areas across London. Our amendment refers only to Euston. Therefore I am disappointed that the Minister has not come up with definite arrangements to improve the plans that have been put forward so far by HS2. On that basis, I seek to test the opinion of the House.

7.03 pm

Division on Amendment 8

Contents 63; Not-Contents 161.

Amendment 8 disagreed.

Division No. 2

CONTENTS

Addington, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Benjamin, B.
Berkeley, L.
Bowles of Berkhamsted, B.
Bradshaw, L.
Brinton, B.
Bruce of Bennachie, L.
Burt of Solihull, B.
Clement-Jones, L.
Cotter, L.
Dholakia, L.
Falkland, V.
Featherstone, B.
Foster of Bath, L.
Framlingham, L.
Garden of Frognal, B.
German, L.
Glasgow, E.
Goddard of Stockport, L.
Grender, B.
Hamwee, B.
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jolly, B.
Lee of Trafford, L.
Lester of Herne Hill, L.
Loomba, L.
Maddock, B.
Masham of Ilton, B.
Miller of Chilthorne Domer, B.
Newby, L.
Northover, B.
Oates, L.
Paddick, L.
Palmer, L.
Parminter, B.
Purvis of Tweed, L.
Randerson, B. [Teller]
Redesdale, L.
Rennard, L.
Roberts of Llandudno, L.
Rowe-Beddoe, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Shipley, L.
Smith of Newnham, B.
Steel of Aikwood, L.
Stephen, L.
Stoneham of Droxford, L. [Teller]
Storey, L.
Stunell, L.
Suttie, B.
Teverson, L.
Tonge, B.
Tope, L.
Walmsley, B.
Williams of Baglan, L.
Willis of Knaresborough, L.

NOT CONTENTS

Aberdare, L.
Adonis, L.
Ahmad of Wimbledon, L.
Altmann, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor, V.
Astor of Hever, L.
Attlee, E.
Barker of Battle, L.
Bates, L.
Berridge, B.

Best, L.
Bilimoria, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Brabazon of Tara, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browne of Belmont, L.
Buscombe, B.
Caine, L.
Caithness, E.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chisholm of Owlpen, B.
Colwyn, L.
Cope of Berkeley, L.
Courtown, E. [Teller]
Couttie, B.
Crathorne, L.
De Mauley, L.
Deben, L.
Deighton, L.
Dixon-Smith, L.
Dunlop, L.
Eccles, V.
Elder, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Faulks, L.
Fink, L.
Finlay of Llandaff, B.
Finn, B.
Fookes, B.
Forsyth of Drumlean, L.
Fraser of Corriegarth, L.
Freeman, L.
Freud, L.
Gadhia, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Garel-Jones, L.
Gilbert of Panteg, L.
Gold, L.
Goldie, B.
Goodlad, L.
Greenway, L.
Griffiths of Fforestfach, L.
Hailsham, V.
Hamilton of Epsom, L.
Hannay of Chiswick, L.
Harding of Winscombe, B.
Hayman, B.
Helic, B.
Henley, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Howe of Idlicote, B.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Kalms, L.
Keen of Elie, L.
Kilclooney, L.
King of Bridgwater, L.
Kirkhill, L.
Kirkhope of Harrogate, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lothian, M.
Lupton, L.
Lytton, E.
MacGregor of Pulham Market, L.
McIntosh of Pickering, B.
Mackay of Clashfern, L.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Manzoor, B.
Mar, C.
Marlesford, L.
Mobarik, B.
Montrose, D.
Morris of Bolton, B.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
Patel, L.
Polak, L.
Popat, L.
Porter of Spalding, L.
Prior of Brampton, L.
Rawlings, B.
Redfern, B.
Ridley, V.
Risby, L.
Robathan, L.
St John of Bletso, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stowell of Beeston, B.
Stroud, B.
Sugg, B.
Suri, L.
Taylor of Holbeach, L. [Teller]
Trenchard, V.
Trimble, L.
Ullswater, V.
Vere of Norbiton, B.
Verma, B.
Wakeham, L.
Wasserman, L.
Watkins of Tavistock, B.
Wei, L.
Wheatcroft, B.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

7.14 pm

Amendment 9 not moved.

Amendment 10

Moved by ***Lord Berkeley***

10: After Clause 43, insert the following new Clause—

"West Coast Main Line trains at Euston

The nominated undertaker must, within three months of the passing of this Act, publish plans demonstrating how, during any works supporting the construction of Phase One of High Speed 2, at least four tracks serving the West Coast Main Line trains in and out of Euston station would remain open at all times, except for the normal possession periods of Network Rail of nights, weekends and public holiday periods."

Lord Berkeley: My Lords, I promise that I will be quick. This amendment concerns the need to keep the west coast main line trains running into Euston while HS2 is constructed. When the Minister kindly met me last week, I showed him a cross-section drawing that I received some time ago from HS2 which described building what most people call a bird-cage—it is a hell of a big bird-cage; it is several train storeys high—near Park Village East. It shows how HS2 trains have grade separation, but it is all underneath three or four tracks of the west coast main line. I cannot see how you can build this bird-cage underground and keep the trains running on top. I have not had a sensible answer from anyone as to how it will be done. Perhaps the bird-cage is being redesigned; perhaps the tracks will be moved over, if that is possible; but it is important that the Minister can confirm that the west coast main line trains will keep operating during construction, because the poor old commuters and long-distance passengers will not be very pleased if it is closed for six months.

I have not received any later drawings of that cross-section. Perhaps it has changed but, under the version I had, I should think that you would have to close Euston for about a year. I hope that that is not the case, and I am sure that HS2 is coming up with alternative designs, but somehow those four tracks going into Euston must be kept operational—except for the odd weekend or night. I beg to move.

Lord Ahmad of Wimbledon: I think the noble Lord just spoke to Amendment 10. I am just checking to make sure.

Lord Berkeley: Amendment 9 was not moved.

Lord Ahmad of Wimbledon: Although the majority of HS2 phase 1 construction work will not affect the existing railway, possessions will be needed where works to the existing railway are necessary, such as around Euston and Old Oak Common, to build junctions or indeed to cross other lines. However, we believe that the amendment is unnecessary as the design in the Bill retains the approach tracks, and our design development of Euston is exploring further work to ensure that all six approach tracks can be retained. This will enable the existing level of service to operate in and out of Euston until the opening of HS2 phase 1 in 2016.

We have also asked HS2 Ltd to undertake further design development with the object of minimising the impacts on the travelling public, protecting the current levels of train service and minimising the impact on local communities. I assure the noble Lord that possessions needed will be booked by or through Network Rail in accordance with standard industry processes. The possessions planning process includes consultation with the wider railway industry, including operators and users, to ensure that the relevant travel information is communicated to passengers and that possessions are considered in the context of wider railway operations.

For any such possessions, Network Rail will work with the industry to agree how and when to take such possessions to allow HS2 construction works to be undertaken. We will be able to take these possessions only with the agreement of passenger and freight train operators—but they cannot unreasonably withhold access. The decision on whether possession is agreed to or not will be driven by the train operators being satisfied that the possessions are necessary and efficiently planned, and that suitable passenger mitigations are in place to minimise disruption to services—which I know is the noble Lord's concern. I assure him that we are working collaboratively with the railway industry to develop a route-wide communications plan to prepare passengers when engineering works take place.

We have previously talked about other infrastructure projects. This will include the lessons learned from experience of the London Olympics and other significant closures—the noble Lord mentioned London Bridge. Further work is under way so that we can understand passenger circulation while Euston station—a specific concern of the noble Lord—is being constructed. There will of course be regular discussion and consultation with operators of passenger and freight services as we move forward with planning and detailed design stages of the project, but I return to my initial comments about ensuring that those tracks are retained to ensure access to Euston.

Based on the details I have given, I hope that the noble Lord will be minded to withdraw his amendment.

Lord Berkeley: I am grateful to the Minister for that answer—and I am reasonably comforted. The procedures he outlined for taking possession, after consultation, are certainly what would be expected from a major project; they are the right way to do this and I am very glad that he outlined them. However, he did not quite say how we will get around this problem. This part of the project will involve digging a hole about 20 metres deep, and the final cross-section shows that it will be underneath two of the tracks. That is not a weekend possession. It will probably take the best part of a year—unless the plan is to move the tracks over and, presumably, pay for that to happen. So I will reflect on what the Minister said, but I will remain worried until and unless I see a new design from HS2 which solves the problem. I think that the present design is frankly insoluble without closing the west coast main line for a year—but I shall pursue this issue outside the Bill. On that basis, I beg leave to withdraw the amendment.

Amendment 10 withdrawn.

Amendment 11

Moved by ***Viscount Astor***

11: After Clause 52, insert the following new Clause—

"Review: Calvert Sidings

(1) The Secretary of State must commission a review of the proposed construction and route variation required for Calvert Sidings, covering construction and noise impacts which have not hitherto been considered.

(2) The review must also consider impacts—

(a) on affected communities, farms and estates;

(b) of the movement of farm vehicles, works traffic and other traffic;

(c) on bridle ways and footpaths crossing the railway route.

(3) The review may recommend whether a Transport and Works Act order should be made, under the provisions of section 52, to authorise adjustments relating to Calvert Sidings."

Viscount Astor (Con): My Lords, we debated this amendment in Committee. I put it down again in the hope of getting a response to the letter I wrote to the Minister before Report. I would like to thank him for his letter, which I received last night and which was enormously helpful.

The reason that this rather particular amendment relating to the Calvert sidings is important is that this community already has a railway line going through it: the Aylesbury spur. Before HS2 came along, the promoters of the east-west rail scheme said that they were going to upgrade this line as part of the railway across England. Where there is currently a level crossing, because hardly any trains use the line—perhaps one or two a week—they proposed to construct a bridge. This would have satisfied those who live either side of the line.

It is quite tough having one main line across your farm or farms, but even tougher when someone comes along and says, "By the way, we are going to put another one across—HS2". One person will have the east-west line 100 yards to the north of him and HS2 100 yards to the south. The promoters of HS2 and the Select Committee looked at this and said that they did not think it was necessary to build a bridge. That was the decision of the Select Committee and I will not argue with it—to be perfectly honest I do not know whether it was right or wrong. What happened then was that East West Rail said that it would not build a bridge, either, and withdrew its proposal. As a result, we will have a community that will be hemmed in on both sides.

The Minister has been enormously helpful and said that East West Rail intends to consult on the proposed changes later in the year, which will give those affected a chance to have their views heard. This issue fell between two railway lines, as it were, and so was not considered by the Select Committee. I wish that the noble Lord, Lord Young, were in his place so he could hear that—but perhaps he might read *Hansard* later. Some of us who are concerned that HS2 will be successful are also concerned about the effect on the people and communities who will live alongside it—but what the Minister has said is a huge improvement and I thank him for that.

[VISCOUNT ASTOR]

The Minister also said that objections to the Calvert sidings could be made as part of a Transport and Works Act order. I have to admit that I do not know very much about such orders. When I looked up the question of whether they have to be approved by Parliament on the Government's website, the answer was that they do not normally have to be presented before coming into force but that they can occasionally do so through a special parliamentary procedure. If the Minister cannot tell me now, could he write to explain what the process will be: that is, whether it will come before Parliament or not? That way, we can help that community to plan to protect itself. I look forward to the Minister's response and beg to move the amendment.

Lord Ahmad of Wimbledon: My Lords, I thank my noble friend for his amendment. His comments reflect that we have clarified some of the issues, and he has articulated part of the response that I would have given. I therefore also thank him for accepting the Government's explanation.

The noble Lord did mention two outstanding issues. There will of course be a consultation, as I said in my letter, and East West Rail intends to consult on the change more broadly later this year. At that time, any concerned parties will have the opportunity to make their representations. He also mentioned the Transport and Works Act order for the provision of sidings, primarily to facilitate the business of the FCC waste facility, which is also in this broad location. All the relevant impacts on local communities and farming interests of the works purposed as part of that order, in addition to the comprehensive assessment undertaken as part of the environmental statement for the Bill scheme, have already been taken into consideration.

The noble Lord asked specifically about the process hereafter and I will of course write to him to clarify that. But I hope it is not pre-emptive to assume that the noble Lord will withdraw the amendment because we have answered the questions he raised.

Viscount Astor: I am very grateful for the Minister's answer and I beg leave to withdraw the amendment.

Amendment 11 withdrawn.

Amendment 12

Moved by ***Lord Snape***

12: After Clause 62, insert the following new Clause—

"Protected species

The nominated undertaker has a duty to take reasonable and cost effective steps to deal appropriately with protected species."

Lord Snape: My Lords, I was moved to put down this amendment by a report that appeared in the *Times* on Saturday 14 January, an extract of which I will read in a moment. The proposed new clause says:

"The nominated undertaker has a duty to take reasonable and cost effective steps to deal appropriately with protected species".

My concern is as much with the reasonable steps as it is with the protected species. The article in the *Times*, under the by-line of Mr Ben Webster, the environment editor, says:

"The biggest badger relocation project yet attempted is about to get under way along the route of HS2, the high-speed rail line. More than a thousand badgers in a hundred local populations will be affected by phase one of the line, from London to Birmingham. They will either be moved to new artificial setts or protected from the impact of the line by tunnels dug beneath it. The multimillion-pound publicly funded operation comes weeks after the government said that 11,000 badgers were shot last year to protect cattle from tuberculosis".

My first question is whether the Minister can guarantee that saving badgers from the shovels and bulldozers of the high-speed train will not risk them falling under the guns of the Department for Environment, Food and Rural Affairs—that would be an odd way to spend millions of pounds. After all, I understand that licences have already been granted to cull badgers in no fewer than 10 areas in Cornwall, Devon, Dorset, Gloucestershire, Herefordshire and Somerset. Can the Minister assure us that none of these displaced badgers will be moved to these areas where they will be gunned down by another department? That would not be the best example of joined-up government I have ever seen.

7.30 pm

The report goes on to say, bizarrely:

"The new setts, each costing about £5,000, will consist of a series of pipes and chambers buried under mounds of earth … Once the setts are built, HS2 will have to entice the badgers to move into their new homes".

Paraphrasing the report, disturbing badgers is evidently an offence under the existing wildlife Acts, so they have to be enticed. The Minister is a persuasive fellow, but could he tell the House what form this enticement will take? It does not sound like the easiest of projects, though given his talents I am sure he will be able to tell us. In its concern for badgers, the report goes on to say:

"Badger tunnels will be built under roads used by the thousands of lorries involved in construction of the line".

I note that the noble Baroness, Lady Randerson, is in her place; in the light of an earlier amendment, those "thousands of lorries" ought to cause some disturbance. It continues:

"The spokesman said that badgers were by far the biggest wildlife issue for HS2".

But it is not just badgers. The report further states:

"The line will also disturb protected great crested newts and bats".

Noble Lords will forgive me if I tell them that I am a bit of an expert on great crested newts. I have never seen one, but I have served on no fewer than three hybrid Bill committees during my 40 years in both Houses of Parliament. On each of them there was lots of concern about great crested newts. Has the Minister ever seen one? If they are that prevalent, there cannot be any great need to protect them in the way that we do. Yet we are about to spend "multimillions" on badgers. How many millions are we to spend on great crested newts? Perhaps the Minister can tell us.

I also give way to no Member of your Lordships' House in my concern for bats, but why is it that every time we want to reopen a railway tunnel somebody points out that there are bats in there? It is remarkable how they seem to follow the railway closures of the Beeching era. If we are to protect the taxpayer, as well as these species, the Minister owes the House an explanation of how these things are to be done. I beg to move.

Lord Berkeley: Following my noble friend's excellent description of bats, is it true that they have found a type of bat directly on the centre line of the route which had never been found before? How much does it cost to move the bats? My noble friend has asked about the cost of removing badgers so they can be culled somewhere else. Nobody is going to cull the bats, of course, but there must be a cost to moving them too.

Lord Ahmad of Wimbledon: My Lords, I always say that your Lordships' House serves as a great place of education. I praise the way in which the noble Lord, Lord Snape, introduced his amendment. As we come to the conclusion of our deliberations on Report, it is much appreciated and I commend his style. I turn to the specifics of the amendment. As many noble Lords will be aware, the environmental statement for the Bill ran to some 50,000 pages and exhaustively examined all potential impacts from the Bill scheme and provides the necessary mitigations, including, of course, for protected species.

The noble Lord, Lord Snape, mentioned specific protected species that could potentially be affected by phase 1 of HS2 and these include a number of bat species—I do not have immediately to hand information about the specific type of bat that has been found and the associated costs but I will write to the noble Lord, Lord Berkeley on that. The protections also cover otters, badgers, barn owls, not forgetting the notorious great crested newts. I am not going to claim to have seen one, but I assure the noble Lord that I will attempt to do so before Third Reading. On a more serious note, it is important that species are protected. The noble Lord mentioned the badger cull and asked for an absolute assurance. As a Minister responsible for steering the Bill through your Lordships' House, I can assure the noble Lord and all concerned that the badgers moved for HS2 are intended to be moved only a short distance. None of them will be moved to the cull areas which the noble Lord listed. I have just had an update on the bat issue.

Lord Snape: Before we move on to bats, could the Minister elaborate on enticing the badgers from their present lairs? How is it to be done?

Lord Ahmad of Wimbledon: I will write to the noble Lord on that, if I may. Perhaps it will serve as an education for all of us. As I said, I have an update on the bats: I feel a bit like breaking news. I have been assured that there is no breed of bat on the line that has never been discovered before. However, there are a number of rare bat colonies near the line of the route and the mitigation measures that have been created include bat bridges. I expect the next question will be: do I know what a bat bridge looks like?

Lord Berkeley: Is the Minister aware that, about 10 years ago, his department constructed two bat bridges in Cornwall, at a place called Dobwalls bypass—which I go under most weekends. At that time, they cost £300,000 each and I asked a load of Written Questions asking how many bats used it and how many did not bother and just flew across the road. I got the number of bats that used it, but not the ones that flew across the road. Do we really need more of these bat bridges?

Lord Ahmad of Wimbledon: These are merely mitigation measures. It cannot be the Department for Transport's responsibility, once we have constructed the bat bridges, to ensure that all bats use them, rather than fly. We leave that matter to the freedom and liberty of the bats themselves. It is important that mitigation measures are in place for all the different habitats. For all potential impacts, we are proposing extensive mitigation measures, including creation of alternative habitats to link isolated areas of existing habitat and the provision of underpasses or green bridges to help maintain movement of species in the landscape.

We deem the amendment unnecessary due to the significant statutory provisions which I am sure the noble Lord is aware are already in place for protected species. We will, of course, need to comply with these during the construction and operation of HS2. These include the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2010, the Countryside and Rights of Way Act 2000 and the Protection of Badgers Act 1992. The requirement to comply with this legislation is built in to the HS2 code of construction practice and the project will need to obtain a licence from Natural England for any occasion at which there is a plan to disturb or remove wildlife or damage existing habitats. We have had a very educational—and for me personally an enlightening—debate on this amendment. I hope the noble Lord is reassured by our commitments in these areas and that, on that basis, he is minded to withdraw the amendment.

Lord Snape: I thank the Minister for his comprehensive reply, but I warn him that I might well return to this subject at Third Reading, if only to ask: if bats can fly, why do they need bridges? If we have bat bridges, why not starling bridges or sparrow bridges? Surely there is some discrimination involved if the bats are being singled out in this way. Nobody could ask for more than the Minister promising to find out exactly what a great crested newt looks like. We are all familiar with colonies of them appearing as soon as there is a major project, but nobody has ever seen one. Given the comprehensive reply from the Minister, I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Amendment 13

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

13: After Schedule 24, insert the following new Schedule—

"TRAFFIC REGULATION

Traffic authority to consult Secretary of State before making traffic regulation order

1_(1) This paragraph applies where—

(a) the traffic authority for a relevant road is a person other than the Secretary of State,

(b) the authority proposes to make a traffic regulation order in relation to the road, and

(c) it appears to the authority that provision made by the order could significantly interfere with the use of the road by heavy commercial vehicles for the purposes of the construction of Phase One of High Speed 2.

(2) Before making the order, the authority must consult the Secretary of State (in addition to any other person the authority is required to consult under or by virtue of Part 3 of Schedule 9 to RTRA 1984).

(3) In this paragraph—

"heavy commercial vehicle" has the same meaning as in RTRA 1984 (see section 138 of that Act);

"relevant road" means a road, other than a special road or trunk road, which falls within one or more of the following paragraphs—

(a) a road which is part of a route identified in a deposited statement as a construction traffic route;

(b) a road which is part of a route in relation to which approval has been given under paragraph 6 of Schedule 17 (routes for transportation by large goods vehicles);

(c) where a request for approval under paragraph 6 of Schedule 17 has been made but not determined, a road which is part of a route to which the request for approval relates;

(d) a road any part of which is within the Act limits.

(4) For the purposes of the definition of "relevant road", "special road" and "trunk road" have the same meanings as in the Highways Act 1980.

2_(1) The Secretary of State may by notice designate—

(a) a road, or part of a road, in relation to which paragraph 1(2) does not apply;

(b) a description of traffic regulation orders in relation to which paragraph 1(2) does not apply.

(2) A notice under sub-paragraph (1)(a) has effect until further notice.

(3) The Secretary of State must give a notice under sub-paragraph (1)(a) to the traffic authority for the road (or part of the road) to which the notice relates.

(4) A notice under sub-paragraph (1)(b) may have effect generally or in relation to areas specified in the notice.

(5) The Secretary of State must give a notice under sub-paragraph (1)(b) to every traffic authority which would be affected by the notice.

(6) Failure by a traffic authority to comply with paragraph 1(2) in relation to a traffic regulation order does not affect the validity of the order.

3_(1) Paragraph 1(2) ceases to apply in relation to a traffic authority if the Secretary of State gives the authority a notice stating that—

(a) no further works are proposed to be constructed under this Act in the authority's area, and

(b) the use of relevant roads in the authority's area is no longer required by heavy commercial vehicles for the purposes of the construction of Phase One of High Speed 2.

(2) Paragraph 1(2) ceases to apply in relation to a particular part of the area of a traffic authority ("the relevant part") if—

(a) the Secretary of State reasonably considers that the relevant part can be treated separately from the rest of the authority's area for the purposes of paragraph 1(2), and

(b) the Secretary of State gives the authority a notice stating that—

(i) no further works are proposed to be constructed under this Act in the relevant part, and

(ii) the use of relevant roads in the relevant part is no longer required by heavy commercial vehicles for the purposes of the construction of Phase One of High Speed 2.

(3) The Secretary of State must give a traffic authority a notice under sub- paragraph (1) or (2) as soon as reasonably practicable after the Secretary of State forms the view that the applicable requirements are met.

(4) For the purposes of sub-paragraph (3), the applicable requirements are met—

(a) in a sub-paragraph (1) case, if sub-paragraph (1)(a) and (b) apply in relation to the authority's area, and

(b) in a sub-paragraph (2) case, if sub-paragraph (2)(b)(i) and (ii) apply in relation to the relevant part.

(5) In this paragraph, "heavy commercial vehicle" and "relevant road" have the same meanings as in paragraph 1.

Power of Secretary of State to direct traffic authority to make traffic regulation order

4_(1) The Secretary of State may give a direction to a traffic authority requiring the authority to make a traffic regulation order if the Secretary of State considers that the making of such an order is—

(a) necessary for the purposes of the timely, efficient and cost- effective construction of Phase One of High Speed 2, and

(b) reasonable in the circumstances.

(2) Paragraph 1(2) does not apply (if it otherwise would) to the making of a traffic regulation order in pursuance of a direction under this paragraph.

(3) Where a traffic authority makes a traffic regulation order in pursuance of a direction under this paragraph (a "relevant order"), the authority may not without the Secretary of State's consent make a further traffic regulation order which contains—

(a) provision varying or revoking the relevant order, or

(b) provision as respects any length of road for any purpose where—

(i) an order has been made as respects that length of road for a similar purpose, and

(ii) that order has been varied or revoked by the relevant order.

(4) The power to give a direction under this paragraph includes power to vary or revoke a previous direction given under this paragraph.

5_(1) This paragraph applies where, in pursuance of a direction under paragraph 4, a traffic authority is required to make an order under section 1, 6 or 9 of RTRA 1984.

(2) The order is to be treated for the purposes of Part 3 and paragraph 28 of Schedule 9 to RTRA 1984, and regulations made under Part 3 of that Schedule, as if it were required to be made in pursuance of a direction under paragraph 2 of that Schedule.

(3) The provisions mentioned in sub-paragraph (2) have effect accordingly, but as if—

(a) paragraph 26(1) of Schedule 9 to RTRA 1984 (which requires the Secretary of State to take account of objections) were omitted,

(b) for the purposes of the application of paragraph 28 of Schedule 9 to RTRA 1984 (provision about the variation or revocation of certain orders)—

(i) the reference in that paragraph to Part 2 of that Schedule included a reference to paragraph 4(3) of this Schedule, and

(ii) any reference in that Part to paragraph 13(1)(e) and (f) of that Schedule were read instead as a reference to paragraph 4(3) of this Schedule, and

(c) any provision in regulations made under Part 3 of Schedule 9 to RTRA 1984 relating to the holding of a public inquiry were omitted.

(4) Paragraph 35 of Schedule 9 to RTRA 1984 (provision for questioning validity of orders) has effect, in its application to the order, as if—

(a) the reference in sub-paragraph (a) to the relevant powers were to those powers as they apply in the case of an order made in pursuance of a direction under paragraph 4 above, and

(b) the reference in sub-paragraph (b) to the relevant requirements were to those requirements as modified by sub-paragraph (3) above.

6_(1) This paragraph applies where, in pursuance of a direction under paragraph 4, a traffic authority is required to make an order under section 14 of RTRA 1984.

(2) Section 15 of RTRA 1984 (duration of orders under section 14) does not apply to the order.

(3) The order has effect for the period specified or described in the direction.

(4) The period specified or described by virtue of sub-paragraph (3) must be such as the Secretary of State considers is reasonable for the purposes of the construction of Phase One of High Speed 2.

Further powers of Secretary of State (including in relation to variation or revocation of orders)

7_(1) The Secretary of State may direct a traffic authority to revoke a traffic regulation order made by the authority in pursuance of a direction under paragraph 4.

(2) The Secretary of State may direct a traffic authority to vary a traffic regulation order made by the authority in pursuance of a direction under paragraph 4, where—

(a) the Secretary of State considers that the variation is—

(i) necessary for the purposes of the timely, efficient and cost-effective construction of Phase One of High Speed 2, and

(ii) reasonable in the circumstances, or

(b) the effect of the variation is to remove or relax a restriction imposed by the order on the use of any road.

8_(1) Where a traffic authority fails to comply with a direction under paragraph 4, the Secretary of State may make the traffic regulation order required by the direction.

(2) Where a traffic authority fails to comply with a direction under paragraph 7, the Secretary of State may by order vary or revoke the traffic regulation order (as required by the direction).

9_(1) The Secretary of State may by order made by statutory instrument vary or revoke a traffic regulation order (whenever made) if the Secretary of State considers the variation or revocation—

(a) necessary for the purposes of the timely, efficient and cost- effective construction of Phase One of High Speed 2, and

(b) reasonable in the circumstances.

(2) This paragraph has effect without prejudice to the powers conferred on the Secretary of State by paragraphs 7 and 8.

10_(1) This paragraph applies to an order under paragraph 8 or 9.

(2) Paragraph 4 of Schedule 9 to RTRA 1984 (reserve powers of Secretary of State, including power to recover expenses) applies to the order as it applies to an order made by virtue of paragraph 3 of that Schedule.

(3) Parts 3 and 4 of Schedule 9 to RTRA 1984, and regulations made under paragraph 24 of that Schedule, apply to the order as they apply to an order made by virtue of the relevant paragraph of that Schedule, but as if—

(a) any provision in the regulations relating to the holding of a public inquiry were omitted, and

(b) for the purposes of the application of paragraph 28 of that Schedule (provision about the variation or revocation of certain orders)—

(i) the reference in that paragraph to Part 2 of that Schedule included a reference to paragraph 10(5) of this Schedule, and

(ii) any reference in that Part to paragraph 13(1)(e) and (f) of that Schedule were read instead as a reference to paragraph 10(5) of this Schedule.

(4) For the purposes of sub-paragraph (3), "the relevant paragraph" of Schedule 9 to RTRA 1984 is—

(a) in the case of an order under paragraph 8 of this Schedule, paragraph 3 of that Schedule, and

(b) in the case of an order under paragraph 9 of this Schedule, paragraph 7 of that Schedule.

(5) Where the Secretary of State makes an order to which this paragraph applies, the relevant authority may not without the Secretary of State's consent make a further traffic regulation order which contains—

(a) provision varying or revoking the Secretary of State's order, or

(b) provision as respects any length of road for any purpose where—

(i) an order has been made as respects that length of road for a similar purpose, and

(ii) that order has been varied or revoked by the Secretary of State's order.

(6) Paragraph 16 of Schedule 9 to RTRA 1984 (powers of Secretary of State where an order is submitted for consent) applies for the purposes of sub- paragraph (5) as if the further traffic regulation order had been submitted for consent under Part 2 of that Schedule.

Power to restrict traffic authority from making or implementing traffic regulation order

11_(1) The Secretary of State may give a direction to a traffic authority prohibiting the authority from making or bringing into operation a traffic regulation order (whenever made) if the Secretary of State considers that such an order could significantly interfere with the use of any road for the purposes of the construction of Phase One of High Speed 2.

(2) A prohibition imposed by virtue of this paragraph may be expressed—

(a) so as to have effect generally or for a period specified in the direction;

(b) so as to prohibit the making or bringing into operation of a traffic regulation order without the Secretary of State's consent.

(3) The power to give a direction under this paragraph includes power to vary or revoke a previous direction given under this paragraph.

Consultation requirements applicable to Secretary of State

12_(1) The Secretary of State must consult a traffic authority—

(a) before giving a direction to the authority under paragraph 4, 7 or 11, or

(b) before making an order under paragraph 8(2) or 9 in relation to a traffic regulation order made by the authority.

(2) The purpose of consultation is—

(a) to ensure public safety and, so far as reasonably practicable, to reduce public inconvenience, and

(b) to take account of the requirements (however expressed) to which the traffic authority is subject under an enactment or under an agreement or undertaking entered into in pursuance of an enactment.

Guidance

13_(1) The Secretary of State must prepare a statement setting out, in general terms—

(a) guidance in connection with the duty under paragraph 1(2)(which requires a traffic authority to consult the Secretary of State before making a traffic regulation order), and

(b) how the Secretary of State proposes to exercise the powers conferred on the Secretary of State by the preceding provisions of this Schedule.

(2) The Secretary of State may from time to time revise the statement.

(3) In preparing or revising the statement, the Secretary of Sate must consult—

(a) the nominated undertaker, and

(b) those traffic authorities which the Secretary of State considers are likely to be subject to the duty under paragraph 1(2) or to be affected by the exercise of the powers mentioned in sub- paragraph (1)(b)(or both).

Removal of vehicles

14_(1) An authorised person may remove a vehicle, or arrange for its removal, where conditions 1 and 2 are met.

(2) Condition 1 is that the vehicle has been permitted to remain at rest, or has broken down and remained at rest—

(a) on any road in contravention of a prohibition or restriction imposed by a traffic regulation order, or

(b) on any road which is stopped up under paragraph 2 or 6 of Schedule 4.

(3) Condition 2 is that it appears to the authorised person that the vehicle is likely, if it is not removed—

(a) to obstruct the carrying out of any of the works authorised by this Act, or

(b) to be at risk of being damaged in consequence of the doing of anything for the purposes of the construction of Phase One of High Speed 2.

(4) References in sub-paragraphs (1) and (3) to the removal of a vehicle are to its removal to another position on the road in question or to another road.

(5) Before exercising the power under sub-paragraph (1), an authorised person must give notice to—

(a) the local authority (as defined by section 100(5) of RTRA 1984) in whose area the vehicle is situated, and

(b) the chief officer of the police force in whose area the vehicle is situated.

(6) A person removing a vehicle under or by virtue of sub-paragraph (1) may do so—

(a) by towing or driving the vehicle, or

(b) in such other manner as the person thinks necessary,

and may take such measures in relation to the vehicle as the person thinks necessary to enable its removal.

(7) This paragraph is without prejudice to provision made by regulations under section 99 of RTRA 1984.

(8) In this paragraph—

"authorised person" means a person authorised by the nominated undertaker for the purposes of this paragraph;

"vehicle" has the same meaning as in section 99 of RTRA 1984.

Interpretation

15_ In this Schedule—

"road" has the same meaning as in RTRA 1984 (see section 142(1) of that Act);

"RTRA 1984" means the Road Traffic Regulation Act 1984;

"traffic authority" has the same meaning as in RTRA 1984 (see section 121A of that Act);

"traffic regulation order" means an order section 1, 6, 9 or 14 of RTRA 1984."

Amendments 14 to 20 (to Amendment 13) not moved.

Amendment 13 agreed.

Bank of England and Financial Services (Consequential Amendments) Regulations 2017

Motion to Approve

7.39 pm

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

That the draft Regulations laid before the House on 2 December be approved.

The Commercial Secretary to the Treasury (Baroness Neville-Rolfe) (Con): The Bank of England and Financial Services Act 2016 provides for ending the Prudential Regulation Authority's status as a subsidiary of the Bank of England. It transfers the functions of the PRA to the Bank, and provides that when the Bank is acting as the Prudential Regulation Authority its functions are to be exercised through a new Prudential Regulation Committee, which will have a majority of external appointees.

Making the Bank the Prudential Regulation Authority, and requiring it to exercise its functions as the PRA through the Prudential Regulation Committee, a statutory committee on the same footing as the MPC and FPC, means elevating the microprudential role to the same level as monetary policy and macroprudential policy. This is an upgrade. It reinforces—to Bank staff but also to the public, to whom the Bank must be transparent and accountable—that the Bank is not simply an organisation dedicated to setting interest rates, but one with equally important macro and microprudential responsibilities. The Bank has told us that closer integration has increased the feeling among PRA staff that they are integral to the Bank's mission and have broader opportunities for progression across the whole Bank.

Where do these regulations fit in? Lots of existing legislation contains references to the Bank, the PRA or both. Before the provisions in the Act ending the PRA's status as a subsidiary can come into force, we need to make consequential amendments to existing legislation so that references to the Bank and the PRA continue to make sense once the Bank and the PRA are the same.

In some cases existing legislation applies to the Bank and the PRA differently. Where this is the case, we have maintained the existing difference. For example, the Terrorism Act 2000 excludes from that Act's definition of the "regulated sector" business conducted by the Bank. It does not exclude business conducted by the PRA. These regulations maintain this state of affairs by specifying that the reference to the Bank in Schedule 3A to the Terrorism Act 2000 does not include the Bank acting as the PRA.

In other cases, existing legislation applies to the Bank and the PRA equally. I shall not go through the detail, but in these cases the regulations simply remove references to the PRA and confirm that references to the Bank include the Bank when it is acting as the PRA.

The regulations represent the final legal tidying-up necessary to implement the provisions of the Bank of England and Financial Services Act 2016, which ended the subsidiary status of the PRA. I beg to move.

Lord Tunnicliffe (Lab): I thank the Minister for introducing these regulations—and my speaking notes go on to say, "and I thank those who have spoken in this short debate", but it has been short indeed. As has been identified, this is an uncontroversial statutory instrument, which makes consequential amendments to legislation where references to the Prudential Regulation Authority are made. We understand that these are tidying-up changes and have no intention of opposing this instrument.

I do not wish to keep your Lordships unduly, but it is important to mention what we regard as the wider implications of the primary legislation. The PRA, established by the Financial Services Act 2012—an exercise in which I participated, as I have with every piece of legislation to do with it ever since; that is why I now look so old—will be de-subsidiarised, giving the Bank of England control over microprudential regulation. The board will be replaced by the Prudential Regulation Committee, which will sit on the same statutory footing as the Monetary Policy Committee and the Financial Policy Committee.

As your Lordships will recall, our main concern was to ensure that those in positions of power and authority within the banking sector were properly accountable. However, we also queried the Government's rationale for bringing the PRA within the scope of the Bank of England. I would like to make two points. First, I start from the same position as I did at the end of 2015, when what is now the Bank of England and Financial Services Act was going through your Lordships' House. As I said on the second day of Committee on 11 November 2015:

"I think the Bank will move its emphasis from the Monetary Policy Committee towards the FPC".

The nature of our economy is changing. The powers of the FPC, including controlling the creation of credit, are absolutely fundamental to how efficiently the money system supports the economy, and hence are fundamental to the economy. Under the system which the 2016 Act abolished there were at least checks and balances.

I went on to say that the PRA was,

"a subsidiary—an independent company … governed by company law—and, therefore, there has to be an arm's-length relationship between it and the FPC. Under the various terms of the Act, the FPC can create various macroeconomic tools, which it then hands down to the PRA. It hands those down not through some side-channels or influence but, because of that independent legal status, in a very formal way to its subsidiary, and I think that is healthy. I do not believe that in effect moving the PRA closer to the Bank—and, by definition, closer to the FPC—is a good thing. The present separation is working, and I think we should continue it".—[*Official Report,* 11/11/15; col. 2005.]

Indeed, one of the benefits of subsidiary status—I should know, having headed a subsidiary company of a large organisation—is that one gets to focus on the business, so that there are clear lines of responsibility. As was brilliantly articulated by my noble friend Lord Eatwell, the 2016 Act muddies these lines of responsibility and, as he said,

"renders the governance structure of the Bank of England opaque".—[*Official Report,* 9/11/15; col. 1851.]

The lines of demarcation set out in the Act relating to the PRC seem to add yet another layer of bureaucracy and complication to a new system which for all intents and purposes was functioning as it should. What specific work has been done since the Act came into force last year to ensure the same levels of accountability and transparency, and how will those qualities be visible to the general public?

Presuming that the Government do not take of heed of my advice, the PRA will be abolished and the PRC created. When will this transition take place? The Act states that an order will be introduced by the Treasury to give effect to the Act. Should we expect that order by the end of this Session? I thank the Minister in anticipation for her response. I am in no way saying that we are not impressed by the performance of the Bank of England. Nevertheless, the reasons she gave seemed rather fluffy to justify giving up the clarity that the present subsidiary status provides.

Baroness Neville-Rolfe: I am grateful to the noble Lord for his support for the regulations—and, indeed, for his dedication to the scrutiny of the 2016 Act and its subsequent children. He feels that the Act made the governance structure of the Bank of England opaque. I disagree: I welcome the changes, because I believe they make that governance better and clearer. Before the 2016 Act the MPC was a committee, the PRA was a subsidiary and the FPC was a sub-committee of the court, which is, of course, the Bank's board.

With the changes in the Act, all three are now policy committees established on the same statutory basis, with clear statutory objectives and processes. The noble Lord asked what had happened since the Act came into force to improve accountability and transparency. Since it came into force last year, the National Audit Office has been able to conduct value-for-money reviews at the Bank for the first time, and the MPC's new practice of publishing its minutes has swiftly become a legal requirement. Once the new PRC is created it will have to report every year on its resources and the independence of its operations, and produce a separate statement of accounts to ensure that the industry levy is limited to funding PRA functions.

Lord Tunnicliffe: My recollection is that the MPC has to report eight times a year, and the FPC, in practice, produces a report at least quarterly. Will the Prudential Regulation Committee produce regular reports of its activity—more regularly than annually?

Baroness Neville-Rolfe: The current plan is that it will report every year on its resources and the independence of its operations.

I will respond to the noble Lord's question on timing. The provisions giving effect to the transfer will come into effect on 1 March this year—very soon—to ensure that the transition is aligned with the Bank's financial reporting year.

The Bank of England has come a long way since it was established in 1694 to finance the war of the Grand Alliance against France. At that time, it only had 19 officials, including two doorkeepers. Now the Bank of England, including the PRA, has about 3,600 officials and has picked up a few additional responsibilities in the intervening 323 years. These regulations play their own small part in that process. I thank the House again for today's exchange and commend the regulations to the House.

Motion agreed.

Equality Act 2010 (Gender Pay Gap Information) Regulations 2017

Motion to Approve

7.51 pm

Moved by ***Baroness Vere of Norbiton***

That the draft Regulations laid before the House on 6 December be approved.

Baroness Vere of Norbiton (Con): My Lords, the Secondary Legislation Scrutiny Committee highlighted these regulations as instruments of interest in its 20th report, and I am delighted to be involved with this debate on such an important issue. These regulations are the first use of the power under Section 78 of the Equality Act 2010. Section 78 delegates power to Ministers to make regulations requiring employers in Great Britain with at least 250 employees to publish information showing whether there are differences in pay between their male and female employees.

These regulations will affect around 8,000 employers and more than 11 million employees. An estimated 3.8 million employees will also be covered by separate regulations laid last week that will apply to the public sector. In total, the new regulations will cover nearly half of the workforce.

The gender pay gap is not about men and women being paid differently for the same job. Unequal pay has been prohibited since 1975. The gender pay gap is a measurement of the difference between men and women's average earnings. The UK's overall gender pay gap has fallen over time. It was 25% 10 years ago and is now 18.1% according to the latest ONS statistics. While this is moving in the right direction, progress is still too slow and voluntary reporting has not led to sufficient progress. According to McKinsey, eliminating work-related gender gaps could add £150 billion to our annual GDP by 2025.

Following two public consultations and extensive stakeholder engagement, the Government are delivering their manifesto commitment to require large employers to publish a range of complementary gender pay gap measures every year. Employers will be required to publish the difference between the average hourly rate of pay for male and female employees, calculated using the mean and the median. This will give employers a better understanding of their gender pay gap.

The regulations cover bonuses too. ONS figures show that more than £44 billion was paid out in bonuses across the UK economy during the 2015-16 financial year. We are requiring employers to publish the difference between the average bonuses paid to men and women as well as the proportions of male and female employees who receive a bonus. This will encourage employers to ensure that their practices for awarding bonuses are fair and transparent.

Fewer women than men are employed in senior and higher-paid positions. Requiring employers to report on the proportions of men and women in each quartile of their pay distribution will ensure that they consider whether there are any blockages to women's progress. It could also be valuable in making comparisons with competitors who may be benefiting from actively nurturing female talent. The regulations will require employers to publish the information on their own website every year in a manner that is accessible to employees and the public. A written statement signed by a director or a senior employee must also be published to confirm the accuracy of the information. As well as appearing on an organisation's website, the information will also be published on a government-sponsored website. Requiring the information to be published in this way will establish a database of compliant employers and make all published information available in one place.

The regulations do not create any additional civil or criminal penalties. Failure to comply would be an "unlawful act" and fall within the existing enforcement powers of the Equality and Human Rights Commission under the Equality Act 2006. The Government can consider alternative enforcement mechanisms if the level of compliance is not satisfactory. The Secretary of State will review the regulations five years after commencement.

The Government have worked closely with ACAS to develop clear guidelines to help employers implement the regulations, and they will be published shortly. Transparency is not a silver bullet but it will incentivise employers to analyse the drivers behind their gender pay gap and explore the extent to which their own policies and practices may be contributing to that gap. These regulations are only one element of the Government's strategy to modernise workplaces. We have already extended the right to request flexible working to all employees; introduced a new system of flexible parental leave; and committed to providing 30 hours of free childcare a week for working families.

The principle of greater transparency on gender pay differences has cross-party support. I hope that noble Lords will support the regulations. I beg to move.

Baroness Burt of Solihull (LD): I welcome the noble Baroness to her new post. I hope that every regulation or piece of legislation that she introduces will be as good and progressive as these regulations. I welcome these regulations on behalf of my party, and especially all those colleagues who worked tirelessly in coalition to make this legislation a reality. I am so glad that the Conservative Government have kept their word and implemented this Liberal Democrat policy, which I note found its way into their 2015 manifesto, although it had not been there in 2010. I pay tribute particularly to the hard work and sheer determination of Jo Swinson, who got this through against the odds.

Equal pay and better gender representation in business is good for the economy as well as helping to create a fairer society. As Jo said:

> "Businesses have a choice, to view gender pay reporting as a burden, or as a catalyst to seize an opportunity. When competitive advantage is increasingly about attracting and developing the best people, a better understanding of how you're valuing and rewarding your people is powerful. Gender pay data may be uncomfortable, but at least it can no longer be ignored".

As many noble Lords may know, although progress is being made, figures by the Fawcett Society show that women are essentially working the last month and a half of the year for free. Looking at it in these stark terms, we can all see how ludicrous this is. However,

as the noble Baroness has already said, this legislation will not be a silver bullet as we would all wish. More needs to be done.

Girls and women outperform men at every stage in their educational life, yet we constantly see women not reaching the top jobs. We must ask why this is. Report after report points to women missing out on bonuses, promotions and pay rises as they get older. When the babies come along, or other caring responsibilities arise, it is too often the women who makes an economic sacrifice. As the Minister has already said, one of the steps that we introduced in coalition was equal parental leave—a small step in making men and women equal, and giving men a better opportunity to bond with, and care for, their babies.

Therefore, let us focus today on another good, progressive piece of legislation. Let us welcome these regulations, the better-informed debate they will engender and the stepping stone they will provide to better workplace equality.

8 pm

Baroness Gale (Lab): My Lords, I congratulate the Minister on her first performance at the Dispatch Box and thank her very much for bringing these regulations before us tonight. I look forward to working with her again.

We are pleased that the Government have at last brought this statutory instrument on the gender pay gap before us tonight, as it was part of Labour's Equality Act 2010. This Act introduced mandatory pay audits under which companies employing more than 250 people have to publish details of their male and female staff's pay. We have continually asked the Government to live up to their duty to ensure that big companies publish information about their gender pay gap. I am glad to say that the Government have finally acted on this, but it has taken them seven years to bring this into force. It was a simple piece of legislation that Labour passed, legislation that would make the workplace much fairer. It is interesting to note that almost every major piece of legislation that has improved the lives of working women has been introduced by a Labour Government.

It is unfortunate that these regulations do not contain any enforcement provisions, or sanctions for non-compliance or for publishing inaccurate or misleading reports. I am aware that the Equality and Human Rights Commission could enforce these rules, as the Minister said, but I understand that it does not have the proper powers or resources to do so. In response to the Government Equalities Office's consultation, *Closing the Gender Pay Gap,* the commission said that it would,

"require additional powers, and resources, to enable it to enforce compliance with the regulations, because its current powers are not suitable for enforcing, in a proportionate manner, a failure to publish".

It therefore seems from this response that this is not something that the Equalities Commission can do at the moment. The interesting thing about this consultation is that about two-thirds of respondents agreed that such a civil enforcement system would ensure compliance. It is unacceptable that the Government have watered down these regulations and it seems to demonstrate their lack of true commitment to ending the gender pay gap.

We know that low pay is a significant factor in the gender pay gap. Women hold the majority of minimum wage jobs—some 59%—and female part-timers hold 41% of minimum wage jobs, almost twice as high as their share of all jobs. The sectors with the most minimum wage jobs are hospitality and retail, which account for just over 45% of minimum wage jobs, followed by social care, cleaning and employment agencies, which each account for between 6% and 7 % of such jobs. It is mainly women doing these jobs, and so much work still needs to be done on this front. That is why enforcement is crucial.

As of the last Autumn Statement, 86% of net savings to the Treasury since 2010, through tax and benefit changes, had come from women. It is a shame that the Government have repeatedly refused to conduct a cumulative gender impact analysis of their policies. Part of the reason that the Government have been unable to significantly shift the gender pay gap is because they do not seem to have a strategy to address chronic low pay in sectors such as retail, care and hospitality, where many women work. I am sorry to say that the Government are turning the clock back on gender economic equality. As a result of their policies, they have forced women to pay the price for their austerity failures. With the gender pay gap still at more than 18%, women are still working for lower wages than men, and over a lifetime that can result in a significant loss of wages.

Under these regulations, employers must analyse their gender pay gap each April and publish their gender pay gap report within 12 months, and they must report annually on their websites. They must also upload the information to a government website, but details of this website have still not been released. I understand that the Government plan to introduce similar reporting obligations for public sector employers within the same timeframe.

I would like to hear from the Minister on the following points. Will she tell us whether the Government will give the powers and resources to the Equality and Human Rights Commission in order for it to be able to enforce compliance with the regulations? Otherwise, it is difficult to see how it can possibly carry out this work, bearing in mind that its budget has been cut from £62 million in 2010 to £17.4 million by 2020. Will the Minister say when details of the government website will be released? Regarding public sector employers, will she say when the regulations will be put to Parliament? I look forward to the Minister's response.

Baroness Vere of Norbiton: My Lords, I thank noble Lords for such an interesting debate this evening, particularly the two noble Baronesses for their kind welcome. Feedback is, of course, very welcome. I would like to spend a few moments addressing some of the points that were made.

Turning first to non-compliance and sanctions, it is the case that the Equality and Human Rights Commission has the powers under the Equality Act 2006. The way that we are going to approach this is that the system has to be up and running. The Government will review the sanctions in due course, but only when the prevalence of, and, perhaps as importantly, the reasons

[BARONESS VERE OF NORBITON]
for, non-compliance have been established. It is certainly under review, but it should also be noted that the majority of organisations responding to the consultation did not raise concerns about the lack of financial penalties. The other reason why compliance will be slightly higher than otherwise is that competition within organisations in the same sector will, I think, be quite fierce. We will have to see where we go on that, but I know that it will be under review.

I listened with interest to the entreaty from the noble Baroness, Lady Gale, on low-paid workers. I understand that she was approaching that from a female perspective, but let us not forget that the Conservatives have raised 1 million people out of income tax altogether. There were lots of positive things being done for low-paid workers, including the minimum wage going up. She also mentioned the pay gap, which is still at 18.1%. I agree, but it is going down, which is very good. Actually, compared with other countries, we do very well. The gap in Finland is 18.4% and in Austria it is 22.25%. The interesting thing about what they are doing with their gender pay gap reporting is that they are requiring companies to gather the information, but then not requiring it to be published. I am therefore happy that the proposals that we have in front of us really are world-class. We are taking a lead in these, which is very positive.

The noble Baroness also asked about the website. As we know, the snapshot date is 5 April this year, and from that date, the companies will be able to publish their data as their reporting cycle moves through. Of course, it can be up to a year before they actually publish. The government-sponsored website will allow us to closely monitor compliance levels and we will launch it to coincide with the commencement of these regulations. I know that I will be looking with interest to see what the outcomes are.

The noble Baronesses also asked about the public sector regulations and when we might see them. They were laid on 18 January and will be subject to separate debates in both Houses shortly. Subject to parliamentary approval, these regulations will be in force by March 2017, and the specified public bodies will need to publish their gender pay gap before March 2018. By 2018, therefore, we will have a whole lot of data to look at, which is excellent. Both sets of regulations will require the same gender pay gap calculations, so they will be comparable, and noble Lords may have seen that the Government published their response to the consultation on public sector gender pay gap reporting earlier today.

It is not acceptable that the gender pay gap still exists in this day and age. These regulations will create opportunities for individuals and employers by driving action that promotes greater gender equality in workplaces across the country. I am pleased that the regulations are broadly supported by this House and that the underlying policy intent is agreed. We must accelerate action to close the UK gender pay gap. On that basis, and if there are no further questions, I hope that noble Lords will see fit to support the regulations and I commend them to the House.

Motion agreed.

Important Public Services (Border Security) Regulations 2017

Motions to Approve

8.11 pm

Moved by ***Lord Prior of Brampton***

That the draft Regulations laid before the House on 5 December be approved.

Relevant document: 20th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Prior of Brampton) (Con): My Lords, the Trade Union Act modernises the UK's industrial relations framework to better support an effective and collaborative approach to resolving industrial disputes. The Act restores a level of fairness to our industrial relations regime and gives effect to the Government's manifesto commitments. It ensures that strikes can happen only as a result of a clear, positive decision by those entitled to vote, balancing the interests of unions with the interests of the majority of people who rely on important public services. The Act is not about removing rights. Indeed, the Prime Minister in her recent speech on Brexit made it clear that as we leave the European Union and translate the body of European law into our domestic regulations,

"we will ensure that workers' rights are fully protected and maintained".

The Act received Royal Assent in May 2016. Today we are debating six statutory instruments, the first five of which implement a 40% threshold for ballot mandate approval for key public service sectors. This means that as well as there being a requirement that 50% of union members who are eligible to vote do so, 40% of all eligible members will have to be in agreement with the proposed mandate. The sixth statutory instrument that we are debating today will set a 12-month transition period before new provisions for political funds come into force. These provisions will allow new union members to opt in to any political fund supported by their union, rather than any such subscription being automatic. The 12-month transition period will allow unions to make the necessary system and rule changes.

We propose that the 40% threshold and the transition period come into force on 1 March. We will also make a commencement order to ensure that Section 11 of the Trade Union Act is brought fully into force on that date. At the same time, we will bring into force a number of other provisions in the Trade Union Act. As I have mentioned, these include a 50% threshold for those eligible to vote to do so as well as additional information about the result of any ballot, two weeks' notice of industrial action to be given to employers, new requirements to manage picketing, and reporting on industrial action and political fund expenditure. This ensures that the key changes to the way official industrial action is decided on and implemented are prioritised and come into effect as a single package.

The purpose of the ballot thresholds is to rebalance the ability of union members to strike with the interests of the general public, non-striking workers and employers. The Trade Union Act takes proportionate action to

redress the balance and ensure that unions in these sectors have a strong democratic mandate before they take strike action.

The impact of strike action is most severe when it takes place in the important public services that people and businesses rely on every day, particularly where it leaves people with no real alternatives when strikes take place. This is particularly unfair when strike action goes ahead without strong support by a unionised workforce. This is why we have introduced an additional 40% approval threshold to apply to important public services such as health and rail transport, in addition to a requirement for a 50% turnout threshold. This is a robust threshold, and rightly so. It is in the interest of the public to know that where they face disruption in these crucial services as a result of strike action, this is because union members have secured a strong democratic mandate. This is also important for union members who were not in support of strike action. I know that some noble Lords have expressed concerns that these reforms do not go far enough. The Government believe that the measures they are putting in place strike the right balance.

8.15 pm

During the passage of the Trade Union Act last year, the Government consulted on which services within the public service categories set out in the Act should be subject to the 40% threshold, and on how the threshold should operate in practice. We analysed more than 200 responses, reviewed the available evidence of the impact of strike action across different public services, and listened to stakeholders' views. The government response to the consultation was published in January last year, when we also published draft regulations. The substance of these was discussed in Committee in the Lords during the passage of the Trade Union Act. I thank noble Lords for their constructive and well-informed views, which helped us tailor these regulations to ensure clarity so that the services that are affected are tightly defined.

The regulations we have introduced today limit the application of the threshold to those services where there is the most compelling evidence of the impact of strike action, and ensure that its scope is proportionate. What does this mean for the sectors that are affected? The pressing social need that we are addressing in the health sector is the risk to life or of injury to the public in the event of industrial action. We have therefore focused the impact of the threshold where reduced service levels can have the most immediate impact on the lives and safety of patients and the public. That is why the regulations cover emergency and urgent health services. This includes ambulance staff, accident and emergency medical staff in hospitals, services provided in high-dependency units and in intensive care in hospitals, and psychiatric, obstetric and midwifery services provided in hospitals for conditions that require immediate attention to prevent serious injury, illness or loss of life.

In the fire sector, our aim is, again, to protect the public against the risk to life or injury. In light of this, we have focused on firefighting services, including co-ordination of the emergency response, because these are all critical to ensuring that fires are dealt with promptly and effectively to protect the public.

In the education sector, the Government aim to ensure that all children have the right to an education. We are focused on teachers who work with pupils of a compulsory school age in state-funded institutions. This reflects the importance of these years for children's education and the disproportionate impact on learning that strike action can have.

In the transport sector, our priority is to ensure, as far as possible, that large numbers of people can rely on the services they need every day to make important journeys. We have, therefore, focused on passenger services, because strike action is more likely to have an adverse and immediate impact on people's ability to go to work, school and college and to important appointments. That is why the regulations cover passenger railway services, including the maintenance of trains and the network, and the signalling and control of the operation of the train network. The regulations will also cover any London local bus service, civil air traffic control services and airport and port security services.

Finally, in the Border Force, we are addressing the significant risk to public safety in the event of disruption to border controls. We are focused on services in respect of the entry and exit of people and goods, as these are central to the carrying out of checks, and to prevent illicit commodities entering the country.

I believe members of the public will agree that strikes in these important public services should take place only where there is a strong level of support for a justifiable mandate. I hope I have reassured noble Lords that these regulations are justified and proportionate to our objective.

During the passage of the Trade Union Act, this House debated at length the principle that union members should make an active choice to contribute to a trade union's political fund. This place established a Select Committee on Trade Union Political Funds and Political Party Funding under the chairmanship of the noble Lord, Lord Burns. I start by thanking the noble Lord and all the Peers who sat on the Select Committee, on a cross-party basis, for their work, which helped to move forward the debate on this element of the Act.

I want first briefly to remind noble Lords why the reforms in the Trade Union Act in relation to political funds are important. As part of our manifesto commitment, the Trade Union Act introduced a requirement for all union members to actively opt in to their union's political fund following a transition period of three months. Members who chose to opt in would need to reaffirm their choice every five years. We made this proposal because until we make these changes a union member automatically contributes to a union's political fund as part of their union subscription, unless they notify the union that they do not wish to do so. We do not believe this is satisfactory or transparent, bearing in mind that we are talking about significant amounts of members' money. In 2015-16 the total income and expenditure in relation to all trade union political funds in Great Britain was in excess of £24 million and £20 million respectively.

We have debated at length the principle of these rights for union members. The Select Committee which assessed our proposals also assessed the extent to which unions, in practice, were transparent with their members

[LORD PRIOR OF BRAMPTON]
about the existing choice to opt out of contributing to their union's political fund. The Select Committee concluded that there is significant variation in how different unions convey opt-out information to their members. The Government's analysis of online union subscription forms, the point at which an individual makes their first financial commitment to their union, found that nearly half of unions that have a political fund make no mention of its existence. Following the Select Committee's recommendations and an amendment tabled by the noble Lord, Lord Burns, we listened to the arguments and accepted the substance of his amendment. The Trade Union Act incorporates the Select Committee's recommendations that the requirement to opt in will not apply to existing members; only new members will be required to opt in to a political fund, and they will be reminded annually of their right to opt out. Further, we agreed that opting in or out will be allowed electronically, and that there should be a minimum 12-month transition period to enable system changes to made, and which the Government should consult unions on. The noble Lord, Lord Burns, welcomed this outcome and said he regarded it as "a very satisfactory conclusion".

As required by the Act, we consulted the TUC, 24 unions with political funds and the Certification Officer, seeking their views on the length of the transition period. A number of technical and administrative issues were raised during the consultation. These included the request for the Certification Office to develop "model rules", which would allow unions to make the relevant changes to their systems, the need to allow an appropriate period for unions to amend their rulebooks and the requirement to make a number of changes to IT systems and administrative procedures. Having considered these issues, balanced against a need to reform and modernise trade union business, the Government have decided to set an extensive transition period of 12 months, as set out in the regulations laid before the House today. We believe a 12-month transition period is adequate for unions to ensure that they comply with the statutory requirement under the Trade Union Act. This balances the need to provide unions with sufficient time to implement the changes with the Government's desire that the measures are delivered promptly. It is proposed, therefore, that once the regulations have received parliamentary approval, they will come into force on 1 March, and the 12-month transition period will run from that date.

The Government's view is that unions have known about these changes for some time, and it is not unreasonable to expect them already to have done some planning to meet that requirement. We are also grateful to the Certification Officer, who has consulted unions and issued model rules and guidance, which will assist them in complying with the new requirements.

Before I conclude, I should like to address comments made on these regulations by the Secondary Legislation Scrutiny Committee. In relation to the five regulations on the 40% threshold, the committee pointed out that the Government had committed to issue guidance to clarify which workers will be captured by each of the important public services listed, to assist unions and employers when they are assessing how a ballot should be conducted. The committee's view was that the need for such guidance raises the question of whether the regulations are sufficiently clear and understandable for those affected. Furthermore, the committee regretted the fact that the Government had failed to publish this guidance in early December when they laid these draft regulations in Parliament.

In response, I am grateful for the committee's scrutiny. I can confirm that the Government have now published guidance to provide advice for unions on applying the 40% threshold in practice, and on examples of workers who will be covered by each of the regulations. In drafting this guidance, we engaged with key stakeholders affected by the provisions to understand how the guidance can be most helpful. We listened carefully to their views and have reflected these in the guidance. I would add that issuing guidance is not unusual. The Government frequently make guidance available to summarise legislation and its requirements, and to provide advice on their application in practice.

In relation to the political funds transition period regulations, the committee noted that the Government had not yet published a summary of responses to their consultation with unions and the Certification Officer on the length of the transition period. I apologise that we were unable to publish a summary of responses when these regulations were laid. We accept that we should have done so. Having been advised by the committee that it is best practice to publish a summary of consultation responses, we have now published a summary on GOV.UK.

In conclusion, the Government believe that the regulations before noble Lords today are proportionate and strike the correct balance between the interests of unions and those of members of the public. I beg to move.

Lord Foster of Bath (LD): My Lords, neither the Minister nor I served on the committee that discussed the Trade Union Bill. However, he will be well aware, no doubt from reading *Hansard*, that my party made many of the proposals in what was then the Bill and is now the Act. We remain concerned about all those, including those aspects now being introduced through these regulations.

In the first set of regulations, the Government have identified within what they have defined as "important public services"—health, education, fire, transport and border security—the personnel that they believe should be covered, so refining, as the Government put it, the list of the important public services. Within education, for example, it is teachers and head teachers but not, one assumes, caretakers, although they are very important in the running of our schools. Although we are critical of the way that the Government have failed to listen to many aspects of the consultation that took place, we are at least pleased that in this one respect—in relation to ancillary workers—the Government have listened. We welcome that very much indeed.

These important public services are the ones that the Government have decided must meet not only the 50% turnout threshold criteria but also a requirement that at least 40% of those eligible to vote must have voted for strike action before it can proceed. That means, for example, that in a ballot where the turnout is just over 50%, taking industrial action would require some 80% of those voting to do so in favour. During the passage

of the Bill, although we saw some merits in the setting of a threshold for turnout, we argued against the imposition of the 40% threshold. In the words of the noble Lord, Lord Kerslake, at Second Reading, it is,

"a very stiff test indeed".—[*Official Report*, 11/1/16; col. 79.]

It is hardly, as the Minister sought to describe it, a proportionate approach to the problem as the Government see it.

We noted at that time, and continue to do so, that business support for these measures is lukewarm. The Chartered Institute of Personnel and Development has said that the plans are,

"an outdated response to the challenge of the modern workplace".

Only yesterday, in the *Evening Standard*, we saw the results of an Ipsos MORI poll, which showed, for example, that nationwide only 37% of the public support limits on the rights of train drivers to strike, and only 35% support limits on teachers. Imposing a 40% threshold is a stringent limit. It is not a proportionate limit and it is one that is clearly not supported by the public.

As my noble friend Lord Stoneham argued during Second Reading, the 40% threshold brings with it other problems as well and would make resolving disputes more difficult. He said:

"Disputes have to be resolved through a bargaining relationship; if that is not understood, we will be led to unintended consequences. If you have thresholds, the unions will work to achieve those thresholds, so strikers could become more intransigent".—[*Official Report*, 11/1/16; col. 118.]

On these Benches, we also argued that quite simply no evidence has been produced by the Government that the workers who did not vote in the strike ballot are any less willing to withdraw their labour than the ones who actually did. Of course, we noted, as many did during those deliberations, that in the 2015 general election the Conservative Party won by a majority of just 12 seats—the smallest majority since 1974. More importantly, it did so with less than 24% of registered voters. The noble Lord, Lord Kerslake, played a very active part in those deliberations, and I love quoting him. At Second Reading, he said,

"the current Government happily govern with fewer than one-quarter of the electorate supporting it, and fewer than 40% of those who voted".

He went on to say:

"That tells me as much about why we need electoral reform in this country as it does about trade union democracy".—[*Official Report*, 11/1/16; col. 79.]

I entirely agree with him.

8.30 pm

The Government have considerable power over important public services, but they fail to meet, by a huge margin, the 40% threshold that they are imposing on the same public services for actions that their Members wish to take. I note with great interest that in the Explanatory Memorandum we have been provided with for this evening's debate is the claim:

"The thresholds will restore a level of democratic legitimacy to industrial action ballots, ensuring that the public have confidence that any disruption they face as a result of strike action has a strong democratic mandate from union members".

Then we must assume, on that basis, that the Government accept that they do not have a strong mandate for the actions they are taking. How does that 40% threshold approach square with the EU referendum result? Are the Government not admitting that their hard Brexit proposals lack democratic legitimacy and cannot have public confidence when only 37.4% of all eligible voters backed Brexit, whether soft or hard? Again, the 40% threshold was missed.

The Minister has rightly commented on your Lordships' Secondary Legislation Scrutiny Committee's concerns about the failure to publish guidance in early December. I am sure that the House will acknowledge the apology which the Minister has given, but it is very much to be regretted that that was not done. The committee also made very clear that the need to provide that guidance indicated that the primary legislation was unclear. But nothing in this set of regulations or the accompanying Explanatory Memorandum has helped persuade us that what we said during the passage of the Bill was wrong. We remain of the view that the Government are quite simply wrong themselves to impose this 40% limit.

The final regulation on the list, relating to the transition period for the imposition of new rules on trade union political funding, is different, and we are very concerned about what is proposed. We were critical of the whole set of measures around this aspect of the Bill, believing that party-political funding should be addressed in the round, not looking at just one aspect of it that relates to the funding of one particular political party. We were pleased that the Government accepted an amendment requiring a transition period of at least 12 months and consultation with all trade unions that have a political fund, but it is about the results of that consultation I want to press the Minister. It is not at all clear that that consultation was meaningful. As he said, the end of the consultation is planned to be 1 March 2018. He claimed that that will allow the trade unions to make the necessary changes. He said that it was an appropriate and adequate time period, yet the Government will know, since it is referred to very clearly in their own summary of trade union responses to the consultation, that many of the affected unions have their conferences—the time at which they can change their rules—scheduled for April and May of 2018, which is after the deadline that the Government are imposing. USDAW, for example, writes:

"This begs the question: why are the Government rushing to implement legislation just a few weeks before unions are due to hold their conferences to change their rules to comply with the legislation? By rushing into legislation, without giving USDAW (and other unions) time to abide by our own rules, Government are forcing USDAW into a situation where we either need to break our own rule book—laying us open to challenge from our members—or not to abide by the legislation".

I am sure that the Minister will respond by saying that the unions have known about this legislation for some time, that they have had time to prepare and therefore it is perfectly reasonable. But to do so will mean significant changes to the arrangements—changes to the times when they will have their major conferences, for example. The Minister knows how expensive it is to run the Conservative Party conference. He knows how difficult it would be to change the date of that conference, let alone to be able to find a venue. He will of course be aware that his friend in another place—the Minister, Mr Nick Boles—said very specifically that no measures should be taken that will prevent them being "successful for them" and certainly not,

"punishing in terms of cost".

[LORD FOSTER OF BATH]
While we have considerable concerns about the new funding rules, I hope the Minister will at least accept that—to meet Nick Boles's commitment that there should be successful transformation by the trade unions to these new measures, which many people do not like anyway, and that it should be done at no significant cost to them—there is a real requirement to extend the transition period, at least by six months. I look forward to hearing the Minister's response.

Lord Kerslake (CB): My Lords, I intend to keep my remarks short, not least because the noble Lord, Lord Foster, made many of the points that I would have made. It is fair to say that this was one of the most contested pieces of legislation that this House has seen. Indeed, during the debate, this Chamber was considerably fuller than it is now. Looking around the Room I feel a sense of nostalgia for the noble Lords who were here for that debate.

It is important to emphasise that the issue of the threshold was one of major concern, because, as the noble Lord, Lord Foster, said, it applied a test that applies to almost no other election. That is an important point. If we see other elections as giving authority to take actions, in many ways having as big a consequence for people's lives as strike action does, we do not expect the same level of test as we do here. But—and this is the important point—that debate was had and this House acquiesced to a package of changes to the Bill at the time. While I expect no one agreed with absolutely all of what was done, it seemed in the end a fair package given the contested and strong issues. If there are noble Lords who feel strongly that it should go further, I cannot see them in the House this evening.

The point I particularly wanted to raise was that part of that package was a commitment to review the issue of electronic balloting. That was not a small point, because hand in hand with the introduction of the threshold had to be measures that would make the process of voting easier for members. It is in all our interests to see the maximum turnout. Electronic balloting alongside postal balloting was the intended approach. We comprehensively demonstrated during the debate in the House that there were no real impediments to the introduction of electronic balloting. Indeed, it was used by a wide range of organisations already.

I may have missed something, in which case I am happy to apologise on this point, but I have not seen a great deal of evidence of progress on this issue—in particular, of a proposal coming forward from the Government to say either that they have looked at this and it is not viable, or that they have looked at it and it is viable. I would welcome a response from the Minister on that point, because, if there has not been the necessary progress, the House is due an apology. It was an integral part of the settlement agreed at the time.

Lord Monks (Lab): My Lords, the real purpose of the Act was revealed to me by a former Conservative employment Minister, when he simply said, "Bills against the trade union movement don't cost anything and they don't half cheer up Conservative associations in the country". That is the double benefit derived from a trade union Act.

As we can see, the pressure is already on for another round of action—which was what, I guess, the Minister was referring to in his remarks. I will not repeat the speeches that we gave during the passage of the Bill and the situation we have arrived at now, except to say that the regulations on the double threshold are extraordinarily tough, unprecedented in their application compared to other organisations and very difficult for unions to carry through in a way that will not leave them open to legal challenge.

For example, a GCSE teacher is covered in a different way from a teacher of A-levels. In my experience, teachers often teach both. I am not arguing for widening it, I am saying that there will be many borderline areas where it will be most unclear, and very difficult for a union to specify exactly who is covered by the double threshold and who by the turnout one.

I want to emphasise the point of the noble Lord, Lord Kerslake, about electronic balloting. I do not see why this measure could not have been left until we have completed the exercise on electronic balloting—whether it will be permitted or not. That makes a considerable difference to turnout and the impact that this law will have. It could simplify things enormously.

Secondly, I would underline a point made by the noble Lord, Lord Foster, about the political fund adjustment time. Again, this year is a tough one. I am thinking not just about union conferences—everything that the noble Lord, Lord Foster, said in that respect is correct—but also about the check-off agreements with employers. The big unions have hundreds of such agreements. They will have to adjusted, and that is a major task. They will have to be renegotiated in many cases: it will not be done just by an administrative stroke of the pen. They will have to be talked about and explained to the members and to the employers.

These regulations, therefore, are tough, and I echo the request that has already been put to the Minister, to give unions rather longer to respond—an extra six months would be extremely useful.

Lord Whitty (Lab): My Lords, in focusing on the last of these regulations I do not mean to say that I agree with any of the previous five. However, the points have already been made on those.

I served on the Select Committee during the passage of this Bill, and the last of these amendments is out of keeping, in two senses, with the recommendations of that committee. First, as has already been alluded to, it presents unions with a very severe administrative problem. Secondly—to my mind this is the largest problem—even to proceed on this basis is a major constitutional outrage. I will come back to that.

Having received representations from both sides—and to try to maintain consensus—the Select Committee said that the transition period should be a minimum of 12 months. That, however, was subject to a consultation with the unions. I wanted a minimum of 18 months, subject to consultation, but we agreed on what currently stands.

The noble Lord, Lord Foster, has already referred to evidence from USDAW. I suspect that the belated report on the consultation on this point will reveal that several unions will be hard hit because of the timing of

this regulation. Most unions have their conference between March and June. USDAW has it in April; my own union, the GMB, has it in June. It is impossible, in both those cases, to abide by both your own rulebook and the timetable laid down as a result of this regulation. Had the Government decided to trigger it and give them 12 months in, say, August, that would have given the unions plenty of time to abide by all the pre-proceedings of conferences and rule changes by this time next year. Instead, the Government have done so in such a way as to sabotage the ability of a conference such as USDAW's in April—since the proceedings for it have already started—to meet the requirements of its own rules while complying with the regulation.

8.45 pm

USDAW, a union which gave oral and written evidence to the Select Committee—I think even the committee's Conservative members were quite impressed by how it dealt with opting out of political funds under the present arrangements—wishes to abide by the law but also to abide by its rules. The Government's proposition presents it with a dilemma which will be difficult to overcome. I plead with the Minister to think again on this regulation and extend the period, if it has to be triggered in March, to 18 months or to trigger the one-year period later in the year, if that is indeed what the Government want.

I had hoped that after the furore during the passage of what became the Trade Union Act, we would settle down to implement it in a sensible way. This regulation is not a sensible way. It will put unions that wish to comply with the law into difficulties and I request that the Minister thinks again. Indeed, his failure to provide in time the results of the consultation give me cause to support the views of the Delegated Powers Committee that the Government have acted entirely out of order on this basis.

However, there is a bigger point here. The first conclusion of the Select Committee, unanimously, was that while the Bill dealt with union political funds, and therefore in the nature of history and the structure of our political arrangements hit the finances of only one party, there should be a government initiative to look at political funding in general. It should look at all institutions and sources of funding which come to political parties. That put the responsibility not on the political parties themselves but on the Government. All of us were concerned that Ministers at that time refused to recognise and carry out what was in the Conservative Party manifesto: that a review of political funding should take place.

Leaving aside the money that goes from rich individuals, more money goes from other institutions into political parties than from trade unions. Yet none of those other institutions, whether they are public or private companies, partnerships or whatever, are required to have a separate political fund—let alone to have any detailed requirements on opting in and opting out on review, and repeating that exercise every five years. Only the trade unions are already subject to that restriction, as they have been since 1913. Other institutions actually provide more money to a range of political parties, including the Labour Party, through their own decisions simply to donate money to them. In the case of quoted companies, there has to be a vote but there is no requirement to have a separate political fund.

This has always been a hugely partisan measure to hit at the finances of the major opposition party. It is being made even worse by the detailed provisions in this regulation, in that unions will find it difficult to comply with it in the short term. The bigger question, which Ministers were pressed to answer a few weeks ago in this House, is: when are the Government going to have a 'look at political parties' funding, across the board, on a fair, reasonable and equitable basis? Until they do, they cannot pretend that this is a sensible, democratic or reasonable measure and I hope that the Minister can at least give us an inkling today of the way in which his colleagues will approach this before this Parliament is out.

The reputation of political parties and the whole political process depends on us cleaning it up. The Government think they have cleaned up the trade union contribution to the Labour Party to some extent but there is a much deeper and wider problem than this. It is about time the body politic as a whole addressed it. I hope the Minister can tell us that, at least, he and his colleagues are preparing to address it. If not, then once again we are at an impasse. This has been exposed as a hugely partisan, unilateral decision by one political party to try to bankrupt another.

Lord Stoneham of Droxford (LD): My Lords, I am pleased to join in this debate. I was involved in the original proceedings on the Act. A number of points have already been made which I do not need to repeat. I should like to concentrate on a couple of aspects, taking through some of the thinking that has already been displayed in this debate.

As the Government's own record on contingency planning is very poor—as shown in the European issue—we have to ask whether they have prepared for some of the implications of these regulations. I hope that the Government have consulted ACAS on whether it has sufficient resources to deal with some of the problems to which these regulations will give rise. In the coming year, with inflation rising probably ahead of earnings, the Government are going to experience quite a lot of problems in the public sector. Resolving them will be further complicated by these regulations. They are going to have quite turbulent times. My noble friend Lord Foster quoted what I said in the original debate—that trade unions will have to invest extra resources into getting appropriate support in ballots. That has a danger in respect of strikes. As the Minister will have seen in the doctors' dispute, where 90% support was achieved in the ballot, it was extremely difficult to get it settled and prolonged negotiations were needed. We will have much more of that in the public sector.

A further issue is bargaining units. I mentioned in the original debates what I called the winding-engine men syndrome. Those were the people in the coal mining industry who used to work the lifts. They had immense bargaining power. If you have all sorts of legal restrictions on thresholds for strike ballots, all that will happen is that you will have smaller bargaining units and therefore a greater ability to manipulate strike ballots to get the

[LORD STONEHAM OF DROXFORD]
results that you want. It will be more difficult to resolve those sorts of disputes. I hope that the Government have looked at the consequences of what they are doing.

The noble Lord, Lord Kerslake, mentioned electronic ballots. It is in the Act; we passed an amendment that we would have an independent review of electronic balloting. I do not think that anybody who was involved in the debates at that time ever thought that we would implement those regulations. The understanding was that they would not be implemented until we had had the outcome of the electronic balloting review. What is the Government's thinking on this? What is the purpose of the review and when exactly are we going to see the details of it?

I should like to re-emphasise—and it is important coming from our party—that this is a very partisan act, certainly on political funding. We deserve to hear from the Government what further action they are going to take on the Burns committee recommendations, which have silently been discarded and forgotten. As we have to agree these regulations, we should know what the Government are going to do. What are they doing on the whole issue of the unfair financing of political parties, in the context of a very one-sided act against the principal opposition party? Everybody knows that this measure is partisan and will lead to a continuing imbalance in our political system.

The Government try to portray themselves as consulting and as a so-called party of one nation but, frankly, is it not incredibly insensitive to implement these regulations? The officials, or whoever did the consultation, must have known that the union conference system runs from April until July. Everyone knows that. To implement regulations that start in March is clearly therefore going to cause upset. That seems to be totally insensitive and unnecessary, and shows the total contempt that the Government have had for the trade union movement in this country in planning this legislation and in the way they are now trying to implement it.

Lord Mendelsohn (Lab): My Lords, I associate myself with the contributions that have been made. They have been pretty outstanding and have got to the very nub of the issues.

I thank the Minister for coming forward. We have had some very engaging discussions on other issues, and it is unfortunate that he has to deal with this issue in this particular way. I hope he is absorbing what we are saying and will respond adequately to it, but we do not hold him personally culpable for what has come before us.

It is important to understand that the conventional wisdom is that the Act was originally in the manifesto merely as some barking mad idea to negotiate away when the coalition was formed and that it would not stand. It is unfortunate that the circumstances evolved as they did and we ended up with something that was so partisan and vengeful. The debates that we had in this House were very significant; indeed, the size of the majorities against the Government's proposals—certainly, there were calls for some balancing measures for the democratic mandate so accorded—was very large, and expressed the deep concern across the whole House at these measures. We ended up passing legislation not because people were happy or because they understood it but because there was broad agreement in the legislation, in discussions with Ministers and in assurances to the House that, in the spirit of trying to pass this legislation, there would be balancing measures. It is unfortunate that the partisan approach has returned with these instruments. It is important to understand that that is at the very heart of the statutory instruments.

I spent some time—after the Act had been passed, regrettably—looking at the nature of the strikes and what caused them, and analysing some of the strikes that took place in private companies and the public sector. The issue that came up during that time was that in most of these cases it was not that there were a series of workers who just militantly desired to withdraw their labour; there were massive issues of competency of management. In fact, although I did not do an exhaustive piece of research and I cannot say I necessarily had an adequate sample, in 85% of the cases that I looked at you could identify management failures, especially in the public sector, where arbitrary decisions are announced and workers are displaced because there is no consultation or preparation. In those circumstances, we have to understand that measures need balance.

To take the example of disputes at Southern rail, at the heart of that dispute is a contract that does not work. I know the Minister has been in business before. On many occasions we have seen the consequences of poor contracts. A variety of the issues at the very heart of why there is a difficulty in resolving a problem where there are problems of the competency of management are about contracts. It is wrong always to look through the wrong end of the lens. We are looking to the Government to restore the sense of balance that we believe we had when this Act was passed.

I read the Prime Minister's speech at Davos when she talked about the notion of the rights and the voice of people who had not been adequately covered by these sorts of things, and the importance of strong institutions. In that context, I just do not understand why the institutions that the Government seem continually to want to stress, attack and undermine are those that represent working people. It is just not the right sense of balance.

It is our belief that trade unions are a force for good and equality in our society, especially in the increasingly insecure world of work. We remain fundamentally opposed to an approach that establishes restrictions on industrial action without balancing provisions to ensure that participation can be increased.

9 pm

Unions have always been careful in taking industrial action not to put people at risk or to take that action lightly. It is always a matter of last resort. Indeed, trade unions and trade union institutions have been able to look at making better mechanisms to try to create resolution—for example, the most recent TUC initiative. However, there are problems that need to be addressed. If we just look at the recent problems of workers in warehouses, be it for Sports Direct or Amazon, or even some of the reports today about a series of companies paying workers consistently under

the living wage, we see that we have a problem here. Those strong and important institutions are constantly undermined. We need greater participation in trade unions and we need balancing measures to ensure participation in ballots.

I am hugely irritated at the massive lack of evidence to justify wide-ranging restrictions on the right to strike. I am deeply concerned that the Minister even referred to the nonsense that went on in another place about trying to impose even more conditions. This is the UK equivalent of Kellyanne Conway's "alternative facts" when talking about the number of people on the mall at President Trump's inauguration. This is just ridiculous. These are flights of fancy.

I take issue with the notion that rebalancing rights of the public and all the things to which Ministers referred requires an 80% mandate—a Kim Jong-un-style mandate. This is not the case. The number of days lost to industrial action per year has fallen dramatically over the last 30 years. In 2015, there were only 116 stoppages as result of industrial action, 52% of stoppages taking place in the private sector, 48% in the public sector. In an economy with over 30 million people in employment, this is low. The level of disruption caused is limited. Much is short-lived. Some 60% of stoppages lasted for one, two or three days. Consistent findings have shown low numbers of managers—I think in one of the last surveys it was only 3%—reporting any disruption as a result of strikes in a workplace.

Union members take industrial action to defend their jobs and pay and conditions, not for political reasons. In 2015, 93% of working days were lost to disputes about pay, working time or redundancies. Indeed, in the vast majority of cases where the union ballots for industrial action, disputes are settled without the need for that action. In 2015 there were 503 ballots supporting strike action but just 116 stoppages.

I am very concerned. The impact assessment that accompanied the Trade Union Act predicted that the threshold for industrial action would reduce strikes by some 40% but did not analyse in any detail the nature of those strikes. Noble Lords have made the point before that if you want to entrench a strike and cause it to last longer, you want to motivate more people to vote in higher numbers. If you want to be sure of turning more disputes into strikes, this is exactly the way to go about it. That is a huge error. The Minister should give careful attention to ensuring that the Government look at the impact of this. The Bill was helped by the Select Committee, which did well to look at analysis by behavioural economists who were able to understand what the impacts were. These measures could also benefit from that. I hope that the Minister will consider that.

The Government have effectively introduced provisions that prohibit strikes in a number of cases where ILO standards suggest that they must put in place some compensatory mechanisms to ensure that workers are not disadvantaged by the loss of their right to withdraw their labour. There is no indication of the Government doing so. There is no indication of fulfilling the undertakings given in this House. We do not find this completely acceptable.

If we turn to the House of Lords Secondary Legislation Scrutiny Committee report—we acknowledge that the Minister has apologised; we are grateful for his coming to the House to give that apology—we see that the guidance is not clear. There are issues about what constitutes an important public service. There is a grey area where trade unions are invited to make a pitch to work it out—replete with all the attendant risks of court action—against the spirit and principles of the agreement we had that the Government would make it as clear as possible.

The Trades Union Congress recognised that limited improvements were made to the wording and scope of the regulations following consultation, but we are deeply concerned that the double threshold will constrain the rights of millions to exercise their right to vote. There are anomalies in the list of workers. One has been mentioned: why bus services in London but nowhere else? What concerns me more is the extension to the further education sector, because the Government are currently looking to ensure through legislation that further education colleges can go bust, which presages that the Bill to be debated here shortly may lead to terrible consequences about which the Government are not being entirely honest. I do not hold the Minister accountable for that; I hold him to account for many things, but not for the Government's intentions in the further education sector. I should be grateful if he could give us any details that he has about that.

In the area of transport, the regulations mention station staff, guards or conductors—those people whom management can fire without any real recourse. They are the people in an important public service who are unable to withdraw their labour in those circumstances. It is ridiculous that that is where these provisions have ended up. Will the Government look at this again?

I make one particular point about the impact of the provisions. As was clearly outlined during the Act's passage through this House, it will have a disproportionate impact on women. Research suggests that in some of these areas nearly 70% of trade union members working in these important public services are women. Many of these groups will fall into low-income bands and experience less favourable wages and conditions compared to their male counterparts. They are likely to be numerically disadvantaged by the changes and fall within the groups most in need of strong, effective representation. The weak bargaining position of an already disadvantaged group reinforces the argument for some compensatory measures. I should be very grateful if the Minister could identify whether any are forthcoming.

I turn to the trade union provisions relating to the political fund. I am grateful to my noble friend Lord Whitty for making the broader point about the context in which they have to be seen. There is a tremendous problem here. The noble Lord, Lord Foster, adequately set out what was the Government's position when we settled this—apart from their acceptance of the provisions in the Select Committee report. There was a specific undertaking by the then Minister, Nick Boles, who wanted,

"to make sure that the transition from the pre-existing approach to a modern approach of opt-in is possible for the unions to do in a way that is successful for them and their members and not punishing in terms of costs",

[LORD MENDELSOHN]

and said that the arrangements were,

"not designed to trip people up".

The provisions here are specifically designed to trip people up. There is no other way to interpret how these measures are meant to be implemented.

It is clear that there is a strong view among those who have been following these matters that the proposed 12-month transition period is inadequate and fails to take into account the complexity involved in making the changes required. It puts unions in a terrible dilemma: not only will they have to choose between following their rules, absorbing the costs and following the law, but it makes their passage of the regulations even more difficult. Most unions will have to go outside their own rules, setting up conflicts within unions. This sets up the potential, as we have seen, for someone to cause difficulties in many different ways by using the law against unions attempting to adhere to it. That is absolutely ridiculous. There has to be an understanding not just of the complexity of the task that has been laid upon trade unions of implementing the entire Trade Union Act over this period, but of what they must do to revise their rulebooks and undertake all the administrative and other changes necessary.

I was particularly disappointed about the matter, raised by the legislative committee, of the consultation not being published. However, reading the consultation adequately makes the points. The Minister made a very good point when he said that unions knew this was happening and must have made plans and started to make provisions. That is absolutely true. They made plans and should be held to account for them and for their ability to tell someone what took place. But these plans were ignored. The consultation states the timetable the unions gave as a consensus but the provisions do not fit in with it. It states very clearly:

"Unions said they have conferences scheduled for April/May 2018".

What has happened is absurd. Unions made provision; they told the Government what their requirements were and were ignored.

The consultation reports, moreover, that the Certification Officer,

"did not give a view on the specific timeframe for the transition period",

nor for the new model rules. It then says:

"As the majority of unions will be submitting their own draft rules to the CO at around the same time the CO will require sufficient time to manage the approval process",

without even specifying a time. This is setting up the unions to fail and is wrong in practice and in principle; it is a huge breach.

One just has to look at USDAW, which has put a very detailed case together to show how it may be able to implement these regulations within a proper timeframe. It falls outside these provisions. Unfortunately, I do not understand how the Government came to the view that this was how to implement the Trade Union Act. I hope the Minister is able to address these issues because I am sure that things can be done. It is certainly possible to direct the CO to look at different ways forward and to put a schedule together that identifies when unions will adequately be able to cover their obligations while following the rules. It is possible to do this using measures that can supersede or overlay the statutory instruments. I will be very grateful if the Minister can give us an undertaking tonight that he will not put unions in such an invidious position.

Lord Prior of Brampton: My Lords, I am not sure if I regret not being in the Chamber when this was originally discussed, but I would have been in a better position to address some of the issues raised if I had. Reading *Hansard* you do not quite get a sense of the very strong feelings of noble Lords. As it was almost an empty Chamber when I arrived tonight, I thought I might get off rather more easily than I have.

I completely agree with much of what the noble Lord, Lord Mendelsohn, said at the beginning of his speech. When you have difficult industrial relations in companies or sectors, it is very often not just the fault of the trade unions but of poor management, poor contracts and the like. I completely understand that.

I think the noble Lord, Lord Monks, said that an easy way of appeasing Conservative associations is to bring in hostile trade union legislation. I think we have moved on as a party and are now more enlightened. One noble Lord also said this was a debate about nostalgia; that may be so if you look back at the Conservative Party through the eyes of the Labour Party. We may have set ourselves up to be against trade unions but I agree with the Prime Minister that we are not against workers' rights. On the contrary, the whole thrust of our industrial strategy is to provide decent, well-paid jobs for people throughout the country.

9.15 pm

The 40% threshold has been debated to death in this House. I appreciate the concerns that have been raised: it is a stringent test. I described it as a robust threshold, which it is because it directly affects particularly vulnerable people. The workers to whom this threshold applies are fairly well defined in the Act. For example, it is not all people who work in the NHS; it is people who work in maternity units, A&E departments or high-dependency units. We have deliberately tried to structure it so that it impacts only on those who are looking after particularly vulnerable people.

The noble Lord, Lord Kerslake, said that it was, on the whole, a fair package and it is. He and the noble Lord, Lord Stoneham, raised the issue of electronic balloting. In November, the Government announced that Sir Ken Knight, the former Chief Fire and Rescue Adviser for England, will lead an independent review of electronic voting for industrial action ballots. The final report will be presented to the Secretary of State and laid before each House of Parliament no later than December of this year. So there will be an independent review, though I appreciate it is not as soon as some noble Lords would like.

I shall resist the temptation to be drawn into a debate with the noble Lord, Lord Whitty on political funds.

Lord Stoneham of Droxford: So there is going to be a review. Does the Minister intend to implement the recommendations that were implied by the House when it asked for the review to be done?

Lord Prior of Brampton: One cannot accept the recommendations until one has seen them. We will look at the review and make up our minds on which parts of it to implement. We cannot give any guarantees now to implement it.

As I said, I shall resist the temptation to get into a debate about the funding of political parties. That is for another time. We have had a debate before about the main issues in the Bill and there is no purpose in going much beyond what I said in my opening speech about the Government's view. I explained the purpose of the 40% ballot threshold regulations—to rebalance the ability to strike of union members in the health, fire, education, transport and border force sectors with the interests of the general public. That is quite a significant limitation. We have tried to draw the distinctions carefully. I take the point made by the noble Lord, Lord Monks, about the definitional issues; we have tried to be as clear as we can in that regard.

We have also taken a proportionate approach in relation to the political funds opt-out in transition periods. It is reasonable to say that the trade unions knew back in May that we would be going for a transitional period, and 12 months was stated as a reasonable period by the Lords Select Committee. The unions have a way of avoiding the need to hold conferences, through Section 92 of the Trade Union and Labour Relations (Consolidation) Act if they wish to use it. I do not think 12 months is unreasonable: in the Conservative manifesto it was actually three months. I imagine that some noble Lords on the other side of the House were surprised by the Government's response to the Select Committee's recommendations. As the noble Lord, Lord Kerslake, said, it was a fair package and that was also the view of the noble Lord, Lord Burns. We have taken a proportionate approach to the political funds opt-in transition period regulations. We took on board the very helpful recommendations of the Select Committee, and these regulations provide for a 12-month transition period for implementation.

Lord Whitty: Just to be clear, the Select Committee recommended a minimum of 12 months, subject to a consultation. The noble Lord has now had the consultation, the burden of which is that we need longer than that if we are starting in March. So he is at odds with what the Select Committee intended.

Lord Prior of Brampton: We did have a consultation, and it is true to say that our views and those of some of the trade unions were different. We do have a different view: I think the trade unions would like a longer period. But our feeling was that 12 months was a reasonable period.

The regulations support the Government's commitment to delivering a modernised industrial relations framework to better support an effective and collaborative approach for resolving industrial disputes. I believe they are fair and appropriate, and I commend them to noble Lords.

Motion agreed.

Important Public Services (Education) Regulations 2017

Motion to Approve

9.20 pm

Moved by ***Lord Prior of Brampton***

That the draft Regulations laid before the House on 5 December be approved.

Relevant document: 20th Report from the Secondary Legislation Scrutiny Committee

Motion agreed.

Important Public Services (Fire) Regulations 2017

Motion to Approve

9.20 pm

Moved by ***Lord Prior of Brampton***

That the draft Regulations laid before the House on 5 December be approved.

Relevant document: 20th Report from the Secondary Legislation Scrutiny Committee

Motion agreed.

Important Public Services (Health) Regulations 2017

Motion to Approve

9.20 pm

Moved by ***Lord Prior of Brampton***

That the draft Regulations laid before the House on 5 December be approved.

Relevant document: 20th Report from the Secondary Legislation Scrutiny Committee

Motion agreed.

Important Public Services (Transport) Regulations 2017

Motion to Approve

9.20 pm

Moved by ***Lord Prior of Brampton***

That the draft Regulations laid before the House on 5 December be approved.

Relevant document: 20th Report from the Secondary Legislation Scrutiny Committee

Motion agreed.

Trade Union Act 2016 (Political Funds) (Transition Period) Regulations 2017

Motion to Approve

9.20 pm

Moved by ***Lord Prior of Brampton***

That the draft Regulations laid before the House on 5 December be approved.

Motion agreed.

House adjourned at 9.21 pm.

Grand Committee

Tuesday 24 January 2017

3.30 pm

The Deputy Chairman of Committees (Baroness Henig) (Lab): My Lords, if there is a Division in the House the Committee will adjourn for 10 minutes.

National Policy for the Built Environment

Motion to Take Note

3.30 pm

Moved by ***Baroness Andrews***

That the Grand Committee takes note of the Report from the Select Committee on National Policy for the Built Environment (Session 2015–16, HL Paper 100).

Baroness Andrews (Lab): My Lords, in the unavoidable absence of the noble Baroness, Lady O'Cathain, who chaired our committee very ably, it has fallen to me to introduce this debate, with the leave of the Committee.

The intention behind ad hoc Select Committees is, in paraphrase, that they examine subjects which fall across policy areas, are timely, lend themselves to making best use of the expertise in the House, and can be accomplished in a short time. The subject of our report, which was published on 19 February last year, certainly fulfilled that remit. It was widely greeted as long overdue. To my knowledge, there has not been a national discussion on the development and future of the built environment as a whole for many years, if ever, despite the fact that our built environment is under unique and massive stress and constant change and shapes every aspect our lives. I am very grateful that so many noble Lords who were not on the Select Committee are here this afternoon. That shows how widely this subject appeals to noble Lords.

There have been foresight studies, housing reviews and endless partial reviews of planning, which are still going on, but there has been a complete failure to think in the long term about how to improve our urban and rural environments, make them more resilient, balance the use of scarce resources and future-proof housing and planning so they serve people of all ages and get the best for the future. At the same time, unlike the majority of countries in Europe, we have no national spatial strategy, and regional planning was abandoned in recent years. Our capacity to plan intelligently is further compromised by the fact that planning departments are being cut to the bone, and our inquiry was made more urgent by a housing market in crisis and extremely ambitious housing targets.

The credit for this inquiry lies with my noble friend Lady Whitaker, and I was very happy to support her initiative. We took more evidence than most Select Committees. There were 1,900 pages of written evidence. We foraged far and wide over complex and profound issues. For the coherence of the final report, we must thank our special adviser, Professor Matthew Carmona. We had an outstanding team: an outstanding clerk in Matthew Smith and excellent support from our policy analyst Simon Keal and our committee assistant James Thomas. We could not have been better served. Above all, we are in debt to the generosity of our witnesses who came from all quarters of housing and planning and who gave unstintingly of their time and expertise, whether they were environment experts, politicians, housebuilders or whatever.

What we wanted to achieve and, throwing modesty to the winds, what I think we have achieved, was to frame a public debate not on housing, although that certainly was a central feature, but on the wider context—in shorthand, on place-making. We asked our expert witnesses: why we seem as a country, to borrow the term recently used by the British Academy, which is engaged in a similar review, to be so "place blind"; why there was so much ugly and careless building when we had so much talent and resource to build better; where the consistent and new challenges are; where the pressures on the system are worse and how they can be reduced or removed; what are the essential ingredients of a healthy and sustainable community; and how could the role of central and local government be changed so that more impact is made, more ambition is created and more leadership and drive are shown?

The answers we received were that it is possible to build better and to manage environmental change without building fewer homes or creating dysfunctional communities, whether that is expressed, for example, in terms of putting a priority on mandatory design requirements; by achieving carbon neutrality and sustainable drainage; by making lifetime homes mandatory in new housing developments to match the needs of an ageing society; by using the assets of our spectacular historic environment proactively to create character in place; or, indeed, by putting the health and well-being of the community at the heart of place-making. We were ambitious for change because our expert witnesses were ambitious and unanimous that this is within our grasp as a country, and they offered many common solutions. The public and professional responses to the report have been swift and positive. The president of RIBA, Jane Duncan, for example, welcomed the report, anticipating that the,

"House of Lords will now get to work with our members and other professionals to ensure that these important policies are adopted by Government".

We hoped that the Government would respond in similar spirit. I am extremely sorry to say that we feel they have not. We worked hard, for example, to ensure that our report was out in time to inform debates on the then Housing and Planning Bill. The usual period of reply is two months. We waited nine months for a reply to this report. We received it in November—a record delay and a record silence from government. But what is really striking and, for me, saddening, is the tone of the response when it finally emerged and the failure of the DCLG to engage with the scale, the urgency and the spirit of the report. I feel that it failed to respond as seriously to us as we tried to do to the scale of the challenges we were addressing. With the exception of a very few instances where the Government commit to consider a recommendation—and the commitment is usually of a partial nature—the department has simply

[BARONESS ANDREWS]
ridden over the evidence or the argument, whether it concerns a failure or possibilities for positive change.

This is what some of our experts have said in response to the Government's response:

"Unsurprisingly the response is mainly a defence of existing Government policies, and to that extent disappointing. There are some glimmers of hope … Other areas of agreement with the Select Committee are so well camouflaged that they could easily be overlooked. To avoid a legacy of a poor quality built environment for decades to come, the Government needs to do a lot more to prove that place quality really is one of its priorities".

I believe that that is a measured comment. I am sorry to say that the routine response throughout the report is to tell the Select Committee what it already knew was happening—for example, explaining policy positions which were often the starting point for our recommendations; or providing a defence of the need to go no further on the grounds that what is being done is sufficient. This can only reinforce the sense we got from our witnesses that they were concerned that the Government genuinely lacked the courage to address the systemic failures of the present system and the necessary, though difficult, solutions that were being put forward, the necessity for adapting to climate change being only one example.

There is nothing easy about finding solutions to these problems. The issue we have is that we searched this report to find a serious engagement with them. It is no pleasure for me to criticise the DCLG. I have a great affection for my old department, and I know how well and how hard officials work. I know the present Minister inherited the situation but it is important that we are truthful in our response, because we have to learn from what we have missed in this exchange.

I turn now to a few specifics. I know that other noble Lords will want to speak on many other aspects of the report, so I will concentrate on just three issues: national policy-making, local policy-making and housebuilding.

Underlying the whole report is the need for the Government to set a much more ambitious role for integrated place-making, to make good the defects that come from the divorce between planning for the economy and for transport, health, environment and culture. In short, we need to move place-making from the periphery to the core and make it the driver rather than the receiver of policy. To that end, we argued, first, for an audit of where policies overlap; secondly, for a clear national policy statement about the role of place-making in government and the divisions of responsibilities; and thirdly, for the creation of a new post, a chief built environment adviser. The role of this adviser would be to promote and monitor the integration of policy-making and to be the champion of quality. We suggested this person should be supported by a small strategic unit, which would make up in part for the loss of the excellent work that was done by CABE until it was scrapped in 2011.

This recommendation has been warmly received and widely debated as an essential measure if there is to be any shift away from departmental silos and low expectations. The Government have responded by insisting that there is already strong policy co-ordination across departments, Cabinet committees and task forces and over the transfer of architecture from the DCMS to the DCLG. I do not think that anyone who has ever served on a Cabinet Office sub-committee has any illusion about there being a spirit of co-ordination. It is largely there for departments to state their existing positions. There is no direct response to the recommendations that the Cabinet Office should review areas of overlap, or that a high-level policy should be published. However—and this is the most positive response in the entire report—the Government have offered to consider—no more—the existing role of the chief planner taking on responsibilities of a chief built environment adviser. They said:

"We will look at developing the Chief Planner role to include discussing and facilitating communication and implementation of policy on the built environment and to identifying and sharing good practice".

I hate to sound churlish, although I know that I will, because this would be a good but very modest step; but, in truth, the chief planner has a very specific and major job to do. What we are talking about is a new way in which to galvanise bringing together the built environment concerns across government—more than telling other departments what is going on in the DCLG. Can the Minister tell us today when we can expect to see the new job description of the chief planner, and what will it consist of? When will it come into effect? Will it, for example, as the RIBA has suggested, require the Government to publish an annual report providing for high-level monitoring of quality and delivery, and establish priorities for research, policy and action? Will it require the postholder to facilitate a single cross-cutting policy for the built environment? Finally, does this mean that the Government have rejected the recommendation for a separate high-level post altogether?

As for local government, we were clear in the report that the capacity of local authorities,

"to plan proactively and engage with communities is vital in delivering this vision, wellbeing, prosperity and a stronger sense of place. We would like to see the planning profession regain the status and prestige it deserves".

That is a very significant recommendation, which goes to the heart of many problems. Showing confidence in what planning can creatively achieve is long overdue. Planning is usually cast as the villain, particularly in frustrating housebuilding; indeed, what we have seen in recent years has been a marked acceleration of the deregulation of the planning system in the rush to build as many houses as possible as quickly as possible, which is precisely where the cause for concern over quality is rooted.

We are not going to disagree in our committee that the response must be on local and neighbourhood determination, but there is, and must remain, a prime role for local plan-making as a whole and for maintaining the right balance of development and sustainability. We have to have a guaranteed supply of qualified planners for the future as well as the present. That was precisely what was reflected in the stream of evidence that we received of the impact of budget cuts, the haemorrhage of experienced planners and conservation officers and the huge pressures to prioritise housing development over everything else. That concerns everyone with an interest in good place-making, from developers

to Civic Voice. This is precisely why we made recommendations to increase the supply and training of planners, and on the necessity to look for alternative ways in which to fund planning services.

The Government made no response to this crisis in planning. What we were told was that there were a number of existing sector-led initiatives, and on the funding evidence, the Government referred us to the consultation on fees which closed last April. These are inadequate responses to profoundly worrying questions. When our proposals were essentially so practical, why were they rejected? What exactly are the Government planning to do to address the problem of capacity?

Finally, when we suggested the need for more incentives to promote greater co-operation between local authorities, the Government referred us to existing NPPF policy around the duty to co-operate. Since then, we know that there is more in the Neighbourhood Planning Bill—but those are not incentives; they are more like sticks, and it is not clear how they will be enforced. They do not compensate for the lack of spatial planning at regional or sub-regional level, where you can really form a policy.

The greatest test will come in relation to housing supply and quality, and it is here that the Government's response has been particularly revealing. Three crucial issues which influence the speed and delivery of new houses were identified in the report but sidelined in the Government's response: housing finance, land-banking, and viability.

The committee observed, on the basis of a wealth of evidence, that the Government were unlikely to meet their housing targets and increase housing supply significantly by relying on the private sector. The sector agreed. The committee recommended, in all logic, that the Government should review the impact of borrowing restrictions so that local authorities could play a greater and essential role. That is hardly novel or radical. RICS, to cite only one body, agreed with us. It said:

> "Put simply, more needs to be done to tackle the housing crisis. We wholeheartedly agree that the private sector alone cannot solve the problem".

The Government explicitly rejected these recommendations.

Likewise, on land-banking, if noble Lords look at pages 70 and 71 of the report they will see that in September 2015, for example, 251,000 homes were granted permission but only half—124,000—homes were actually built in 2014-15, and they may have been inherited from the previous year. This is about land values increasing and profits accumulating, not problems with the planning system. The committee concluded that the Government must consider helping to,

> "accelerate the delivery of housing on sites with planning permission, such as permitting the charge of equivalent council tax rates … subject to safeguards".

The Government failed to acknowledge or address this recommendation, just as they have historically failed to agree that this is an issue. Perhaps the Minister can tell me, having read the evidence, how the Government intend to deal with the reality of land-banking and the failure to build new housing on sites for which planning permission has been given.

On the impact of the development viability test as set out in the NPPF, witnesses told us that it was proving a gift to developers, who are often able to argue successfully that their proposed scheme would become unviable if they were required to provide affordable housing or other planning obligations. We recommended that the Government revise the NPPF to reduce the unreasonable use of viability assessments and introduce a nationally consistent methodology. The Government rejected the first recommendation, although it is modest and logical, but they have said that they will bring forward a more standardised approach post the 2015 spending review. That is good news, but that is now over a year ago. When can we expect these proposals? Will this be mandatory?

I conclude by quoting the Town and Country Planning Association, which commended our report for focusing,

> "on the quality of places that we create, rather than just housing".

It hoped that,

> "the government heeds the advice from the House of Lords".

As I set out in my introduction, the committee feels that the Government have for the most part not heeded its advice, but resorted to a defence of the status quo. But we live in extraordinary times: a rapidly ageing population; climate change; new technologies that will change the places we live and work; highly stressed and dangerously polluted cities; failing transport systems; increasing demands for clean energy; and a huge, unmet need for affordable housing. Put that against the background of Brexit and there has never been a greater need for facing up to the future, and for ambition and leadership.

Planning can do so much more and so much better than it is allowed to do. The Government have taken three times as long as they usually do to think about a response to our report. Would that they had used that time to develop their thinking of how to promote greater confidence, greater competence and more leadership. These issues will not go away. I just hope our report will serve as a resource of clear thinking and wise advice. I beg to move.

3.48 pm

Lord Inglewood (Con): My Lords, I declare the interests I have in the register. In particular, I own Hutton-in-the-Forest in Cumbria, which is a grade 1 listed building, and around it some houses and land. I am also a trustee of a number of similar estates, a chartered surveyor, a board member of the Historic Houses Association, president of the Ancient Monuments Society and president of the Lakeland Housing Trust.

I am not quite sure whether it is my noble friend Lady O'Cathain or the noble Baroness, Lady Andrews, whose comments I join about the Government's response to the report. Let us be clear: they have taken a very long time and the response is very flimsy. We have waited for the gestation period of an elephant and the Government have given birth to a mouse. It is all a bit disappointing.

I want to focus the main thrust of my comments on two things: first, some aspects of what is going on in the north of England; and secondly on historic buildings. I start with some general points. Like the noble Baroness,

[LORD INGLEWOOD]
I think there is great value in an overview of some of the problems to be considered in more detail in your Lordships' House and elsewhere regarding the built environment, and associated topics and political problems. I entirely concur with the thrust of the report that a decent built environment—and rural environment, for that matter—is a huge contributor to people's health, general well-being, sense of well-being and quality of life, and as such, should be encouraged and promoted as part of the country's infrastructure, using that word in its widest sense.

It is not simply a matter of money, although money has to be spent properly and judiciously. Caring, taking trouble, expertise, design, skills and thought are all essential to making the difference between the good and the bad. Having said that money is not the only consideration, we have to recognise that land and buildings are wasting assets and they have to be refreshed regularly to remain in good heart. Over the years this country has wasted an awful lot of investment in the environment—indeed, wasted it on a heroic scale—by failing to look after things. After all, look at the amount of slum clearance we have had over the years and the amount of urban redevelopment and so on. I sometimes flippantly say that I think neglect destroyed more of Britain's cities during the previous century than the Luftwaffe ever did.

There are two root causes of this, which we did not touch on all that much in our report. The first is rent—using the word in its strict economic sense—and the second is taxation. Rent is important because buildings have to generate a certain amount of money year in, year out, to cover the cost of the maintenance. If that is not happening, you are storing up trouble for yourself. Secondly, our personal taxation in this country is based on 19th century income tax legislation, which was designed for a completely different world, where people's lives in many cases were very different. It seems that the effect of the rules in various parts of the taxation system is actually to discourage maintenance of the built environment. There are remarkably few incentives to do that. It does not seem that difficult to imagine ways of gathering tax from people to the same levels as they are currently taxed now, in a way that does not chill looking after the fabric of the nation. This applies to both owner-occupied property and let property, be that housing or other. They both have a place in contemporary society and neither should be given priority over the other. Here again, it is maintenance and looking after things that are so important.

Of course, clearly there is a need for new housing and other development but, equally, it is important that what we have should play its full part in the life of the country, and that cannot happen if things are not looked after properly. If no stitch is being put in, there is nothing to prevent having to spend nine later.

If one looks at some high-profile conservation and historic restoration projects and the impact of tax—whether it is income tax, corporation tax, VAT or the impact of gift aid on charitable giving—it is clear that the state is footing a very substantial part of the bill. This bill has been vastly inflated by the failure to get to grips sooner with the problems; for example, the restoration of Wentworth Woodhouse or Apethorpe are welcome and very much in the national interest, but they probably cost the taxpayer several orders of magnitude more than was necessary. Some of your Lordships may have seen the letter from the noble Lord, Lord Lisvane, in today's *Times* about the problems that this Building we are now sitting in is causing the country and how by doing nothing the cost of the work that needs to be done has hugely escalated.

The systemic response to this should be to devise a system where things are done quicker, which means in real terms you are spending less money. If owners do nothing—whoever those owners might be—the displacement theory so beloved of the Treasury does not automatically mean in some magic way that just because it looks roughly the same the following year, somebody else has picked up the bill; rather, trouble is being stored up, with damp and dry rot, which get worse on a geometric, even logarithmic, scale. I do not think that the arrangements we have surrounding the built environment are at all conducive to that built environment being properly looked after. It goes without saying that a decent planning system is a necessary precondition of a decent urban environment, but by itself it is not sufficient.

I should like to remark briefly on the north of England, where I live. A number of aspects thrown up by the current debate across society about the built environment are different in the south compared with the north, and particularly so when comparing the north with the south-east. Of course, it is the south-east that dominates most of the discussion at present.

Some parts of the north are very prosperous and some are the opposite. In Cumbria, where I live, housing in the Lake District is very expensive, while the west coast of that country is absolutely at the opposite end of the spectrum. In the Lake District there has quite properly for many years been a "house for locals" policy. I chaired the planning committee of the Lake District planning board for four years in the 1980s. The nature of the housing market there is such that demand is effectively limitless. That drives up prices way beyond the ability of many people to conceive of buying houses, despite living and working there, which means that housing for local people has to be provided principally through leasehold.

On the other hand, I hardly exaggerate when I say that in west Cumbria you can scarcely give houses away, even though it is only 20-odd miles from the Lake District. Here, there is much greater scope both for owner occupation and development but the problem is that there is no money. One reason is that there is not much going on, which means that there are not the jobs and so on to support housing, although it is a place where it might be in everybody's best interests if it were promoted.

An important point is that you cannot completely decouple work and home. Jobs cannot simply be created out of the ether by building industrial buildings—it is much more complicated than that. It is important that a way is found of applying the right economic conditions. If we want to move people out of the south-east, it is a matter of providing not only housing but work. Of course, there have been initiatives for promoting industrial and other activity in the north of England, many of them associated with the northern powerhouse project,

but in the eyes of the political commentariat they have been more or less overshadowed by the problems here in the south-east.

If we go back to the central matter of the built environment in the most general terms, I think that everyone is looking for the same thing, albeit perhaps nuanced a bit differently. Quite understandably, ways to achieve it, be it decent housing or the City Beautiful movement, can be contradictory and, in turn, conflict with another important matter—preserving the environment. At the end of the day, this is where judgment and the political process have to step in to resolve the difficulties.

However, my plea is that we must not be dazzled by the big scheme and the flashy—and there are going to be plenty of those about—so that we lose sight of the dull detail that is the necessary counterpoint to all this. I refer to cleaning gutters, repairing roofs and painting windows, which all mean that over a period less and less of our environment will be rotten. If these slightly dull things are ignored, the rest quickly becomes futile. In short, it is good to be boring.

3.57 pm

Baroness Whitaker (Lab): My Lords, with the experienced and patient chairmanship of the noble Baroness, Lady O'Cathain, who is not able to be in her place, and the expertise of our two clerks, Matthew Smith and Simon Keal, and their team, as well as the expert steer of our distinguished adviser, Professor Carmona, to whom I am also personally grateful for recent advice, this committee tackled a huge subject, untouched by Parliament in its entirety since the great Town and Country Planning Act 1947.

Underlying our recommendations was the point that as a nation we have not recognised the power of a good place; that is, its landscape and setting, its services and amenities, its transport and communications, its infrastructure, including green infrastructure, as well as its buildings—all the elements of the built environment which conduce to well-being, prosperity, health and social cohesion. The Government say they acknowledge this but their response does not reflect it. Basically their view is that either they are doing what we ask already or that it does not need to be done. It is a piecemeal late response.

That response characterises the background to the need for our inquiry largely in terms of the housing shortage. We did not intend to duplicate the many studies of housing problems. We looked at housing as one part of what a national policy for the built environment should be. Of course, it is a crucial part, and we acknowledge the Government's prioritisation of housing, but we were after a larger vision.

An integrated approach to the whole of the built environment has been made urgent by the housing crisis and the need for infrastructure investment, all against our harsh economic climate. But our key recommendation, a chief adviser for the built environment, is reduced in the Government's response to a beefing-up of the post of chief planning adviser. This completely ignores the pivotal point of our recommendation, that the chief built environment adviser should stand above and bring together all relevant departments in pursuing a coherent place-based vision for our built environment. This would produce far better co-ordination between departments, under the leadership of a chief built environment adviser who would champion quality, commission research, recommend policy, and promote and share good practice across and beyond government—not in planning alone, not in housing alone, but spanning the full remit of the built environment. This emphatically is not the same as the job of the chief planning officer located squarely in the DCLG.

The support of a Cabinet Office housing task force, as my noble friend Lady Andrews has said, is not an adequate response to this proposal. Among other deficits, it ignores the small strategic research unit, which would enable the chief built environment adviser to ensure that their guidance was leading-edge and evidence-based, and took account of innovations elsewhere. Nor does it take in the need for an annual report to Parliament and wide consultation on high-level policy for architecture and place quality, or for monitoring and review.

Shortly after our report was published, the Government published a new construction strategy—an improvement, but one which still falls short of the national leadership we asked for. We wanted planners and policymakers to take more systematic account of health impacts. Here, it is fair to say that the Government have taken much on board, but again they slide back from showing real national leadership, leaving improvements to a "locally led approach".

One note of hope is struck by the Government's assurance of continuing discussion of,

"the future resourcing of planning services".

What more can the Minister tell us about this? The lack of capacity among planning authorities is, after the lack of explicit national leadership, the greatest obstacle we have to creating better places. We took some very penetrating and important evidence from Finn Williams, among others, on this point. I have seen a recent report on the recruitment and retention of planners in one region which calls attention to a quite alarming lack of essential skills. I echo my noble friend Lady Andrews's view of the key role of the planner—once honoured, now degraded.

The Government pretty much ignored our recommendation on the better integration of transport in the work of the National Infrastructure Commission, and other recommendations on its work. Before its establishment as an executive agency, what consideration have the Government given to our recommendations as they prepare its public remit letter? I remind your Lordships that the Government's National Infrastructure Delivery Plan 2016-21 is so far completely unrelated to any vision of towns, cities or places in general. It is an example of the lack of joined-up thinking we deplored. There are whole areas where the Government have seemingly ignored the weight of the evidence we produced: for instance on the need to improve the operation of article 4 directions, in order to safeguard employment, to make it easier for people to live near their work and to integrate local economies.

There are others where the Government are on the same wavelength as our recommendations: the provision of homes for our increasing older population; accessibility for them and for people with disabilities; the review of

[BARONESS WHITAKER]
CIL; the importance of vibrant streets, especially high streets; a proactive strategy for making the most of the historic environment, so cherished by local people; and the excellent Great Place scheme. We are encouraged that the Government intend to take our views into account in their response to the consultation on permission in principle. But even here, the Government's own warm words do not amount to a coherent vision within which policies could be ordered and prioritised. And not enough of the measures we thought essential to improve housing policy have been taken seriously. What, for instance, has happened to the better operation of viability assessments for the affordable proportion of new housing? The RTPI's report last May on place, poverty and inequality points the way to energising the relationship of good places to social regeneration through housing policy, and this is what the Government really do not get the measure of in their responses. They would have done better to pay attention to the distinguished institutions which signed the Place Alliance commentary on our report.

I have only been able to touch on a few of the extensive areas we surveyed, with the help of brilliant and authoritative evidence; but under them all lies the key recommendation for national leadership in the design of place-making. The Government have missed the opportunity to do something imaginative about this, to our national detriment.

4.06 pm

Baroness Parminter (LD): My Lords, the title of the committee's report says it all: *Building Better Places*. Our focus was not only on the Government's focus of building more homes, which we all accept are desperately needed, but on going beyond that, to the spaces beyond the houses—to the houses collectively together, where we create spaces where people want to live and grow, helping them express themselves and their creative understanding of themselves in shaping those places, and allowing them to develop relationships with their families and with others in the community by creating better places. That objective can be lost, as we have seen it lost in the dialogue we hear in the media and in this place every week as we talk about the need for more homes. Our committee correctly responded to that by focusing on the bigger picture of creating spaces for people to grow.

Another thing that our committee did so well was to focus on the issue of the resources at our disposal in this land. We have limited land and limited water and are facing the growing problems of climate change and the need to adapt our proposals for infrastructure and homes in order to respond to those challenges. We are trying in this report to look at the bigger picture and to remind those involved in the political debate of the need to focus on our limited resources.

A number of other committee members are here today so I shall pick up on only three issues. However, I strongly echo the comment of the noble Lord, Lord Inglewood, that the Government's response was, at best—to put it politely—disappointing. The committee made a number of extremely welcome recommendations that the Government, to their discredit, lightly tossed aside too quickly.

The first issue is the need to make homes sustainable and to look at the carbon emissions for which they are responsible. The climate change committee has said that if the Government do not tackle this issue, we as a country stand absolutely no chance of meeting our carbon-emissions target. We know from the evidence the committee received that tackling the carbon efficiency of our homes is the cheapest way of addressing the carbon-compliance issues facing us as a country.

The committee clearly disagreed with the Government's decision to remove the zero-carbon homes policy and the code for sustainable homes. It contended that the decision was likely to add to long-term housing costs through a reduction in energy efficiency, and the committee heard no evidence that it would lead to an increase in housebuilding. The Government's response was:

> "We need to build more homes and these should be sustainable, but we do not need to make building those new homes more difficult than necessary".

Your Lordships will be familiar with that brush-off: we got it in the consideration of the then Housing and Planning Bill. Pressure from your Lordships forced the Government to commit to review the progress made on sustainable buildings. I serve notice to the Government that noble Lords will be looking with keen intent when that review is made public in March.

In the meantime, this is about not just new homes but the majority of our homes—the older properties we have—and making them carbon efficient, ensuring that we build trust and confidence among home owners to ensure that they take the necessary steps to make their homes carbon efficient through retrofitting. To that end, I welcome the Government's report, commissioned last July from Peter Bonfield, on ensuring that we build up trust and confidence among individuals to ensure that their homes are retrofitted. That report was published last year. There was a foreword by the Minister in the other place, which I very much welcome, but it did not clarify the specific resources the Government will make available to Peter Bonfield and the industry as they rightly take forward those recommendations to ensure that we can retrofit houses in future.

The second issue I want to tackle is sustainable urban drainage. We have systems that mimic natural drainage systems, which use permeable surfaces, green roofs, ponds and wetlands, and underground storage. They provide an alternative to piped drainage, which is often over capacity, and help reduce the likelihood of surface water flooding, which puts more than 3 million of our homes at risk. The evidence the committee received, including that from the Government, suggested that high-quality sustainable urban drainage systems can be a cost-effective alternative to conventional drainage options and contribute to flood-risk mitigation, as well as water quality, amenity and biodiversity.

However, the key barrier to delivering those good-quality SUDS is not cost or practicability but lack of policy clarity, uncertainty around adoption and ongoing operation and maintenance, and loopholes in the rules requiring SUDS to be built. A variety of adoption and funding arrangements are currently used, with different requirements across the UK. This was recognised by the committee, which recommended that,

> "the Government takes a more proactive approach to the provision of Sustainable Drainage Systems".

Your Lordships may be interested to note that, since the publication of our report, Wales is powering ahead to end the policy stalemate. It already has a completed draft report from its consultants. After a battle with your Lordships on the then Housing and Planning Bill, Section 171 of the subsequent Act required the Government to review the law and policy relating to sustainable drainage in England. That review is currently under way, due for completion by spring, led by DEFRA and the DCLG.

The Minister down the other end described the terms of reference in the Public Bill Committee of the Neighbourhood Planning Bill, but the terms of reference have not been published; nor have the Government issued a public call for evidence. It is limited to a Civil Service exercise and private industry round tables. Ministers have so far declined to meet water policy experts and NGOs; nor am I encouraged by the announcement today of the Government's response to the EFRA committee's excellent report on flooding, published in November. The Government have made it quite clear that they intend to take no further strategic decisions on planning to deal with issues around flooding. That gives me little hope that the review will lead to anything, but we leave the door open in the hope that Ministers may see that steps need to be taken.

On 2 February—next week—CIWEM and the Wildfowl & Wetlands Trust will publish new research highlighting the shortcomings of SUDS policy in England and proposing simple changes, supported by the Landscape Institute, the Royal Institute of British Architects and the Institution of Environmental Sciences, which all responded to the committee's call for evidence. Will the Minister meet me, along with water, construction and architectural experts, to ensure that the forthcoming review takes account of these findings? By strengthening requirements for SUDS, as outlined in our report, and clarifying the mechanism for adoption and maintenance, the Government can improve the flood resilience of the new homes that we need in an affordable way, without delaying housebuilding objectives.

Time is short—I was going to cover the issue of neighbourhood planning. As the Minister will be aware, we will address that issue at some length in the upcoming Committee on the Neighbourhood Planning Bill, but I put it on record that the committee, which took evidence from previous planning inspectors, came out in support of a limited community right of appeal. That is a very important initiative that the committee decided to go with. The committee felt strongly about this, not only on the basis of the evidence but on the point that I made at the beginning—this is about building better places for people. If we can involve local people in shaping the communities they want, not only will we get more houses but we will have communities where people can grow and citizens can ensure that their talents can flourish, and better communities in future.

4.16 pm

The Archbishop of York: My Lords, it is essential that more homes are built to support the population of the United Kingdom. Parliament's own publication estimates that a minimum of 230,000 new homes need to be built each year, a level of building not sustained since the 1970s, and two to three times above the current levels of supply. Some 81,000 households were estimated to be homeless or in temporary accommodation in 2013-14. It is young people in their late teens and 20s who are most unable to afford rents, particularly in the private sector. The gap between average household income and house prices continues to rise, further reducing affordability for many households. Therefore, as affordable new-build housing is essential, the quality and effort put into designing the living environment and communal space becomes even more important. It is particularly relevant that different types of housing are integrated as much as possible, so that different types and groups of people meet each other in the course of everyday life, rather than being shut away behind gates or stigmatised. Derwenthorpe is a good example of integrated housing provision on a very large site.

Community is not just about buildings and streetscapes—it is about the people who live and interact in a particular locality. As the Secretary of State for Communities and Local Government recently said, government,

"can build … homes … but alone can't build communities … a sense of belonging or force people to love thy neighbour as thyself".

Archbishop Justin in his speech on the debate on shared values on 2 December 2016 spoke of the importance of intermediate groups and institutions, saying that that was where,

"democracy is founded and our diversity preserved and nurtured for the common good ... Intermediate groups are where we build social capital, integrate, learn loyalties, practices and values, learn to disagree well and learn to build hope and resilience".—[*Official Report*, 2/12/17; col. 417.]

Newly created settlements that do not allocate sufficient physical space for these intermediate groups and institutions to be formed will struggle to become cohesive communities in their own right and are more likely to fail to integrate into existing communities.

Church congregations make significant contributions to strengthening existing communities, and contributing to building new communities. This can be achieved through formal, organised activities and events, such as regular social gatherings—coffee mornings or lunch clubs—particularly for those of whatever age who are at home alone during the day. After-school clubs, activities for families, children and young people all help to bring people of all ages together. Services such as Messy Church, cafe church and other new approaches help people to engage with faith and get to know one another at the same time. This contribution to the creation of social capital in a settlement, both bonding and bridging, is done most effectively when working in partnership with organisations and groups that already exist or are forming in the community. However, it is the informal networks of friendship, good neighbourliness and participation in other groups and organisations by congregation members that make the most significant, but often hidden, contribution to building community. Research into the relationship between congregations and social capital shows that it is church members who are the glue that holds communities together,

[THE ARCHBISHOP OF YORK]
with the impetus to bring people together, thereby addressing isolation and loneliness, but also building community where it has not existed before.

The *National Planning Policy Framework* states at paragraph 55:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities".

New developments to be built under the NPPF must be sustainable environmentally, economically and socially. It is not clear if enough attention has been paid to the social aspects of some new developments. New-build communities need to be linked to existing housing in the area and provided with safe, joined-up pedestrian access and cycle routes. Streetscapes and the shape of developments all have relevance to linking new and existing residents. Developments that turn their backs on their neighbours, or are turned in on themselves, are not conducive to building cohesive and resilient communities. Her Majesty's Government have endorsed the findings of the Select Committee to encourage developers to use the *Manual for Streets*. Again, this is to be welcomed.

On this theme, providing access to much-needed services is also part of building community. This is not just medical care, shops and schools—important though these are—but multi-use spaces, such as cafes, pubs, community halls or places of worship. The provision of green space and playing fields, as well as play areas, makes a large contribution to individual and community well-being. Green infrastructure makes an important contribution to sustainability, as well as community building. It is a missed opportunity not to specify minimum standards for this. Leaving decisions solely to local planning authorities risks losing the potential for fully integrated land use.

The health of people living in places with new-build housing would benefit from the use of health impact assessments—HIAs—which is strongly recommended by the Select Committee. In their response, the Government have endorsed this approach, particularly for large-scale developments where the local planning authority considers it germane. It would be appropriate to point out the value of HIAs to mitigate negative impacts and maximise the potential gains in health, and to encourage more widespread use of this tool, beyond larger-scale developments. Public Health England supports a free service for HIAs to be developed. The recognition that, particularly for large-scale development through the National Infrastructure Commission, engagement with local people ensures the maximum sustainable benefits resulting from the new development is welcome. We look forward to the more consensual approach to development promised by the establishment of this body.

The strengthening of neighbourhood planning, supported by the Neighbourhood Planning Bill debated on 17 January 2017, is welcome, particularly the proposal to take into account in planning decisions neighbourhood plans that have been approved but not yet passed by a local referendum. Communities formed from existing and new-build housing will be cohesive only if existing communities have a say in how the new development is built.

4.24 pm

Lord Framlingham (Con): My Lords, I want to say a few words about something that nobody has so far mentioned, and that is trees. I want to say a few words about the balance between the built environment and the green environment, between buildings and trees. I appreciate that the committee's brief was to examine the built environment, but given the importance of trees, I am surprised that they received so little attention.

I do not blame the members of the committee; I suspect the problem arises from their terms of reference. Perhaps we need a Select Committee on Trees in the Built Environment—it would make more sense, I think, to me. In the committee's summary, neither the word "tree" nor the word "green" appear. It does, however, recommend that we appoint a chief built environment adviser. I suggest that perhaps we need a chief green environment adviser.

This is much more than a matter of emphasis on the relative importance of soft and hard landscapes. Trees are not just an optional adornment but must be seen as an integral part of the whole planning process, from start to finish. A big, concentrated push is needed to turn the general acknowledgment by everyone now that trees are vital to our health and well-being into a reality, and to give trees and the professionals who understand them the recognition and standing they deserve. There is no shortage of organisations and individuals with the knowledge and experience to bring this about. I was surprised by how few of these were called to give evidence and, to be frank, how many environmentally related organisations—

Baroness Whitaker: I hesitate to interrupt the noble Lord, since what he says is extremely congenial, but I would like to draw his attention to our slightly jargonistic term "green infrastructure", dealt with at paragraph 217, which is emphatically meant to include trees. I could not agree more with what he said, but we did look at it.

Lord Framlingham: If I erred, I apologise hugely, but I was looking at the summary that the committee produced and there is no mention of it there. But I take the point that the noble Baroness makes. I was surprised by how few of these experts were called to give evidence and, to be frank, how many environmentally related organisations which could have mentioned the importance of trees failed to do so.

It can be done. Long before I became a Member of Parliament, which was a long time ago, I was involved with the building of Milton Keynes. There great trouble was taken to identify any trees that should be kept and looked after properly during construction, and a massive tree-planting scheme was planned and carried out on completion. On a smaller scale, when the Clore extension was added to the Tate Gallery, I was retained to ensure that no damage was done to the London plane trees nearby. They are still there, and they are as healthy as ever.

We really need to think about what we are doing to London. If you stand by the Tate Gallery, admire the balance between the Tate and its surrounding trees and then look across the river at what is being built

there, I am sure that, like me, you will be filled with trepidation and concern. The Woodland Trust is one of the organisations deeply concerned about these issues and I can do no better at this stage than to finish by quoting at some length from its briefing for today's debate:

"Central to the Woodland Trust's submission and the subsequent report was that a more coordinated, cross government approach is needed on the built environment. The Government's response fails to recognise this and persists in … continuing the business as usual approach through the Cabinet Office despite mounting evidence that this is not working for the built environment … Environmental matters should be firmly embedded into the built environment as well as the natural environment so it is critical that every opportunity is taken to ensure cross departmental cohesion".

It goes on to say:

"Of particular disappointment to the Trust is the Government's insistence that it is not appropriate to set minimum standards for green infrastructure provision. This is despite the recommendations of the Lords Select Committee and mounting evidence showing that access to the natural environment is critical for everyone's wellbeing".

Finally, it says:

"In not accepting the thrust of this very well evidenced report the Government response is missing the opportunity to improve the wellbeing of over 80 percent of the UK's population who already live in the urban environment. We hope that the Housing White Paper demonstrates that further thought has been given to its recommendations".

I hope the Government will listen to those points and, having listened to them, will act.

4.30 pm

Lord Howarth of Newport (Lab): My Lords, the Select Committee report is a very good one indeed. It is a comprehensive analysis of the challenges that we face as we aspire to a high-quality built environment. The Select Committee rightly castigates the Government for their lack of ambition and of political leadership and for the incoherence of policy across Whitehall. The committee has an unequivocal commitment to high-quality design and place-making, and something that I like very much about the report is the unabashed commitment to beauty in ordinary lives.

"Ideas of beauty are among the noblest which can be presented to the human mind",

wrote John Ruskin, and noble Lords on the Select Committee have written their report in that spirit. They found opinion research showing that 81% of people think that everyone should regularly experience beauty in their lives—one is left wondering who the 3% are who disagree, but I assume they are volume housebuilders. Sadly, the B-word is not in the Government's lexicon.

The committee, of course, recognises that planning must not obstruct growth and that we need, rather urgently, to have more houses in this country—but it says not at any price, and in this it is surely in tune with the values of the British people. I fear that the Government are not in tune with those values. I was dismayed to see the reference at paragraph 102 in the Government's response to "UK PLC". What a spiritually demeaning metaphor for our country. The Government make no apology for having sacrificed on the altar of productivity their policy on zero-carbon homes. Of course, good design makes for good productivity.

The committee discusses the crises of planning: both the crisis of the planning profession and the crisis of place-making capacity. The status and the numbers of planners available to local planning authorities have declined, and there are insufficient skills available. I believe that it is the case that there are now more qualified planners working for developers than working for local planning authorities—the gamekeepers have become poachers. Long gone is the era when the Buchanan report, *Traffic in Towns*, reissued as a Penguin book, was a bestseller and when the planning profession appealed to the idealism of the ablest in their generation.

It is fair to say that there was a period in the 1960s and 1970s when planning perhaps became too arrogant a profession, and indeed sometimes prone to megalomania. Wholesale redevelopment imposed upheaval on communities of a kind that bred great resentment. Estates were too often poorly designed and constructed and then poorly maintained. So there was public hostility to the planning profession and to planning, and it is incumbent on planners to have a little humility, as I am sure they do as they think back on those times.

We then had the cult of the free market, with the disempowerment of planners, local authorities and the public sector in the 1980s and 1990s, a period when developers more or less ran riot and when much development was anarchic and dispiriting. In places where there was money, degraded building environments were created, while the places where there was no money were left behind, with repercussions that we now feel in the life of the nation. It is one of the factors behind the Brexit vote—although let me say, in favour of Brexit, that it will allow us to have our own, rational policy on VAT where heritage is concerned.

We are entering a period of new politics with a different ethos, and I am very pleased that the leader of the Conservative Party and Prime Minister of this country is telling us that public intervention may be benign. I hope that this is a prelude to the rehabilitation of planning. However, there is a very long way to go. The report tells us of 46% cuts to planning departments between 2010-11 and 2014-15. The government response seems to be in denial about many of the criticisms in the report. Paragraph 20 tells us that the Government consider,

"that there is strong policy co-ordination on matters that affect the built environment".

The Government pay lip service to the duty of leadership but in the response they dump the responsibility on the chief planner. Unless I missed it, there is nothing at all about raising the qualifications and status of planners. I do not think that they responded to the excellent recommendation from the Select Committee that there should be bursaries for planners and that we should look across the channel to the ambitious policies in France to ensure that there is a strong planning profession and a strong role for planning.

Paragraph 64 of the Government's response blandly and disingenuously evades the issues of funding for local planning authorities. It states:

"The Government acknowledges that local authorities need to give planning the priority it needs, to support and safeguard the quality of both existing and new environments. We agree with the thrust of this recommendation but while the Government are continuing to discuss the future resourcing of planning services

[LORD HOWARTH OF NEWPORT]

with a range of interests, it is for local authorities to decide how to deploy their resources to deliver a quality service for their communities".

I do not think that that is good enough. Indeed, implicit in government policy and in the response is a contempt for planning. As my noble friend Lady Andrews said, we have no planning at a national level, and we now have no regional planning. It is true that the Government introduced neighbourhood plans in the localism legislation. They seem to be an excellent thing, but those neighbourhood plans have to be part of a larger jigsaw. The National Planning Policy Framework is a vapid and vague document—a boneless wonder unstiffened by any detailed planning policy guidance.

The Town and Country Planning Association, like the Select Committee, advocated a humane and socially responsible approach in its report *Planning out Poverty* and in its Planning4People manifesto. It has inveighed against what it terms,

"weak, deregulated planning policy that is dominated by economics, not people's needs".

Where is the vision for housing? There is none that I can see on the part of the Government. The vision of the volume housebuilders is one of meanness, mediocrity and exploitation, as they hoard land to keep supply limited and prices high. However, some people have a vision and I should like to quote from Lynsey Hanley's wonderful book *Estates*:

"The true test of a successfully housed population",

will be,

"when everyone has a home that suits their circumstances, regardless of tenure: affordable, solid enough to last but fluid enough to adapt to the identities and habits of its inhabitants, easily accessible and capable of conferring feelings of security, steadiness, civic pride and self-worth".

That is a fine statement, but the configuration of policy at the moment is very far from that. The whole thrust seems to be to build houses fast and not to mind if they are trashy. We see this impetus coming in Help to Buy, in the policy on starter homes, where any capital gain in the future will accrue to the lucky starter and not to the community, and in the obligation laid on housing associations to sell their properties.

Where can we hear the call for quality and beauty? Not in this miserable, downbeat government response. There has been a retreat from the proper ambition of government. In 2000, the Labour Government published *Better Public Buildings*, with a foreword by the Prime Minister. I should like to quote Tony Blair. He said:

"I have asked ministers and departments across government to work towards achieving a step change in the quality of building design in the public sector … leaving behind a legacy of high quality buildings that can match the best of what we inherited from the Victorians and other past generations. And I am determined that good design should not be confined to high profile buildings in the big cities: all of the users of public services, wherever they are, should be able to benefit from better design".

He went on:

"Over the last few years Britain has benefited from a host of new landmark buildings, many of them funded through the lottery. Now we need to apply the same energy and imagination to improving the tens of thousands of everyday public buildings which play such a vital role in our lives".

That point about the duty in our own time to create a heritage for the future was very powerfully made in the quotation in the Select Committee's report from Sunand Prasad, the former president of the RIBA, who has been such an eloquent and consistent advocate for the best values in architecture. There is a barbarism about current policy. The DCMS has been cut out of any responsibility for architecture, and the Government seem to have forgotten, if they ever knew, that Sir John Soane, who created great plans for Whitehall, which were marvellous designs, even if they were not eventually carried though, said that architecture is the queen of the arts.

The All-Party Parliamentary Group on Arts, Health and Wellbeing, which I co-chair and of which my noble friend Lady Andrews is an invaluable member, heard a plea at a recent meeting from a distinguished planner, Andrew Simpson, who asked us to accept that planning is an art. If that proposition raises eyebrows in our time, it certainly would not have done in Renaissance Italy when, for example, Rossellino and Alberti, acting for Pope Pius II, designed the new city of Pienza, when Michelangelo replanned St Peter's and the Capitoline Hill for Pope Paul III and when Vespasiano Gonzaga, an enlightened prince and a follower of Vitruvius, designed Sabbioneta. They were great artists and great patrons, and for them of course town planning and place-making were an art.

Pienza and Sabbioneta are now world heritage sites. They were conceived as ideal cities. We have garden cities and new towns. I am not aware that on the occasion of its 50th birthday Milton Keynes was awarded world heritage status, but perhaps it will get a statue of the noble Lord, Lord Framlingham, as a consolation prize. The great thing about Milton Keynes is that the people who live and work there like it, which is perhaps the most important consideration of all. It is fashionable among some cognoscenti to sneer at Poundbury, but it is a serious, creative effort to establish a place which is good for the people who live there and will continue to be good for the people who live there in future, and it should be praised. I praise the Government for promising 14 new garden towns or villages.

I was much taken by an article in the *Times* on 19 January by Clive Aslet, the former editor of *Country Life*. He said that the great obstacle to good quality development is the cost of land, because developers then say they have no money left to spend on quality design. He suggests that private owners and charities which are going to be there for the long term should not sell their land but should develop it themselves. As they will not have to spend money on land, they will have the resources to spend on the premium—a small premium really—that good design costs, better materials, more generous space and more green in the local environment. He recommends that local authorities should set up housing charities and use compulsory purchase powers to buy retail parks and other desolate and failing developments. Since then, I have been very pleased to see that the owners of Blenheim Palace, Burghley House and Rockingham Castle have said that they want to develop on their estates housing of a quality that they and their tenants in perpetuity will find consonant with the remarkable architectural traditions of those great houses.

Of course, we can build fast if we are clever, but we must always seek to build well and to build for the long term. The additional cost of investment in the near term is abundantly rewarded by better value for money over the medium and longer term. I wonder whether the Government could not have a role in developing new accounting conventions which would better incentivise and encourage all concerned to build for the longer term and not simply to seek immediate reward. When Jane Duncan, the current president of the RIBA, spoke to the all-party parliamentary group, she reiterated the RIBA's call for post-occupancy evaluation. She suggested that architectural prizes should not be given until a building has been up and in use for at least five years, and that prize juries must get away from their obsession with the image of buildings and the iconic building and preoccupy themselves more with the reality of buildings—how they work for the people who live and work in them. I was surprised that in their response the Government said nothing about their Better Public Building Award, which is a great lever for good and has been used as such. It is strange that in their discussion of prizes they said nothing about that.

The committee deplores the destruction of CABE. I declare an interest as the Minister who established CABE and I still grieve for what has been done to it. The Government rather jauntily want us to think that CABE, as a subsidiary of the Design Council, is still doing a splendid job but, as I understand it, all the witnesses to the Select Committee said that it had been a very bad mistake to downgrade CABE. I see it as an act of political vandalism—a tribute offering to the Treasury, with its institutional philistinism. The Treasury is a curious case of group psychology. I do not doubt that Treasury officials, as individuals in their private lives, are members of conservation societies, where they live in Stoke Poges or Hassocks, but when they turn up to work at Great George Street a dark night embraces them. When I was Minister, I did not have any difficulties with what was then the DETR, now the DCLG; my difficulties were with the Office of Government Commerce in the Treasury, whose values were exclusively economic and commercial.

The report describes very well the achievements of CABE. I would add that it was remarkable value for money and did not leach taxpayers' money, as the government response suggests. I pay my tribute of praise to the leaders of CABE: two chairs, Sir Stuart Lipton and Paul Finch; and two chief executives, Jon Rouse and Richard Simmons. The series of guidance publications issued by CABE—and, I believe, drafted by Richard Simmons—were of remarkably high quality, and the training programmes that CABE initiated were so valuable. It brought design review to almost all parts of the country, and at almost no cost, because CABE persuaded architects to give their services to design review more or less pro bono as a matter of civic responsibility.

I very much support the committee's view that CABE should be reincarnated, and I strongly endorse its endorsement of the recommendation from the RIBA that there should be a new office of chief built environment adviser created in government; a unit, which would be the new CABE, based in the Cabinet Office; and an annual report on the built environment to be presented to Parliament. The Government are willing to look at this but suggest that it can all be done by the chief planner. The chief planner has very great personal merits and is much committed to good design but you need an architect, I think, with that imaginative and expert range—whether it is a new Sir John Soane, Rick Mather or Sir Terry Farrell.

Finally, I am very pleased that stress is laid by the Select Committee on the essential link between the built environment and health and well-being. That was well understood by the post-war Labour Government, when Aneurin Bevan was Minister for Health and also responsible for housing. The APPG that I co-chair will draw strongly on what the report has said on this matter. I support its view that there needs to be closer integration between planning policies and health policies, and more use of health impact assessments and health indicators as evidence. I very much endorse what it says about green infrastructure, as my noble friend Lady Whitaker has just insisted. I would add that we want to see much greater use of natural materials in construction. Of course, part M of the building regulations should not fall below the lifetime homes standard.

The Government recognise the case for seeing an important connection between the quality of the built environment and health and well-being—for example, in the context of obesity—but I stress that it is in the field of mental health that this can yield so much. We need environments that support health and help to heal not only the individual but society. When the sun shines, it lifts our spirits. When we are in a beautiful built environment, we feel better. We are happier, saner and more secure—we are more optimistic, and our lives are better.

4.50 pm

Lord Best (CB): My Lords, I am grateful indeed to the noble Baroness, Lady Andrews, not just for introducing this excellent report but for initiating, alongside the noble Baroness, Lady Whitaker, the ad hoc Select Committee that produced it. Thanks go also to the noble Baroness, Lady O'Cathain, for chairing the committee and steering it through to its eminently sensible recommendations for easing the nation's acute housing problems.

The special value of the more than 50 recommendations in the report is that they not only address problems of housing shortages and affordability but highlight the dangers of sacrificing quality—in relation to design, accessibility, and environmental, health and heritage factors—in the quest for quantity. On that theme, I note that last year's report on quality in housebuilding from the All-Party Parliamentary Group for Excellence in the Built Environment drew attention to a recent deterioration in build quality and customer service and satisfaction. This is likely to be compounded by growing skills shortages, which of course could worsen after Brexit.

I see no reason why the Minister should not in principle welcome almost all of the committee's recommendations. No doubt he will note that a number are already being pursued, including in the Neighbourhood Planning Bill. Tantalisingly, he may tell us that the committee

[LORD BEST]
will find more to approve in the forthcoming housing White Paper. Thanks to the significant changes of emphasis from Mrs May's new team of Ministers, some of the least acceptable aspects of the Housing and Planning Act 2016 have now evaporated. Those of us who spent many long hours arguing about that legislation have happily overcome the frustration of thinking, "Why didn't the Government get the point earlier?".

In choosing from the committee's cornucopia of important suggestions, time permits a brief word about just a couple. I declare my housing interests, as on the register, including as a vice-president and immediate past president of the Local Government Association, a vice-president of the Town and Country Planning Association, chair of the Property Ombudsman Council and co-chair of the APPG on Housing and Care for Older People.

My first issue concerns the committee's call for new housing that will attract older people who want to downsize from bigger family homes. After a decade of promoting this issue, I hope very much that the White Paper will come up with some incentives to kick-start new building by the private and social sectors for our ageing population; for example, the stamp duty exemption advocated so persistently by the APPG on Housing and Care for Older People would actually benefit the Treasury by unlocking a chain of three other property sales on which stamp duty would be paid, if stamp duty is exempted for a pensioner downsizing.

I noted in a report published just yesterday by the Council of Mortgage Lenders that there are still only half the number of home moves each year compared with the levels in the years before the banking crisis. The CML says that low housing market turnover is pushing up property prices and leading to inefficient occupation of housing, with more people in homes that are too small, or too big, for their needs.

A government-backed "help to move" package for older buyers—like Help to Buy for younger ones—plus financial advice akin to that available to those thinking about their pension pots, could achieve the tipping point for downsizing. Attractive, accessible, energy-efficient retirement accommodation, as the Select Committee's report notes, could also mean huge savings to the public purse by preventing or delaying the need for residential care and by facilitating earlier discharge from hospital. It would mean fewer accidents at home, a reduction in premature winter deaths and, indeed, in many areas, in isolation and loneliness. At the same time as improving physical and financial well-being for our later years, incentivising new retirement housing would open up those much-needed opportunities for younger generations to upsize.

I think time permits a second dip into the Select Committee's box of first-class recommendations, so, secondly, I note the committee's call for,

"much greater co-ordination and integration across the multiple Government departments that effect and respond to the built environment".

My anxiety is about the clash between housing policies from the Department for Communities and Local Government and welfare policies from the Department for Work and Pensions. I was delighted to see that the Select Committee covering the work of the DWP in the other place has just got together with the Select Committee that covers the DCLG to look at the constraints on rent levels that the former department is imposing on supported and sheltered housing. It is vital that the DWP's measures do not undermine the work of those at the sharp end who are catering for older citizens and people with special needs. The DWP has already achieved savings to its housing benefit bill by requiring social landlords—housing associations and councils—to cut rents by 1% plus inflation for each of four consecutive years because 60% of these rents are paid by housing benefit. These social rents are already well below market rents, and this compulsory rent reduction is simply a tax on the resources of social landlords. The expected 12% rental loss over four years sucks money out of social housing, making it more difficult for these social landlords to create the high-quality built environments that the committee advocates. Is it too late to stop these rent cuts before the four years are up?

My greatest concern in this clash between the aims of these two government departments relates to the private rented sector, where the DWP has limited the rent it will cover—the local housing allowance—to a figure that is slipping further and further behind the open market rent. Already two-thirds of private landlords are not keen to take in anyone in receipt of housing benefit, and landlords terminating shorthold tenancies for those on the lowest incomes, principally those in receipt of some housing benefit, already constitutes the most common reason for people becoming homeless. Below-market caps on rental payments add another, very significant, deterrent to landlords accepting those who need help paying their rent. Such tenants already struggle with deposits and rent in advance, and payment of the housing benefit direct to the tenant rather than to the landlord is further increasing the risk of arrears.

There are something approaching 800,000 households in receipt of benefit in the PRS, yet in areas of shortages, which now means not just London but most of southern England and hotspots elsewhere, landlords seem very likely to replace all those whose rent is being covered by housing benefit—or, to be technical, increasingly by the housing element of universal credit—with tenants who are able to pay the full market rent. Out goes the single mother with young children to make way for the two-earner household or perhaps the three students. The DWP may be hoping, Canute-like, to turn the tide, buck the market and expect private landlords to accept rents that, in real terms, go down each year. This approach might have some effect in areas of very low demand, where tenants requiring housing benefit are a big part of the local market, although squeezing rents in these areas where properties are often of low quality could mean landlords cutting back on overdue repairs and maintenance. But mostly the DWP's approach will simply mean landlords not accepting any tenant who relies on housing benefit, including of course many households in work but on the lowest wages. This means accelerating the numbers of those with nowhere to go in either the private or the social housing sector.

I am looking forward to piloting the excellent Homelessness Reduction Bill—the Private Member's Bill supported by the Government that should be with us in a few weeks' time—through your Lordships' House, but I see a real need for DWP welfare policies to be better aligned with DCLG housing policies if we are not to see escalating homelessness and the massive cost that would bring. I congratulate the ad hoc Select Committee on this extremely good report, and I suggest we use its recommendations as the yardstick against which we can judge the merits of the eagerly anticipated housing White Paper next month.

5 pm

Baroness Rawlings (Con): My Lords, I begin by thanking my noble friend Lady O'Cathain for her excellent chairing of the Select Committee. It was a great pleasure to serve on it under her leadership. I, too, thank the superb committee staff for all their help throughout, and all the witnesses. I found the government response to the Select Committee report mixed. This is a pressing, controversial issue, reinforced by steady press coverage. It is therefore a shame that the report was not treated with more urgency. I will cover just three points today.

The first is Nigel Atkins's written evidence covering the French approach, which had ideas that took the debate outside the United Kingdom, and some positive suggestions. I recommend that anyone interested read his evidence. His main conclusion is that the French co-ordinate public expenditure to allow local government to administer local neighbourhood plans. They have a well-oiled social housing sector, essentially financed by deposits from the national savings bank, but the finance is not released until 40% to 50% of the project is presold off-plan. We could also take a look at the Grand Paris project. I applaud our Prime Minister's public wish to solve the housing crisis in this country.

Secondly, the committee concluded—I reiterate the thoughts of my noble friend Lord Inglewood—that the places we create have a profound effect on the quality of life, behaviours, health and experiences of the people who live and work in them. This includes mental health and stress, especially when the infrastructure does not work. I would like the Government to take this into account. I stress the important role played by historic buildings, townscapes and landscapes, too. The Government should publish a proactive, long-term national strategy for managing the historic environment, which should be considered an asset rather than an obstacle to successful future developments.

The Government did not explicitly accept or reject the recommendation for a national strategy. Instead, their response detailed the work being undertaken by the Government, Historic England and the Heritage Lottery Fund to promote the historic environment. The committee also recommended that the Government should review the rates of VAT charged on repairs to listed buildings and examine the economic rationale for reducing the rate.

Thirdly and finally, I suggest to your Lordships a few relevant ideas put forward by Sir Roger Scruton in a broadcast from which I quote freely. He reminded us that the UK is the most densely populated country in Europe after Malta, surpassing even Holland. Take a trip through the Dutch countryside, however, and then a trip through the countryside of England, and it would seem to be quite the other way round.

5.04 pm

Sitting suspended for a Division in the House.

5.14 pm

Baroness Rawlings: Before we stopped I was talking about density. Holland is chock-a-block with houses, roads, businesses and unsightly business parks. At night, the whole sky is ablaze with light pollution, and you always feel in range of traffic noise. England, by contrast, offers green trees and woodland, country lanes between quiet villages, landscapes in which the dominant feature is a church steeple or a country house, and a night sky in which you can still see the stars. For miles on end, the place seems inhabited only because the fields and hedgerows, gates, walls and copses remind you that there must be people looking after and caring for it.

Ours is a country whose inhabitants have loved it not merely as a means for their economic purposes, but for its beauty and as an end in itself—not entirely, of course, but sufficiently to impede the worst of the destruction that might have come from the Industrial Revolution and the successive population explosions, through one of which we are living now. When the Industrial Revolution threw the future of the countryside into doubt, people began to combine in order to protect it. The Lake Poets agitated against such industrialisation. Octavia Hill was instrumental in founding the National Trust in the 1890s, so setting the pattern for popular movements, trusts and societies devoted to the cause of England's built environment and beauty, which is so important. I agreed with the noble Lord, Lord Howarth, when he talked about beauty and quality.

Then emerged a political force with the Town and Country Planning Association in 1899, the Council for the Preservation of Rural England and 100 smaller civic initiatives encouraging people to lie down in front of the bulldozers. The green belt principle followed and the end of ribbon development. Now, we have the dynamic Historic England. I am pleased that at paragraph 115 of their response the Government reiterate their commitment and support for Historic England, which is so important to us today. The English countryside and our built environment are icons of our national inheritance—a symbol of what we are. They were a source of inspiration in the art and literature of the two world wars, they have been at the heart of our children's stories, and they form the background to everyone's dream of retirement.

The committee was concerned about the application of quality design, quality architecture and beauty. As Sir Roger Scruton says, post-war development in our cities has been a disaster. Thanks in part to modernist building types and their advocacy by the architectural profession and in part to socialist dogma, whole areas of our cities were torn down, cut in half by dual carriageways and replaced by tower blocks, without streets or shops or meeting places. The result was the

[BARONESS RAWLINGS]
loss of communities. The policy was justified by arguing that by building high you increased the density of the population. That argument is provably false. Research carried out by the organisation Create Streets has established beyond doubt that the traditional terraced street laid out in the familiar way achieves greater population density than the normal high-rise estate, while opening the way to shops, theatres, schools and places of worship, so forming the hub of a settled community. We came to this conclusion many times in our meetings.

As for London, the most beautiful parts of which are now mutilated with clunky gadgets designed by modernist nerds for faceless multinational predators, we can only hope that our new mayor will appoint some architectural advisers who are better than the last ones before it is too late. As we know, every proposal for development will be greeted by protests from existing residents who lose the amenity of a quiet neighbourhood or a beautiful view, and the developers and planners will be quick to dismiss the protesters with the nimby label—"Not in my back yard". However, people do not, as a rule, want to stop development. They want to make certain that development, if it occurs, looks right—not nimby but bimby, or, "Beauty in my back yard", which is known as the marriage council for the built heritage. Time and again, we heard from experts that public consultation begins when the land has already been chosen, the density of housing has been settled by the accountants and just a few weeks remain before permission is granted. The community is asked for its opinion only when it is too late.

That is the root cause of many protests. The solution is to make certain that the community is involved from the outset. Existing residents have a greater investment in the character of the place where they live than any developer possibly could have. All the real choices—the aesthetic choices—should be theirs. Luckily, this is now feasible. His Royal Highness the Prince of Wales' Prince's Foundation has developed a toolkit devoted to promoting "beauty in my back yard". This lays out a step-by-step process, whereby communities, planners and developers can work together for a result acceptable to all.

The foundation has discovered, not surprisingly, that people choose styles, details and street plans that are fitting and harmonious extensions of what they already have. They come up with just the kind of scheme for rural housing that Create Streets now advocates for towns. Sadly, the committee never managed to visit Poundbury, a highly successful building project. I see in the newspaper today that the Duke of Marlborough and other large landowners are to develop similar projects.

The advice from Sir Roger, which marries easily with our recommendations for a solution to our housing problem, is to demolish the high-rise estates, create streets in place of them and provide all planners and local communities with bimby toolkits.

5.21 pm

Lord Beecham (Lab): My Lords, I join others of your Lordships in congratulating the noble Baroness, Lady O'Cathain, on securing this debate on the Select Committee's report just four weeks short of its first birthday. I also congratulate my noble friends Lady Whitaker and Lady Andrews, whose idea it was to establish the committee in the first place.

The report was launched during the passage into legislation of the controversial Housing and Planning Bill, much of the impact of which will rest on secondary legislation still to be concluded. If I have one reservation about the thorough and challenging analysis of the problems reflected in the report's title, *Building Better Places*, it would be that some might be inclined to infer that the problem—and the report's recommendations—relate to future development, whereas the issues it addresses are already with us.

The report lists five "F" characteristics by which the quality of local places should be defined, namely that they should be friendly, fair, flourishing, fun and free. It defines the last as being "safe, accessible and democratic". I would list three more Fs, which are matters of a different kind that need to be addressed because they threaten those positive objectives—namely, flooding, fuel, and fracking.

All three of these issues pose challenges to local communities, self-evidently in relation to flooding, as to which there is still insufficient investment in flood prevention. I do not suppose the chair of the Local Government Association—I ought to refer to my interest therein—will have been telephoned by the Secretary of State, as I once was by my noble friend Lord Prescott when he was Deputy Prime Minister and Secretary of State for the Environment and York was suffering floods. He telephoned me from Downing Street to ask if I knew where to obtain sandbags.

Fuel emissions greatly threaten health. It is shameful and dangerous that in London they have apparently already exceeded what would have been a safe level for the whole year. There are also very real concerns over fracking, where the Government have effectively taken over from the relevant, democratically elected authorities the responsibility for deciding whether it will be permitted.

Any policy for the built environment needs to address these issues, though of course they are not wholly the responsibility of the Department for Communities and Local Government. The Government's response to the report, which took nine months in the gestation, is, as others have mentioned, somewhat disappointing. It suffers from being a report from only the DCLG, it seems, whereas it should have been produced jointly with other departments, particularly those with responsibility for health, transport, business and culture, as well as what was the Department of Energy and Climate Change, the responsibilities of which have transferred into the business department.

The tone of the response is too often one of complacency. Given the Government's failure to react to concerns raised by the committee—for example, relating to the permission in principle measure in the then Housing and Planning Bill—we should not be surprised. Of course, along with the formal response, we also have legislation in the form of the Neighbourhood Planning Bill and, as I have reminded the Committee, secondary legislation under the Housing and Planning Act, with the housing White Paper apparently imminent. I hope that it will reflect some of the concerns raised

by the committee, notably around carbon emissions and energy efficiency for new and existing homes. The response to the committee report in these matters referred briefly to "looking at a range" of options in relation to the latter and,

"working with industry to carefully consider"—

their split infinitive, not mine—

"future policy options",

which suggests a trip to the long grass. Has anything happened relating to this issue in the last year?

Rather feebly, on the committee's suggestion that they should encourage local authorities to set minimum standards for green infrastructure and management in local plans and planning decisions to promote,

"wider recognition of the fact that Green Infrastructure is an asset, and offers wider economic, health and social benefits",

the Government regard it as inappropriate,

"to specify minimum standards … as this is a matter for local discretion".

Coming from a Government who have not hesitated to intrude on local discretion in matters ranging from fracking to the levels of council tax to the number of council newsletters that might be published, not to mention their call for weekly bin collections and their imposition of the bedroom tax and forced reduction of council rents, that is a pretty unconvincing argument.

What is much worse, however, is the cavalier dismissal of the report's recommendations relating to the provision of what it describes as "long-term affordable rented housing". Incredibly, in the midst of a housing crisis in which affordability is defined not by what people can afford after meeting their everyday living expenses, but by the arbitrary measure of 80% of the profit-making rents in the private rented sector, the Government refuse even,

"to review the impact of borrowing restrictions on local authorities' ability to deliver housing".

On the contrary, as the noble Lord, Lord Best, reminded us, and as we may already be aware, the increase in council rents that the Government are imposing will reduce councils' capacity not only to build but even to maintain the existing housing stock.

The Government's reply, amazingly, boasts about the building of all of 8,620 local authority dwellings in 2016. As I have mentioned in the Chamber more than once, Newcastle City Council alone built 3,000 homes in the year I was first elected to the council in 1967. Of course, there is huge pressure to build and no current willingness in the Government to encourage significant local authority building. I acknowledge, incidentally, that the last Labour Government did not build anything like enough new council houses, but they did at least invest heavily in maintaining and improving the existing council stock.

Unless I have missed it, the report does not deal with the role of the private rented sector at all, which includes some 35% of council homes acquired under right to buy and subsequently sold. Will the Minister tell us what, if any, work has been done to assess the condition of these properties, the rents that are charged and their impact on local communities, not least in terms of the rents being levied and the insecurity of tenure? The noble Lord, Lord Best, referred to the local housing allowance and the impact that that would have on housing provision and, indeed, homelessness. Certainly, in the ward that I represent in Newcastle, there are too many such properties that are badly managed such that they have a negative impact on the community. Is it too much to hope that the housing White Paper will address this issue and, in particular, make landlord licensing schemes easier to create than at present?

On a different front, the committee expressed concern about what it described as a significant challenge to our high streets. The Government's response appears to be somewhat complacent, citing evidence that high streets are recovering from the impact of the global crash. But it is surely becoming clear that online shopping is growing rapidly, as Amazon and the like expand their operations, even looking to effect deliveries not just by underpaid, exploited, part-time workers, but by drones. Do the Government intend to examine the implications of these developments, not just for the high street but for those who work for the industry, whether as genuine employees or as zero-hours contractors or the like?

There are other issues which need to be addressed if we are to secure better places, whether in our existing cities, towns and villages or in new developments. One matter that the report does not significantly address, and has not been significantly addressed yet this evening, is the nature of housing construction that is going ahead. As many of us have pointed out repeatedly, the space standards of new housing in this country compare very unfavourably with those on the continent. That is a matter the Government ought to address. But there are also issues of public transport, which is a key problem in many areas, whether it takes the form of bus services or fragmented and, in many areas, dysfunctional rail networks. We also need to ensure that access to health provision, including pharmacies and recreation, is available, and that education, children's play and the needs of an increasingly elderly population—I hardly need to declare my interest in that—are reflected in planned developments.

Many of these areas will be ones in which local councils will need to play an important role, but given the current and projected levels of cuts forced on local government by the coalition and the present Administration, already severely impacting on staffing and, as we have been reminded, particularly on planning departments and thereby the capacity of local government to deliver existing services, it really is difficult to see how the eminently sensible proposals of the committee, let alone those that I and other speakers raised, can reasonably be expected to be implemented. In future the Government need to respond to reports of this kind more quickly, thoroughly and effectively so we can see aspirations translated into the life of communities.

5.31 pm

The Earl of Lytton (CB): My Lords, I was very pleased to be invited to serve on this ad hoc Select Committee. Its scope tied in with my activity as a property professional and my involvement with the APPG for Excellence in the Built Environment, referred to by the noble Lord, Lord Best. I also declare my vice-presidencies of the LGA and the NALC, and I am an owner of several historic buildings.

[THE EARL OF LYTTON]

I thank the noble Baroness, Lady Andrews, for her introduction to the debate, and to her and to the noble Baroness, Lady Whitaker, for conceiving of the committee. I too pay tribute to our excellent chairman, the noble Baroness, Lady O'Cathain, who kept us in order, despite some strongly held, persistent and vocal views. I echo the appreciation from the noble Baroness, Lady Andrews, for our special adviser and our excellent clerical team. They were absolutely first class.

One thing one learns quickly in this House is that, however knowledgeable one may be as a practitioner in matters to do with the built environment, there are always others from other backgrounds who can effortlessly surpass one's own knowledge and experience. So it has been for me in this very highly qualified group. Indeed, I suspect that I learned more on occasions than I contributed, and I am very grateful to my fellow committee members for that indulgence. I echo the noble Baroness's comments that, for all the expertise and devotion to task, it feels as if the effort has rather sunk like a stone, almost without trace. I will address only a selection of what is a very broad canvas indeed.

We all aspire to successful built environments. They are the backbone to our sense of place, our feelings of inclusion and safety and the public-spiritedness of our nation. Old and historic or brand new and flashy, they underpin our work/life balance, quality of life, productivity, individual and family financial security, and human aspiration. Our national residential real estate inventory depends on this success, and with it our banking and finance systems. The quality of the built environment is, in short, a key economic driver, even if its definition escapes accurate codification.

The Government's response disappointed me. Paragraph 20 claims that there is,

"strong policy co-ordination on matters that affect the built environment".

I have not really noticed that. Paragraph 23 goes on to state:

"The planning system supports good design and place making".

Really? I acknowledge that it does not militate against them, but to suggest any proactivity is a trifle far-fetched, given the dearth of resources available to local authorities and the overwhelming pressures to build more houses. One cannot help feeling that, just as it was on the last occasion we were under such housing pressure, pursuit of numbers may well come at the expense of quality, as has been mentioned by others.

I remind the Committee that the Built Environment All-Party Parliamentary Group, of which I am a vice-chair, also reported, as the noble Lord, Lord Best, noted, on build quality last year. In the last two years, I have had to advise, on a professional basis, on solutions for excessively poor acoustic insulation in one new residential construction and woefully inadequate thermal insulation in another. I do not believe either was a one-off situation, even if it cannot necessarily be described as systemic. The recommendation that there should be a chief built environment adviser to government should have been an easy one for the Government to accept.

We risk causing damage in a number of respects. One has only to look at the dynamic of government insistence on more houses as compared with many communities' natural wish to ensure that they do not get lumbered with more than their fair share, or more than they are capable of absorbing without destroying their own essential sense of place. It is not difficult to see that outcomes here can be capricious. As someone who advises on development land, I can safely affirm that the process remains the preserve more of the bully than of the conciliator.

I have always regarded successful built environments as much as a social condition subsequent as a design construct. The new towns of the 1950s, devised on the then innovative "neighbourhood concept", often took decades to bed in socially and become settled communities. Meanwhile, care for the surroundings suffered. Some locations never came good: bleak post-war tower blocks with a rat run of galleries, passages and landings wrote their own social and environmental epitaphs nearly from day one. Yet some other, low-rise developments that might have been likened to rabbit warrens—I have come across a few—very often were highly successful and well regarded by occupants. Success levered in occupier commitment, care for appearance and maintenance, and regular reinvestment. Not all successes continued to be so, but the failures seldom, if ever, recovered, and it is these failures that affected the health and well-being of occupants.

Critically, this depends on, and is underpinned by, the people who make the community, and their willingness to be helpful, considerate, good neighbours, and so on. Insert one problem occupier, and it is easy to see how that can unravel and the cohesion being lost through such things as loutish behaviour, noise, antisocial activity and perhaps crime. I declare an interest in that I am married to a community mediator, so I hear some of this across the kitchen table. Just as there are, and should be, incentives to invest, renew and better one's home and its environment, so there should be incentives for others, who may not be quite so inclined, to at least tolerate and accord with that basic instinct and aspiration of the community. There probably needs to be a better process for mediating out some of these problems. It is not about deprivation: I have come across plenty of wealthy, well-educated but undeniably loutish and antisocial types in high-value locations. As the most reverend Primate the Archbishop of York said, there is social capital at stake here, and that has economic worth.

On the physical scale, the first question that seldom seems to be asked is where it would be most convenient for people to live, work and transact their daily lives. This is not the same as municipalities and communities deciding where the least worst place is to put housing development. The entire concept has to have a human scale, be inherently convenient and function well. Just as medieval settlements were based on strategic locations with access to materials, transportation, alternative means of getting about, trade, communications and perhaps defensive qualities, so we need multiple advantage as a backcloth to planning built environments, not just to assume that advantage can be created on the drawing board.

The next question is about optimising space. An environment must, to some degree, uplift, inspire and be durable, and not compromise lifestyles through inadequate living space, poor external spatial attributes

or disregard of relationships to on-site or off-site amenities. The green space and trees mentioned by the noble Lord, Lord Framlingham, would certainly correspond with that. Constructing a block with minimal-sized accommodation for, perhaps, first-time buyers risks building in a societal monoculture. We have seen what excessive uniformity does from examples in the past. I seem to recall them being called,

"little boxes made of ticky tacky",

in the 1960s. Now, one of my children refers to much modem urban flat development as "white boxes". Are we building the modern versions of an overnight bivouac or are we creating homes to which people relate emotionally and about which they have a feeling of contentment beyond designer-box ticking? Does development cater for future lifestyles, for singles, couples, families, extended families, those with disabilities and those in old age? Some claims for lifetime status are more than a country mile from the facilities and infrastructure necessary to make it a reality. The lifetime homes approach will be built only at a rate that hugely underestimates the core importance of this concept to the well-being of society, besides which it appears at the moment to be a planning optional extra.

Do our developments have durability at their heart, or do bits fall off? Is maintenance made difficult through inaccessibility? Are repairs rendered troublesome because the designers did not think hard enough about what could go wrong? What about repairing parts of the structure if things do go wrong? Look at basic service components— electrical controls, tap washers, locks, draught seals and extractors—that cannot be replaced because there is no maintenance built into the design and no obligation on anybody to provide matching spare parts for the normally expected life of the component. Repairing them or retrofitting becomes expensive and disruptive. It is a poor reflection on the corporate social responsibility of providers and specifiers.

What about the wider environment in respect of the protection that communities need for the longer-term putting down of roots? Do open spaces get built over and low-rise dwellings become overshadowed by tower blocks or other environmental degradation? In short, does accommodation provide comfort, convenience in use and reassurance in terms of its effect on the human psyche, or does it confuse and unsettle, become threatening or even risky? Such failings may not be a cost that falls on the public purse, but it falls on the nation none the less. In other words, it is a cost that occurs somewhere. Often residents in older parts of larger town and cities are literally miles from the nearest green space. Not very long ago, planning departments in my part of the country were saying that it was okay to build on urban playing fields and green space and to provide a replacement on the urban fringe.

I do not believe that there is adequate co-ordination of many of these factors between government departments, between them and local government or between either of them and local communities, let alone with residents. I do not believe there is anywhere near adequate spatial planning at neighbourhood level or post-construction evaluation by government. Most of the Government's response to our report seems to be explaining how they have enabled others to do various things without any notion of their own role in making sure that it is actually delivered. This approach is much too diffuse, fragmented and unco-ordinated; it lacks an insistence on minimum standards, as other noble Lords have said, and this matters. The Government aimed to provide 1 million new homes between 2015 and 2020; they are well behind target. They also said that the population will grow by 4.3 million in the next 10 years, which must mean in excess of 200,000 homes a year, every year for the next 10 years. Our report is entitled *Building Better Places*. Even at this build rate, it is a very small proportion per annum compared to the necessary maintenance, management and upgrading of the existing housing stock, referred to by the noble Lord, Lord Inglewood, of perhaps 24 million homes. A good proportion of them have poor thermal insulation, expensive or obsolete heating systems, wasteful combined drainage arrangements and environmental challenges due to traffic and air pollution, yet they are rich in the embedded energy of what is already there, and a good deal of them have considerable character and charm.

I move on to one other recommendation that we made about new construction methods—namely, modular or offsite construction. I have seen some of this in action, mainly around lightweight steel-framed construction, and it is very impressive. I also have professional experience of timber-panel and timber-frame construction. It can clearly provide a partial answer to a yawning skills gap, is less weather sensitive and has the potential for better quality control, in the sense it is not being done in outside conditions. The argument against it seems to be that it is currently much more expensive than comparable traditional build, but I am certain the cost will come down with volume as it rolls out. The second problem is that the market apparently likes traditional build. For "market", one might read mortgage lenders. Although I cannot be certain, I suspect that it is their concerns that fuel this sentiment. European neighbours with harsher climates have no such concerns, so I think we are missing a trick here in not rolling this out more. But I suspect it is never going to be the major component of housing.

I have learned one thing about modern, and particularly very energy-efficient, construction with intricate installations, which is that it is extremely demanding of design performance and build quality. It matters if the potential for the occasional peril—the leaking roof, the burst pipe, flood, fire or tempest—is not factored into the equation at the design stage. All buildings should have a degree of flood resilience. It does not matter whether they are in a particular flood area or not, because it can happen for other reasons than conventional flooding. They should be relatively incombustible and not designed so that a dead pigeon in the rainwater outlet can cause tens of thousands of pounds of damage. There should be space around for maintenance and repair, as well as of course for visual and other amenities. I despair that after four years, some of the buildings with so-called maintenance-free cladding go green with algae, which has to be expensively washed off with biocides. That does not match my idea of sustainability criteria, even if the solar panels on the roof of the building mean that they are net contributors to the electricity grid.

[THE EARL OF LYTTON]

The fact that these things are still going on reinforces me in the belief that the Government need to take the recommendations of this Select Committee rather more seriously than currently appears to be the case and to understand that a strong economic rationale sits behind this.

5.47 pm

Lord Hunt of Chesterton (Lab): My Lords, I was pleased when this committee was formed after the debate on the Farrell report published in 2014. I commend the report of the House of Lords Select Committee on National Policy for the Built Environment and am pleased that the Government have finally responded. Curiously, both the report and the government response rather emphasise the challenges but do not report much on some of the recent achievements of the UK in urban development, of which my noble friend Lord Howarth reminded us. The UK can be proud of some of the new developments in Liverpool and the Docklands area. There is Canary Wharf and the Olympic legacy—which was a world first—as opposed to Olympic achievement, with new buildings, structures and green spaces. Regrettably, as other noble Lords have mentioned, pollution is as bad in the UK as elsewhere in Europe, and we need to do something about that.

The new urban transportation systems in our big cities are a considerable achievement. I declare an interest as a professor at UCL and a director of a small company, CERC, which provided environmental modelling for the Beijing and London Olympics. Overall, as the report and the government response emphasise, there are many deficiencies in the UK's built environment. The Select Committee's report suggested solutions, but the government response is not optimistic.

One of the challenges is dealing with old buildings, as the noble Lord, Lord Inglewood, emphasised. I declare an interest as a fellow of Trinity College, Cambridge, and I am very pleased that the Minister is also from Trinity—he is wearing the tie. Many of the college buildings are from the 1830s. The college has recently restored the rooms on the cold, damp staircase where I used to live as a student with an open fire. It has become a technological first, which people are coming to see. It uses the latest building materials, such as thermally insulating and water-resistant bricks, which are much more effective and energy-efficient than standard materials. These methods are spreading, which is exciting, but regrettably many of these new building materials are imported, and efficient heating and ventilating techniques are not being used in most of the new housing developments in the UK.

We debated the lack of ventilation in restored buildings when the coalition Government's Green Deal energy plan was introduced. The Minister, the noble Lord, Lord Marland, admitted, I think, that he had never heard the word "ventilation", but it was certainly not in the Bill. It is a very important aspect. The German technique for ventilation is becoming standard. Other countries in Europe, with their excellent low-cost housing, continue to beat the quality of UK housing. I saw that when I was a Cambridge city councillor in the 1970s and visited Karlsruhe, which was followed by a rather humiliating visit to Cambridge by the German councillors, when we had to explain why things were as bad as they were. We blamed it on the Treasury, of course, as Treasury cuts made it very difficult to have the kind of decent buildings that our continental friends were used to.

One hopes that newly replanned housing, with newer technology where appropriate, which many universities and institutes are now looking at, will have more efficient heating and ventilation, reducing net carbon emissions, which are a strong feature of the report. Will the Minister tell us about progress? Will he also tell us about the greater use of UK-constructed building materials and new techniques?

An important role in the development of UK building has been played by the Building Research Establishment. It was a premier laboratory, and many of us worked there, but a couple of years ago it was privatised. I am afraid that when that laboratory and other government laboratories were privatised or run down, many of their classic reports were destroyed and put into tips. It is said that the BRE thought that it would earn more money by repeating earlier studies if it threw away the previous ones.

This report and the government response underline the housing problems associated with flooding in urban areas, as other noble Lords have mentioned. The Environment Agency recently had an exhibition in the House of Lords showing improvements in the forecasting of floods, particularly those in hilly terrain, which is quite complex. However, the ground floors of many houses in villages are flooded quite often. It may take many months for the bricks in the houses to dry out, and it may take even longer where the insulation in cavity walls has become saturated. Sometimes the walls and others parts of buildings have to be rebuilt.

There are technical solutions using better materials and designs, but the training of many building employers and employees is inadequate in comparison with other European countries, as set out in paragraph 352 of the report. Do the Government have a plan to improve technical capacity in the housebuilding industry, and will the new technical capacity and different legal or financial structures, such as in France, lead to a rate of housebuilding comparable with the rate in that country?

However, I have to criticise strongly my German colleagues. I am not sure that they are my colleagues; the Green Party used to be colleagues. However, they have been destroying some of the green environment in that country by digging for brown coal because they do not like nuclear. France has nuclear energy, so it has very low carbon emissions and maintenance of green areas.

The other important point in the report is about housing and planning regulations. Those relating to cities need urgent alteration to prevent large numbers of houses and apartments being empty for a part or the whole of the year. That is a particular problem in parts of Westminster. Will the Minister explain how this housing and planning deficiency is to be dealt with?

Finally, perhaps the Minister will answer the question raised by the noble Baroness, Lady Andrews, who asked about the real explanation for the deficiency in housing. Is it because there is an oligopoly of a few major companies and landholders combined with a

supply chain of providers of UK building materials that excludes the availability of advanced materials? Is the DCLG looking into this endemic problem? I look forward to the Minister's response.

5.45 pm

Lord Shipley (LD): My Lords, first, I declare my vice-presidency of the Local Government Association. I congratulate the committee on its wide-ranging report and on the depth of its analysis. It demonstrates the need for the ad hoc committee to have been established. As a number of speakers made clear, it has been a long time—11 months—since the report was published and it took until November for the Government to reply. I hope that the Minister will be able to indicate why the delay occurred.

One benefit is the content of the Neighbourhood Planning Bill, which has clearly drawn on some of the committee's conclusions, not least in strengthening the status of neighbourhood plans. I hope that the work of the committee will also be reflected in the forthcoming housing White Paper, which I understand is due next week, and which I hope will address issues of housing supply, type, tenure and genuine affordability. A number of the issues that we hope will be in the housing White Paper were clearly identified by the committee.

As someone who was not a member of the committee, I found the report particularly strong on drawing together all the elements and responsibilities needed for our built environment to be genuinely better. It has done it, for example, in its recommendations on design standards, lifetime homes, sustainable urban drainage, zero-carbon homes, our historic and cultural environment, and the future of town centres, among many others. It is particularly strong in its identification of the need to join up departmental thinking across Whitehall. The noble Lord, Lord Best, gave a very good explanation of the problems that can arise when you have the Department for Work and Pensions managing welfare policies and the Department for Communities and Local Government in charge of housing policies. The two need to be complementary.

The report challenged government policy in a number of areas. One example is the charging of VAT on repairs and maintenance but not on materials used in new buildings. I find that very hard to explain to people. The noble Lord, Lord Inglewood, identified very clearly how it can be a disincentive to maintaining buildings when costs are higher than they need be. A number of noble Lords spoke about the problems caused by short-term decision-making. This has bedevilled planning and development for a long time. Decisions tend to be driven by short-term political need, and when that happens, the problems tend to be solved on the cheap or more cheaply than they otherwise would be. This can lead to poorer-quality materials and design, negative impacts on public health, and buildings which are not sufficiently resilient. I hope that the Government will take on board the committee's view that they need to think longer term because it is a huge problem when they do not. I was particularly concerned to hear from the noble Lord, Lord Best, about the report into the recent deterioration in quality standards in housing.

A big strategic problem that the committee identified is the confusion about the role of planning in terms of both place-based planning and the nature of the planning profession. Just over 40 years ago, I was first elected to Newcastle City Council. In those days, we had a chief planning officer and large number of professional planners whose job was to plan an area—a place—not simply to operate as gatekeepers for the appropriateness of planning applications. In the past decade or more, that concept of planning being about shaping a place seems to have been reduced in standing. I hope very much that we can get back to the concept of planning being a shaper of place. Given a number of the Government's policies, one of which is the new industrial strategy based on places, I hope that the importance of planning will be well understood in delivering those new policies.

A few years ago, I chaired a commission on urban living on behalf of the University of Birmingham. There were a number of conclusions to our report, but one related to the role of planners as a profession. We said that:

> "There should be a radical upgrade in the role of planners to promote creative, long-term, thinking on urban sustainability and resilience, and to enable more organic growth within that strategic framework. In this role planners should act as integrators of urban practitioners and other urban stakeholders".

We added:

> "To do this effectively, city planning departments will need greater skills and capacity, and the creative talent once prevalent in city planning departments needs to be attracted back".

There is a whole range of proposals and recommendations in the committee's report around bursaries to attract good planners, and so on. I was very struck by the comment of the noble Lord, Lord Howarth of Newport, that planning is an art, and when one goes back to medieval Europe, one can see the origins of that statement. I hope very much that the Minister may feel able to look more carefully at the future of the planning system.

We heard about the reductions in staffing levels. I am particularly concerned that those reductions, of around one-third of professional staff, are impacting on the ability of local planning authorities to do their work as well as they would wish. It is therefore very good to read the committee's conclusion that there should be a localised planning fees regime to make up the underfunding of local planning authorities in respect of assessing planning applications—never mind the broader place-making role that local planning authorities should have.

The Planning Advisory Service and the Chartered Institute of Public Finance and Accountancy, working with the Local Government Association, have together estimated the deficit to be around £150 million a year. I think the Minister for Housing and Planning has indicated that the White Paper may address that funding gap, as the Minister here may do, but clearly, in the context of the cuts that are taking place to local government funding, finding alternative sources of income matters. If the planning service is to be done properly, in line with the recommendations of this report, the ability to raise additional fees seems very important.

[LORD SHIPLEY]

Local areas want to do more for themselves. In this respect, the Local Government Finance Bill will lead to greater self-sufficiency and extra incentives to grow business rate income, since 100% of business rates will be kept locally, as opposed to 50% now. In addition, that Bill, which is now in the other place, will give some authorities, notably the Greater London Authority and mayoral combined authorities, the ability to raise a levy on business rates to help deliver infrastructure. There are important further measures to allow business improvement districts, after a vote, to levy property owners—not just occupiers—for the purposes of regeneration and growth. Business improvement districts across the country have demonstrated their worth, and as a system of voluntary taxation it is particularly commendable that so many have been a success. They enable investment in the public realm, in sustainability and design, in public access for all, and in a whole range of measures that would not otherwise have happened because of the financial problems of local authorities. Because there is a direct connection between the payment of the tax—after a vote—and the work undertaken, people feel much more inclined to contribute their money.

Finally, reference has been made to the briefing from the Royal Institute of British Architects, which I read this morning. I thought it was extremely helpful, partly because it confirmed some of my concerns. I agree entirely with what it said about CABE, which I recall being established. It was the Commission for Architecture and the Built Environment—those words matter. There clearly has been a downgrading of CABE, which is a bad mistake. It gave excellent value for money. When I led Newcastle City Council for a number of years, I valued the support and advice it gave us in development policy.

RIBA has given the Government recommendations on a chief built environment adviser, a design review, standards and ensuring that we do not have, as it says, a,

"fractured nature and inconsistent quality of design review across the country",

which is what we seem to have. It has also raised the issue of viability assessments. I hope the Minister might pay particular attention to this. RIBA says that planning practice guidance encourages transparency but,

"developers may opt not to disclose their viability assessments to the public on grounds of commercial confidentiality".

That is when they are required to build affordable housing and they claim it would make a new development financially unviable. RIBA's recommendation that,

"the Government should legislate that viability assessments should be treated transparently, except where doing so would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure",

should be taken very seriously.

I agree with a number of speakers who have said that the Government's response is not enough. My noble friend Lady Parminter talked about this being about spaces for people to grow. The noble Baroness, Lady Andrews, talked about the report being a resource of clear thinking. It is indeed that.

6.07 pm

Lord Kennedy of Southwark (Lab): My Lords, I refer noble Lords to my declaration of interests. I am an elected councillor in the London Borough of Lewisham and a vice-president of the Local Government Association. Like other noble Lords, I congratulate the noble Baroness, Lady O'Cathain, on securing the debate. I also thank my noble friend Lady Andrews for so ably introducing it in the unavoidable absence of the noble Baroness, Lady O'Cathain.

Like my noble friend Lord Beecham, I pay tribute to my noble friends Lady Andrews and Lady Whitaker for suggesting the creation of this Select Committee. I also thank the whole committee for their work and the clerks and advisers. It has resulted in an excellent report, though we have to improve the system so that these reports are discussed by your Lordships sooner after they are published. That, of course, places a responsibility on the Government to consider and publish their response in a timelier manner. This is not a problem reserved to the DCLG; it is something I have observed time and again during my time in your Lordships' House, although, as my noble friends Lady Andrews and Lord Beecham highlighted, this is a record delay for a department's response. Perhaps the Minister can explain why it has taken so long for the department to issue its response.

As my noble friend Lady Andrews and the noble Lord, Lord Shipley, said, a discussion on the built environment is long overdue and very welcome. The challenge of the built environment is one that has been with us before, is here today and will be with us in the future. It is of course more than just housing, but housing, as the report highlights, is the big issue at present. We had the controversial Housing and Planning Act 2016, and noble Lords involved in those discussions in the Chamber are here today. That Act did little to help get more homes built and is still in some difficulty in the department. The Neighbourhood Planning Bill is still in your Lordships' House, and, for all the hype, I do not believe it will get a single home built any quicker. The noble Lord, Lord Best, outlined the benefits of providing new retirement homes for the well-being of the population and the savings they could bring to the public purse. The Government ought to do more of that. I also agree with his remarks about the tax on social landlords, which the Government created with the year-on-year rent reduction, and the problems created by the DWP—where properties are at a premium and benefits are not—which are real issues for people.

We await the publication of the housing White Paper—we are told it could be next week—and we will see what flows from it. I am sure we shall be debating it carefully in your Lordships' House. My noble friend Lord Beecham outlined the serious problems we have with the number of properties in the private rented sector that are not being properly maintained. I agree with his remarks about space standards and the need to build larger homes. The abolition of the Parker Morris standards in the early 1980s has not been a good thing in terms of providing homes of a good standard and size. The noble Earl, Lord Lytton, made points about low-rise housing and how it works well to build communities—even if they are, as I think he

said, rabbit warrens. The noble Earl's words have a lot of resonance for me. I am a councillor in Crofton Park, where we have the Ewart Road Housing Co-operative. It certainly fits the description of being a rabbit warren, and knocking on doors trying to deliver leaflets there is not easy, but equally, it is a very well-run co-op, a very stable community and a good place to live. Young and old people live together, it is a very nice place and it is great to be working with the people who live there.

There have been a few welcome announcements from the Government recently. I have said many times before that we very much welcome the comments from the new Housing Minister, Gavin Barwell, about building homes across a range of tenures, and that is what is needed. The report quite rightly points out that the private sector has rarely achieved more than 200,000 homes per annum and that we need to get local authorities and the public sector building again to meet the challenges before us.

As I have mentioned before, I grew up on a council estate very near to where the committee had one of its site visits in Southwark. My parents moved there when I was two, from private rented accommodation that was not suitable for a family. I always think of myself as lucky to have lived in a property that was warm, safe and dry at a rent my parents could afford. They were both in full-time employment, and they looked after their family there. They worked from the day they arrived in this country from Ireland, until they retired. I think that was very important.

The most reverend Primate the Archbishop of York spoke of the importance of building communities, creating social capital and good neighbours. I agree very much with his remarks. We have to get back to the situation where councils and housing associations are allowed to pay their full role in dealing with the crisis before us and there is a greater role for the co-operative sector. The Select Committee has offered helpful suggestions on taking this forward, and there needs to be a fundamental change in policy emphasis from the Government.

The Government's silence on the proposals from the Select Committee in respect of speeding up the delivery of housing is incredible. Land banking is a huge issue, particularly in parts of London. We need to do something about that. When we get to the Neighbourhood Planning Bill, I hope we will be able to do some work on that.

We need to change our reliance on the private rented sector and the absurdly named affordable rent model. Affordable rent—certainly in parts of London—is totally unaffordable. We need to change that if we are to deliver the new homes we need. I live in Lewisham, in an area called Ladywell. It is a nice place to live, but it would not be described as one of the most expensive parts of London. Even there, people can be asked to pay up to £2,500 per month to rent a modest terraced house just like the one I live in, but my mortgage is considerably cheaper. That is a really big issue.

The noble Lord, Lord Framlingham, spoke about the importance of trees and their vital role in our health and well-being. Again, where I live we have the Brockley Society. It has a tree committee and plants trees. You can buy a tree and plant it in the street. The tree outside my house is one that my wife and I bought some years ago. The area is now filling up with trees. It is important we act to ensure we have trees in our areas.

The noble Lord, Lord Inglewood, made absolutely correct remarks on the importance of the built environment to people's health and well-being, as did the noble Baroness, Lady Rawlings. When I was very young, in the 1980s, I recall meeting the chair of the old Southwark Council housing committee, Councillor Charlie Halford, who told me how proud he had been in the early 1960s when it was announced that all these council homes were going to be built all over the borough. Now, of course, we know how quickly that all went wrong. My noble friend Lord Howarth of Newport spoke of the specific problems in relation to the planning and design of council estates. Many people still live in those estates today, and it is an issue, with billions and billions of pounds of public money spent dealing with the problems that have been created. My noble friend Lady Whitaker spoke of the power of a good place and its setting, services, transport, infrastructure and communications, which are, of course, conducive to well-being, prosperity, health and social cohesion.

It is important that we do not make the mistakes of the past. We need to build well and for the long term, as my noble friend Lord Howarth of Newport said. We need to build more homes—I think we all agree with that—but they must be of good quality, well designed and take advantage of all the things we know and can do when building homes today to high standards. Sustainable drainage systems and zero-carbon homes are two matters we could not persuade the Government about during the consideration of what is now the Housing and Planning Act 2016, and they are good examples.

The noble Baroness, Lady Parminter, made points about creating better places and space for good people to grow. I very much agree with her comments about the need to tackle climate change and to recognise that we have limited land and limited resources. We need to tackle the carbon challenge and ensure that our homes are carbon efficient. I visited a council estate in Walsall some years ago and saw the benefits of retrofitting homes: they were warmer, the carbon emissions were dramatically reduced and the residents' fuel bills were cheaper. We must meet the housing challenge by building homes that will not become the problems of future local authorities and future Governments because corners were cut in the dash to build. My noble friend Lord Hunt of Chesterton referred to flooding and the need to build using better designs and technical solutions, but as my noble friend also said, we need the technical expertise to deliver those solutions.

I very much want to see new homes built across a variety of tenures to high standards, with no cutting of corners that will have to be addressed in future years by future councils and future Governments. The committee was right to highlight in its report the real concern about place-making, along with sustainable planning for the long term and the delivery of high-quality, good design standards. I agree very much with the comments of my noble friend Lady Andrews about

[LORD KENNEDY OF SOUTHWARK]
the lack of a spatial strategy and the real problems we have created by cutting planning departments to the bone. It would be welcome if these specific issues could be addressed by looking at planning fees and cost recovery, which the noble Lord, Lord Shipley, also referred to. I also agree with my noble friend's remarks about the planning system and the risk to quality posed by deregulation. My noble friend Lady Whitaker commented on the lack of capacity in planning departments, which again I very much agree with.

I am a trustee of the United St Saviour's Charity, and we are in the process of building an almshouse for the 21st century in Southwark. We are very clear that this building must be well designed. We have appointed leading architects and are taking the time to ensure what we build will fit into the community, deliver high-quality accommodation for the residents, improve the street scene and be a local community asset. The community will be able to come into the almshouse, to the community cafe, while other areas will be exclusive to residents. It is an example of meeting a desperate need in the borough while equally making sure we get the design and the quality of the building materials right and, through that building, an almshouse that will serve its purpose, benefit the whole community and continue to do so for many years to come. This is a good example of where a local authority, working with a local charity with significant funds, is able to provide the leadership required to deliver a much-needed community project. As the report again points out, this is the sort of step change we need to get building going.

One of the most disappointing aspects of the Government's response to this report, which is generally not a great response, is the rejection of the idea of appointing a chief built environment adviser to integrate policy across central government departments, act as a champion for higher standards and promote good practice. That is a matter of much regret, and I hope that the noble Lord, Lord Bourne, will advise us in detail of why the Government have taken that view. In conclusion, I thank the committee for its excellent report and look forward to the response from the noble Lord.

6.19 pm

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, I thank the noble Baroness, Lady O'Cathain, who is not in her place, for chairing this committee and the noble Baroness, Lady Andrews, for very ably introducing this debate and for the work she did in setting it up. I also thank the noble Baroness, Lady Whitaker, who was also instrumental in that. I thank all members of the Select Committee for the report they have produced. It is thorough and insightful and raises important issues, many of which have been aired this afternoon.

I start by apologising for the delay in publishing the Government's response. I thank the noble Baroness, Lady Andrews, for giving me a free pass and saying it was not my fault. I am grateful for that. As a Government, we felt it important to hold back our response until the completion of the parliamentary process of the Housing and Planning Act, of which much mention has been made, and subsequently there was the referendum, the change of Prime Minister and so on. Nevertheless, the delay has been far too long and I repeat my apology.

This has been a wide-ranging debate in which the point was made that this is not a simple issue. It involves many other government departments. I shall give just a quick sample of some of the issues raised: salaries and Amazon drones were mentioned by the noble Lord, Lord Beecham; the noble Lord, Lord Inglewood, and other noble Lords mentioned woodlands; a sense of place was mentioned by the most reverend Primate the Archbishop of York; and educational issues, health issues, crime and anti-social behaviour, cultural issues, energy and climate change and air pollution were also mentioned. A series of very complex issues were looked at in the round, and I do not think we can home in. The noble Lord, Lord Hunt of Chesterton, asked: what is the reason for our inability to tackle some of these daunting problems? I do not think it is a simple issue, as noble Lords would be the first to admit.

We had some passionate speeches this afternoon, as we did in last week's debate on the Second Reading of the Neighbourhood Planning Bill, and I thank noble Lords who participated today as well as those who spoke last week. I will attempt to deal with as many of the points raised today as possible. Where that is not possible, I will write to noble Lords to pick up any points that I fail to address. I will try to cover offers or requests for meetings as I go through the points but if I miss any, we will pick them up in a letter.

Some of the issues mentioned regarding the Neighbourhood Planning Bill are being looked at during the Bill's passage. The Bill's Committee stage starts next week and we will look at many of the issues in the National Planning Policy Framework, for example, and in planning policy guidelines. The noble Lord, Lord Best, raised a point about the need for housing specifically for older people. That will be the subject of a government amendment, as we have indicated. Many of the issues will be tackled in that Bill.

Noble Lords mentioned the housing White Paper. We are expecting it shortly, although not necessarily next week, which I think is unlikely. We hope to have it before Report and I am certainly pressing for that. The White Paper will touch on resources—an issue that some noble Lords raised in a point well made—and variety of tenure, which the noble Lord, Lord Kennedy, mentioned. He welcomed the action taken by my honourable friend the Minister of State for Planning and Housing, Gavin Barwell. We have moved on that to encompass a broader range of tenure, and that will be reflected in the housing White Paper, so many of the issues that we have touched on this afternoon will be encompassed in it. As I think I indicated when we met last week on the Bill, it is intended that soon after the White Paper is published there will be a meeting which the Secretary of State, I hope, and the Minister of State, certainly, and I will attend to offer conversation with noble Lords on the content of the Bill and the way ahead.

I turn to one of the points with which the noble Baroness, Lady Andrews, opened the debate, referring to the enhanced role of the chief planner. I think that she welcomed—at least in part—the Government's

response on this, in which we said that we would look at it in the context of the chief planning officer. The noble Lord, Lord Kennedy, was perhaps not quite as warm in his congratulations, and I recognise that there is some work to do there. I would like to look at the way forward on that, perhaps at a separate briefing meeting with Ministers. I am sure that it does not need legislation. Some very fair points have been made about the importance of design and I would like to see what we can do around that. We will have a meeting on that in due course following the housing White Paper—we have a lot going on at the moment.

I very much welcome what the most reverend Primate the Archbishop of York said about the importance of delivering more homes. I appreciate that we are looking at the importance of community here as well, but we must not lose sight of the key importance of delivering more homes, which in all fairness we are beginning to do, as I think the statistics show. There is much still to be done and it is right that the housing should be appropriate for the young and the old and so on. People were very fair in acknowledging that the Prime Minister has shown an intention to make this a key issue. My noble friend Lady Rawlings and the noble Lords, Lord Best and Lord Howarth, welcomed benign intervention—I think that is how the noble Lord put it. It is a key priority for the Government to deliver more housing. It is crucial to what we are seeking to do, admittedly within the context of ensuring that we do many of the other things that were raised in the debate by noble Lords.

The reforms that we have introduced are bearing some fruit. In the year to 30 September 2016 the planning system had given permission for 277,000 new homes—up 9% on the previous year. As I said, there is no complacency there—there is much to do—but at the same time I do not think that we should beat ourselves up too much by thinking that we are going backwards. We are not; we are moving forwards on the number of planning permissions being granted and the number of houses being built.

The noble Lord, Lord Beecham, spoke about council housing, although in fairness I think he said that the Labour Party had nothing to be proud of on that front in 13 years of government. That is certainly true. I think that the last year for which we have records is 2015. If I am wrong, I will pick it up in the letter. There were nearly as many council house starts in that year as had been delivered in the 13 years of the Labour Government. Therefore, the statistics speak for themselves on that issue.

It is now the job of the Government to make sure that we continue the momentum and do more to drive up housing supply. That is the intention and it is certainly behind much of the thinking on the Neighbourhood Planning Bill. I do not share the pessimism of the noble Lord, Lord Kennedy, that this will not deliver a single new house. It is not a silver bullet but I will be very disappointed if it does not help with the procedure of delivering more housing. However, I do not pretend for one minute that it solves the issue; it is much more complex than that.

I move on to design, which was a feature of many contributions. Quality is certainly important and the Select Committee has set out some challenges. I have mentioned the importance of the chief adviser for the built environment, and we will certainly have a look at that within the context of what is possible. Again, I thank the noble Lord, Lord Howarth, for his support for 14 garden villages. It is actually 14 garden villages and 10 garden towns, so the plan is for 24 locally led communities in all—for example, at Ebbsfleet, Bicester, Didcot, Basingstoke, Aylesbury, Otterpool Park in Kent, Taunton, and Harlow and Gilston, as well as in north Essex and north Northamptonshire. Each place is unique. The noble Lord, Lord Hunt of Chesterton, also kindly said that some design is very effective. The Olympic Village, Canary Wharf, Albert Dock in Liverpool and so on have been testament to good design.

I slightly part company with the noble Lord, Lord Howarth. Design is very important but I do not think that it is achieved just by legislative means. It is very rare for anyone on the Opposition Benches these days to mention Tony Blair, but I am happy to do so. He recognised that there had been success with Victorian buildings and so on, and that is absolutely right.

I agree once again with the noble Lord, Lord Howarth—there is a dangerous love-in here—on Poundbury, the work at Blenheim and at Rockingham. I shall see whether we can get more information on that, and perhaps use it as an example for the garden villages. We are working with the garden villages and garden towns on how they can deliver on design, which is clearly important. I also just briefly pay tribute to His Royal Highness the Prince of Wales in the context of Poundbury. He is mocked by some, but is often a pioneer, as he has been on climate change, as well as on the importance of forestry—well ahead of the rest of us. That is probably true of architecture as well.

Local communities are taking advantage of the neighbourhood planning process to help shape development in their area through the neighbourhood planning support programme, which is central to what we seek to do. The noble Lord, Lord Howarth, was right again about the Better Public Building prize, which we should value as an important contributor to what we are doing. If there are other points there that I need to pick up, I will seek to do so.

I have mentioned how much of this work is cross-governmental and involves other government departments. I shall try to pick up issues involving the DWP, such as rents, which I think were raised by the noble Lord, Lord Best, and say where we are precisely on them in correspondence, if I may. I have also mentioned resourcing, which was touched on by the noble Baronesses, Lady Andrews and Lady Whitaker, the noble Lords, Lord Howarth and Lord Shipley, and many others. It is a point well made, and I hope we will pick that up in the housing White Paper and it is something we can do as we move forward.

The noble Lord, Lord Hunt, touched on the importance of skills. The Government have set out wide-ranging reforms to technical education in the post-16 skills plan. Built environment professional bodies, such as the Royal Town Planning Institute, the Royal Institute of Chartered Surveyors, and the Royal Institute of British Architects, also have an important role in anticipating future needs and trends and in supporting the development of skills and capacity in

[LORD BOURNE OF ABERYSTWYTH]
the sector. We work with them. Institutes of technology, registered with professional bodies, have the potential significantly to maintain—I am not splitting the infinitive—and enhance the skills needed to deliver a sustainable built environment. They are also very important in what we do.

I shall just touch on improvements to streets, highways and the public realm, on which many noble Lords made contributions. My noble friend, Lady Rawlings, talked about a sense of being and the pastoral vision of England, making the very valid point that much of England is still very green and very pleasant. We must ensure that we capture that for future generations in a way that perhaps has not been done in other countries. The most reverend Primate the Archbishop of York touched on the importance of a sense of being, and that again is captured by ensuring that we have a pleasant community and by touching on all the important needs—cultural, environmental, health, access to churches and religious buildings. All this demonstrates what a complex area this is. We are working with Public Health England on many issues, and I shall just single out two authorities we have worked with successfully. We have worked with Haringey and Bradford on hot food takeaways, and are doing work on paths, cycle routes and green spaces, which are also important.

This may be an appropriate point to pick up some green issues. Reference was made to the Bonfield review—I think the noble Baroness, Lady Parminter, raised it. In another ministerial role, I was part of that process, and know just how much Peter Bonfield did on that. This is industry-led, so we are looking to industry to take much of it forward, but in conjunction with government. I shall certainly cover that in the letter. I think that I had a kind invitation from the noble Baroness to meet with her and some other people in relation to urban drainage, and I am very happy to agree to that if we can find an appropriate date and time.

Heritage was touched on by many noble Lords, and it is very important, as are woodlands, which I will come to. My noble friend Lord Inglewood and the noble Lord, Lord Best, talked about the importance of protecting our heritage in the context of our sense of being, and part of that is done by government. Reference was made to the preservation of Wentworth Woodhouse in Yorkshire. Part of that work is being done on a voluntary basis, along with government support. Calke Abbey near Ashby-de-la-Zouch is a National Trust property but I think that the Government stepped in with some tax relief on that. The noble Lord, Lord Lisvane, who has not taken part in this debate, has referred to issues concerning the building that we are in, with well-made points about the need to act swiftly. I absolutely agree with him.

The noble Baroness, Lady Young, who, sadly, cannot be with us today, has made some very valid points about woodlands being the cathedrals of the natural world. That is an issue that I hope we will look at in the context of the Bill. I very much welcome her initiative on that, and it is something that we need to look at. Those points were echoed by my noble friend Lord Inglewood, the noble Earl, Lord Lytton, and the noble Lord, Lord Kennedy.

My noble friend Lady Rawlings was perhaps indicating the link between the voluntary and government sectors when she mentioned the work of Octavia Hill. On a recent visit to Wisbech I was pleased to be able to visit her birthplace, or at least the house that she grew up in. I realised what a visionary she was. Anyone who has had an office in Millbank will know from the blue plaque inside the building that she resided there too for a while. She was a Victorian woman who made a massive contribution to national life.

Sustainable urban drainage and flooding was an important issue raised by the noble Baroness, Lady Parminter. We tightened up planning policy in relation to SUDS in 2015 so that housing developments of 10 or more dwellings have to show sustainable drainage. I shall be very happy to look at that with the noble Baroness at the meeting or otherwise to see what can be done.

I have the figures somewhere for flooding, although not in front of me. I think that of recent successful applications more than 99.7% have complied with flooding advice. We are not quite at 100%, so I do not want to be totally complacent, but in all honesty I do not think that that is a bad tally. However, I am sure that we will engage on that again during our discussions on the Bill.

There is now a statutory requirement on local authorities to have registers on brownfield land, and we expect those to be in place in 2017. We have funded more than 70 local planning authorities to pilot the preparation of brownfield registers of appropriate places for building. They are not the full answer to the various problems that we face but I am sure that they are part of it.

Modern methods of construction were raised by the noble Earl, Lord Lytton, and we are doing work on those. I have a feeling that our view is that they are not more expensive in the end, not least because of mass production and the fact that there is no need to have experts on site, as things are produced off-site. I will make sure that that is covered in my letter, but we are doing work on that through the affordable homes programme 2016 to 2021, Build to Rent and housing zones programmes. The noble Lord, Lord Hunt, also raised this issue, and it is something that the department is very keen on. I will try to cover the point about UK materials and suppliers, because that is also something that we have been looking at in the department.

I want to pick up on one other point. I thank the noble Lord, Lord Best, for the commercial for the Homelessness Reduction Bill, which he is kindly taking through the House with government support. It is an important contributor to what needs to be done, and certainly whatever we can do to expedite it as a Government, we will do. I encourage people to support that important piece of legislation and I congratulate my honourable friend Bob Blackman in another place for the work that he is doing on it.

I am very grateful to noble Lords for engaging so passionately on the issues, and I repeat my apology for the late response. The report makes a massive contribution to the debate and I look forward to continuing the engagement. This is not the end of the story and I will not be going away, so let us try to follow up these issues. As I have said and as I think noble Lords will

accept, this is a highly challenging area, not a simple area, as successive Governments have seen. However, it is one that we are grappling with, and the Prime Minister has certainly placed it very much at the forefront of what she wants to do. Once again, I thank noble Lords for their engagement.

6.40 pm

Baroness Andrews: My Lords, I am very grateful indeed for the Minister's response. I will just pick up a couple of points, as the time is getting on. I thank everybody who has spoken in this debate, both those who served on the committee and those who did not. It has been a rich and wide debate, bringing up issues which we did not address in detail but which are extremely important, not least the questions of how we preserve the historic environment and how we make the most of our woodlands.

The noble Lord's response was, frankly, more energetic and positive than the response of the department earlier, and we really appreciate that. We also accept the apology for the delay. He reflected on how diverse and how complex this area is, which is precisely our point and precisely why we think there should be an effort to ride over this and create something where somebody has the responsibility of taking charge of bringing this together. That would be in the spirit of what the Prime Minister is trying to do by way of making a more interventionist strategy inside government.

The response on the chief built environment adviser is extremely welcome, and we will certainly want to talk to the noble Lord about that. He has set several tests for the Government now, because there are several hostages to fortune in the Neighbourhood Planning Bill, the housing White Paper and several other things he mentioned, which will create an opportunity for many of our recommendations to be tested out and put into practice. He has offered us the opportunity for an ongoing conversation, which we will absolutely want to take up.

I want to pick up one other thing, which derives from something my noble friend Lord Howarth said. Essentially, when we build quality, we build efficiency. There is absolutely no contrast between getting beautiful things, beautifully made—whether it is places or housing—and delivering the best possible outcome for people and for the country as a whole in terms of building communities. That is really the fundamental point that we are making in the report: we can have it, people deserve it and an intelligent, humane and thoughtful Government can provide it. I am very grateful to the noble Lord and we look forward to more conversation.

Motion agreed.

Committee adjourned at 6.42 pm.