Vol. 779
No. 118

Monday
6 March 2017

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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House of Lords

Monday 6 March 2017

2.30 pm

Prayers—read by the Lord Bishop of Oxford.

Solicitors: Professional Qualifications

Question

2.37 pm

Asked by ***Lord Low of Dalston***

To ask Her Majesty's Government what assessment they have made of recent proposals by the Solicitors Regulation Authority to reform the qualifications for admission to the solicitors' profession.

Lord Low of Dalston (CB): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare my interest as chair of the University of Leeds School of Law advisory board.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, as the legal profession in England and Wales and the bodies that regulate it are independent from government, we have not made any assessment of the Solicitors Regulation Authority's recent proposals. As set out in the Legal Services Act 2007, it will be for the Legal Services Board to determine whether to approve changes to the qualification arrangements for solicitors, should the Solicitors Regulation Authority seek to proceed with its proposals.

Lord Low of Dalston: My Lords, I thank the noble and learned Lord for his reply. However, is he not aware of the widespread concern that the Solicitors Regulation Authority's proposals will mean that universities have to teach to the solicitors qualifying examination if they are to remain competitive, potentially constraining the breadth of the curriculum that can be taught as part of an academic law degree and stifling innovation in curriculum development?

Lord Keen of Elie: My Lords, we do not believe that if these proposals were taken forward it would have such a stultifying effect upon the university law schools to which the noble Lord refers. I observe that there are currently 110 qualifying law degree providers, 40 providers of the graduate diploma in law and 26 providers of the legal practice course, and no consistency of examination at the point of qualification.

Lord Beecham (Lab): My Lords, given the massive cuts in legal aid, the rising costs of tribunal and court proceedings, and the difficulties resulting from the consequential growth in the number of unrepresented litigants, should not any qualification programme include a requirement to provide pro bono advice and representation?

Lord Keen of Elie: My Lords, as I have already indicated, the question of what qualification requirements there should be is a matter for the Solicitors Regulation Authority and for the Legal Services Board. However, of course they are concerned to pursue their statutory obligations, which include a requirement to have regard to the demands upon the profession.

Lord Marks of Henley-on-Thames (LD): My Lords, we are seeing something of a turf war between the SRA and the Law Society. One can of course see the case for separation, with the SRA as regulator and the Law Society governing the profession. There may even be a case for a single legal services regulator. But the position at the moment is that the SRA wants to control standards for entry into the profession and the Law Society's concern is not to lower those standards. Do the Government have a view on how those issues can be resolved, given the public interest in maintaining standards of legal practice?

Lord Keen of Elie: My Lords, the Solicitors Regulation Authority has no desire to see any diminution in standards. Its concern is to increase access to the profession in order that we have a more effective and diverse profession. As regards the test of what would be appropriate for the regulation of access to the profession, the Legal Services Board will make a determination in light of the SRA's submission.

Baroness Deech (CB): Has the Minister noticed the distinct lack of guidance for the Legal Services Board? Barristers are taking this opportunity to upgrade the qualifications while solicitors are going in the other direction. Given that there are very few jobs for new solicitors, this ought to be the moment to upgrade their qualifications as well. Does he agree that it is high time for a review of the Legal Services Board, which seems to have failed to produce over the past 10 years any of the reforms and improvements that were promised at the outset?

Lord Keen of Elie: My Lords, we do not consider that there is a need for a further review at this time. As the noble Baroness will be aware, the Legal Education and Training Review was undertaken jointly by the Solicitors Regulation Authority, the Bar Standards Board and the Chartered Institute of Legal Executives, which resulted in a report that was published in June 2013. The review did find weaknesses in the current system of legal education, and the SRA is seeking to address them in its submissions to the Legal Services Board.

Lord Blunkett (Lab): My Lords, I draw attention to my interests as set out in the register. Perhaps I could tempt the Minister to reflect on the question raised by the noble Lord, Lord Low, about the narrowing of the curriculum. I accept entirely that the SRA and the Legal Services Board are independent, but would it not be of national concern if family law, disability rights and social welfare law were to be squeezed out in the narrowing of that curriculum?

Lord Keen of Elie: My Lords, I understand the point made by the noble Lord and I agree that we should not see a narrowing of the curriculum, but, with respect, where people undertake to study at a university, whether it be for a law degree or another subject, they do not do so for the sole purpose of

[Lord Keen of Elie]
passing a professional examination; they study in order to broaden their understanding in general and to extend their education and their understanding of the law. For example, the study of jurisprudence may not be regarded as absolutely essential to passing examinations set by the Solicitors Regulation Authority, but nevertheless it is appropriate for anyone expecting to pursue a career in law.

Allotments: Council Provision

Question

2.42 pm

Asked by ***Baroness Sharples***

To ask Her Majesty's Government, in the light of the Statement by Lord Bourne of Aberystwyth on 7 February on the Housing White Paper, what steps they are taking to ensure that councils continue to provide suitable plots for allotments.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, the Government recognise that allotments are valuable assets that play an important role in bringing communities together to live healthier lifestyles. Before disposing of allotments, councils must satisfy a range of statutory criteria set by the Government. Moreover, there is a range of measures through which communities can help to safeguard their allotments, including the National Planning Policy Framework, neighbourhood planning and the community right to bid, as well as always, it is hoped, keeping allotments free of Japanese knotweed.

Baroness Sharples (Con): My Lords, does not the Small Holdings and Allotments Act 1908 still apply to councils? If more than six people ask for an allotment, are they not to be given one?

Lord Bourne of Aberystwyth: My Lords, my noble friend is right about the importance of the 1908 Act and subsequently the 1925 Act, and the Government subsequently tightened the statutory duties on local authorities in the 2014 guidance which ensures that existing plot holders are protected if a local authority wishes to dispose of the allotments. That protection is in place.

Lord Beecham (Lab): My Lords, while allotments make a valuable contribution, public parks play an even larger part in promoting health and well-being. Last October, the Heritage Lottery Fund warned that local council cuts were endangering the condition and health of public parks, and last month the CLG committee warned of cuts of up to 97%, with some parks facing a return to the neglect suffered in the 1980s and 1990s. What are the Government doing to mitigate this threat to amenity and public health?

Lord Bourne of Aberystwyth: My Lords, as always, the noble Lord is absolutely right about the importance of green spaces, which, as he will know, are well protected in the housing White Paper, which is open for consultation until 2 May. I have no doubt that the noble Lord will respond to it.

Lord Wallace of Saltaire (LD): My Lords, I declare an interest as a plot holder in Saltaire. The noble Lord talked about the benefits to the community of communal space and communal gardens, but do the Government encourage developers developing new housing to move back from individual gardens and individual houses towards a greater density of houses with communal space and communal gardens—exactly what allotments are—given the current long waiting lists in so many parts of the country for allotments?

Lord Bourne of Aberystwyth: My Lords, as I indicated, green spaces in general are the subject of consultation in the housing White Paper. The noble Lord is right about the importance of appropriate density provision, with those green spaces. We give special protection to allotments and have done since 1908. If anything, that protection has been ramped up in the 2014 guidelines. Regarding waiting lists, I have spoken to the National Allotment Society. The pressure has eased on allotment waiting lists. There is still a waiting list, but it is not as long as it was, say, 10 years ago.

Viscount Hailsham (Con): My Lords, does my noble friend recognise that private landowners are often very well placed to make land available for allotments? Given that, will he encourage Defra to promote discussions between councillors, the NFU and other representatives of landowners to see whether they can find ways to promote such private provision?

Lord Bourne of Aberystwyth: My noble friend makes a very important point. Having spoken with the National Allotment Society, I know that it is discussing and bringing to fruition a plan with British Telecom, making available a lot of land that is now I think 1,200 disused telephone exchanges, which will be used for allotments, and that is heartening. I certainly take on board what my noble friend said and echo it.

Lord West of Spithead (Lab): My Lords, 100 years ago last month, the Germans declared unrestricted U-boat warfare on this nation and almost starved us to death. Of course allotments became very important, as they were in the Second World War. While allotments are wonderful things, does the Minister not feel that protecting our merchant shipping with enough warships might be more important?

Lord Bourne of Aberystwyth: My Lords, it is like a round of Mornington Crescent with the noble Lord—he always succeeds in bringing that in. Of course I agree about the importance of allotments, not just for healthier lifestyles, but for ensuring that we have appropriate food supplies in the country.

Lord Elton (Con): My Lords, massive numbers of houses are now planned for the future. In the literature on them I have seen no reference to the provision of allotments for new housing. That will be appended to many small communities that have plenty of provision, but there is nothing on the map to show what will be added to that provision when the new houses are built.

Lord Bourne of Aberystwyth: My Lords, I am sure my noble friend will take comfort from the fact that thanks to neighbourhood planning, which owes its

root to the Localism Act 2012, many areas are bringing forward plans for neighbourhood allotments—Thame, Exeter, Norwich and Haywards Heath, to give just some examples.

The Countess of Mar (CB): My Lords, further to the question from his noble friend, the noble Viscount, Lord Hailsham, is the Minister aware that the National Trust provides some allotments? A number of charities have communal gardens to help people with mental health problems. Rooting around in the soil, seeing plants grow and then harvesting them is a wonderful rehabilitative practice.

Lord Bourne of Aberystwyth: My Lords, the noble Countess makes a valuable point about all the benefits of allotments. That is why we provide special protection for and give such importance to them in neighbourhood planning, community right to bid and the planning framework I spoke of.

Baroness McIntosh of Hudnall (Lab): My Lords, referring back to the supplementary question of the noble Viscount, Lord Hailsham, does the Minister agree that one of the great benefits of allotments is the diversity of what is grown on them and the effect of that on the population of pollinators, which of course are extremely important to agriculture? Does he not think that that is a good reason to encourage farmers to make land available?

Lord Bourne of Aberystwyth: My Lords, the noble Baroness makes an important point about pollinators and the great variety of plants and vegetables that grow on allotments. I have had the opportunity to see this with my own brother—and I hope that he is listening to this so that I can benefit again this year.

Baroness Gardner of Parkes (Con): My Lords, in the London area in the past the obligations were fewer for local authorities. Is it still the position that London is treated differently?

Lord Bourne of Aberystwyth: My Lords, my noble friend, who understands London like few others, is absolutely right: that was the position in the 1908 Act. However, since the 1925 Act, London has been dealt with on exactly the same basis. If I am wrong on that, I will write to my noble friend and put a copy of the letter in the Library.

Baroness Andrews (Lab): Does the Minister agree that, once we have left the European Union, we will probably have to grow a lot more of our own food, and therefore that we will need many more allotments—in which case we will certainly have to look at the law again? Does the Department for Exiting the European Union have this on its agenda?

Lord Bourne of Aberystwyth: My Lords, first, as I indicated in my earlier response to the noble Lord, Lord West, growing our own food is of importance anyway. I do not know whether we are looking at this in particular through the Department for Exiting the European Union, but it is of extreme importance—as are all the other benefits of allotments, which is why they are so important, as indicated in the exchanges today.

Lord Lexden (Con): Is my noble friend aware that concern about public parks—to which the noble Lord, Lord Beecham, made reference—is widely shared across this House? Will he say what the Government are doing now to safeguard their future while the consultation exercise grinds along?

Lord Bourne of Aberystwyth: My Lords, I share the view that this is extremely important, as my noble friend indicated. As I said, this is acknowledged in the housing White Paper. We face many challenges, of which building more houses while protecting the green belt and public parks is one. As I said, the consultation will be open to take views until 2 May.

Careers Advice and Guidance

Question

2.52 pm

Asked by ***Lord Cotter***

To ask Her Majesty's Government what steps they are taking to continue to ensure the availability of good careers advice and guidance.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, we know that careers advice still varies hugely, even though a lot of good work is under way. That is why we will publish a comprehensive careers strategy for all ages later this year. We want to build on the progress so far. The Careers & Enterprise Company has made an excellent start and is boosting the level of employer input into schools and colleges, while the National Careers Service continues to provide free, impartial support across the country and has excellent customer satisfaction rates.

Lord Cotter (LD): My Lords, there is a great need in this country for skills, and many 16 year-olds and others are not aware of the vocational education opportunities available. I recently met members of the aerospace industry, who are combining together. Many other organisations and trades are combining to offer training and vocational opportunities. May I say to the Minister that people are not always aware of the opportunities for training and vocational education and suchlike? Will he ensure that the Government publicise the many opportunities that are available in this country for training and vocational education?

Lord Nash: I share the noble Lord's concern about the lack of awareness in some cases of these kinds of opportunities. Of course, we are determined to increase the status of technical education. We have been discussing this in the Technical and Further Education Bill and have accepted an amendment from my noble friend Lord Baker to require schools to allow principals of institutions offering technical education to come into the schools to meet the pupils.

Baroness Nye (Lab): My Lords, a recent report on apprenticeships from the Young Women's Trust found that young women received lower average pay and less

[Baroness Nye]
on the job training and were more likely than their male counterparts to be out of work after their apprenticeship. I declare an interest as a trustee of the Young Women's Trust. Part of the problem is the occupational segregation that occurs. What are the Government doing to make sure that young women receive appropriate careers advice?

Lord Nash: I share the noble Baroness's concern. Our reforms to career guidance are based on schools connecting with pupils so that they understand the breadth of opportunities available to them, particularly in relation to girls. We welcome initiatives such as the Inspiring Women campaign, run by Inspiring the Future. We also have a lot of activity under way to stimulate more interest in STEM, including the Stimulating Physics Network and the Further Mathematics Support Programme. These provide support to schools, with a particular focus on engaging girls.

Lord Flight (Con): My Lords, I believe that something like 58% of graduates are employed in what are described as non-graduate jobs. I suggest that part of the reason for that is that there is not an efficient functioning of the guidance of young people at university into career areas that are suitable for them. Indeed, as has been commented on, a lot of people are not even aware that there is advice at university. I hope the Government will think hard about how they can improve that and help our graduates get into the sorts of jobs that they are suitable for.

Lord Nash: My noble friend makes an extremely good point. I know that my ministerial colleague Jo Johnson is very focused on this. I remember Andreas Schleicher telling me that we are the worst country in Europe for aligning courses at universities with the jobs available. We believe that our plans under the Higher Education and Research Bill will make students much more focused on what are worthwhile occupations.

Lord Watson of Invergowrie (Lab): My Lords, a few moments ago the Minister referred to the Technical and Further Education Bill, which is in Committee, and that he had accepted a cross-party amendment which means that from September this year all state-funded schools in England must provide access to a range of education and training providers. That was very much welcomed by all those in Committee, but in that debate the Minister said:

"Our careers strategy will not be effective unless schools and colleges are held to account for the quality of their careers provision. Ofsted has an important role to play in this regard".—[*Official Report*, 22/2/17; col. GC 70.]

With schools that were previously reluctant to have their pupils advised about routes other than those that lead to university now being obliged to do so, does the Minister accept that when this comes into effect Ofsted should give an overall "good" or "outstanding" rating to a school or college only if it considers that the careers advice provided by them is of a good or outstanding standard?

Lord Nash: When we came into government in 2010 I think there were about 30 different Ofsted categories for ratings and we were very keen to sharpen and simplify the Ofsted arrangements. Ofsted has sharpened its approach specifically to careers provision and continues to remind inspectors of the importance of effective information, advice and guidance. Careers provision features within three of the four graded judgments: effectiveness of leadership and management; personal development; behaviour and welfare; and outcomes.

Baroness Afshar (CB): My Lords, what advice is provided for minority women who want to break out of the stereotypical jobs towards which they are normally encouraged to move and into careers that are not normally assumed to be their domain? What support do they get once they make such choices in order to enable them to continue?

Lord Nash: I have already referred to Inspiring Women, the Stimulating Physics Network and the Further Mathematics Support Programme, which are particularly focused on encouraging women into STEM. Of course, schools should be organised to encourage their female pupils, in particular, to see a wide range of career opportunities and to support them further to make sure that they are encouraged to go on visits and trips, which, as we know, are sometimes not easy.

Lord Storey (LD): My Lords, we all wait for this comprehensive strategy with great anticipation. Does the Minister agree that the comprehensive strategy should ensure, first, that there are properly trained people to give face-to-face advice and secondly, that the importance of careers, jobs and enterprise are recognised at primary school level?

Lord Nash: I agree that careers advice should start at an early age. It depends precisely how you pitch it, but certainly all schools should be identifying their children's passions, interests and aptitudes. What the noble Lord says about face-to-face careers advice is interesting. There is clear evidence that if that is all one relies on it is a very ineffective strategy. Most studies have concluded that the best careers advice comes through activities with employers, and there is evidence that five or more employer engagements during secondary school means that students are seven times less likely to be NEET.

Health: Duties on Food and Drink

Question

2.59 pm

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

To ask Her Majesty's Government whether they intend to include, within the recently announced review of VAT, a consideration of the levels of customs and excise duties applied to those drinks and foods which research suggests are most responsible for avoidable deaths and chronic illnesses; and if so, whether they have any plans to hypothecate the yield to the National Health Service.

The Commercial Secretary to the Treasury (Baroness Neville-Rolfe) (Con): My Lords, the OTS's current VAT simplification review will not consider these issues. The review is focused on identifying opportunities for simplification of the VAT system and establishing whether the system is working to minimise tax compliance burdens. The Government have, however, gone to great lengths to promote healthy eating, drinking and lifestyles. We have announced a new soft drinks industry levy and a sugar reduction programme to help address childhood obesity.

Lord Brooke of Alverthorpe (Lab): My Lords, I am grateful to the Minister for her reply, but disappointed. I wonder whether she might be persuaded to reflect on the need for a further examination of the subject. Does she agree that Brexit provides the opportunity for us to look at VAT, customs and excise duty, and a whole range of taxes in a much more flexible way than we have been able to when linked to Europe? Does she agree that we have a major problem with the costs that alcohol is causing to the NHS, and that one way we might change that is by persuading people to move from high-strength to lower-strength drinks, and that now we have this flexibility coming there is a strong case for trying to effect such a change?

Baroness Neville-Rolfe: My Lords, I have some sympathy with the point the noble Lord makes. The Government believe that alcohol duties should be related to the alcoholic strength of drinks but, as he says, EU law currently restricts changes to the rates and structure of alcohol duties. We have already said that we would like any future changes to allow duty on wine to rise in line with alcoholic strength. We are constrained until we leave the EU but we will certainly consider this issue carefully in the light of EU exit.

Baroness McIntosh of Pickering (Con): My Lords, my noble friend will be aware that the Health Minister gave evidence to the ad hoc scrutiny committee on the Licensing Act 2003 to the effect that customs and excise duty would be reviewed precisely in this regard. Given the hard work that the noble Lord, Lord Brooke, has been doing over many years on this issue, what plans do the Government have to look at pricing, taxation and, potentially, minimum unit pricing as a steer for controlling alcohol, particularly the harmful effects on all age groups of alcohol and excessive alcohol abuse?

Baroness Neville-Rolfe: Obviously, the Government look forward to the work that is being done by the committee on the Licensing Act, learning from what has worked well and what has worked less well. It is fair to say that the Government have done a whole range of things to try to tackle the problem of cheap alcohol. The lower-strength drinks have lower rates, and there are higher duties on higher-strength beers and ciders. We took action to ban sales in England and Wales below duty and VAT. We amended the definition of "cider" so that only products with a minimum 35% apple or pear juice can be defined as cider for tax purposes. Working with the Home Office and the police, industry has taken a whole load of measures which I think are very important. Noble Lords will know that I used to be in the retail industry, and this was an issue that exercised me a lot. Indeed, we supported the minimum unit pricing that came in in Scotland, which is now the subject of court action.

Lord Davies of Oldham (Lab): My Lords, I share my noble friend's disappointment at the Minister's reply. I understand what the Minister says about the review of VAT—that it is about simplification—but it is also an opportunity. If the Education Minister can devote a levy on soft drinks to school sports in order to tackle the problem of obesity, why on earth can we not look at using VAT to tackle the acute problems associated with alcoholic drinks and heavy drinking, which need resources?

Baroness Neville-Rolfe: Alcohol is a problem and I think I gave a positive answer about the direction of travel, outlining the issues regarding EU rates and the structure of alcohol duties. The truth is that alcohol and obesity are problems right across the board. That is one of the reasons why local authorities have £16 billion for public health over the spending review period, in addition to the PHE funding and what the NHS itself spends on prevention. Our GPs do a marvellous job and I have been very struck by the way they support the measures we need on alcohol. However, I take the point that the licensing and tax regimes are also important.

Baroness Watkins of Tavistock (CB): My Lords, are the Government content with the way in which white cider is currently marketed and taxed? White cider is in fact not cider at all, and many bottles contain the equivalent of 11 units of vodka. In some shops, it is cheaper per litre than milk. I understand that there is the potential to increase tax on this product within the EU guidelines to reduce its destructive effects, particularly on young people.

Baroness Neville-Rolfe: We have made the changes in the juice rules that I mentioned and have had a number of representations, including perhaps from the noble Baroness, about white cider in the context of the Budget. I would add only that the UK cider industry is an important part of the rural economy and uses almost half the apples produced in this country.

Lord Rennard (LD): My Lords, the Sheffield Alcohol Research Group has suggested that a 50p minimum unit pricing for alcohol, together with the duty escalator, could prevent around 700 deaths a year from alcohol-related causes. Would it not therefore be in the interests of the country, the NHS and the Treasury to introduce such policies?

Baroness Neville-Rolfe: We have already banned sales in England and Wales below duty and VAT, but the minimum unit pricing introduced in Scotland is subject to an appeal in the Scottish courts. While that is continuing, the introduction of unit pricing in England and Wales has to remain under review.

Investment Bank (Amendment of Definition) and Special Administration (Amendment) Regulations 2017

Motion to Approve

3.07 pm

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

That the draft Regulations laid before the House on 10 January be approved. *Considered in Grand Committee on 28 February.*

Motion agreed.

Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2017

Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2017

Motions to Approve

3.07 pm

Moved by ***Lord Henley***

That the draft Regulations laid before the House on 25 January be approved. *Considered in Grand Committee on 28 February.*

Motions agreed.

Higher Education and Research Bill

Report (1st Day)

3.08 pm

Clause 2: The Office for Students

Amendment 1

Moved by ***Lord Lipsey***

1: Clause 2, page 2, line 2, leave out "Office for Students" and insert "Office for Higher Education Standards"

Lord Lipsey (Lab): My Lords, I move this amendment with the support of the noble Lord, Lord Burns, and the noble Baroness, Lady Garden. The USA Patriot Act—aka the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act—the Revoke Excessive Policies that Encroach on American Liberties (REPEAL) Act and the Reducing Barack Obama's Unsustainable Deficit Act show that the disease of giving statutory measures titles that are in effect propaganda for their content rather than descriptions of it was endemic in the United States even before Donald Trump. I hope that this House will be unanimous that we do not want it to happen here. It does not yet happen by the front gate, but there is a danger of it being smuggled in by the side gate.

"Office for Students", the title of the new regulator set up by the Bill, is an example. It describes some of the functions of the office, but not all. Is a register of universities for students? No, it is for other purposes. Is the new organisation of research councils for students? No, it is for other purposes. I could go on. If you consulted students themselves, they would say that it would be better called the "Office against Students", because student unions up and down the country have come out in rejection of it. So it is very unfortunate that we are planning to use the title "Office for Students", and I would like to see it changed.

In Committee, I offered a bottle of champagne to the noble Lord who could think of, and get the Minister to accept, a more neutral title. I gave it some thought, hoping to win my own bottle of champagne. I thought I had got it with the studiously neutral "Office for Universities and Conservatoires", then I realised what the acronym for that spelled out: OFUC. Oops. There will be a ticking off for me from Black Rod later on, I think. It is to the noble Lord, Lord Burns, whose name is on this amendment, that I owe "Office for Higher Education Standards". It is impeccably neutral, descriptive and comprehensible.

I understand that there is disquiet in some quarters about the word "standards", which might suggest that the office will impose standards on universities. Universities are rightly acutely conscious of their autonomy and would resist any such thing. That is fine. If the Minister thinks that changing the title is the right thing to do but that this is not the right answer, let him come up with an even better alternative and insert it into the Bill at Third Reading. Nothing would give me greater pleasure than to present him with my carefully matured bottle of champagne. I beg to move.

Lord Burns (CB): My Lords, I attached my name to this amendment as I was both puzzled and surprised by the Minister's response to the earlier amendment moved in Committee by the noble Lord, Lord Lipsey.

I take it that we can agree that the proposed Office for Students is a regulatory body. In replying in Committee, the Minister said that,

"we need a higher education regulator that is focused on protecting students' interests".—[*Official Report*, 9/1/17; col. 1840.]

In the ministerial letter of today we learn that the OfS is to comply fully with the Regulators' Code. This commitment makes it even more surprising that the name of this regulator does not follow the well-established practice of reflecting the industry or activity that is being regulated. During the course of the past 20 years or so I have been involved in a lot of regulatory activities, as a regulator with the National Lottery Commission and by holding various positions in the financial services, water and communications sectors. In each case, the name of the regulator reflected the industry or activity that was being regulated rather than the consumers whose interests were being protected.

Furthermore, Wikipedia has a handy entry titled "List of regulators in the United Kingdom". It lists some 60 to 70 regulatory bodies. My reading is that in each case the title reflects the activity that is being regulated. I could not find one that mirrored the proposed treatment of this regulator—although the Minister may be able to correct me. Whether this is the right or wrong treatment is not the issue; this approach has been adopted until now and has the merit that the name gives us a clear idea of the role of the regulator and the activities that it is regulating.

3.15 pm

So what is the motive for changing the approach? In Committee, the Minister opposed the amendment of the noble Lord, Lord Lipsey, to change the name to the Office for Higher Education. He said that it would imply that the regulator was,

"an organisation that will answer to … education providers alone rather than one which is focused on the needs of students".

He said that the aim was,

"to put the student interest at the heart of our regulatory approach".—[*Official Report*, 9/1/17; col.1841.]

I do not find this line of argument at all convincing. I do not know anybody who would suggest that the names "Ofcom" and "Ofwat", for example, imply that they answer to communications and water providers rather than to their customers. In each case, I am sure that the regulators would argue that they put the interests of customers at the heart of their regulatory approach. The essence of this amendment is that it describes the activity that is being regulated in the traditional way. If this approach is right and understood for all other regulatory bodies, why is not right for higher education?

Given his rather unconvincing answer in Committee, as I have argued, I feel that it is right to press the Minister on this issue and to ask why we are breaking with tradition. Why, uniquely, will this regulator not bear a name that reflects the industry or activity that is being regulated? Is this to be the approach for other regulatory bodies in future? I certainly hope that this attempt to what I can only describe as "popularise" a regulatory organisation is not a sign of things to come.

Baroness Garden of Frognal (LD): My Lords, I have added my name to this amendment, which I also supported in Committee, and agree with what we have already heard from the noble Lords, Lord Lipsey and Lord Burns. In addition to their arguments, I would say that the Office for Students is a very limiting title for such an all-encompassing and all-powerful body. As I pointed out in Committee, it was particularly ironic because it took quite some effort to get students in any way involved with it or represented on it. The Office for Higher Education seems an eminently sensible title for it, which I personally prefer to the addition of "standards"—although I will certainly not go to the wall on that.

Hopefully, the stonemasons have not already started engraving the nameplates and the headed paper has not yet been ordered, so there should be an opportunity to rethink the title before it gets set in stone. I hope the Minister will be able to come back at Third Reading with a more relevant title for this body.

Lord Judd (Lab): My Lords, I strongly support my noble friend, but for a slightly different reason. It seems to me that we have gone an awfully long way towards making universities part of the market, and I believe that we have to get back to the conviction that a good university is a community of scholars. Students are not clients, they are members of a university community, and divisive titles of this kind play into the hands of a very sad trend in our university life. We have to get back to the concept that a student joins a community and participates in that community and does not just use it as a facility to provide them with a future.

Baroness Butler-Sloss (CB): My Lords, Office for Students is a particularly dreary title. I also agree with the noble Baroness, Lady Garden, that "standards" would be better left out—but none the less, I support this amendment.

Baroness Blackstone (Lab): My Lords, I, too, will get up very briefly to support the amendment. I recognise it is a lot of work for parliamentary draftsman because "Office for Students" appears about 100 times or more in the Bill as it is currently drafted, but it would give a clearer indication as to what this body is about. It is not just an office for students, as if it were an ombudsman responding to students' needs or problems or even dealing with student finance; it is a much broader institution, which will look at the way in which higher education should operate, both as a regulator and as an instigator of new ideas, in discussion with universities, not just with students. For all those reasons it would be very good if the Government could think again about this and come back with a better title.

Lord Elton (Con): My Lords, I hope your Lordships will forgive a single intervention in this whole long procedure, as I should not wish it to be thought that there were no friends of the amendment on this side of the House. The opening speech by the noble Lord, Lord Lipsey, about the direction in which this leads reminds me immediately of the two departments in the Government of *Nineteen Eighty-Four*: the Ministry of Truth and the Ministry of Peace. We do not want to start on that path.

Lord Cormack (Con): My Lords, there are at least two Members on this side of the House who support the amendment and hope that the Minister will come back on it. There is a possibility of confusion with the National Union of Students, for instance. Let us get "students" out and "higher education" in.

Baroness Bakewell (Lab): My Lords, I, too, support the amendment. We need to have a status of title that puts universities and higher education in an elevated place in our society. We know that "students" comes trailing clouds of all sorts of other implications that may not be appropriate. Education and universities are serious, hard-core activities on which this country depends, and they deserve respect.

Lord Watson of Invergowrie (Lab): My Lords, I am sure that the noble Viscount will ask that the amendment be withdrawn, and I can understand why from his point of view—but it does not stand up to scrutiny to maintain that the name of the body should be the Office for Students. In response to my noble friend Lord Lipsey's amendment in Committee, the noble Viscount said:

"This Bill sets out a series of higher education reforms which will improve quality and choice for students, encourage competition and allow for consistent and fair oversight of the sector".

Many noble Lords may have doubts about anything other than the second of those objectives, but the noble Viscount was correct to point out that, in

[Lord Watson of Invergowrie]
introducing the Bill, the Government had those three distinct objectives—so why were they unable to come up with a title that encompassed more than one of them?

The Minister also said in Committee that it was the Government's intention,

"to put the student interest at the heart of our regulatory approach to higher education"—[*Official Report*, 9/1/17; cols 1840-41.]—

hence the name. That claim does not withstand close scrutiny. If that had been the case, why did the Bill not contain provision for at least one student on the board of the OfS? Why did it require vigorous argument by the Opposition in Committee in the other place before the Government came up with a rather weak amendment to Schedule 2 providing for the OfS board merely to,

"have regard to the desirability of",

someone with,

"experience of representing or promoting the interests of individual students".

It does not provide for such representation; it just says that it is desirable.

In that context, the name "Office for Students" is not without some irony. It is certainly inappropriate because it is a misnomer. If the Minister wants the amendment to be withdrawn, it is incumbent on him and his Government to come up with a name that more accurately reflects the duties that the body is about to assume.

Viscount Younger of Leckie (Con): My Lords, I appreciate having a further short debate on this matter, but I find it a little ironic how in Committee many noble Lords sought to omit "standards" from the Bill, but now this amendment would add "standards" to it. I would argue that the name relates to the OfS's core functions and purpose. In response to concerns that the mission of the Office for Students is not sufficiently focused on the interests of students to merit its name, let me assure noble Lords that the Bill places a clear duty on the OfS to consider the interests of students in every aspect of its operations.

The OfS has duties to have regard to the need to promote greater choice and opportunities for students and to encourage competition between higher education providers where this is in the interests of students and employers. It is therefore entirely appropriate that the body should be called the Office for Students—dreary or not—and that its title should signal the fundamental refocusing of the regulatory system towards the student interest which the reforms are intended to bring about.

Baroness Blackstone: My Lords, this organisation is not just about students' interests. Of course they should be at the centre of it and important, but it is about the nation's interests. There are huge externalities in having a good higher education system. It is about employers' interests, it is about families' interests, and it is certainly about the interests of our knowledge economy. It goes far wider. I accept that "standards" probably should not be in the title, but why not call it the Office for Higher Education?

Viscount Younger of Leckie: My Lords, the simple answer, which I think I made clear in Committee and just now, is that this is for students: the focus is on the students, and we want to keep it that way. We are very clear about that. That is not to say that we did not listen carefully in Committee to the views on this matter raised initially by the noble Lord, Lord Lipsey, but we are adamant that the main focus—yes, the focus can be a little broader—is on students. We are sure about that.

The newly appointed chair of the Office for Students, Sir Michael Barber, reflected in his evidence to the Education Committee that the Office for Students title is no accident. He emphasised that the student interest must be at the heart of the new office.

In respect of the alternative name proposed by the noble Lord, Lord Lipsey, I cannot agree that,

"Office for Higher Education Standards",

would be a suitable name. As we have seen during debates "standards" has a specific meaning within the sector and is only part of what the Office for Students will be responsible for. Noble Lords have frequently expressed strong views during debate that the standards used by the OfS should be those owned by the sector—a point that we have considered carefully, and amendments have been tabled to address this.

With great respect not only to the noble Lord, Lord Lipsey, but to the noble Lord, Lord Burns, it would be highly misleading to refer to standards in the name of the regulator, and I think other noble Lords in this short debate have acknowledged that. It would imply that they are the main emphasis of its remit. I therefore ask the noble Lord, Lord Lipsey, to withdraw his amendment.

Lord Lipsey: My Lords, I am very tempted to seek the opinion of the House because I think the Minister might find himself having to be his own Teller, given the unanimity in the debate so far. However, there is unanimity in the House that this title is wrong but there is not complete unanimity on all sides that the alternative title proposed by the noble Lord, Lord Burns, is the right one. I shall therefore take this away and think some more before Third Reading. I hope that the Minister might yet have a conversion in view of the powerful arguments levied against him and the weakness of those he put forward, and that he will propose a new title. If not, of course, we will have the option of dividing the House at Third Reading. I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Schedule 1: The Office for Students

Amendment 2

Moved by ***Baroness Garden of Frognal***

Baroness Garden of Frognal: In moving Amendment 2, in my name, I shall speak briefly to Amendment 48 in the name of my noble friend Lord Storey. At the start of Report stage, I thank the Government for tabling an extensive raft of amendments. It raises questions: why, during remorseless Committee sittings, did the Government not give some indication of their intentions and avoid fruitless hours of debate? Given all these amendments, why was the Bill so ill thought through in the first place? Where was the pre-legislative scrutiny,

the consultation, or even the careful drafting, which would have enabled a more productive use of time and expertise in this Chamber?

However, let me not be churlish: better a sinner that repenteth. Amendment 2 picks up issues raised throughout consideration of this Bill. All sides of the House have argued that it is important not to neglect the considerable part played in higher education by those who are not following full-time, three-year courses. Part-time study, we know, has been in decline since 2008 by a combination of factors: for instance, restrictions placed on equivalent or lower level qualifications—ELQs; and the introduction of higher tuition fees in 2012 for part-time undergraduate courses. Part-time adult and distance learning provides diverse opportunities for many people unable or unwilling to access full-time undergraduate programmes, enabling them to progress their learning and to take opportunities for development that would not otherwise be available to them. Given that this valuable provision is so easily overlooked, it is important that there should be a voice and specific representation on the OfS board. This is a very simple amendment which I hope the Minister will be able to accept.

In the same spirit, I have added my name to government Amendment 8 which also reinforces recognition of part-time study, distance learning or accelerated courses. I am grateful to the Government for that. I have added my name to Amendment 48 in this group, tabled by my noble friend Lord Storey. We join those who want to see an end to the stigma surrounding mental health, where our colleague Norman Lamb has been a great champion. This amendment is important not only for those who might develop mental health problems during their time at university but for those who have experienced mental health problems in the past.

It is not just students; university staff, too, can experience stress and mental health problems. As responsible employers, universities should have support services in place for staff and their duty of care to students should also include mental health support. This amendment would make it clear that such provision should be available. Many universities already offer this and make it clear to students and staff that provision is available, but this amendment would ensure that all universities make students and staff aware of the provision. I beg to move.

Baroness O'Neill of Bengarve (CB): I speak to Amendment 7 in this group, which seeks to put an additional general duty on what we are still calling the Office for Students. This general duty is to ensure that all English higher education providers—a term of art that we have now learned—have the same duties to make reasonable adjustments for students with disabilities. In Committee, we had very great confusion on this point. Some noble Lords on the Liberal Democrat Benches hoped, and perhaps some still do, that the public sector equality duty could apply directly to English higher education providers—but it cannot, because not all of them will be public sector bodies; in fact, it may be that very few of them are public sector bodies. The noble Lord, Lord Willetts, said that he thought that the public sector equality provision did not apply because universities were charities. However, it is part of the point of the legislation to secure a diversity of types of providers, and they will not all be charities. In fact, many of them may be for profit.

3.30 pm

The great risk of the first part of the Bill is that the new entrants who will add to competition will most likely not be trying to compete at the top of the market. We have many very good universities, but competing at the top of the market is very expensive and the tuition loans do not cover those costs. Universities that offer degrees in STEM subjects, for example, cannot cover their costs by the current level of tuition. Competition is a very different thing at the bottom of the market, where we may very well see for-profit providers coming in. I suggest that there is at present no reason why they should not be incorporated in other jurisdictions—for example, in the Cayman Islands, or they might be wholly owned by the Communist Party of China. There is nothing to prevent that, and I have an amendment later which I hope addresses that, up to a point.

On the question of disability, it is not enough to rely on the other clauses—for example, on Clause 3(1)(d), which assigns a general duty to,

"promote equality of opportunity in connection with access to and participation in higher education".

Access and participation can be secured even if institutions do not take seriously making reasonable adjustments for those students who have disabilities. I emphasise "reasonable adjustments", as a term that is, of course, important in the Equality Act 2010, because we all understand that the adjustments that have to be made vary with the particular disabilities involved. There is no uniform standard in these matters. Nevertheless, the criterion of requiring reasonable adjustments has stood the test of time; it is a way forward, and it should be a general duty on the Office for Students, as I must call it.

Baroness Bakewell: I wish to support the amendment for its reference to,

"including those with experience of part-time, adult and distance learning".

I support it in the light of the changing demographics, which are probably more extreme than people realise in this country. We can now expect anyone born today to have a very high chance of living to be 100, and certainly to 90. The fall-out of this on the economy and on how society is organised will be profound, and we need to be ready for it. Against that background, I suggest that part-time education, with opportunities to restructure your life and have secondary, portfolio careers—possibly several, within the century of a lifetime—is really important, and should be taken on board throughout this Bill, which serves very much the existing demographic.

Lord Lucas (Con): My Lords, I talked about this general area in Committee, but I have tabled Amendment 97 because since then I have received a fundraising letter from the development office at Oxford, which included the words: "All the evidence points to the provision of bursaries and scholarships being one of the most effective and sustainable investments we can make". This is an outright lie. Oxford knows, as

[LORD LUCAS]
will anyone who has investigated the subject, that as far as we know bursaries and scholarships have zero effect on improving the lives of students, and OFFA will confirm this. There are many more effective ways, including a wonderful summer school run by Oxford which has demonstrably very strong effects.

I wrote back, protesting this departure from the truth and Oxford wrote back to me to confess, without admitting that it had been lying. It said that at Oxford there were no differences in retention or attainment for bursary holders, compared with those for higher-income groups. It went on to say that there were possibly some effects but that, "This hypothesis cannot be rigorously tested without creating control groups which, as OFFA recognises, would be unethical". So Oxford is denying not only truth but also randomised controlled trials as a means of establishing the truth. This is quite astonishing. Is the development office run on entirely different ethical grounds from the rest of the university? I have been corresponding with the professor in charge, but there does not seem to be any recognition that truth or science come into the mission which Oxford should be following.

I have a general concern about all that is happening under the access schemes. I have seen several examples of universities applying for money to support what they are doing where there has not been adequate research or evaluation. At the end of the day, the main flood of money into this scheme comes from students: it is students who are funding this. Universities ought to owe them an absolute duty to be doing the very best they can to make good use of this money. At the moment, they do not collaborate or evaluate in the way that they should, and I would like the Office for Students to have the power to change that.

Baroness Blackstone: My Lords, I strongly support Amendment 2, tabled by the noble Baroness, Lady Garden of Frognal, and supported by my noble friend Lady Bakewell, whose salient arguments I endorse but will not repeat.

I turn to Amendment 87 in my name. At Second Reading, I mentioned how important it is to ensure that the Director of Fair Access and Participation has the independence and autonomy required to do the job effectively. Although various interventions have helped to improve the proportion of university entrants from disadvantaged groups, the gap is still far too great between them and their more advantaged peers. Eighteen year-olds from the most advantaged areas are more than two and a half times more likely to enter higher education than those from poor neighbourhoods. Put another way, fewer than one in five young people from lower income backgrounds go to university, compared with three in five from the most advantaged areas. Recent figures show that around 20% of people from low-income groups go to university, compared with 47% of all people aged between 17 and 30.

I appreciate that the Government have pledged to increase the proportion of students from disadvantaged backgrounds and are determined to improve social mobility. I do not just appreciate it; I congratulate the Government on taking this position. I know that the Minister for Higher Education is aware and is concerned about the fact that there is also a very uneven distribution of students from poor families across different universities. The most socially privileged students are nearly seven times more likely to go to universities with high entry requirements. Put another way, only 3% of disadvantaged young people go to the more selective one-third of universities, compared with 21% of those from the richest neighbourhoods. The gap is even higher in the 13 most selective universities. That is enough statistics. They mean that people from lower-income backgrounds are seriously underrepresented in the more selective universities which have the most prestige and provide the easiest routes into high-status and highly paid jobs. As long as this goes on, attempts to increase social mobility will be jeopardised.

The role of the Director of Fair Access, therefore, needs to be given as much strength as possible to achieve the changes needed. The director will be helped by new duties to publish applications, offers and acceptance and progression rates, broken down by ethnicity, disadvantage and gender. Greater transparency, leading to more information about the performance of HEIs, will be a great help, but alone it is not enough.

I can see the business case for incorporating the Office for Fair Access into what is currently called the new Office for Students—although we hope that name might change. It makes sense on efficiency grounds, but it diminishes the independence of the Director of Fair Access. In future, he or she will have to report through the head of the Office for Students, a body that universities will fund and which may therefore be less inclined to challenge HEIs generally, and powerful individual universities in particular, on issues of access. There is a risk then that he or she may be overruled on important issues relating to access. I understand that the Sutton Trust has had some assurances that this is not the intention. To be sure that this does not occur, however, a simple safeguard could be introduced by amending the Bill to require the Director of Fair Access and Participation to report annually to Parliament on the performance of the Office for Students. This would strengthen the role, maintaining both independence and accountability, so I hope the Minister, when he replies, will accept the amendment.

Lord Addington (LD): My Lords, Amendments 94 and 98 in this group stand in my name. I have also put my name to the amendment of the noble Baroness, Lady O'Neill, which I agree with totally.

Of the two amendments in my name, Amendment 98 is probably the simplest to deal with. It is inspired by the fact that dyslexic students—these are just the example I use to justify this amendment—often have to go through two diagnostic assessments before they are put through to the assessment of support they get under the disabled students' allowance. People say, "So what?"; I say, "£500 minimum charge, so what". This is for something when you have already been diagnosed once with a lifelong condition. Apparently if you are dyslexic before the age of 16, you may, with this lifelong condition, be miraculously changed at the age of 18. I do not know why this first came in—probably because the condition was not very well understood X number of years ago—but it is there. It slows everything

down, it is expensive and it probably benefits the person charging for the assessment and nobody else. The British Dyslexia Association, of which I am president, does some of this work and is prepared to forgo the charge.

I hope we will hear something that gets rid of it. Just in case there is any doubt, you go through a needs assessment when you go on this, so you have to do this twice if your parents have got round to having you checked in the first place. It is a second charge. The amendment is fairly straightforward. It is worded as it is because I am aware that it is not the case that the only absurdity on the planet is in my particular little corner of this world, so I made the amendment wide enough to get some redress there.

My second amendment is inspired by something with which I have already engaged in Committee on the Bill. We have changed the way the DSA operates and put more emphasis on universities covering some of the lower-intensity needs of those with disabilities. I have to say that the information that was not provided for the start of this year, when the new regime came in—that is, what the new regime was—has since been provided in the snappily titled *Inclusive Teaching and Learning in Higher Education as a Route to Excellence*. The document states clearly, over and over again, that universities have a duty in this field. The problem starts, however, when you get to what that duty actually means. There is no guidance in the document other than a statement that a few people do this fairly well. It mentions several institutions, Cambridge being one of them, but does not state exactly what they do; it merely states that they do something. I believe that about one and a half pages are devoted to the interactive and support programmes of the University of Cambridge. Therefore, there is a duty but no guidance on how to fulfil it.

I am sure that the Minister will tell us when he replies that many universities have quite good programmes, but not all of them do. The real problem starts when you go to a college which has a different regime for further education support for students with disabilities from its regime for higher education support for those who used to be covered by the DSA. If those bodies do not know what they are supposed to do, how are they supposed to do it?

3.45 pm

When I raised this issue with the Minister and his officials, I am afraid that their response included the very worrying sentence, "Oh, we thought that we would let the courts decide". That is just it. A 19 year-old who is failing on a course is supposed to take their institution to law. That is just not on. Let us face it; it is not. Nobody here is saying that is great. There must be some form of guidance, at least a minimum standard, even if we do not want to use those terms. A measure must be included that states this.

A further worry arose when it became clear that the higher-level support is dependent upon the lower-level support it rests upon. That is, if you need a higher level of intervention, you will also need a lower level. Usually, this is about lecture capture and the various forms it takes and there are other interventions. If you get this wrong, the higher-level intervention support which will be given to you via a personal grant may well be problematic in terms of its efficacy, if I can understate this to the highest degree. How are we going to get something through? We need to have better guidance on implementing this duty. There will be pockets of good practice, but there has to be something somewhere that tells you what you are supposed to do. Clearly stating a duty, leaving you there and then waiting for something else to happen is a recipe for disaster.

What happens to a higher education institution if the student drops out? For a start, the institution loses its fees, and the individual is left with debts and no qualification. Something has to be done to minimise that. I hope that we will be told that positive steps will be taken to deal with this, because the present situation is unacceptable. We are asking people to do something and then saying, "Go figure out how".

It took us rather a long time to learn about the various stages of development and how to go through them and get representation. It always has done. Unless we can get better guidance for those taking this support, we may end up wasting a great deal of money and causing people a great deal of grief. All that is required is some form of coherent strategy and guidance. The current document does not provide it and we waited six months for it—it was six months late.

Baroness Deech (CB): My Lords, as regards equality of access, I take issue with the noble Lord, Lord Lucas. I declare an interest as a former head of the Oxford college that gave the most bursaries in Oxford, and was once chairman of the Oxford admissions committee. There is no doubt that bursaries make a difference. They range from £3,700 and are not paid for by the students by and large but by former members of the college, alumni of the university and some admirable institutions such as the Sutton Trust. There is no drop-out issue due to poverty, not in Oxford anyway. I have never known a student drop out due to lack of funds. That was simply unheard of. It is very difficult to do a randomised trial because it interferes with privacy. However, it is not just money that guarantees success at university. Things happen to students such as their parents divorcing, which has more effect on their continuing quality of education than almost anything else. Therefore, I speak in support of the access provisions in the Bill and against Amendment 97.

The Lord Bishop of Oxford: My Lords, I add my voice in support of Amendment 7 in the names of the noble Baroness, Lady O'Neill, and the noble Lord, Lord Addington, and the two related amendments—Amendments 94 and 98—proposed by the noble Lord, Lord Addington.

Disabled young people are about half as likely to hold a degree-level qualification as those without a disability. True opportunity of access needs to make certain that everything possible is done to ensure that every student who wishes to partake in further study is able to do so and to succeed to the fullest of their potential with reasonable adjustments being made for them. Some institutions make excellent provision for disabled students but there are many cases where the

[The Lord Bishop of Oxford]
ordinary pursuit of their studies entails many obstacles and challenges. The amendments would help to ensure that provision was present and excellent in every institution, including those that may be new, small or highly specialist, and that disabled students had the same wide level of choice in their education as all other students.

Lord Judd: My Lords, I warmly support the amendments dealing with disability, mental health, access and participation. There is far too much mental illness and mental stress in our universities. They should be places of excitement and fulfilment and places for developing the mind, but too many students struggle mentally with the pressures on them—such as the need to prove themselves and to achieve because they might be, for example, the first in their family to have the opportunity of going to university. On disability, after the marvellous speech by the noble Lord, Lord Addington, there is very little to add except to say that he is right.

For a while, I was a member of the committee monitoring access and participation at the LSE, and several issues came home to me very strongly and demonstrated the importance of what we are talking about with these amendments. First, particularly in our older universities and places such as the LSE, there needs to be a will not only to make things happen functionally but to believe in the importance of what is being done and to make it a success.

We had a first-class team of people at the LSE who were highly motivated in working with young people from inner-city schools, particularly in London, with weekend schools, vacation schools and so on. It was very exciting work, but I was interested in knowing how many of those youngsters ended up at the LSE. The answer was that sometimes it was a disappointingly small number, although certainly a lot of them were helped to gain better opportunities in higher education than they would otherwise have had.

To be successful in this regard, the people dealing with admissions have to be prepared to be courageous and look for potential and not only proven ability. Very often, the youngsters whom you want in the institution to make a success of the institution—for the sake not only of the institution itself but of the students—are young people who not only have not had parental support but have not had the same kind of scoop in their school education that other children take for granted. Therefore, the admissions people have to look for that potential. However, once you have brought in more of the people who would not otherwise have had the opportunity, you cannot just leave them to swim. That is very cynical, and it relates to the issue of mental illness. However sensitive the staff and however informally it is done—but formally, if noble Lords understand me—you must have in place systems that make sure that a particular student is getting the kind of support and compensations in attention that other students can take for granted.

These are terribly important amendments and I hope that the Minister has it in his heart and his intellect to take them seriously.

Lord Bilimoria (CB): My Lords, I will briefly address Amendments 2 and 8, which talk about part-time, adult and distance learning. When I am presiding over degree ceremonies as chancellor of the University of Birmingham, it gives me such pleasure when we have not just mature students but really mature students—students in their 60s—coming up to graduate. Whatever we do in this Bill, we must encourage lifelong learning and adult education. From 2005 to 2010, I was the youngest university chancellor in the country, as chancellor of Thames Valley University, which is now the University of West London. There, we had a motto: "further and higher". The Bill must encourage progression, so that once people are exposed to higher education, they have the opportunity to go further. Quite often, it is just a question of experiencing it.

Finally, Amendment 87 is about access and participation, as the noble Baroness, Lady Blackstone, has spoken about. It is crucial that this is reported on and acknowledged fundamentally in the Bill. I have seen this first hand at the University of Cambridge, where the GEEMA programme brings to a summer school ethnic minority students who have no background of university education in their families. When they attend this course, they are exposed to Cambridge—somewhere they probably would never have even considered. The reality is that the majority end up going to university, and quite a few of them end up going to Cambridge. This must be encouraged, and it is crucial that it is part of the Bill.

Lord Storey (LD): My Lords, I want to speak briefly to my amendment on mental health and also support the comments that have been made on young people with dyslexia or disabilities. I preface my remarks by reminding us all how much progress has been made on mental health over the past decade or so. In fact, this Government, like the previous one, recognise the issue and have done an incredible amount of work.

We have had various debates on this, and I am sure that all noble Lords who have declared an interest as a chancellor would want to ensure that when young people go to their universities, they are given all the support that they need. For many young people, it is a huge step to go to university. You would therefore expect that while they are away at university, that support would be there for them. In schools, teachers are in loco parentis. Of course, it is young adults who attend university, but many of them still need the support that they would get at home. As parents, therefore, we would be devastated if that support was not available when there was a mental health problem. This simple amendment to say that mental health support should be available and that students should know of it is therefore vital.

Many universities provide incredible support and do stunning work for young people. However, there are many that do not. In Committee, I gave a personal example of a family friend with two girls at two separate universities. Their father very suddenly and tragically died. One university gave no support at all to that young girl, who was going through anguish and mental trauma—she was not even seen by her personal tutor. The other university could not do enough to help. That is the reason for

this amendment: we must make sure that that support is there for all students and it is not just left to the university itself.

Of course this is not just about students, it is about the staff as well. We put great pressure on the people working in higher education and, therefore, support for them should be in place. Perhaps personal tutors could be trained to identify when there are mental health problems and are able to advise the student where to go. So I hope that, in his reply, the Minister will make some positive sounds about this important issue.

4 pm

Lord Mackay of Clashfern (Con): My Lords, I support Amendment 7 tabled in this group by the noble Lord, Lord Addington, and the noble Baroness, Lady O'Neill of Bengarve, and I want especially to mention Amendment 2. As I explained at Second Reading, my legal education, such as it was, was part-time, and I think that it is a very useful type of education with its mix of theory and practice in whatever it is you are aiming to do. I hope that this amendment will be considered seriously because it is important that the full range of students should be borne in mind by the authority looking after them, whatever its name happens to be.

As this is a new stage of the Bill I ought to declare my interests. I have been connected in one way or another with universities for a good part of my life, including two honorary fellowships at colleges in Cambridge, but I am not conscious that any of that has particularly affected my views on this Bill.

Viscount Younger of Leckie: My Lords, this is a large group of important amendments—I think it is fair to say that it has grown in the past 24 hours—to which we have heard many valuable contributions, so I make no apologies for speaking at some length. Before I do, I wish to reiterate a point made by noble Lords on many occasions during the debate. One of the great strengths of our world-class higher education system is its diversity. That diversity, be it in the form of part-time study, providers of a denominational character or new innovative providers entering the market, is essential to promoting greater student choice. We want all students, whatever their background or circumstances, to get the most they possibly can from a higher education experience that can respond to their varied needs. A number of noble Lords have also made that point in this debate.

I turn first to government Amendment 8, on diversity of provision. The noble Baroness, Lady Bakewell, who is the president of Birkbeck, has long been a passionate supporter of part-time study and non-traditional students. Speaking in an interview in 2013 to *Times Higher Education*, the noble Baroness declared—perhaps I may quote her; I am sure that she will remember it:

"Part-time study and flexible learning are going to play a big part in the future of our society".

The amendment I have tabled along with the noble Baroness, Lady Garden, explicitly recognises that. It makes it clear that choice among a diverse range of higher education provision is part of the OfS's duty to promote greater student choice. That includes but is by no means limited to choice among a diverse range of provider types, course subjects and modes of study such as full-time, part-time, distance learning and accelerated courses. These are only examples rather than a comprehensive list because when looking to the future, the needs of students, employers and our economy will change and the sector will need to continue to innovate and diversify in response. That is why the Bill goes much further than the existing legislative framework in ensuring that the OfS board will include a diverse representation of interests, including individual student representation, and covering different types of institution.

At the same time, we need to avoid limiting the desirability of experience to a restrictive list of requirements that could prevent the Secretary of State appointing a board that is able to address the challenges and priorities of the day. Regarding Amendment 2, I would like to reassure noble Lords that the Bill as drafted enables the Secretary of State to choose, if he or she so wishes, board members with experience, knowledge and expertise in part-time study, adult and distance learning, and any manner of other diverse means of delivering higher education.

I turn now to Amendments 7, 48, 87 and 94 to 98, on equalities, access and participation. I understand and share the intent behind these proposals: where particular groups face additional barriers to accessing and participating in higher education, they should of course be supported appropriately and protected from discrimination. But I fear that the practical application of these amendments risks imposing additional burdens and constraints on the OfS that might not guarantee better outcomes for students. My noble friend Lord Lucas suggests specific ways of evaluating access and participation. I thank him for this and appreciate his engagement, but we do not see it as necessary. Providers already evaluate these activities and we expect this to continue.

We are proud that measures to increase access and participation and equality of opportunity are at the heart of the Bill. It already gives the OfS an explicit duty to have regard to the need to promote equality of opportunity in connection with access to and participation in higher education across all its functions. The OfS collectively, rather than a single member, will be responsible for demonstrating how that duty is being fulfilled.

Paragraph 13 of Schedule 1 confirms that the OfS must report annually on its functions—including access and participation functions—and that this report must be laid before Parliament. There is therefore no need for a separate report on access and participation. Taken together with the Equality Act, our reforms will help to create a framework within which all students should be protected—a framework that enables autonomous providers to respond to the needs of their particular student body by developing appropriate support services and procedures.

Throughout our consideration of the Bill the noble Lord, Lord Addington, has been tireless in his advocacy on behalf of disabled students. I can assure him that we will continue to work closely with the sector to promote best practice in making reasonable adjustments within the framework of the Equality Act. I have

[Viscount Younger of Leckie]
listened to the noble Lord's concerns in Committee and today. I have met with him to discuss this important issue further. I am pleased to say that the Government have published a report by a senior sector-led group, setting out best practice principles for making reasonable adjustments. We will continue to work with that group to support higher education providers in identifying how those principles can be applied in practice. I will say more on this in a moment.

However, providers need the flexibility to determine precisely how best to meet their students' needs, consistent with their Equality Act duties. Similarly, the OfS needs the flexibility to determine precisely how best to discharge its duties regarding equality of opportunity. I agree with the noble Lord that identifying barriers faced by particular groups of students and considering how they might be addressed is one way in which the OfS might take into account its duty regarding equality of opportunity. However, I believe that imposing this as a further duty on the OfS as set out in the amendment could be counterproductive, placing additional burdens on the OfS without a commensurate benefit for students.

I say this to the noble Lord, Lord Addington, who, I know, is well exercised by this issue, as perhaps are a few other noble Lords. I can confirm that I and the Minister for Universities and Science, Jo Johnson, will write to the chair of the Disabled Students Sector Leadership Group to ask that it invite the noble Lord to meet it and work with him to develop the guidance further, based on his experience and expertise.

I listened carefully to the point made about dyslexia assessments. The noble Lord raised this issue with me in our recent meeting, and I understand his concerns. Students must provide evidence of their disability to prove eligibility for DSA, and they are liable to meet the costs of this. It is not the purpose of DSA to cover the costs of diagnosis of a condition or disability. Rather, it provides help with only the additional costs of study that a student incurs by virtue of having a diagnosed disability.

The question that could be asked is whether a provider could rely on previous diagnostic reports, or whether the disabled student may be able to bring these with him. This may have been the gist of the line the noble Lord was taking. However, all students are asked to provide evidence of their disability. This is fair, because every institution is different. It is important that the provider or institution can assess correctly students' needs in relation to the particular course they are taking. That has to be based on up-to-date information. I hope that slightly more prolonged answer will help a little with the noble Lord's issues.

Lord Addington: My Lords, you might have a very good diagnosis given by an educational psychologist at the age of 14—before the age of 16—but your brain does not change its wiring at this age. You are assessed; you are given support; and you then have to pay for another report that tells you exactly the same thing. Does the Minister agree that the practice is an absurdity?

Viscount Younger of Leckie: I shall not be drawn on that today, my Lords, but the intention here is that we work ever more closely with the noble Lord. I hope that the pledges Jo Johnson and I have given will at least help to nail down further the issues the noble Lord has raised.

I turn to another important issue, mental health, raised by the noble Lord, Lord Storey. We are working alongside the sector to identify measures which will make a real difference to staff and students. This will inform the Green Paper on mental health later this year, of which the noble Lord will be aware. Noble Lords have rightly raised the issue of mental health in higher education throughout our deliberations on this Bill. I say again that the Government expect higher education providers to provide appropriate support services for all their students and staff, including those with mental health issues. However, there is a balance to be struck here, because it is vital that we retain flexibility to enable autonomous institutions to meet the needs of their own staff and students. With that, I ask that the noble Baroness withdraw her amendment.

Baroness Garden of Frognal: My Lords, I thank the Minister for his detailed and constructive reply, and all noble Lords who have taken part in what has turned out to be a wide-ranging debate. We have covered part-time students, mental health disabilities, randomised control trials and bursaries, the Director of Fair Access, dyslexia in particular and a range of other issues. There has been quite a lot for us to think about, which we will take away. We may wish to bring back some of the issues at Third Reading. For the time being, I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendment 3

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

3: Schedule 1, page 78, line 29, at end insert—

"( ) The report must include a statement regarding how the OfS has cooperated with UKRI during that year."

Viscount Younger of Leckie: My Lords, the fundamental importance of joint working between the OfS and UKRI has been raised many times in this Chamber, in the other place and beyond. We listened carefully to the debates in Committee, including the powerful contributions from the noble Lords, Lord Triesman and Lord Smith, and many others, and with these two amendments we are responding.

The Bill requires both organisations to report annually to Parliament. This amendment will expand these reporting provisions to require that the annual reports of both organisations include a section detailing how they have co-operated over the period of the reporting cycle. This would include issues such as knowledge exchange and HEIF, or RDAPs, which we look forward to discussing later on.

With the amendments we are making it clear that the two organisations should co-operate. Clause 108 empowers them to do so. Now they must cover how they have done so in their annual reports, providing Parliament and commentators with the opportunity for scrutiny.

The amendments strike the right balance between empowering and facilitating joint working by requiring transparency around co-operation, without taking us into a prescriptive and potentially limiting list of activities

which would be impossible for the organisations to expand or alter in response to changing circumstances. I beg to move Amendment 3.

Lord Mackay of Clashfern: My Lords, I strongly support the amendment. I just hope that in due course the Minister will be able to go a little further—but the amendment is very much in the right direction.

Baroness Brown of Cambridge (CB): I, too, support government Amendments 3 and 172, which take a significant step towards ensuring collaboration between UKRI and the OfS. I will briefly declare my interests: Universities UK provides me with some research support; I am an honorary fellow of Murray Edwards College and a Title E fellow at Churchill College, Cambridge; I am a former vice-chancellor at Aston University and an adviser to the vice-chancellor at Cranfield University; and I chair the Sir Henry Royce Institute for Advanced Materials at Manchester University and STEM Learning Ltd, a not-for-profit company owned by a consortium of UK universities.

I thank both Ministers—the noble Viscount, Lord Younger, and the noble Lord, Lord Prior—as well as the Bill team for listening and responding to our concerns in this area. These amendments are very positive. However, as the noble and learned Lord, Lord Mackay, said, some further clarity is needed on some key issues of collaboration between the Office for Students and UKRI. As an example—the one that the noble Viscount mentioned—in a recent note the University of Cambridge highlighted that, while UKRI would be consulted on the awarding of research degree-awarding powers, it is not, apparently, part of the process of varying or revoking such powers—or, indeed, identified in the appeal process. So I urge the Minister to clarify when we come back to this discussion later on Report that any decisions and processes related to RDAPs should indeed be joint decisions or actions between the OfS and UKRI.

4.15 pm

Baroness Rock (Con): My Lords, I, too, support these amendments. Thankfully—and, I hope, auspiciously—the creation of UK Research and Innovation, UKRI, has proved relatively uncontroversial during the passage of the Bill. It is, though, vital. As noble Lords will know, whatever Article 50 and Brexit finally bring, we can be sure that we will need to be at the top of our game when it comes to commercialising research and creating innovative business ideas for the future. UKRI is a key part of making sure that we do this. It is about building critical mass in our research and innovation delivery. So, from research funding to commercialisation and capital raising through Innovate UK, we have the capability to bring these together, to identify strategic priorities for our future economy and to ensure we have a joined-up approach to develop and realise them.

I spoke at Second Reading about the importance of including the business community in the decision-making of UKRI and I am confident that the voice of business will be heard. These amendments concern the working relationship between UKRI and the other body created by the Bill, the Office for Students. In particular, it mandates co-operation in the form of a report explaining how the two have worked together during that year. I support the amendments because such co-operation is important for a number of reasons. First and foremost, the partnership should ensure a strategic, joined-up approach to the funding of teaching and research in higher education. Neither can exist without the knowledge of the other.

Secondly, much has been said about monitoring the financial stability of higher education. Provided that UKRI and the OfS do co-operate, as these amendments call for, UKRI can use its funding decisions to safeguard the financial viability of research. Thirdly, UKRI can play an appropriate role in the assessment process for research degree-awarding powers.

Lastly, UKRI and the OfS can share data to inform research and evaluation studies and provide mutual reassurance that their respective accountability functions are being taken care of. I say "lastly" but, given the significance of the creation of the two bodies and their new powers and authority, there are myriad more ways in which the two can—and must—work together.

UKRI puts all our innovation eggs into one basket. The Office for Students brings together all the regulation and regulators of higher education providers under one roof. Therefore, at a time of significant change in higher education, it is vital that the new regulator and the research and innovation body are working in lock-step. This is not something we must leave to simple chance or the whims of the leadership teams of these two organisations. That is why I support these amendments.

Lord Mendelsohn (Lab): My Lords, I welcome these amendments. Amendment 3 has been signed by my noble friend Lord Stevenson of Balmacara. Of course, we will return to this subject when we discuss the research parts of the Bill next week, with a much more substantial amendment which talks about some of the elements of co-operation.

We welcome the amendment but share the view that it does not go far enough. Reporting on how these organisations co-operate is not about whether they should co-operate or even the nature of that relationship—how strong or firm a relationship they would want to forge. The amendments cause some degree of limited expectations and even an expectations mismatch. One of the briefings that I received for this seemed to believe that this would be subject to an annual report in and of itself. That is not the case. This is within the context of the existing annual reports.

Given that the reforms are about both policy design and a high level of operational change, delivery is a very important factor. It is noticeable that the Nurse review, which considered the operational elements of the creation of UKRI and the importance of weaving it into the right tapestry of partners, had a clearer and more prescriptive approach. Notwithstanding these concerns, which we will debate later, we support the amendment and hope to make further improvements later on.

Viscount Younger of Leckie: My Lords, I am pleased that we have found general common ground on this matter, although I picked up from this short debate that my noble and learned friend Lord Mackay, the

[Viscount Younger of Leckie]
noble Baroness, Lady Brown, and the noble Lord, Lord Mendelsohn, feel that perhaps we should go a little further.

I thought that my noble friend Lady Rock put it rather eloquently: an emphasis on working together will be expected to run through the leadership and management of both organisations, supported by a legal framework that will be sufficiently flexible to deal effectively with areas of shared interest. Additionally, the government amendments will require the organisations to state in their annual reports how they have co-operated with each other over the reporting period. We consider that this an efficient way of ensuring transparency without the creation of additional reporting bureaucracy.

Amendment 3 agreed.

Clause 3: General duties

Amendment 4

Moved by ***Lord Kerslake***

4: Clause 3, page 2, line 6, at end insert—

"(za) the need to protect the institutional autonomy of English higher education providers,"

Lord Kerslake (CB): My Lords, in moving Amendment 4 I will speak in support of the related amendments in this group. I declare my interest as chair of the board of governors of Sheffield Hallam University.

The purpose of these amendments is to place a duty on the Secretary of State and the OfS to have regard to the need to protect institutional autonomy when carrying out their functions. The definition of "institutional autonomy" for this purpose is set out in Amendment 11. What might have been a very long and contested debate can be reduced considerably by the fact that the amendment also has the Minister's name on it, thus indicating the Government's support. Taken with the changes around encouraging collaboration between universities where this is in the interests of the students, and indeed quality and standards being clarified, which will come later, and other amendments tabled or supported by the Government, this is a significant amount of welcome progress.

The importance of upholding institutional autonomy was one of the strongest themes at Second Reading. Those who took part will recall that the responsible Minister of State, Jo Johnson, stayed for virtually all of it. At the time, I commended him for being a listening Minister but wondered whether he would be a responsive one. Both he and the Minister in this House, the noble Viscount, Lord Younger, have clearly demonstrated that on these issues they are responsive. Inevitably, other important issues remain that we will need to debate and may divide on, but for the moment, I express my sincere thanks and congratulations to the Ministers on their positive recognition of our concerns on these issues. I beg to move.

Lord Waldegrave of North Hill (Con): My Lords, as one who spoke at Second Reading, I associate myself with what the noble Lord, Lord Kerslake, has said. He, I and many others had meetings with the Minister and were received courteously—as one would expect—but more importantly, we were received by a listening Minister. I am very grateful to my noble friend, who I am sure has added to the voice of this House when speaking to the department. A number of major improvements have been made to the Bill. As chancellor of Reading University, I have discussed these with the senior management there. Without speaking for the management in any way, I can report that many in the university sector are delighted with the Minister's response. I am delighted to support the amendment.

Lord Mackay of Clashfern: My Lords, I have Amendment 5 in this group. Your Lordships may remember that in Committee, the noble Baroness, Lady Wolf, and my noble friend Lord Ridley tabled an amendment to deal with the matter that my amendment seeks to deal with, but they sought to do so by reference to a new committee that was to be set up to have that power. It is obvious that we are in a changing world and therefore that there may well emerge needs for new providers to do something different to that which is presently provided in the higher education sector.

Since we are to have the Office for Students—that is still its name—it is perfectly appropriate that the duty of looking out for "emerging needs" should fall on that regulator. We would not need further committees; the existing regulator would be able to do this as a natural operation in the course of viewing the sector, as it has to do all the time as part of its regulation. It is also clear that setting up a new provider in this area is not without problems. A certain degree of capital expenditure is probably necessary and there would certainly be other costs as well, running costs in particular. It is therefore right, as was said originally and as I say again, that the regulator should take appropriate steps to encourage the meeting of those needs. The main support for this provision came from the noble Baroness and my noble friend but I thought this would be a neat way of achieving exactly what they wanted, without the elaboration of a further committee. In due course, I shall move this amendment.

Baroness Garden of Frognal: My Lords, I have added my name to the amendments in this group from the noble Lords, Lord Kerslake and Lord Stevenson. I express support from these Benches for the safeguards for institutional autonomy which they represent. I also add my thanks to the Minister for adding his name and the support of the Government to them.

The Earl of Dundee (Con): My Lords, as my noble and learned friend Lord Mackay of Clashfern has just implied, in performing its functions clearly the OfS should not just have regard to current and known needs as they may now be identified. It should also have regard to such needs as may come to light later on. By referring to the latter as "emerging needs" my noble and learned friend has produced a useful amendment, which I hope will be adopted.

Lord Lucas: My Lords, I congratulate my noble friend Lord Younger on the amendments that he has put his name to. They represent a great step forward and a real example of how a Government can

listen and react constructively. I am grateful to him for his Amendment 6, which covers some areas that I referred to.

Perhaps I may question my noble friend on proposed new subsection (7)(c) in Amendment 11. I am puzzled as to why the "freedom" in this subsection is restricted to only these activities. In particular, there are occasions when the received wisdom within universities is rather different to that outside universities. I am not clear which this wording refers to, nor why there should not be a freedom to advocate popular opinions. I know that this has been a matter of controversy within universities from time to time, when people are referred to as popularisers of science in a derogatory way. Again, that should not result in discrimination or losing jobs and privileges. I will also refer to my two amendments in this group, which are linked with the Government's Amendment 6.

4.30 pm

The GREAT campaign, which the Government created, has been a great success. There are many areas in which it has made a great difference to our image abroad and to the support that the Government give to various industries and sectors. But the relative failure of that campaign in the education sector is quite notable. By and large, I think that that is because the institutions involved have not, at any stage of their existence, become used to collaborating. They plough their own furrow abroad; they find it hard to countenance joining in a nationwide effort to promote British education as a whole. I do not think that this is something they would object to once they got used to it, but it is something that the Government need to give some impetus to. Since the GREAT campaign has been running for some while, and since the universities have clearly not got together and supported it in the way that other competing industries have, it is necessary—and I very much hope that my noble friend will confirm this—that the Government should have powers to push them in this direction. In a post-Brexit world, we need to give coherent nationwide support to the reputation of British education and we need the universities, particularly the grander universities, to join in this and not think they need not bother because they have their own independent reputations. We need them to be part of the national effort.

I particularly think that there is an opportunity to create an online community of all those who have been through British education. Someone who has been, say, to do engineering in Newcastle could derive support from being part of a community of everybody who has been to a British university, particularly everyone who has studied engineering at a British university, and have many more contacts and much more ability to derive strength from that association within the countries they have gone back to than if they are just connected with other people who had done engineering at Newcastle. We could really boost the value of a British university education by connecting people in that way and boost the value of those people to us. Again—particularly coming back to remarks which the noble Baroness, Lady Brown of Cambridge, made in Committee—it is clear that universities are not ready to collaborate in this voluntarily, so I would like to know that the Government have the power to push them in this direction and that if this is something that, after due consideration, we decide to do, we have in this Bill or elsewhere the power to make it happen.

Baroness Wolf of Dulwich (CB): I support the amendment tabled by the noble and learned Lord, Lord Mackay, and I thank him for his interest in the amendment that the noble Viscount, Lord Ridley, and I tabled in Committee. I will return to that theme—although, he will be glad to know, not in the context of a new committee—in an amendment that I tabled for later in the proceedings.

I agree with the noble and learned Lord that it is important that this new regulator looks beyond the day-to-day and has some vision of how higher education in this country should be developing. I have recently been rereading Lord Robbins, and it does indeed feel like another world. The point that I want to underline, which is inherent in the amendment tabled by the noble and learned Lord, is that unless somebody in government—and who else but the OfS?—is looking at emerging needs and taking appropriate steps, many important things simply will not happen. As my noble friend Lady O'Neill pointed out a little while ago, the reality is that, with just the money that you can get for an individual student, you cannot create a visionary new university or create thriving STEM faculties. They need money, they need planning and they need government support.

One of the things that we now know more about than we did even a couple of weeks ago is the nature of the new providers coming into the market. As one would expect, they are, overwhelmingly, small providers of business education. Some of them are doing very interesting and exciting things, but this underlines that we cannot, in the current context of funding and loans, simply rely on making it easier for new providers to come in and on promoting competition to meet the needs of this country and create the sort of visionary institutions and well-endowed STEM faculties that we need for the future of the country.

Like many other noble Lords, I want to take this opportunity to thank the Minister for the amount of listening he has done so far, but it would be very helpful if he could do a little more listening and just make it clear to this new and powerful body that it also has a role and a responsibility for looking towards the future.

Viscount Ridley (Con): My Lords, I will not detain the House for long, because a lot has been said by the noble Baroness, Lady Wolf, and my noble and learned friend Lord Mackay about Amendment 5, but will briefly express my support for this position. One of the prime purposes of the Bill is to open up the higher education sector to new entrants and to the fresh breath of air that they could possibly bring. We have heard, since the Bill started, not just of the many small providers, as mentioned by the noble Baroness, Lady Wolf, but also of Sir James Dyson's expansion of his university. That is magnificent, but even he has admitted that it is very hard to start up a new university. How much harder would it be for those with fewer resources? There are huge barriers to entry in this field.

[Viscount Ridley]

In Committee, the noble Baroness, Lady Wolf, and I argued for a new committee to encourage new entrants to come forward. Even at the time, I expressed some reservations about adding to the number of committees in the world, and I am delighted that my noble and learned friend Lord Mackay has come up with the simpler idea that this function should be added to the functions of the Office for Students. For a Bill designed to encourage new entrants in the university sector, there is surprisingly little in the Bill that actually addressed the encouragement of new entrants, and this is a modest and welcome suggestion.

Lord Desai (Lab): My Lords, I rise to support the amendment that the noble Lord, Lord Lucas, put forward, as well as his argument. There is a problem with getting universities together, because they very proudly differentiate themselves from each other. One thing about British universities, where I have worked all my life, is that they do not want to permit student transfer between them. It is almost impossible for a student to do one year in one university and then go to another one, because the courses are not comparable and there is no system of scores or grade points. It will take a special effort to create a group spirit among English higher education providers, especially the old ones, although the new ones will be better. The suggestion made here about creating this collegium of former students or graduates may actually be very helpful now that we have the instruments to do that. Their experience may be able to tell us how to improve the interrelationship between universities, so we can present a united front regarding the quality of English higher education.

Baroness Brown of Cambridge: My Lords, I rise in opposition to Amendments 12 and 13, which are in the name of the noble Lord, Lord Lucas. In doing so I thank him for raising a very important point, but I suggest that we already have a very effective mechanism for doing what he wishes to see happen, which is the British Council. I urge the Minister to ensure that the British Council is properly funded to undertake talks of this sort in the future.

Lord Stevenson of Balmacara (Lab): My Lords, I have signed this amendment and all the others that make up this package, which is a substantial one; we should not underestimate the impact it will have. It is a most significant move for the Government to recognise the pressure of institutional autonomy right across the sector. It would be hard to overstate the impact of this coming together of the whole House with the Government to create an intervention in this area. We welcome it.

It is important also to recognise that the concession made was not just rearranging the existing wording—we acknowledge that the Bill already had a lot about institutional autonomy. Making not simply the OfS but the Secretary of State responsible for having regard to the need to protect institutional autonomy is a much more powerful approach. We should be cognisant of that as we accept the amendments.

It is important also to recognise that there is a gap. Although it has been pointed out that the UKRI is not a regulator in the same sense as the OfS, we will later move an amendment that proposes that the UKRI also have regard to institutional autonomy because there will be joint responsibilities in relation to research degrees, but also because these bodies will be operating with the same funding group—obviously, a smaller one in the case of the UKRI; nevertheless, it is important that we have equality of arms.

This has been a very successful case of trying to get a better Bill from what the Commons presented us with. It is a better Bill as a result of this intervention—of course, there is more to come. We should acknowledge that the leadership of the noble Lord, Lord Kerslake, and the support that he and I received from the noble Baronesses, Lady Wolf and Lady Brown, and the noble Baroness, Lady Garden, from the Liberal Democrats, has been instrumental in persuading the Government that they should take account of this issue.

In bringing attention to the need for new providers in Amendment 5, the noble and learned Lord, Lord Mackay, has done us a service by ensuring that we think not only of existing arrangements within the sector but new entrants. It is important that we pick up the theme behind his amendment and ensure that it is properly regarded as we proceed.

In concluding, I hope we can have the Minister's assurance that all the amendments in this group will be taken as consequential if the lead amendment is passed.

Viscount Younger of Leckie: My Lords, I am grateful to the noble Lord, Lord Kerslake, for introducing this group of amendments and the helpful and constructive engagement I have had with him and many other noble Lords, not least the noble Lord, Lord Stevenson, the noble Baronesses, Lady Brown and Lady Wolf, and my noble friend Lord Waldegrave on the issue of institutional autonomy.

I am particularly grateful to the noble Lord, Lord Kerslake, for his amendment in Committee, which was widely supported across the House and which has provided an excellent template for the institutional autonomy protections that we are discussing today. Indeed, on issues across the Bill, I am grateful for the expert scrutiny the Bill had in Committee and the many constructive meetings that my honourable friend in the other place, Jo Johnson, and I have held with noble Lords since.

I said in Committee that we were listening and reflecting on the issues raised, so I hope that noble Lords will recognise that that is exactly what we have done through the government amendments. I am particularly pleased that institutional autonomy is one of the areas where we have found common ground. Institutional autonomy and academic freedom are the keystone of our higher education sector's strength. Throughout the Bill, we have sought to protect these values, but we recognised and understood the importance of extending these protections to the work of the OfS and of enshrining institutional autonomy itself in legislation for the first time.

I turn to Amendment 5, spoken to by my noble and learned friend Lord Mackay. We have already seen new providers emerge that do not fit the stereotypical—often negative—description that has been previously offered. The Government welcome plans to introduce new models of provision, such as that proposed by the

New Model in Technology & Engineering in Hereford. I reassure noble Lords—my noble and learned friend in particular—that the Bill already allows both the OfS and the Government to consider, encourage and respond to the emerging needs for new providers, so while I support the broad intent of Amendment 5, I feel it is unnecessary.

I should like to make a few further points. We believe that the duty on the OfS to have regard to the need to encourage competition between higher education providers and regulate in a proportionate manner will ensure that it encourages meeting the emerging needs of new providers. The OfS has many duties and there are already a variety of other measures in our reforms that will enable the Government, as well as the OfS, to support the need for new providers.

4.45 pm

The Bill, as noble Lords will know, will level the playing field for high-quality new entrants, making it easier for new specialist and innovative providers to enter the sector and encourage the growth of more flexible provision—in particular, accelerated degrees, which we will be discussing on Report, which are a major strength of non-traditional providers. We also know that alternative providers have a much higher proportion of older students—56% of students at alternative providers are aged 25-plus, compared with 23% of students at publicly funded institutions. The latest figures also show that alternative providers provide a wide range of part-time courses to a wide range of ages. I hope that with these examples, I can convince my noble and learned friend that we very much have this in mind in looking at the different and varied issues of the emerging providers.

The Bill allows the Government to give guidance to the OfS on its strategic priorities, which could include highlighting subject or geographical areas where it would welcome growth in choice and diversity. Furthermore, our reforms will, for the first time, introduce a single regulatory framework where all providers—new and old—can access the same benefits and financial support. While we have spoken a lot about competition, we have always been clear that collaboration has an integral role to play in the mission of higher education and its benefits to wider society. However, we heard concerns that the drafting of the Bill could go further to make this recognition clearer. We have listened, and have consequently tabled an amendment to clarify that the OfS, when having regard to the need to encourage competition between providers, should also have regard to the benefits for students and employers resulting from collaboration between such providers. This amendment has been warmly welcomed by the sector, including GuildHE, University Alliance and Million Plus.

Before I conclude, I also want to address the amendments tabled by the noble Lord, Lord Lucas, in this group. I applaud the motivation behind them. International students make a great contribution to the UK's world-class higher education sector, both economically and culturally. Encouraging people from across the world to study here is immensely important, and the Government and the sector must pull together to achieve this. The Government take their duties to promote the UK's excellent higher education offer overseas very seriously. Your Lordships will be aware of our Education is GREAT and our new Study UK: Discover You campaigns, ably supported by the British Council. We have also been communicating the UK's fantastic higher education offer through the Global Britain campaign, which regularly reaches international audiences of more than 10 million.

I am pleased to say that the UK continues to punch well above its weight in terms of market share of international students, attracting the highest numbers after the USA. With this in mind, I do not believe it is necessary to have a legislative requirement on all providers to collaborate to promote English education overseas, or to facilitate communication between the OfS and their students. Clearly, many are already doing so voluntarily and to great effect. But there may be very good reasons why they choose not to—for example, they may have very small international student populations.

Providers themselves are best placed to decide to what degree they want to market themselves overseas. As our amendments recognise, they are autonomous institutions, and they know which business model is right for them. I would like to assure my noble friend Lord Lucas that the OfS already has the power to set additional registration conditions, providing they are proportionate and risk-based. I hope he is reassured that an amendment is not necessary to give the OfS additional powers in this area.

I return to the lead amendment in this group, on institutional autonomy. Together with the related amendments tabled by the noble Lord, Lord Kerslake, it represents the most robust protection for institutional autonomy that has ever existed in our modern higher education system, and I am delighted to support its inclusion in the Bill.

Lord Lucas: My Lords, before my noble friend sits down, if he cannot reply now, will he reply by letter to the question I asked on Amendment 11?

Viscount Younger of Leckie: Yes, I certainly pledge to do that.

Lord Kerslake: My Lords, I thank all noble Lords who have contributed to this debate for their support. I share the Minister's view that this now provides a robust protection of institutional autonomy. The relative brevity of this debate should not in any way signal that this is not an important issue—it clearly is—nor, indeed, a lack of our recognition and appreciation of the Government's response to the concerns. I am delighted at the level of support; this will significantly improve the Bill.

Amendment 4 agreed.

Amendment 5 not moved.

Amendment 6

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

6: Clause 3, page 2, line 12, at end insert "while also having regard to the benefits for students and employers resulting from collaboration between such providers,"

Amendment 6 agreed.

Amendment 7

Tabled by ***Baroness O'Neill of Bengarve***

7: Clause 3, page 2, line 17, at end insert—

"( ) the need to ensure that all English higher education providers have the same duties to make reasonable adjustments for students with disabilities,"

Baroness O'Neill of Bengarve: My Lords, I am very grateful to the Minister for using the words "reasonable adjustments" in this context, and I shall look carefully at what he has said in *Hansard*. Reasonable adjustment is a well-understood phrase; it is rather different from a duty,

"to promote equality of opportunity in connection with access … and participation".

Some years ago, I was responsible for a partially sighted student who had access and participation on an equal basis, but she needed to get everything that she had to read to do a degree in French recorded from the French equivalent of RNIB. There was about a three-month lead period, and it was essential that she got additional support to get the materials that she had to study available regularly and in time. That is the sort of thing that constitutes a reasonable adjustment; it is more than equal rights to participation and access. With that said, I shall not move the amendment.

Amendment 7 not moved.

Amendment 8

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

8: Clause 3, page 2, line 23, at end insert—

"( ) The reference in subsection (1)(a) to choice in the provision of higher education by English higher education providers includes choice amongst a diverse range of—

(a) types of provider,

(b) higher education courses, and

(c) means by which they are provided (for example, full-time or part- time study, distance learning or accelerated courses)."

Amendment 8 agreed.

Amendment 9

Moved by ***Lord Kerslake***

9: Clause 3, page 2, line 27, leave out from "protect" to end of line 34 and insert "the institutional autonomy of English higher education providers."

Amendment 9 agreed.

Amendments 10 and 11

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

10: Clause 3, page 2, line 36, after "but" insert ", whether or not the guidance is framed in that way,"

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

"(7) In this Part, "the institutional autonomy of English higher education providers" means—

(a) the freedom of English higher education providers within the law to conduct their day to day management in an effective and competent way,

(b) the freedom of English higher education providers—

(i) to determine the content of particular courses and the manner in which they are taught, supervised and assessed,

(ii) to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and

(iii) to determine the criteria for the admission of students and apply those criteria in particular cases, and

(c) the freedom within the law of academic staff at English higher education providers—

(i) to question and test received wisdom, and

(ii) to put forward new ideas and controversial or unpopular opinions,

without placing themselves in jeopardy of losing their jobs or privileges they may have at the providers."

Amendments 10 and 11 agreed.

Clause 9: Mandatory ongoing registration conditions for all providers

Amendments 12 and 13 not moved.

Clause 10: Mandatory transparency condition for certain providers

Amendment 14

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

14: Clause 10, page 6, line 33, at end insert—

"( ) the number of students who attained a particular degree or other academic award, or a particular level of such an award, on completion of their course with the provider."

Viscount Younger of Leckie: My Lords, I shall speak first to the amendments on the transparency condition, then turn to those regarding student transfer. I have reflected on the arguments put forward in Committee, and we are clear that the transparency duty must remain focused on equality of opportunity through widening participation. I noted in Committee that the noble and learned Lord, Lord Wallace, and my noble friend Lord Lucas raised an important point on including attainment in the existing requirements to provide application, offer, acceptance and completion data. The evidence shows that there is more to do to close the attainment gap, which is particularly pronounced for certain groups of BME students.

We agree with noble Lords that attainment is an area that should be addressed and I thank them for their attention on this matter. That is why our Amendment 14 will add degree attainment at the end of the undergraduate's course to the existing information required under the transparency condition. This will enable us to look across the whole student lifecycle, from application to graduation. I will now ask my noble friend Lord Lucas and the noble and learned Lord, Lord Wallace, to speak to their amendments, and I will then respond.

Lord Lucas: My Lords, I will speak to Amendments 15 and 17. Amendment 15 would give the Secretary of State a general power to add requirements. My principal concern with this bit of the Bill is that we have not

really understood how much information UCAS has which it has not let out for the benefit of students and how many ways there are in which that information might be used to improve the quality of student decision-making. We will find this out, as time goes on, and I would like the Government to have the ability to respond to it. I am grateful for the changes which the Government have made in the Bill, particularly those to research using UCAS information, and we will certainly make some progress in this direction. However, I would be delighted if the Government felt able to give themselves the additional freedoms contained in Amendment 15.

Turning to Amendment 17, I want to be sure that all this information, which is being published by universities and made publishable by the Office for Students, actually reaches students who are in the process of making a decision. In the monopoly system in which we live, this effectively means that it must be provided—and easily accessed—through the UCAS system. Without this amendment, I cannot see where the Bill gives the OfS or any other part of Government the ability to direct that this information should reach students when they need it, rather than just being published and stuck away in some obscure place on universities' websites, as is a lot of interesting information such as, in some cases, what the courses actually teach. There is a long practice of not making vital information easy to find. I would like the Government to have the ability to make sure that it was there when students ought to have it.

The Earl of Dundee: My Lords, as has been indicated, Clause 10 identifies and prescribes certain mandatory transparency conditions. However, in Amendment 15, my noble friend Lord Lucas manages to propose a wider and more useful scope. The new words drafted by his amendment provide greater flexibility and enable the Secretary of State to assist better and more thorough transparency. I hope the amendment will be accepted.

Lord Wallace of Tankerness (LD): My Lords, I thank the Minister and the Government for Amendment 14 and their positive response to this issue, which I raised in Committee. I welcome the opportunity to have the pertinent information regarding degree classifications attained by students. Amendments 16 and 18 to Clause 10 seek to extend the groups for which we are seeking transparency. At the moment, the information which can be requested relates solely to the gender of individuals, their ethnicity and socioeconomic background. While not going back into the arguments we had in Committee about whether universities were public sector bodies or not, they are nevertheless subject to the public sector equality duty imposed by the Equality Act 2010. Amendment 18 would import into the Bill the protected characteristics of race, sex, disability, age and sexual orientation, in addition to the ones which are already there. Although higher education institutions are obliged to undertake these duties, to omit them may give a wrong signal and mean that we do not get the right kind of information if particular groups are falling behind or their participation rates are not as high.

5 pm

I wish to highlight two groups in particular: people with disabilities and people of a particular age. The noble Lord, Lord Bilimoria, talked about the importance of conferring degrees on students of advanced years, who have benefited from part-time education and lifelong learning. When I was the responsible Minister in the Scottish Government, I remember we gave my department the title of Enterprise and Lifelong Learning, stressing the importance of lifelong learning and the role that part-time education plays in it. It is important that these duties embrace people with disabilities and older students. Some studies show that it is among those who are older that there has recently been a drop-off in the number of part-time students.

I know from previous exchanges in our debates that the Government are somewhat reluctant to go down the road of a criterion or classification that might depend on self-description. That could apply to disability. I would prefer that it was not included but age is clearly objective. There cannot be any question of self-description in that—or one would hope not. Given the importance of encouraging people to pursue courses in later life, this point is important. I know that the Open University—I declare an interest as an honorary graduate—has sent round a briefing that emphasises the importance of having reference to age. I very much hope that the Minister will give serious consideration to that and, if possible, come back with an amendment at Third Reading if he thinks my amendment goes too far.

Lord Willis of Knaresborough (LD): My Lords, briefly, I support Amendment 17 in the name of the noble Lord, Lord Lucas. This is an issue that will be referred to in later amendments in the passage of the Bill. Like the noble Lord, Lord Lucas, I am particularly concerned about the mining of data which are available through all organisations that support students. That refers not only to organisations such as HESA but will obviously refer to the Office for Students in the future and to the universities themselves. It seems quite remarkable that we can ask for information.

I shall give the Minister and the House a clear example. You could ask a university to supply you with the number of students who have left a particular course over a three-year period. You could be told that you can have that information but it has a confidentiality clause linked to it, so you cannot publish or use the material without the express permission of the university or the individuals concerned. Most students are not interested in the individuals concerned; if they apply for a course in a subject or vocational area, they are interested in finding out how many people left during the course, how many qualified at the end of it and how many got jobs. The amendment of the noble Lord, Lord Lucas, and subsequent amendments tabled on Report would make that information available not only to students but to people who want to advise students on where to go for their degree courses.

It is essential that we stop this nonsense of universities being able to protect information purely on the basis of confidentiality when there is nothing confidential

[Lord Willis of Knaresborough]
in it at all. I can understand universities being asked not to release the names of individual students who have failed to complete, but this is a totally different issue of putting information in the public domain. It is high time that universities were held to account for making vital information available to students, and indeed to employers who may be using students from those courses.

Lord Triesman (Lab): My Lords, I also support the noble Lord, Lord Lucas, in this and would go a little further than the noble Lord, Lord Willis, with whom I profoundly agree. Over many years I have found that when you seek information in any of these areas in a general sense, you are told that it is essentially proprietary information owned by the universities rather than information in the public domain. That has several significant consequences. The first is that referred to by the noble Lords, Lord Lucas and Lord Willis. Many aspirant students or students who are on courses cannot get information to which they should be reasonably entitled.

As the noble Lord, Lord Willis, said, it is also true that this situation makes things more difficult for employers. However, the third category for whom this situation makes things very difficult are those who are trying to do research on universities' performance, on what works and does not and on what might be learned between universities. Provided that the identity of individuals is protected, there is no conceivably good reason not to have all that information available in a public sector as important as higher education and, indeed, in many other sectors as well. I suspect that in many other sectors it would be regarded as an extraordinary denial if this information were not made available for all those purposes—for users, those advising users and those doing research. I cannot see why in higher education this is regarded as private information not to be used for those purposes. That is wholly unsatisfactory.

Lord Willis of Knaresborough: I wish to clarify an issue. When the Minister introduced this group of amendments, he said that he would ask for Amendments 15, 16 and 17 to be spoken to before he replied. Does that mean that we cannot speak to the rest of the amendments? I have other amendments in this group.

Baroness O'Neill of Bengarve: My Lords, I have some sympathy with getting the age statistics right. That is a crucial example because it is objective and not highly sensitive, at least in my view. However, most of the other protected characteristics are not susceptible of statistically robust estimation. People do not always want to declare whether they are pregnant or to declare their ethnicity. I discovered that young people of mixed background did not wish to take sides between their parents, as they put it. People do not always wish to declare their sexual orientation, particularly when they are very young. The result is that one has an enormous number of "no information" entries in these statistics. To use this information in a statistically responsible way is not a simple matter. However, I exempt age. I would, until recently, have exempted gender because I think most people will give a simple answer on that. However, I fear that the information one actually records is not always robust.

Lord Stevenson of Balmacara: My Lords, this has been a very good and interesting debate. I think that there are some questions to which the Government will want to respond and I will not overegg the pudding at this stage. However, the question of why we are not including protected characteristics, as mentioned by the noble and learned Lord, Lord Wallace, is interesting. Amendments 16 and 18 are helpful in this regard. I take the points made by the noble Baroness, who is expert in these matters. However, if we as a country do not start to set out these requirements in terms of a whole range of protected characteristics, we will be the loser in the long run. It may be just be a question of how we do that.

This group of amendments also contains important first steps towards a more engaged transfer and credit transfer arrangement for students in relation to the higher education sector, which I welcome. However, I again wonder why the Government have not thought to take into account Amendments 47, 128 and 129. It seems to me that they would help progress in this regard, which is something we all support.

Viscount Younger of Leckie: First, I reassure my noble friend Lord Lucas that Clause 10(2) already requires higher education institutions to publish the information contained within the transparency duty. We expect prospective students to be able to access this easily on providers' websites. I further reassure my noble friend and the noble Lords, Lord Triesman and Lord Willis, among others, that this information will also be shared with the OfS with the intention of presenting these data in a comparable form to students, commentators and advisers.

To respond to the noble and learned Lord, Lord Wallace, I say that noble Lords will recall that we have concerns about legislating to add a wide range of additional characteristics to the duty due to the quality and comparability of the data as well as the disclosive nature of some of the information. However, having listened to noble Lords, and in particular to the noble Lords whom I mentioned just now, we have reflected on their suggestions, and I am pleased to make a commitment to the House today. The Government will, through guidance, ask the OfS to consult on what other information should be published by individual institutions with a view to making their record on widening participation even more transparent.

We expect the consultation to consider whether specific additional information should be made available by institutions. We expect this to include consideration of whether the protected characteristics under the Equality Act 2010 should be captured, including categories such as disability and age. However, the consultation will not limit itself to the protected characteristics and should also look at categories such as care leavers. This will enable a considered view of what additional information should be published by providers, balancing the desire for greater transparency around access and participation with considerations around the robustness and comparability of data, student privacy and the

regulatory burden on providers. Universities will be expected to respond to the outcome of the consultation as part of their future access and participation plans following further guidance, once we have established best practice.

I hope that it is clear that we have listened and reflected on the amendments tabled in Committee. The inclusion of attainment will make the transparency condition more effective, and the additional commitment to consult on what other information should be made available will help drive equality of opportunity for all students.

I now turn to the amendments relating to student transfer—

Lord Wallace of Tankerness: Before the Minister leaves that point, perhaps I might press him on something. I expressed a wish to include the characteristic of age, which is objective. I take some of the points made by the noble Baroness, Lady O'Neill, but, rather than putting this out to consultation, a very simple amendment at Third Reading would cover that because it is very pertinent to trying to do things about part-time education and engaging people throughout their lifetime.

Viscount Younger of Leckie: I will certainly reflect on what the noble and learned Lord has said. He has been in touch with me outside the Chamber, and I will read *Hansard* carefully and reflect on this matter before the next stage.

I now turn to student transfer. It is an issue that noble Lords raised in Committee and we have reflected on this as well. There is a vast array of reasons why a student might need or want to transfer between courses or institutions, be they personal, financial or academic. We received over 4,500 responses to our call for evidence on this issue last year. These told us that transfers do indeed already occur but the opportunities to do so are not well known and could be developed further. We believe that students should understand the transfer options available and know how to readily take advantage of them. That is why we are proposing Amendments 100, 139 and 141.

The new clause proposed in Amendment 100 would place a duty on the OfS to monitor arrangements put in place by registered higher education providers to enable students to transfer within or between providers, as well as the take-up of those arrangements, and the OfS would have a duty to report annually on its findings. The proposed new clause would also enable the OfS to facilitate, encourage or promote awareness of the arrangements for student transfer so that the OfS could help ensure that students understood the options for changing course or institution and that best practice was promoted among higher education providers.

I thank the noble Lord, Lord Willis, and the noble Baroness, Lady Garden, for their amendments on this important issue. However, given the Government's assessment of the evidence of barriers to student transfer, I do not think it is desirable to adopt these amendments. Such an approach would reduce the flexibility available to the OfS as it develops its understanding, as well as being overly prescriptive and potentially burdensome on institutions. I believe that the government amendment will achieve our shared aims without interfering with or overly mandating how the OfS manages its information-collection processes.

Lord Willis of Knaresborough: I want to clarify with the Minister whether I can make an intervention to ask him something or whether I can speak to these amendments.

Viscount Younger of Leckie: My understanding of the rules in the *Companion* is that the noble Lord is able to ask a short question for clarification.

Lord Willis of Knaresborough: In that case, I shall do so. It must be clear to any Member of this House who has followed credit transfer and accumulation and linked it with transfer between institutions that, when transferring to another institution and using prior learning to shorten a course or indeed continue with a course, it is essential to have in place an effective credit accumulation system. Unless there is some movement in that direction then, quite frankly, just being able to publicise whether you can transfer between institutions is rather meaningless.

Viscount Younger of Leckie: I hope I have made it clear that it is very much a priority to enable students to do so, in that we want to make sure that, practically, this can work. I hope I have given enough reassurance that this will work—it will need to work, otherwise it will not work.

Amendment 14 agreed.

Amendments 15 to 18 not moved.

5.15 pm

Amendment 19

Moved by ***Lord Kerslake***

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

"Regulated course fees etc: use in relation to section 26

(1) The scheme established under section 26 must not be used to rank English higher education providers as to the regulated course fees they charge to a qualifying person; or the unregulated course fees they charge to an international student; or the number of fee paying students they recruit, whether they are qualifying persons or international students.

(2) In this section "regulated course fees", "qualifying person" and "international student" have the same meaning as in section 11."

Lord Kerslake: My Lords, I rise to move Amendment 19 in my name and that of the noble Lord, Lord Stevenson, and the noble Baroness, Lady Garden. I have already declared my interest as chair of Sheffield Hallam University board of governors. On this amendment, I should also declare that Chris Husbands, the excellent vice-chancellor of Sheffield Hallam University, is the chair of the teaching excellence framework panel established by the Government to oversee the development of the TEF.

The effect of this amendment would be to prohibit the use of the TEF ranking in either the setting of the student fee cap or the number of students that a university can recruit. This would apply to both national and international students, so preventing the possibility that the TEF ranking might be linked to the issuing of

[Lord Kerslake]
student visas. Others will speak on this latter issue in a moment. I would like to focus on the issue of linking fees to the TEF.

It is important to be clear at the start of this particular debate that there is a lot of agreement on the issues of teaching quality and fees when taken separately. Across the House, there is widespread support for the Government's efforts to raise the profile and improve the quality of teaching in our universities. Students paying £9,000 a year are entitled to expect a consistently high quality of teaching, wherever they undertake their degree. This has been true for many universities and many courses, but not enough. There remain differences of view about whether the approach currently being taken to the TEF by the Government is the right one. This will be the subject of a separately debated amendment from the noble Lord, Lord Blunkett. However, there is absolutely no argument about the need for an assessment of teaching quality and for data on such things as student satisfaction and job outcomes to be freely available. The Government's announcement of a genuine lessons-learned exercise for the TEF after this trial year, and the extension of the pilot phase of the subject-level TEF by an additional year, are both welcome.

Equally, there is an understanding that student fees need to be able to rise to reflect inflation. The Treasury should not have been surprised when most universities increased fees to the maximum cap of £9,000 in 2012. This largely reflected the loss of other government funding. Our universities have been spared the gruelling austerity of other parts of the public sector, albeit at a cost that has been passed on to students and, for many, to future taxpayers. However, I have no doubt that a properly argued case for further inflation-level increases will, and indeed should, get the support of Parliament. The issue here comes from the Government's plans to circumvent the debate on fees and allow inflation increases only for those universities that have achieved silver or gold rankings. There are four main reasons why this approach is simply wrong.

First, the TEF is not ready. There is not yet a settled methodology. Indeed, the very fact that the Government have agreed to a fundamental review this summer, including how the metrics are flagged, the balance between the metrics and the provider submissions, and the number and names of the ratings, tells us that we are some way off where we need to be on this. As the noble Lord, Lord Norton, put it so well in Committee, the TEF is being asked to bear too heavy a load. As things currently stand, universities ranked gold and silver will be able to increase their fees, but bronze-ranked universities, perhaps 20% of the total, will not. Yet in our debate on the TEF the Minister stated clearly that bronze should be seen as a worthy rating. Whichever way we look at the issue, this is an approach to fee setting that has not been properly thought through.

My second reason for not making the link is that the TEF rating will relate to the university, not the subject or course. We will not see subject-level ratings until 2020 and yet we know that it is perfectly possible to have a mediocre course in an otherwise excellent university, and indeed vice versa. It can be argued that the TEF ranking gives an indication of the overall student experience at a particular institution, but the variation which so obviously exists within institutions makes that argument quite unconvincing.

My third reason why this is a bad move is that, if the case for the link is being made on behalf of students, we know that the body which represents them, the NUS, is vehemently against the proposal. Its argument is a simple one: there is no evidence of a relationship between increasing fees and increasing quality of teaching. It seems very hard to argue the case for a shift towards a student voice as a consequence of student loans and then to completely ignore the clear view of student representatives up and down the country.

My fourth and final argument is that there is absolutely no need to provide this particular incentive to improve teaching quality. The impact of the TEF, coupled with the demographic and other changes we are experiencing, will provide more than enough incentive. University-age pupils leaving school have fallen for four years and are set to fall for another six. The total reduction will be 20%. At the same time, maintaining and growing the number of overseas students is likely to be a real challenge. Put simply, we do not need to put further pressure on what is already going to be a challenged system.

To conclude, there is a strong case for promoting teaching excellence and for allowing student fees to rise in order to reflect increasing costs. However, putting the two together in the way the Government are currently proposing is both ill judged and unfair. I beg to move.

Baroness Garden of Frognal: My Lords, I have added my name to the amendment moved by the noble Lord, Lord Kerslake. He has set out the arguments on this important issue convincingly and comprehensively, both in Committee and again today, so I shall not repeat them. It is simply wrong that either the amount a student should pay in fees, or indeed if a person can come to study in the UK, should be determined by whether a university achieves a gold, silver or bronze standard rating, or whatever grading system is put in place. Our Amendment 73 in a later group is linked to this and also seeks to disconnect the ability of international students to attend a course from the quality rating of the provider.

On the matter of international students, the noble Lord, Lord Kerslake, referred to an already challenged system, but we can read today in an analysis by Universities UK that they generate some £26 billion for the economy each year and support 206,000 jobs across the UK. It is folly to take actions that deter international students on financial grounds and, possibly even more important, it is folly to do so given their contribution to international relations, academic standards and generally to our quality of life. I add my strong support from these Benches to this amendment.

Lord Desai (Lab): My Lords, I will be somewhat maverick. I have spent a lot of time in British higher education. I started when the whole idea of charging students fees was thought to be outrageous. At the LSE we initiated research into income-contingent loans, which students would take for higher education. While it was said at the time that it would be terribly harmful, not much harm has been done.

However, there is a great liking for uniformity in this country, because uniformity is mistaken for equality. I was involved in the first research assessment exercise back in 1988. In research rankings, we have information on universities by different departments. They have been ranked from five star to one so that students know which universities are good and which are not. They consult this information before they apply. It is no good pretending that somehow students will not look at the quality of universities and so on.

However, I agree that universities should be allowed to charge different fees for different courses. The noble Lord, Lord Quirk, who was vice-chancellor of the University of London many years ago, proposed during debates in your Lordships' House some years ago that there should be not a single fee for all courses in a university but different fees for different courses. But that is a separate issue.

I am reluctant to force the system into uniformity so that people have to pick up signals of quality differences somewhere else. If a university wants to charge £15,000, let it. If it is no good, people will not go there. I do not see what the problem is. This is how the American system has survived for many years and thrived. It has very good outcomes in higher education. We have somehow tied ourselves into knots that things must be uniform, that things must be like this and that there must be overregulation. We are then surprised that universities create silos for themselves—they do not co-operate with each other and so on. I am sceptical that this is a desirable amendment.

Baroness Deech: My Lords, I remind the Minister that, if the amendment is not passed, the Government's efforts to increase social mobility and diversity will be very badly damaged. By and large, the established—we might say "better"—universities will be able to charge more and will attract those students who can afford to pay it and who can afford to choose. By and large—of course not always—less-established universities will come out lower and will not be able to raise their fees. Not so well-off students will go to them.

Add to that the fact that the Government's policy has been to get rid of the grants that enabled students to travel to other parts of the country and pay for accommodation in universities that were not in their home town. There are loans there, but those grants have gone. In other words, it is more expensive for a student to leave home and go to another university. That will increase ghettoisation. We already know that students tend to cluster in one type of high school. They may be forced to attend their local university because they cannot afford anything else. It may not be a very good one. The inequalities will simply reinforce themselves. If we detach fees from gold, silver and bronze, we stand a chance of increasing social mobility under the amendment. If we do not, social mobility will be frozen and ghettoisation will increase. I therefore support the amendment.

5.30 pm

Baroness Wolf of Dulwich: My Lords, I, too, support the amendment. I agree with my noble friend Lord Kerslake that to use the TEF in its current state as a mechanism for deciding what fees an institution can charge is premature and quite wrong. I agree with him also that, given that the Government wish to put students at the centre of things, it is extraordinary how little we are listening to them. At the moment, not a single representative body led by students has backed the proposal to link the TEF judgments to the level of fees. Twenty-six students unions, including a number in the best-known universities—in fact, largely in the better-known universities—are boycotting the national student satisfaction survey this year because they are so concerned that the metrics that the Government propose to use are inappropriate.

It is worth remembering that the Conservative manifesto undertook to recognise universities offering the highest teaching quality. I do not think that a single person in this Chamber does not believe that teaching quality and giving information to students about it are extraordinarily important. I want to quote my own institution. A joint statement from the college and its students union said:

> "The university and the Students' Union … agree that the Teaching Excellence Framework … metrics currently under discussion are not, in their current form, appropriate measures for improving educational quality".

The president of our students union feels strongly that, while students have never disagreed with this principle, they dispute the employment of the teaching excellence framework in its current form to achieve the goal of improving teaching quality in higher education. These are serious young people and they have thought about what they are doing. They feel that linking fees to the TEF is not appropriate.

Many people will know that Universities UK feels that the Government have great concessions and that this is basically fine. It is worth remembering that this was an action on the part of its executive. It is also important to remember that in the current environment vice-chancellors are above all interested in behaving in such a way that they maximise their fee intake. I remind people who have not already heard it of Goodhart's law, which basically says that any instrument, measure or metric used for making decisions or allocating funds which are of high importance automatically becomes unreliable. It is a law for which nobody has yet found a counter example; it is my daily teaching bread and it is true not just in education but in hospitals, social care and everywhere else. If we want to give people really good information on the teaching quality in their institutions, tying it to whether that institution can raise its fee is not a good way to improve the quality of the measurements.

I want to cite three groups of academics who are quite separately trying hard to get through to us, the Council for the Defence of British Universities, the Campaign for the Public University and the Convention for Higher Education, all of which feel, as do students, that in their current state the TEF metrics are not up to the job of determining fee levels and that, until we are sure that we have valid and reliable measures, we should not do this.

Lord Lipsey: My Lords, hearing the words "TEF metrics" made me come to my feet, because a consistent theme to run through our debates on the Bill has been

[LORD LIPSEY]
the developing understanding that the metrics are wholly inadequate and, in particular, that the national student survey is not the basis for any judgments on teaching quality.

I am glad that the Government have moved as far as they have on the NSS and the metrics—now we are getting a thorough review; the metrics related to the NSS are being officially described as the least important of the metrics before us; for smaller institutions more scope is being given; and so on. That is all good news, but what seems knocking on bizarre is to plough on with bringing in this link between fees and the TEF before we have got the TEF right. It would be logical to get the TEF right first, see whether the metrics can be made to work and get them all in some sort of order, and then, when you have done that, you can seriously consider whether to have a link with fees. But when the TEF is such a self-evident mess, why put all your money on having the fees link, which will make people even angrier at the effects of the TEF? Why not show a little patience? The Government believe in linking the TEF and fees; others in this House do not. The Government would give themselves the best chance of proving themselves right and the sceptics wrong if they gave time for the TEF to settle down before they brought in the fees link.

Lord Bilimoria: My Lords, I remind your Lordships that when the Browne report came out at the beginning of the coalition Government, the change was introduced to increase fees from £3,000 to £9,000 in one go and to convert to a loan system. I remember tabling a regret Motion at the time. The argument then was that a market would be created so that students would go for universities and courses that were better value for them, but what I highlighted in my Motion was that the Government were withdrawing funding on the one hand and tripling the fees on the other. In the five years since the change was implemented, there has been no market; universities across the board have had to increase their fees virtually to the maximum £9,000, because funding was withdrawn at the other end. For students, it was a double whammy. Their fees were tripled in one go—I suggested that it should have been phased in—and they are now saddled with loans of tens of thousands of pounds that they have to pay off. On the other hand, for the universities, there is a £9,000 figure which for some subjects—science and engineering, let alone medicine—is nowhere near enough to provide that type of teaching.

This is a Hobson's choice. You can understand the students' point of view—they are already paying £9,000; they were paying £3,000 and they got the loans; they do not want the fees to go up—and you can understand the universities' point of view: they want to provide the best possible research, teaching and facilities for their students, but they have had no increase in their fees for five years. In real terms, the £9,000 is already down to just over £8,000. Now we have this further linkage with teaching.

I want your Lordships to understand that this is not easy. Universities operate in a challenging environment. We are competing with the whole world. We have the best universities in the world along with the United States of America. Our research is fantastic. I am proud of our universities, but in many ways we have our hands tied behind our backs. I applaud our students and our universities.

Baroness Blackstone: My Lords, I can see why the Government want to link the quality of teaching to fees. I assume that behind it is that they need a kind of sanction to do something about those universities which are not providing adequate teaching. I say to the noble Baroness, Lady Deech, that the best teaching is not necessarily provided by those universities which do the best research; in other words, the high-status universities. Some of the new universities have excellent teaching quality, where some of the best research universities do not give it enough attention.

I support what my noble friend Lord Lipsey said. It is not the right time to attach the decision about the fees that can be charged to the TEF, because we do not have a TEF that is yet suitable and up to scratch in how it will operate. It is putting the cart before the horse. There may be some date in the future when it might be appropriate for the ability to increase fees to be related to the quality of teaching, but we have not reached that point. We really need to get our metrics right and provide a TEF that is fit for the job that it is being asked to do.

Lord Stevenson of Balmacara: My Lords, this has been a very good debate and it anticipates another debate which, at this rate of progress, we will be able to schedule and advertise for those noble Lords who wish to come back and listen to it for Wednesday just after Oral Questions, when we will be returning to many of the themes. This is quite a narrow amendment. The amendment before noble Lords is not about what metrics could be used or other issues relating to the TEF, as it is called. It specifically tries to avoid that, to leave space for that debate to take place on Wednesday. It specifically tries, though, to break the link that might be established between any scheme established under Clause 26 and the ranking of higher education providers as to the fees or the number of students they may or may not recruit.

On a number of occasions the Minister has been at pains to point out that, throughout the very long period we kept the House sitting in Committee on the Bill, he was, in complete contradiction to the impression he gave, listening and, indeed, in some cases, reflecting. It was sometimes difficult to get the nuance between listening and reflecting but those were the words he used. We were doing the same. We have been listening to and reflecting on some of the responses we have heard to the very good cases that have been made around this aspect of the Bill, and I have to say that, having listened and reflected, I do not think he has made the case well, but the case that has been made around the Chamber this afternoon is exactly on spot.

If you want to raise the fees in higher education to accommodate the cost increases referred to by the noble Lord, Lord Bilimoria, it has been possible since 2004, and Labour's Higher Education Act, to raise fees by inflation. It was done routinely between 2007 and 2012 by two successive Governments. There is no reason at all why the Government should not bring

forward a statutory instrument under the terms of the Act that makes provision for the power to do so. There is no need, in fact, to anticipate what may be a good system for measuring higher education by linking it to the teaching quality that has been discovered by a half-baked scheme that is not yet half way through its pilot system. The case was made very well by the noble Lord, Lord Kerslake, and by the noble Baroness, Lady Garden of Frognal. The case for linking the quality of education and fees, or the quality of education and the number of students, is completely hollow. I very much hope that if the noble Lord wishes to test the opinion of the House, he will do so. We will support him.

Viscount Younger of Leckie: My Lords, before I discuss fees, I would like first to be clear that the Government welcome genuine international students, and to reiterate the confirmation that I offered in Committee that we have no plans to cap the number of genuine students who can come to the UK to study, nor to limit an institution's ability to recruit genuine international students, based on its TEF rating or on any other basis.

As well as the link to student numbers, this amendment would remove an important principle at the heart of the TEF: the link to fees. The TEF is intended to rebalance the priority given to teaching and learning compared to research. Funding for teaching is currently based on quantity, whereas research is funded on quality. It was a Conservative Government who first introduced early versions of the research excellence framework. Over the past 30 years, the principle of linking funding to quality has incentivised the UK's research base to develop into the world-leading sector that we have today. We want to apply the same principle that has driven such continuous improvement in research to teaching. Linking fees to the TEF will provide strong reputational and financial incentives to prioritise the student learning experience.

It is important that high-quality institutions can maintain fees in line with inflation if we are to ensure that the sector remains sustainable. As I pointed out in Committee, the £9,000 fees introduced in 2012 are worth only £8,500 today and will be worth less than £8,000 by the end of the Parliament. If we want to provide the best-quality education in our universities, and to compete with our global rivals, universities need the resource to invest in their teaching facilities. This is why the Universities UK board unanimously supported the link between an effective TEF and fee rises. Some 299 institutions have voluntarily applied to take part in the TEF this year out of about 400: that represents a big majority. This includes the majority of the established higher education sector, including all the English Russell group universities. I think that noble Lords will agree that this represents a very encouraging and excellent endorsement of the current scheme.

Furthermore, as GuildHE said:

"The link between the TEF and inflation increases in fee and loan caps makes sense ... When the £9000 fee cap was introduced in 2012/13, the BIS spending review assumption was that it would rise by inflation each year. Instead, the price has been held flat for four years. Without an increase to take account of rising teaching costs, the ability of institutions to invest in the quality of the learning experience on offer will, inevitably, decline".

However, there will be no something for nothing. Make no mistake: if this amendment is enacted the sector will lose £16 billion over the course of the next 10 years. This is the value of the funding we intend to make available for institutions through the TEF. We will not allow universities to raise their fees unless they can demonstrate, through the TEF, that their teaching is of the highest quality.

5.45 pm

The noble Lord, Lord Kerslake, has suggested that we might be circumventing Parliament. I would put him right on this: we believe we are not. We will be using the same mechanism that was introduced by the Labour Government in 2004—the noble Lord, Lord Stevenson, alluded to that. All fee increases will need to undergo parliamentary scrutiny as they do now.

This amendment would have a knock-on impact on academic jobs, student experience and regional employment. It would leave our best universities facing a major funding gap. Alternatively, the intention behind this amendment may be to let every university raise its fees, regardless of the quality of its teaching. That position seems very hard to justify. The noble Lord, Lord Watson of Invergowrie, said in Committee:

"Since tuition fees were increased from £3,000 to £9,000 in 2012, there is no evidence to suggest that there has been a consequential improvement in teaching quality … institutions have, in some cases, been shown to spend additional income from the fees rise on increased marketing materials rather than on efforts to improve course quality".—[*Official Report*, 18/1/17; col. 253.]

Linking fees to teaching quality, through the TEF, is the only way of providing the necessary incentive for universities to genuinely focus on improving teaching.

Every higher education Minister since the noble Lord, Lord Mandelson, was in post has recognised the need to put in place incentives for better teaching, and we are delivering on a manifesto commitment to do just that. Without allowing financial incentives of the kind proposed, noble Lords will be failing generations of students who want to see their higher education institutions give teaching the same priority as they give research. The financial incentive is already driving improvements on the ground, with some universities reforming their promotion criteria to place a greater emphasis on teaching and others putting increasing effort into narrowing the attainment gap between advantaged and disadvantaged students. We all know that money talks, and linking the TEF to fees is driving change where decades of kind words and encouragement have simply not.

The noble Baroness, Lady Deech, in her impassioned speech, made the point that the TEF will negatively impact on social mobility, but we expect that the TEF will actually support further social mobility—I hope I made that clear in my remarks on other amendments. The TEF metrics are explicitly benchmarked so that institutions that take substantial numbers of students from disadvantaged backgrounds will not be penalised—quite the reverse. Indeed, the Sutton Trust has said,

"we need to shake the university sector out of its complacency and open it up to a transparency that has been alien to them for far too long. It is good that they are judged on impact in the research excellence framework, and that the teaching excellent framework will force them to think more about how they impart knowledge to those paying them £9000 a year in fees".

[Viscount Younger of Leckie]

The noble Baroness suggests that the TEF and fee link will cement the existing perceived hierarchy among universities. We believe that this is simply not the case. As Edward Peck, the vice-chancellor of Nottingham Trent University says:

"The TEF could redefine the idea of 'great' universities".

Nevertheless, we recognise that genuine and considered concerns were raised by noble Lords in Committee, and we are listening. For this reason, in February the Minister for Universities, Science, Research and Innovation reaffirmed his commitment that a genuine lessons-learned exercise will take place after this trial year. He confirmed that this will review how the metrics are flagged and used to form hypotheses; the balance between metrics and provider submissions; and the number and names of the ratings.

Furthermore, we are bringing in the fee link gradually. For the first two years, all providers that take part in the TEF will receive the full inflationary uplift. It is only in the third year—after the lessons-learned exercise—that we will introduce a differential fee link. The noble Lord, Lord Kerslake, suggested that bronze providers will not get to raise their fees. I say to him that they will be able to charge 100% of inflation until differentiation is introduced. Thereafter, we intend that they will be able to charge up to 50% of the inflationary uplift. The Minister also announced that he would extend the pilot phase of subject-level TEF by an additional year, meaning that the first full year of TEF subject-level assessments will not be until spring 2020. This is a significant delay that reflects the desire of noble Lords not to rush into the TEF, and plays rather well, I think, into the point made earlier by the noble Lord, Lord Lipsey.

We believe that our position is an entirely reasonable one; it has been consistently supported by the sector, which has said:

"Allowing universities to increase fees in line with inflation, on the condition of being able to demonstrate high-quality teaching through an effective TEF, is a balanced and sustainable response to these two objectives".

It has also said:

"The government continues to demonstrate a genuine commitment to work with the sector as the TEF evolves".

Similarly, we have listened to and acted on the concerns raised in this House. We have made meaningful changes but this one would go too far. We believe that linking the TEF to fees is the only way to maintain the sustainability of our higher education system while ensuring good value for students. As UUK and GuildHE said in their letter to Peers:

"We believe that adding more to the bill about the TEF (beyond the existing clause which allows this framework to be established) risks damaging the flexibility which is required to allow the sector and government to work together to achieve a tool which is ultimately useful for students, staff and employers".

In addition, in an op-ed today on the TEF, Professor Sir Steve Smith from Exeter University said:

"I, like every other member of the Universities UK Board, support the link between an effective TEF and fees. In order to provide the best quality education and student experience in our universities it is essential that we are allowed to maintain our fees in line with inflation—but it is entirely reasonable of the government to demand in exchange that we are providing a high quality education".

I therefore ask that Amendment 19 be withdrawn.

Lord Kerslake: My Lords, I am grateful to noble Lords for their contributions to this very good debate. We heard very clearly about the concerns that the TEF is not ready and about the potential impact of this proposal on social mobility. Indeed, we heard from the noble Baroness, Lady Wolf, that not one student body has found it necessary to support the proposal. This is something that is purportedly being done in the interests of students but none of the student bodies actually supports it. The noble Lord, Lord Bilimoria, made the very important point that the reason why we have the uniformity that the noble Lord, Lord Desai, referred to is precisely because government grants were taken out at the time at which the fee cap was raised. The two things went hand in hand.

It is really important to say that there is no need for universities to be deprived of the opportunity for inflation increases. If that were to happen as a consequence of this amendment, it would be entirely an action that the Government have chosen to take. It is clear that there is already a quality assurance system and that the TEF system, when it is finalised, will bring an ability to drive up quality. There is plenty of incentive in the system through the introduction of the TEF, and there will be plenty of incentive through other competitive changes in the sector. Crudely linking a TEF system that is not yet ready to the increase of fees is simply wrong and unfair on those universities which come out at the wrong end of it. I am afraid I have not been persuaded by the Minister's arguments. Therefore, I wish to test the opinion of the House.

5.55 pm

Division on Amendment 19

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Amendment 19 agreed.

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Prior of Brampton, L.
Rawlings, B.
Redfern, B.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Rowe-Beddoe, L.
Saatchi, L.
Sanderson of Bowden, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sharples, B.
Sheikh, L.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Skelmersdale, L.
Slim, V.
Smith of Hindhead, L.
Spicer, L.
Stedman-Scott, B.
Stowell of Beeston, B.
Strathclyde, L.
Sugg, B.
Suri, L.
Taylor of Holbeach, L. [Teller]
Taylor of Warwick, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Wasserman, L.
Watkins of Tavistock, B.
Wei, L.
Wheatcroft, B.
Whitby, L.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

Sky and 21st Century Fox: Proposed Merger

Statement

6.09 pm

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, with your Lordships' leave, I will repeat a Statement made in the other place by my right honourable friend the Secretary of State for Culture, Media and Sport.

"I promised to give the House an update about progress on the process for the bid by 21st Century Fox to acquire the 61% share of Sky which it does not already own. I can confirm that formal notification for the proposed merger of Sky and 21st Century Fox was lodged with the European Commission on Friday 3 March and that I, on Friday, wrote to the parties to inform them that I am minded to issue a European intervention notice on the basis that I believe there are public interest considerations, as set out in the Enterprise Act 2002, that may be relevant to this proposed merger that warrant further investigation. To be clear, I have not taken a final decision on intervention at this stage but have indicated what I am presently minded to do. In line with the guidance that applies to my quasi-judicial role, I will aim to come to a final decision on whether to intervene in the merger within 10 working days of Friday's notification. Before I make my final decision, and in line with statutory guidance, I have invited further representations in writing from the parties and have given them until Wednesday 8 March to provide them.

In December, I made clear that I would make this quasi-judicial decision independently, following a process that is scrupulously fair and impartial, and as quickly as possible with all relevant information in front of me. To enable this, I instructed my officials to commence work to analyse the relevance of the public interest considerations to the merger and to consider the available evidence. Since the 9 December announcement, I have received representations from the parties to the merger, as well as representations made in writing to the department from a range of people and organisations. They include more than 8,700 responses made in connection with the department's consultation on the Leveson inquiry and its implementation which referred to the merger. Given my quasi-judicial role, I can consider only evidence which is relevant to my decision.

On the basis of this preparatory work, I have issued a 'minded to' letter to the parties on two of the public interest grounds specified in Section 58 of the Enterprise Act 2002. The first public interest ground on which I am minded to intervene is media plurality. That is, specifically, the need for there to be a sufficient plurality of persons with control of the media enterprises serving audiences in the UK. My concern here is that the merger will bring under common or increased control a number of significant news sources, including Sky News and News Corporation's newspaper titles. As a result, I have told the parties that I am minded to ask for a report from Ofcom on the impact of the merger on media plurality before considering the matter further.

The second public interest ground on which I am minded to intervene is commitment to broadcasting standards. This ground relates to the need for persons carrying on media enterprises, and for those with control of such enterprises, to have a genuine commitment to attaining broadcasting standards objectives. As I have indicated to the parties to the merger, I am concerned about the nature of a number of breaches of broadcasting standards by 21st Century Fox as well as the behaviour and corporate governance failures of News Corporation in the past. In light of those matters, I am minded to intervene on this ground and to ask Ofcom to investigate them further.

I also want to be clear on what this means in terms of the overall process. My decision on whether to intervene is not the end of the matter. Instead, it would recognise that these public interest considerations may be relevant to the merger and will trigger action by Ofcom to assess and report to me on them and the Competition and Markets Authority to report on jurisdiction. There would then be a further decision-making stage for me to undertake in light of those reports, but we are not at that stage yet. As I said at the outset, I will aim to take the final decision on whether to issue a European intervention notice within the 10 working days set out in the guidance and will return to this House to notify Parliament of this decision.

I am today, as I said I would, keeping this House appropriately informed of developments on this important matter, and it is right that I continue to do so. However, given this remains a quasi-judicial process in which I retain a decision-making role for the next 10 days, and potentially beyond, it would be inappropriate for me, or any other member of this Government, to comment on the substantive merits of the case. I hope this update is helpful to honourable Members and that this Statement gives an opportunity to debate this important issue, but at the same time I hope that honourable Members will respect the limits of what I can say given my ongoing decision-making role".

6.14 pm

Lord Stevenson of Balmacara (Lab): My Lords, I am obliged to the noble and learned Lord for repeating the Secretary of State's Statement in another place. I am also very grateful to the Secretary of State for coming at what I think must be the earliest possible moment, because she said that she received notification of this only on Friday 3 March. It is very good that she was able to come so quickly. I also put on record our thanks to her for attending a meeting convened by the noble and learned Lord last week where a number of Peers from all sides of the House were able to ask her questions and examine a bit more closely some of the issues that relate primarily to the Digital Economy Bill but also to this subject.

My first question is about who is caught by the quasi-judicial mode, which was mentioned several times by the noble and learned Lord. The Statement refers to the Secretary of State and the Government. Will the noble and learned Lord confirm or deny whether that is departmental Ministers in DCMS or whether there are any other Ministers involved? I will be interested to know to what extent we are able to ask questions and gain answers over this period, which may last a number of weeks.

An important point is that the Statement does not cover the corporate structure which we are now facing with this proposed merger. We know that 21st Century Fox indicated on 9 December that it was making a takeover approach for Sky. It already owns just over 39% of Sky shares, so it is the balance of the shareholding. We know that, after a period of pre-discussion and debate, the European Commission was formally notified of the bid on Friday 3 March. It is important to get it right because there have been changes since we were in this process six years ago. 21st Century Fox is one of two successor companies of News Corporation, which was split up in 2013. It is important that we recognise that Fox is the legal successor of News Corporation and deals primarily with the film and television industries and another company, new News Corp, is a new company focused on newspapers and publishing that was spun out of News Corporation. In the UK, new News Corp owns the *Sun*, the *Times* and the *Sunday Times*. The point is that, although the corporate vehicle under which the acquisition is being made is 21st Century Fox, it is common understanding that the same principles are involved on both sides of that split and therefore the inquiry needs to take account of that. From what the Secretary of State has said, I think there is a willingness to go a little bit further than the straightforward 21st Century Fox approaching Sky. I will be grateful if the noble and learned Lord can respond to that at this stage.

The Secretary of State made the point that there are two dimensions to the inquiry that she is minded to look at. One is plurality. The point was made that, if this bid is successful, it will put an even greater amount of media power in the hands of the Murdoch family in particular and the people involved. Ofcom therefore needs to look at the whole of the group of Murdoch companies in assessing whether the Sky takeover would threaten media plurality. That is a very important aspect in relation to what I have just said about the ownership and control of the family companies that are involved.

The world has changed since 2010-11 when we last looked at this, and Ofcom will need to range much more widely across the media and look at not just newspapers and traditional news delivery through broadcasting but at social media, news aggregators and others from which news is taken. This is quite a substantial change in operation, and I will be grateful if the noble and learned Lord has any observations on whether the resources that are available to Ofcom will be sufficient to cope with that new approach and challenge.

The second ground on which the Secretary of State says she is minded to intervene is on commitment to broadcasting standards. I notice that this section of the Statement is quite carefully phrased. The convention is to refer to the fit and proper test required under the Broadcasting Acts for those who hold a broadcasting licence. Sky holds a broadcasting licence and therefore the controllers of Sky have to be fit and proper persons. The narrow point here is the extent to which that is focused as a process on individuals who may or may not be the named licence holders or on the corporate structure within which they operate. I would be grateful if the noble and learned Lord can confirm that the intention, even though it is not explicit in the Statement, is to look at not only at the individuals but at the corporate structure within which they operate because clearly there are issues on both sides of that.

This is a very important issue, which we will return to in a few days when we understand more about the European intervention notice and whether or not that has been called, and also the extent to which Ofcom will report and whether or not that Ofcom report will lead to further work by the CMA. It is important we

[Lord Stevenson of Balmacara]
get some of the facts on the table now, and I look forward to hearing further from the noble and learned Lord.

Lord McNally (LD): My Lords, from these Benches, I welcome both the speed and tone of the Statement from the Secretary of State. She has been careful to keep to the legal niceties, although any reading of this would welcome what she considers the merits of the case, particularly, as has been said, her emphasis on media plurality and the commitment to broadcasting standards. These were at the heart of the debate we had over a decade ago—putting into legislation the right to intervene on public interest grounds—led by my noble friend Lord Puttnam, with the support of the noble Lord, Lord Lansley.

It is important to remember that, if anything, the arguments we had then which finally persuaded the then Government to accept the public interest test have got stronger over the last decade, in no small measure because of the behaviour of companies and organisations in which Rupert Murdoch has had an influence. We now face that problem again. Does the noble and learned Lord agree that this is still a major issue with the Murdoch empire in particular, and given the need to take on board how these companies change their structures without really ever changing the spider at the heart of the web?

The other, equally important point, as has been said, is the changes in broadcasting and media over the last decade. Mr Murdoch may play a big part in many ways, but he will soon be a small player compared to some of the giants wandering the media jungle. Does the Minister agree that the danger is that, if we get this wrong, we will set precedents which, when those big boys come along, will leave us in a very weak position in defending the very principles the Secretary of State so eloquently expressed in the Statement?

Lord Keen of Elie: I am obliged to the noble Lords, Lord Stevenson and Lord McNally, for their observations, and will seek to respond to some of the points they have raised. The noble Lord, Lord Stevenson, asked "whose court", as he put it, deals with this quasi-judicial decision-making process. It will be for the Secretary of State to carry out that process, with the appropriate officials advising her. It will not involve other government departments or Ministers; it will be her decision and her decision alone that instructs this matter. I hope that reassures the noble Lord as to how the process will be carried on.

As for the corporate structures and the past involvement of News Corporation, as the Secretary of State indicated in the Statement, when we address the question of commitment to broadcasting standards, account will be taken of past breaches of those and of behaviour and corporate governance failures, including those relating to News Corporation.

Ofcom, of course, has a fit and proper person test, but that applies in respect of broadcasting licences rather than this issue. It is a different test to the one that will be considered with regard to the merger, but it is important to bear in mind that the same evidence may of course be relevant to both tests. As the Secretary of State set out in her letter, she considered that a number of relevant matters warranted further investigation, including facts that led to the Leveson inquiry, for example, and the question of corporate governance at the *News of the World*. It will be open to Ofcom to look at all relevant areas—none are being ruled out in this context. The ultimate question will be whether the bidder shows a genuine commitment to broadcasting standards, which will raise very real and relevant questions with regard to past behaviour.

The noble Lord, Lord McNally, asked whether we might be in danger of setting an unhealthy precedent, given the other tests that may be put before us in due course by other media outlets. With respect, I do not consider that this decision-making process involves the setting of precedents. Each of these proposals will be considered on its individual, stand-alone merits. I hope that provides some reassurance to noble Lords.

Lord Stevenson of Balmacara: Before the noble and learned Lord sits down, can I just quote back to him what he said only a few moments ago at the Dispatch Box?

"However, given this remains a quasi-judicial process in which I retain a decision-making role for the next 10 days, and potentially beyond, it would be inappropriate for me, or any other member of this government, to comment on the substantive merits of the case".

Is there a slight variance with what he said there?

Lord Keen of Elie: There is no variance. It would not be appropriate for any member of the Government to comment on it, but the decision-making process will be by the Secretary of State.

6.26 pm

Lord Birt (CB): My Lords, I welcome the clarity and emphasis in the Secretary of State's Statement. I fear some may argue, "Never mind the quality, feel the width": that there are, as the noble Lord, Lord Stevenson, mentioned, many new centres of news on social media and in other places, but it is important to remember that news in the UK, whether print news or broadcast, is facing financial adversity. We see cuts on all sides and a diminution in the quality of our journalism. Does the Minister accept that these criteria need to be applied when considering this matter?

Lord Puttnam (Lab): My Lords, first, I thank the noble and learned Lord for repeating the Statement, which is for the most part very welcome. Not frivolously at all, the two criteria the Secretary of State has chosen are precisely those for which all-party amendments have been put down for the Digital Economy Bill. I have a question relating to each of them.

The first is on media plurality. As the noble Lord, Lord McNally, has just said, it has been 14 years since we first raised this important issue. Everyone wants plurality and agrees that it is a very good idea, but at that time, we needed a framework. I apologise if the frustration is showing in my voice, but I and many others have sought agreement on that framework on repeated occasions. Ofcom was eventually asked to create a report on that, which was published as the *Measurement Framework for Media Plurality* on

5 November 2015, but there has been no response from the Government. Interestingly enough, the Secretary of State, in her long letter on Friday, said that one of her issues was that, before a decision could be made, there was a,

"need for qualitative assessment and perhaps further factual inquiries".

The whole purpose of our current amendments is to help this Secretary of State and any future Secretary of State in making these judgments, based on evidence and on an agreed framework. Therefore, surely it is incumbent on the Government to make it clear that they will seek such a framework and, if necessary, wait until after these amendments have hopefully been approved by this House, and then accept them. That is what we are seeking.

The other issue, as the noble Lord, Lord Stevenson, said, is the fit and proper person test. I have looked carefully at this, because I believe we are making this unnecessarily difficult. Media companies are not football clubs, and in fact there is a very good definition set out by the Financial Conduct Authority, which covers,

"honesty (including openness with self-disclosures, integrity and reputation) … competence and capability … financial soundness".

Can the noble Lord tell me whether there is any reason whatever why we should not adopt the Financial Conduct Authority's definition in the Bill?

Lord Keen of Elie: I am obliged to noble Lords, and perhaps I may first respond to the noble Lord, Lord Birt, which I did not do before the noble Lord, Lord Puttnam, spoke.

At the end of the day, clearly, issues of demand and financial adversity will play a part in consideration of what is required, but that will ultimately be a matter for Ofcom in its report rather than for any decision of the Secretary of State.

With respect to the points made by the noble Lord, Lord Puttnam, again, media plurality changes not only over 14 years but year by year—indeed, more swiftly than that in the present environment. It will be for Ofcom to address matters in the present context, rather than trying to establish a framework which might limit the way in which it responds to these issues.

Lord Puttnam: That is exactly the answer that has been given for 14 years. Is it possible that for another 14 years we will use the changing environment of the media not to have a framework which can be applied by a Secretary of State when making these judgments?

Lord Keen of Elie: It respectfully appears to me that the reason that we may have had the same issue for the past 14 years is that it reflects the appropriate approach to take to these matters, rather than the straitjacket of some framework, as the noble Lord proposes. It may be that we differ on that point.

I come to the second matter of a fit and proper person. Of course, the fit and proper person test is applied by Ofcom in the context of a broadcasting licence, but we recognise that in looking to behaviour, which is relevant to this question, it would be appropriate to take into account fitness and past behaviour. Whether it is appropriate to adopt a test developed for the Financial Conduct Authority is another matter entirely, but it is clearly open to Ofcom, when approaching this matter, to have regard to how other regulatory bodies consider the questions of fitness and behaviour.

In a sense, the Financial Conduct Authority test is not peculiar to financial services: it reflects what most reasonable people would regard as the relevant litmus test to determine whether somebody is fit and proper for any post, let alone to control a broadcasting medium.

Lord Deben (Con): I thank my noble and learned friend for the Statement. I raise again a point made by the noble Lord, Lord McNally. He pointed to the concern that one has when people say, "There are lots of other ways in which news is disseminated", and therefore the comparison between one television channel and another is perhaps no longer as important as it once was. His point about it being an exemplar—although each case is judged on its own merits and never are other cases not referred to, at least in the mind of those making the decisions—was important.

It is also true that anyone who travels the world to those places where the media have become less and less plural realises the damage that that does to the free society. I hope that my noble and learned friend will pass on to his right honourable friend the concern of many of us that free speech and the free communication of ideas depend on multiplicity and plurality. If ever there were a case in which that has to be defended, it is this case.

Lord Keen of Elie: I am obliged to my noble friend Lord Deben. Of course, a vibrant free press and a plurality of press sources is a fundamental part of any democratic society. That is why the Enterprise Act provisions exist: to ensure that public interest considerations can be taken into account when looking at media mergers.

Lord Wigley (PC): My Lords, perhaps the noble and learned Lord can help me with the question of potential implications of legislation going through the House. Clearly, every case has to be considered on its merits, but the Secretary of State has to undertake that consideration in the context of the legislative background. Can the fact that legislation is being passed influence the timing by which a decision is taken?

Lord Keen of Elie: It does not appear to me on the face of it that proposed legislation can properly impact in terms on the decision-making process which, in the first instance, will involve a decision in the next 10 days and, thereafter, a report from Ofcom, which I believe is normally, under ministerial guidance, to be produced within 40 days if a decision is made. It is very difficult to see how any proposed legislation can impact on that decision-making process.

Lord Lansley (Con): My Lords, the second of the specified considerations to which my noble and learned friend referred under the Enterprise Act is for those carrying on media enterprises or controlling such enterprises,

[LORD LANSLEY]
"to have a genuine commitment to the attainment in relation to broadcasting of the standards objectives set out in section 319 of the Communications Act".
That relates to the standards code, which itself is related to television and radio services. In her review of this consideration, is the Secretary of State obliged to look only at issues related to television and radio services?

Lord Keen of Elie: I am obliged to the noble Lord. I do not understand that the commitment to broadcasting standards is limited simply to television and radio in that sense, but I will take further advice on that point and, if I am wrong, I will write to him and place a letter in the Library.

Lord Razzall (LD): I wonder whether, when the Secretary of State considers this, the noble and learned Lord will ensure that she takes into account the remark that Mr Murdoch made to your Lordships' Communications Committee some years ago when it visited New York and he gave evidence to it, when he said that he was very puzzled why Sky News could not be like Fox News.

Lord Keen of Elie: I am not aware of the remark, but no doubt it can properly be brought to the attention of the Secretary of State.

Lord Elystan-Morgan (CB): My Lords, the fact that the Secretary of State has seen fit to issue this statutory notice will give great satisfaction to most—if not all—Members of the other House. We well understand that these two grounds are not luxuries, not dainty sympathies, at all. They are principles that are central to the concept of liberty and the conduct of a well-ordered society. It is on that basis that we heartily welcome the Secretary of State's decision.

Lord Keen of Elie: I am obliged to the noble Lord. I should make it clear that what the Secretary of State issued is a letter that states that she is minded to intervene: no decision has yet been made and none will be made until she has had the opportunity to consider responses to it over the next 10 days.

Lord Cormack (Con): Will the Secretary of State bear in mind that monopoly is always inimical to freedom?

Lord Keen of Elie: I have no doubt that the Secretary of State will have that point in mind in more than one context.

Opel-Vauxhall: Sale to PSA Group

Statement

6.38 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Prior of Brampton) (Con): My Lords, I beg leave to repeat as a Statement an Answer to an Urgent Question given by my right honourable friend in another place:

"This morning the boards of General Motors and PSA Group announced plans for PSA to acquire GM's Vauxhall-Opel operations. The proposed deal is expected to be completed by the end of this year.

The Prime Minister and I have been engaged in discussions with both GM and PSA, and with the French and German Governments, to ensure that the terms of the agreement can give confidence to Vauxhall's UK workforce now and for the future. Vauxhall is an iconic, important and successful British car manufacturer. Vauxhall cars have been made in Britain for 113 years, and we are determined that that should continue to be the case for many years to come.

The car plants at Ellesmere Port and Luton have a proud record of being among the most efficient in Europe, with workforces that are skilled, committed and flexible. Both PSA and GM have confirmed to the Prime Minister and me a number of important commitments, including that the company will honour its agreements with the Vauxhall workforce; that Vauxhall pensioners will be in at least as good a position as they are today; that the treatment of the UK division will be equal to that of other countries in the Vauxhall-Opel group; that the identity of Vauxhall will continue to be distinct and prominent; that the strategy of the new company will be one of building on existing strengths and commitments, not on plant closures, taking opportunities to increase sales around the world; and that the company will work with me and the rest of the automotive sector to ensure that it can participate in a substantial programme of research and investment for innovation in areas such as electric vehicles and battery technology, which is part of our industrial strategy.

This morning I had a further conversation with my French counterpart, the industry Minister, and the Minister of State spoke again to his German counterpart to agree a consistent approach. I speak frequently with Len McCluskey, the general secretary of the largest trade union in Vauxhall and I have kept, and will keep, colleagues with particular constituency interests up to date at all times.

It is in everyone's interests that Vauxhall can look forward to a successful future. A generation ago, the car industry was one that epitomised our economic woes. Today that industry is a beacon of success. Companies invest in Britain because our automotive sector has a high-quality workforce and world-class efficiency, and is part of one of the most exciting places for innovation and research in new technology anywhere in the world. The future of the motor industry is bright in Britain, and we will be active at all times in doing everything we can to make it brighter still".

My Lords, that concludes the Statement.

Lord Mendelsohn (Lab): I am obliged to the Minister for repeating the Statement from the Business Secretary. GM has shown great resilience over the years with the Opel and Vauxhall brands, and reported a loss of $257 million from its European operations in 2016. That is the 16th consecutive loss-making year for GM in Europe, bringing losses on the continent since 2000 to more than $15 billion.

GM chairman and chief executive Mary Barra said that the business would have broken even in 2016 had it not been for the UK's vote to leave the European Union, which caused a sharp drop in the value of sterling. We should congratulate the excellent workers in the UK who have done a great job to turn around GM's performance, but unfortunately they will gain

little credit for it. The factories at Ellesmere Port and Luton employ about 4,500 people, and a supply chain of at least another 7,000. We hope that this transaction provides them with a secure future, restores growth to these brands and creates a long-term and growing future for Ellesmere Port and Luton.

I would be grateful if the Minister told us a little more about the nature of the assurances the Government received from the PSA group during their discussions. What specifically have they learned about safeguarding the plants? What have they learned about the PSA group's plans to invest to upgrade capability to meet the specifications and scale of the facilities they have been committed to over recent times? What assurances have they received about the development of the Vauxhall brand and its sales in overseas markets beyond the EU? What assurances have they received about investment to retool the plants in the UK to develop other brands? Does the PSA group remain committed to the current Astra model in Ellesmere Port up to 2020-21 and the production of a new model there, and will Luton be able to fulfil its plans deep into the 2020s?

Secondly, I would be grateful if the Minister addressed the problem of the scale of the UK supply chain. Speaking after the announcement, the chairman of the PSA's management board, Carlos Tavares said that tough terms for leaving the EU could be an opportunity for Vauxhall and PSA to develop a supplier base in the UK to give the whole operation a "pound cost structure". Not only do they harbour concerns about the general state of the UK parts ecosystem; it is clear—and Vauxhall sales are 80% EU—that their consideration of how we handle not just the negotiation of withdrawal, the single market and the customs union but the industrial strategy will play a very important part.

This is a wider concern. In evidence to a Select Committee in the other place, Colin Lawther, Nissan's senior vice-president of manufacturing supply chain, denied that the Government had agreed to any deal or received any particular assurances. He said that Nissan and the automotive industry had made a "strong request" for government support for £100 million to £140 million of investment for a supply development fund to "repower the supply base" and build an indigenous, high-tech car components sector in the UK. Nissan, too, is looking to increase content from British suppliers and says that this opportunity alone is worth £2 billion.

The future of PSA's investment in Vauxhall and other parts of the car industry is about the importance of developing the supply chain, in addition to the measures the Government are already implementing. It is clear that the Government's current approach is inadequate, so I would be grateful if the Minister assured us that a meaningful new strategy to develop the UK supply chain is under way.

Lord Prior of Brampton: I thank the noble Lord for those questions. To pick them up in turn, Carlos Tavares, the chief executive of PSA, has given assurances that he is keen to see this business develop and grow. He made the point that since becoming chief executive of PSA, he has not closed a single plant.

Regarding future models, post the Astra at Ellesmere Port, clearly, we will have to compete with other factories within the PSA group, as would have been the case had it remained part of General Motors. We are all very confident that we have the competitiveness and effective abilities, and the quality and brand at Ellesmere Port and Luton, to compete on a fair basis with any plant in Europe. PSA is absolutely committed to the Astra brand. There will be no need for a new model post 2020-21 for Ellesmere Port, and the Navara will continue to be produced at the Luton factory for longer still.

The noble Lord is absolutely right about the supply chain: it was an issue with Nissan as well as PSA. Carlos Tavares made the point that there are opportunities and risks on leaving the European Union. One of the opportunities will be to make the new models in the UK more of a sterling player, as the noble Lord put it. That means having a higher proportion of sterling-sourced components going into the Astra or indeed into any new model. We are committed to working with the automotive sector to try to boost the supply chain in the UK to ensure that more sterling-based components go into these cars.

Lord Foster of Bath (LD): My Lords, Vauxhall is our longest surviving car maker and has some of the most efficient plants in Europe. Like others, we commend the workforce for having achieved that.

I want to pursue one issue with the Minister. He will be aware that some 75% of the Astra's components come from continental Europe, and that the supply chain stretches right across the free market and the customs union. Components travel across borders without any difficulty whatever. However, surely the imposition of a hard Brexit, which the Government are pursuing, could lead to tariffs, quotas and the end of the free movement of components across borders. That would place our plants at a real disadvantage.

In a climate in which we know that Nissan is now unsure about its long-term commitment to the UK, BMW is thinking of making the quintessentially British Mini in Germany, and we can get no long-term guarantees from the new owners of Vauxhall, should not the Government acknowledge that the unnecessary pursuit of a hard Brexit is putting the revival of our British car industry in jeopardy?

Lord Prior of Brampton: It is worth making the point that this transaction between General Motors and PSA is as a result not of Brexit but of a longer-term strategy on the part of GM, and, of course, GM is becoming a shareholder in PSA. This is not a Brexit-related issue. The noble Lord is laughing but this transaction has not come about because of Brexit.

The noble Lord says that the Government are pursuing a hard Brexit. We must get the terminology right. The Government are not pursuing a hard Brexit. The Prime Minister has made it absolutely clear that we are trying to negotiate a free trade agreement with the European Union that is as friction free as possible. That is the Government's objective. Carlos Tavares, the chief executive of PSA, has said that there are opportunities whether it is a soft Brexit or a hard Brexit.

[Lord Prior of Brampton]

The noble Lord's point about the supply chain is important. Given that it is so integrated across Europe, if there are tariffs or non-tariff barriers and more inspections, conformities and the like, that will disrupt the supply chain. That is why we are keen to negotiate a relationship that is as friction free as possible.

The Lord Bishop of Chester: My Lords, the Ellesmere Port plant is in my diocese and its closure at any time would be a disaster for that area on the banks of the Mersey. I recognise that that is not in immediate prospect, but can the Minister say more about the strategy to make the long-term loss-making Vauxhall-Opel group more profitable? If GM could not do it, how does Peugeot Citroën plan to do it?

Lord Prior of Brampton: The right reverend Prelate makes an interesting point, which the noble Lord, Lord Mendelsohn, made earlier—that Opel-Vauxhall has made a loss every year for the past 15 years. But that rate of loss has come down, and the new chief executive of GM embarked on a turnaround plan for both Opel and Vauxhall, which was beginning to work. The projection given by Carlos Tavares—I may get the years wrong—is that he is expecting an operating profit of 2% next year, with a target operating profit of 5% within five years from the combined business of Vauxhall and Opel in Europe. So that is his plan. He went out of his way to say that, since he became chief executive of PSA, not a single plant within PSA has closed. There are grounds for cautious optimism.

Higher Education and Research Bill

Report (1st Day) (Continued)

6.50 pm

Amendment 20

Moved by ***Lord Young of Cookham***

20: Schedule 2, page 80, line 14, after "in" insert "the case of each provider and each qualifying course"

Lord Young of Cookham (Con): My Lords, I come to the campus of this Bill as a fresher, in the footsteps of my noble friend who, by contrast, is competing a postgraduate course. But I have had some taster sessions, listening to the Bill from the Front Bench, and I have read the exchanges in *Hansard* and in Committee.

It has always been our intention that the Bill will lead to greater diversity, choice and flexibility for students. The noble Lord, Lord Stevenson of Balmacara, proposed an amendment in Committee requiring the OfS to waive the fee limit condition in respect of accelerated courses. I have read his speech, which was highly persuasive. The Government, therefore, are introducing these amendments to support the growth of accelerated courses by enabling Parliament to remove a key barrier to them.

Amendments 46 and 202 create a clear definition of an "accelerated course" and allow Parliament to introduce a higher cap for these courses. Separately, the remaining amendments clarify that, when setting fee limits for any type of course under Schedule 2, whether accelerated or not, the Secretary of State may establish different higher, basic and sub-levels for different types of teaching provision—for example, sandwich and part-time courses. That reflects the approach taken under current legislation whereby, for example, the higher amount set for part-time courses is fixed at a lower level than for full-time courses.

Accelerated courses offer students the opportunity to study their course over a condensed period—for example, completing a three-year degree course over two years. We know that accelerated courses appeal to students who may not otherwise choose to pursue a degree. That includes mature students who want to retrain and enter the workplace faster than a traditional full-time three-year degree would permit, and those from non-traditional backgrounds.

An accelerated course must meet the same quality expectations and achieve the same outcomes as a comparable, traditional course. However, accelerated courses typically involve tuition through the summer period, requiring the same resources as a traditional course over a shorter period. Evidence from independent research and our call for evidence tells us that a number of English providers are interested in providing more accelerated courses. However, many providers are unable to grow or introduce accelerated courses because of the existing annual tuition fee cap; they simply cannot afford to offer accelerated courses. Therefore, these amendments will enable Parliament to set a higher annual fee cap for accelerated courses—and accelerated courses only—compared to the annual fee cap for standard degree courses. They also serve to provide flexibility with regard to other types of provision.

Let me be very clear: our clear intention is that accelerated degrees that are subject to fee limits under the Bill will cost students less than an equivalent degree, not least because students will claim less overall in maintenance loans. Students undertaking an accelerated course borrow less money over a shorter period and forgo less earnings, as they are able to enter the workplace sooner.

We are creating a new definition for accelerated courses, and we intend to consult with the HE sector on where to set the fee cap and how to grow further accelerated course provision. Any higher fee cap for accelerated courses will be subject to parliamentary scrutiny via the affirmative resolution procedure. We will seek to stimulate the market for accelerated courses by agreeing a fee cap that provides adequate funding for providers while ensuring the student and the taxpayer get a good deal. I beg to move.

Lord Watson of Invergowrie (Lab): My Lords, we welcome the fact that, as in respect of other parts of the Bill, the Government have listened to what has been said during the progress through both Houses. My noble friend Lord Stevenson moved an amendment in Committee that sought to allow funding flexibility and aimed to incentivise the provision of accelerated degrees. He made it clear at that time that it was a probing amendment and, in withdrawing it, invited the noble Viscount the Minister to come forward with one of his own to achieve something similar. So it is natural that we welcome this group of amendments, which should insist on ending the present rigid structure of the type of undergraduate courses on offer.

It is fair to say that we have had some concerns about the kind of new so-called challenger institutions that will appear as a result of the Bill. Our main concern is what might drive them—that is, the profit motive, rather than the education motive. It will not be the case with all but it could be the case with some. However, it is only fair to confess that I was particularly concerned until I met people from the Greenwich School of Management and spoke at length with them about what they offer. I now see that body as engaged in widening participation; it attracts students from backgrounds that have not traditionally engaged in numbers with higher education, which, whatever the situation, has to be welcomed. The university itself cannot validate its own degrees—that is done by Plymouth University—but that is an issue for a separate day.

I have to say that the Greenwich School of Management surprised me. My only knowledge of it prior to my meeting was that the hedge fund or venture capital company with which the noble Lord, Lord Nash, was involved had established it. That might explain to noble Lords opposite why I was somewhat doubtful as to the motives—but none the less I have to say that it is an example of a new university serving its community.

We accept that there is a need for courses that offer students the opportunity to complete full degree programmes in two years of intensive study, enabling them to enter or return to work as quickly as possible. That is key, particularly for those students from less well-off families, who simply cannot afford the time to be out of full-time work for longer than two years. That is a message that the Government appear to have accepted. We hope that the financial penalties that have prevented students from enrolling in two-year courses up to now will be brought to an end, paving the way for their increased and increasingly diverse participation.

Amendment 20 agreed.

Amendment 21

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

21: Schedule 2, page 80, line 26, leave out "applicable"

Amendment 21 agreed.

Amendments 22 to 25 not moved.

Amendments 26 to 28

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

26: Schedule 2, page 80, line 36, leave out "this paragraph" and insert "sub-paragraph (2)(a)"

27: Schedule 2, page 80, line 37, leave out sub-paragraph (6) and insert—

"(6) "The sub-level amount" means such amount as may be determined by the Secretary of State for the purposes of sub-paragraph (2)(b)—

(a) as the sub-level amount in respect of the higher amount, or

(b) where different amounts are prescribed as the higher amount for different cases or purposes by virtue of section 115 (5)(a), as the sub-level amount in respect of each higher amount.

(6A) Different amounts may be determined under sub-paragraph (6) for different descriptions of provider."

28: Schedule 2, page 80, line 40, after "descriptions" insert "of provider"

Amendments 26 to 28 agreed.

Amendments 29 to 31 not moved.

Amendments 32 and 33

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

32: Schedule 2, page 81, line 9, leave out "as the floor amount" and insert "—

(a) as the floor amount in respect of the higher amount, or

(b) where different amounts are prescribed as the higher amount for different cases or purposes by virtue of section 115 (5)(a), as the floor amount in respect of each higher amount.

( ) Where different amounts are prescribed as the higher amount for different cases or purposes by virtue of section 115 (5)(a)—

(a) the reference in sub-paragraph (8)(a) to the higher amount is to the higher amount in respect of which the sub-level amount is determined, and

(b) the reference in sub-paragraph (8)(b) to the floor amount is to the floor amount prescribed under sub-paragraph (9) in respect of that higher amount."

33: Schedule 2, page 81, line 10, leave out sub-paragraph (10)

Amendments 32 and 33 agreed.

7 pm

Amendment 34 not moved.

Amendments 35 to 38

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

35: Schedule 2, page 81, line 21, leave out "applicable"

36: Schedule 2, page 81, line 25, leave out "this paragraph" and insert "sub-paragraph (2)(a)"

37: Schedule 2, page 81, line 26, leave out sub-paragraph (5) and insert—

"(5) "The sub-level amount" means such amount as may be determined by the Secretary of State for the purposes of sub-paragraph (2)(b)—

(a) as the sub-level amount in respect of the basic amount, or

(b) where different amounts are prescribed as the basic amount for different cases or purposes by virtue of section 115 (5)(a), as the sub-level amount in respect of each basic amount.

(5A) Different amounts may be determined under sub-paragraph (5) for different descriptions of provider."

38: Schedule 2, page 81, line 29, after "descriptions" insert "of provider"

Amendments 35 to 38 agreed.

Amendments 39 to 41 not moved.

Amendments 42 and 43

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

42: Schedule 2, page 81, line 38, leave out "as the floor amount" and insert "—

(a) as the floor amount in respect of the basic amount, or

(b) where different amounts are prescribed as the basic amount for different cases or purposes by virtue of section 115 (5)(a), as the floor amount in respect of each basic amount.

( ) Where different amounts are prescribed as the basic amount for different cases or purposes by virtue of section 115 (5)(a)—

(a) the reference in sub-paragraph (7)(a) to the basic amount is to the basic amount in respect of which the sub-level amount is determined, and

(b) the reference in sub-paragraph (7)(b) to the floor amount is to the floor amount prescribed under sub-paragraph (8) in respect of that basic amount."

43: Schedule 2, page 81, line 39, leave out sub-paragraph (9)

Amendments 42 and 43 agreed.

Amendment 44 not moved.

Amendment 45

Moved by ***Lord Young of Cookham***

45: Schedule 2, page 82, line 11, at end insert—

"(1A) The Secretary of State may not make any of the following—

(a) the first regulations under paragraph 2 prescribing the higher amount;

(b) the first regulations under that paragraph prescribing the floor amount;

(c) the first regulations under paragraph 3 prescribing the basic amount;

(d) the first regulations under that paragraph prescribing the floor amount,

unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament."

Lord Young of Cookham: My Lords, it is important that regulations that are made pursuant to powers are subject to the appropriate level of parliamentary scrutiny. We have thought very carefully about such powers in this Bill, particularly in the light of the report of the Delegated Powers and Regulatory Reform Committee. The government amendments in this group implement three of the recommendations that the DPRRC has made.

Specifically, Amendment 197 makes regulations under Clause 10, prescribing descriptions of provider to whom the transparency condition applies, subject to the affirmative procedure. Our policy intent, as set out in the White Paper *Success as a Knowledge Economy,* published in May 2016, is that a transparency condition will apply to approved and approved fee-cap providers on the register of higher education providers.

Amendment 198 makes regulations under Clause 38, prescribing descriptions of provider who will be eligible to receive OfS funding in the form of grants, loans or other payments, subject to the affirmative procedure. Subjecting these regulations to the affirmative procedure adds to the oversight Parliament has, compared with the current legislative arrangements.

Amendments 45, 200 and 201 ensure that the first set of regulations prescribing the higher, basic and floor amounts for the purposes of determining providers' fee limits, will be subject to the affirmative procedure.

I thank the noble Baroness, Lady Fookes, and the members of the DPRRC for their thorough consideration of the Bill's powers. I beg to move.

Lord Stevenson of Balmacara (Lab): My Lords, it seems wrong to intrude on a private conversation between the two noble Lords. We are grateful to the Government for bringing forward these amendments, as recommended by the Delegated Powers and Regulatory Reform Committee.

Amendment 45 agreed.

Amendment 46

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

46: Schedule 2, page 82, line 36, at end insert—

"(6) Sub-paragraphs (2) to (4) do not apply to regulations where—

(a) the higher amount, basic amount or floor amount in question is in the case of an accelerated course, and

(b) paragraph 5 applies to the regulations.

(7) "Accelerated course" in sub-paragraph (6)(a) has the same meaning as in paragraph 5.

5 (1) No regulations may be made under paragraph 2 prescribing—

(a) the higher amount in the case of an accelerated course at a level which is higher than what would be the higher amount in the case of that course if it were not an accelerated course, or

(b) the floor amount in the case of an accelerated course at a level which is higher than what would be the floor amount in the case of that course if it were not an accelerated course,

unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(2) No regulations may be made under paragraph 3 prescribing—

(a) the basic amount in the case of an accelerated course at a level which is higher than what would be the basic amount in the case of that course if it were not an accelerated course, or

(b) the floor amount in the case of an accelerated course at a level which is higher than what would be the floor amount in the case of that course if it were not an accelerated course,

unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(3) An "accelerated course" means a higher education course where the number of academic years applicable to the course is at least one fewer than would normally be the case for that course or a course of equivalent content leading to the grant of the same or an equivalent academic award."

Amendment 46 agreed.

Clause 14: Other initial and ongoing registration conditions

Amendments 47 and 48 not moved.

Amendment 49

Moved by ***Baroness Brown of Cambridge***

49: Clause 14, page 8, line 38, at end insert—

"(aa) a condition relating to the systems and processes the provider has in place to ensure appropriate standards are applied to the higher education it provides;"

Baroness Brown of Cambridge (CB): My Lords, I will speak to Amendment 49, in my name and that of the noble Lord, Lord Stevenson of Balmacara, and give my wholehearted support to all the government amendments in this group.

Amendment 49 is a reinforcement of the registration conditions for higher education providers. It requires that it is not only the quality of provision and use of sector standards that can be subject to registration conditions but also the systems and processes that a provider has in place to ensure quality and standards are upheld. This provides an additional level of assurance of the ongoing maintenance of quality by a provider to the benefit of students.

I thank the Minister and the Bill team for their thoughtful work in bringing forward the government amendments on quality and standards. They effectively address the concerns of the sector, and of many noble Lords, that the definition of academic standards must be owned by the sector and not be in the remit of the Office for Students. The government amendments are, indeed, quite innovative in that they provide an implicit challenge to institutions in the sector to work together to define standards in other key areas—plagiarism might be a good example. These would be standards which the OfS could then use in its registration conditions. The Minister and the Bill team are to be commended for this forward-thinking approach, and I repeat my strong support for the government amendments. I beg to move.

Lord Stevenson of Balmacara: My Lords, the noble Baroness, Lady Brown, has introduced this important group of amendments with great skill. Like the questions we had earlier on institutional autonomy, this issue was raised by a substantial number of individual institutions as being a barrier to them engaging more widely with the purposes of the Bill. It became a bit of a block to progress. We had a good go at it in Committee and we have had several meetings with the Minister, the Minister from the other place and the Bill team.

As the noble Baroness said, the Government have not only stood up to the plate and agreed to move on this but they have actually gone a little further. Like the noble Baroness, Lady Brown, I commend the idea that, within this apportionment between individual institutions and the sector, individual institutions have academic standards reserved to them. There is an implication that that work will not be deemed satisfactory unless it is done through collaboration, the development of an appropriate process and bringing forward something which we do not currently see—a better understanding of how every individual institution is not only independent and autonomous but part of a wider whole.

In that sense, this plays back to our debates on new Clause 1, which has been inserted in the Bill and which deals with the much wider context in which higher education institutions—universities particularly, in this case—must operate. We are very pleased with these amendments. We support them and look forward to hearing the Minister's response.

Viscount Younger of Leckie (Con): I thank noble Lords for their engagement with the issue of standards in the Bill. As the noble Lord, Lord Stevenson, said, this is an important matter, and in Committee I undertook to consider what more we could do to address the concerns raised. I am pleased that this is another area where we seem to have been able to find common ground.

Throughout the passage of the Bill we have been clear that the standards that the OfS will use are those that are owned by the sector and contained within the framework for higher education qualifications. We are now amending the Bill to put this beyond doubt.

These amendments remove the previous definition of standards, which I recognise was the cause of some concern. Instead, we are making it clear that the standards against which providers are assessed, and to which registration conditions can refer, are the standards that are determined by, and command the confidence of, the higher education sector, where such standards exist. I reassure noble Lords that where sector-recognised standards exist but do not cover a particular matter, the OfS cannot apply its own standard in respect of it. This approach is in the spirit of co-regulation and allows the sector to develop its standards as it sees fit, to meet the challenges of the day.

We are also legislating to clarify that, where a quality body is designated, it will have sole responsibility for the assessment of standards. This keeps standards assessment at arm's length from government in a truly co-regulatory way. I assure noble Lords that the quality body—or the OfS where there is no quality body—must have regard to the advice given to it in this area by the independent quality assessment committee that we are setting up under Clause 25 of the Bill.

When my colleague, Jo Johnson, announced these amendments on 24 February, they were widely welcomed by the sector. Universities UK said that they are a,

"very positive step and show the government has listened to the concerns of the higher education sector around academic standards and the independence of universities".

I am delighted that the noble Lord, Lord Stevenson, and the noble Baroness, Lady Brown, have also indicated their support for our approach by putting their names to the amendments we have tabled. Given this support, and that the noble Baroness, Lady Brown, has withdrawn other related amendments to Clause 14, Amendment 49 will not have the effect of limiting the registration conditions of the OfS. I therefore ask that Amendment 49 be withdrawn.

Baroness Brown of Cambridge: I thank the noble Lord, Lord Stevenson, for his comments and the Minister for his. This and a number of others, including the work with the Government on autonomy, are hugely important examples of the effective work of the House of Lords at a time when we have come in for some bashing in the press in other areas. This is something to celebrate and I reinforce my positive comments about the hard work of the Bill team and the Minister, which is very much appreciated. In that light, I beg leave to withdraw the amendment.

Amendment 49 withdrawn.

Amendments 50 and 51

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

50: Clause 14, page 9, line 4, leave out subsection (2)

51: Clause 14, page 9, line 6, at end insert—

"(2A) Where there are one or more sector-recognised standards, the condition mentioned in subsection (1)(a), so far as relating to standards—

(a) may relate only to the standards applied in respect of matters for which there are sector-recognised standards, and

(b) may require the application of sector-recognised standards only in respect of those matters.

(2B) In this Part, "sector-recognised standards" means standards that apply to higher education and accord with guidance which—

(a) is determined by persons representing a broad range of registered higher education providers, and

(b) commands the confidence of registered higher education providers."

Amendments 50 and 51 agreed.

Clause 15: Public interest governance condition

Amendment 52

Moved by ***Baroness Royall of Blaisdon***

52: Clause 15, page 9, line 16, at end insert—

"(2A) The list of principles must include a requirement that every provider—

(a) provides all eligible students with the opportunity to opt in to be added to the electoral register through the process of enrolling with that provider, and

(b) enters into a data sharing agreement with the local electoral registration officer to add eligible students to the electoral register.

(2B) For the purposes of subsection (2A)—

(a) a "data sharing agreement" is an agreement between the higher education provider and their local authority whereby the provider shares the—

(i) name,

(ii) address,

(iii) nationality,

(iv) date of birth, and

(v) national insurance data,

of all eligible students enrolling or enrolled (or both) with the provider who opt in under subsection (2A)(a);

(b) "eligible" means those persons who are—

(i) entitled to vote in accordance with section 1 of the Representation of the People Act 1983, and

(ii) a resident in the same local authority as the higher education provider.

(2C) Subsection (2A) does not apply to the Open University and other distance learning institutions."

Baroness Royall of Blaisdon (Lab): My Lords, in moving Amendment 52, I must apologise to your Lordships for not having been present to move it in Committee. Naturally, I read *Hansard* carefully and have to say that I was disappointed by the Minister's reply.

This is a simple amendment that would make it mandatory for all higher education institutions to offer their students the option of being placed on the electoral roll at the point of enrolment or re-registration. I know that a few universities are already doing this and I am particularly proud that this includes the University of Bath, of which I am pro-chancellor, and the University of Oxford, where I have been elected the next principal of Somerville. I understand that the Minister, Mr Chris Skidmore MP, has recently been at the University of Bath to discuss the issue.

The amendment would provide the best means of achieving the objective I share with the Government: to improve the level of voter registration among students, which fell dramatically as a consequence of individual electoral registration, when thousands and thousands of students dropped off the register. We have a duty to do this for three reasons. First, we should enable students to have a vote and a voice. As my noble friend Lord Smith of Finsbury said in the previous debate, many of his students who, by 23 June last year, were convinced of the need to vote in the EU referendum were unable to do so because they had not registered. By exercising their democratic right to vote, young people are able to influence policy and shape their future. Secondly, it would help to instil the voting habit in young people. While I realise that there is still a big step to be taken between registering to vote and voting, there is evidence that when someone has voted once they are more likely to vote again. I still get a tingle down my spine when I put a cross on a ballot paper, and I am always grateful to those who fought for our right to vote. Thirdly, it would ensure that when constituency boundaries are redrawn in future, they will better reflect the size of the population.

It is also in the public interest of universities to do their utmost to ensure that students participate in the electoral process. I pay tribute to the work of my honourable friend Paul Blomfield MP, who, working with the vice-chancellor of the University of Sheffield and the city council, and with the support of the Cabinet Office, devised a very successful pilot at the University of Sheffield. The results were simply staggering. Seventy-six per cent of its eligible students were registered to vote. In Bath, the university initiated a project on the direction of the pro-vice-chancellor for learning and teaching, who was working with Bath and North East Somerset Council. This resulted in 40% of eligible students registering to vote in 2015-16. In Cardiff, with a similar system, 65% of students registered in 2016-17. By contrast, institutions that simply pointed students to the national electoral registration portal as part of the enrolment process saw an increase of only 13%. This is clear evidence that my amendment would make a real difference to student participation in the democratic life of our country.

In January, the Minister spoke of bureaucratic burdens and I am very conscious of the bureaucratic burdens on higher education institutions, but the amendment is not overly onerous. It simply requires universities to make a minor change to their student enrolment systems to provide new students with the opportunity to have their names added to the electoral register in a seamless process. Universities already collect most of the data needed to register students. National insurance numbers

were until recently an impediment but the Cabinet Office has offered new and very welcome guidance on this, so it is no longer necessary.

7.15 pm

I am also aware of the difficulties that can arise because the enrolment software of universities is sometimes not bespoke and voter registration cannot be incorporated into it. However, these difficulties can be and have been overcome. In addition to accepting the amendment, I also ask the Government to provide guidance on how electoral registration can interface more easily with data protection issues.

Some have said that the amendment would be costly, but the opposite is true—an important factor when councils are suffering painful cuts. In Sheffield, the council now covers the university's costs for registering students and the cost per student has dropped from around £5 to 12p. In Cardiff, the council saved more than £63,000 last year. In Birmingham, the city council revealed that one of the benefits of its arrangement with the University of Birmingham has been that it has allowed the council to give greater focus to its electoral registration efforts in other areas, such as care homes, where IER has also presented great challenges.

My amendment would simply embed good practice. To date a very small percentage of universities have taken the initiative to act. I pay huge tribute to them and my amendment will not impinge on their already excellent work; it will merely ensure that their best practice becomes the norm. The amendment is particularly important in the context of the Bill, which seeks to increase the number of new institutions. I want to ensure that enabling their students to vote is firmly on their agenda, not as an option but as something they are obliged to do.

Democracy is fragile and a healthy democracy requires democratic participation. Enabling and empowering young people to vote is our democratic duty. Here we have a real opportunity to increase participation among hundreds of thousands of those least likely to be on the electoral register. I beg to move.

Baroness Garden of Frognal (LD): My Lords, I have added my name to this amendment and congratulate the noble Baroness on her appointment to Somerville—that is great. As she explained, the amendment would ensure that all eligible students are provided with an opportunity to opt in to the electoral register for the location in which they are studying.

The introduction of individual electoral registration—IER—is a huge change in how elections operate in the UK. It helps the accuracy of the register and helps to counter fraud. So we support IER but want to ensure that it is implemented in the right way. Often when someone is moving house, registering to vote can be a low priority. Many people realise that they did not get around to registering only at election time, when it is already too late. Analysis from the Electoral Commission has shown that areas with a high concentration of certain demographics—students, private renters and especially young adults, who move regularly—are in particular danger of having low registration numbers. It is therefore important that special care is taken to prevent at-risk groups failing to register and failing to have their say at an election. It is particularly important that young people at university should have every encouragement to engage with democracy and the political process as early as possible. We need the engagement of young people to ensure the survival of democracy.

As the noble Baroness, Lady Royall, said, many universities already do this. The amendment would mean that all would be involved. It would go a long way to helping students to be aware of the need to register and help them to do so quickly and easily. I fully support the amendment.

Lord Lexden (Con): My Lords, I strongly support the aim of this amendment, having spoken in favour of its predecessor in Committee. Across the House there is a firm view that all possible means should be employed to get more young people on to the electoral register. Those of us who visit schools, as part of the Lord Speaker's outreach programme—my noble friend the Minister is one of that number—often urge action in concert with local electoral registration offices. I did so myself last Friday. As the noble Baronesses have emphasised, higher education institutions can make a significant contribution to the increased registration of young people, on which the whole future success of our democracy depends. The means lie readily to hand, the procedure is simple and the will is clearly present in many universities. All of them now need to be encompassed in a strong and determined higher education initiative on behalf of our young people and their democratic future. As I have said before, the campaign for increased registration needs sustained cross-party support. All parties must be in this together, to coin a phrase.

In replying to a debate in Committee, my noble friend Lady Goldie suggested that in some higher education institutions a lack of resources might impede or delay progress. I hope that in replying to this debate my noble friend Lord Young will give a clear assurance that the Government will play their full part in helping to remove any obstacles to progress and to achieving the sustained campaign of action that is so urgent.

Lord Judd (Lab): My Lords, I join those who warmly congratulate universities that have made arrangements, and express considerable disappointment about those that have not so done. It surely is simply unacceptable in an electoral system to have some universities where this has been done and some where it has not. That is not a fair and open approach to electoral matters. I believe it is impossible to do other than support the amendment.

Lord Watson of Invergowrie: My Lords, the amendment moved so ably by my noble friend Lady Royall proposes to make it mandatory for all higher education institutions to offer students who are enrolling or re-registering the opportunity to be put on the electoral roll. The question surely is: why not? As we have heard, some universities already encourage their students to do that and it would be logical for all of them to do so. The reason given by the noble Baroness, Lady Goldie—as alluded to by the noble Lord, Lord Lexden—was, I think, that such a measure would be a bureaucratic

burden on institutions, whether that was cost-based or not. How any activity that increases the number of people who participate in our democracy can be dismissed as a burden I fail to see, and I do not think that is in any sense the appropriate way to look at it.

The noble Baroness, Lady Goldie, also listed a number of universities in addition to the University of Sheffield, whose pilot the Government part funded, and a number of other institutions which are already implementing the system voluntarily. That is all well and good but there seemed to be a complete lack of urgency on her part on behalf of the Government, given that she said that the Government had committed to write to other HE and FE providers later this year, as if that were something they might or might not get round to. It is absolutely inappropriate for there to be any delay. Democracy does not take sabbaticals. We will have elections very soon and they have a habit of keeping on happening—by-elections or whatever. It is inappropriate that people who have the right to vote for whatever reason—I do not in any way discount personal responsibility—should be prevented from doing so.

Another figure from our earlier debate that stuck in my mind was that given in response to my noble friend Lord Stevenson, I think. The noble Baroness said that 60% of students register at home rather than where they attend university. That is fine but it leaves 40% who do not. As we have heard, that amounts to almost a quarter of a million students at any one time who will not be able to vote. That is far too many. Action needs to be taken urgently. That is why my noble friend's amendment is necessary, and is necessary now.

Lord Young of Cookham: My Lords, I am grateful to the noble Baroness, Lady Royall, and other noble Lords who have spoken in this debate and have set out the reasons why we should increase the franchisement of students. The Government entirely share that aim of increasing the number of students and young people registered to vote. As part of our drive to create a democracy that works for everyone we are taking a number of steps which I will touch on in a moment, such as funding the National Union of Students to the tune of £380,000 in 2015 to increase student electoral registration.

We listened carefully to the concerns raised by noble Lords when the amendment was debated during Committee. While we agree with the objective of this amendment and understand the intention behind it, we firmly believe that this Bill is the wrong vehicle to achieve greater student electoral registration, and that the scheme as proposed in the amendment has serious drawbacks. The Government have an alternative plan to address student registration which we believe will be more appropriate and effective; again, I will come on to that in a moment, the Government having considered it in the light of the debate in Committee a few weeks ago.

Both Universities UK and the Association of Electoral Administrators have told us that a one-size-fits-all approach to electoral registration, which this amendment would be, is not necessarily the best solution. The AEA does not want further unnecessary prescription introduced into the electoral registration process. Some universities have also signalled that they do not support the system that this amendment seeks to mandate. Seeking to achieve this objective in this way is unnecessary and risks complicating the Government's relationship with electoral registration officers, as it contradicts our stated objective to give them greater autonomy in how they choose to conduct their statutory duty of maintaining the completeness and accuracy of the electoral registers. Choice is the key point here. It is for HE providers and the electoral service teams, who are the acknowledged experts in registration, rather than Parliament—whether through the Bill or other means—or the OfS to determine what the right approach is for their local area.

Furthermore, this system simply will not work for electoral registration officers in London and other large cities since many students have a term-time address in a different registration area from their university or HE provider. For that reason alone, the amendment simply will not work. This is a significant issue given the numbers of students in London, where approximately 376,000 students could be living across all 33 London boroughs. Only the borough in which both the university and the student are located would have the necessary data required to complete an application. Students can participate in the democratic process by actively choosing to register to vote at either their university or home address. As the noble Lord has just said, research has suggested that 60% of students may do so.

We have a commitment to increase student electoral registration. To date we have undertaken a range of steps to encourage it, most recently ahead of the EU referendum. In addition to those steps, I can commit today that the Government will, in their first guidance letter, ask the OfS to encourage institutions to offer their students an opportunity to register to vote by providing a link to the online registration page so that students can apply to register quickly and easily. I think that this is a user-friendly solution that avoids some of the problems in the amendment which I have touched on. I understand that in Committee the noble Baroness, Lady Brown, stated that this was successfully applied at Aston University, and other providers have done so too.

However, we have also heard the calls for urgency, repeated by the noble Lord from the Opposition Bench, and we do not want to wait until the OfS is in place. That is why I can confirm that the Minister for Universities, Science, Research and Innovation, Jo Johnson, will write to HEFCE before Third Reading to ask it to work with the sector to encourage best practice and to actively promote student electoral registration.

To inform our activity, the Minister for the Constitution hosted a student round table in January at which he heard about the barriers to registration that students face. Since then, we have embarked on a plan to further our aim of maximising student electoral registration and we will continue to do so ahead of the local elections this May and beyond. I can now confirm to noble Lords that in the forthcoming weeks we intend to meet university vice-chancellors to that end. We will also write to the higher and further education sector to promote the outcomes due to be published from the different models available, to

encourage take-up and to continue to facilitate greater co-operation between providers and local electoral service teams.

For the reasons already given, I believe that this voluntary and collaborative approach is the right one. However, if the evidence is that it is not working, it will be open to the Government and the OfS to consider other options in future, including, perhaps, the use of appropriate and proportionate registration conditions, requiring providers to comply with any such condition or explain why they cannot comply. The Government will also work with sector partners, such as Universities UK, to promote different options and encourage take-up.

The Government have already committed to publishing and promoting the outcomes of the University of Sheffield pilot, which we part funded, as well as other models, all of which are currently being evaluated, and we will publish the results at the earliest opportunity. As I wrote to the noble Lord, Lord Rennard, an indicative assessment shows that this project had successful outcomes. However, ICT software costs are a prohibitor, and some universities have already told us that they will not implement this model for that reason.

In addition, the amendment rests on the provider informing "eligible students" of their registration rights and local authorities providing various details regarding those students. An "eligible student" is defined as someone entitled to vote as an elector at a parliamentary election, but it is not clear who determines eligibility. Given that the amendments suggest that it is the provider who has to take specified actions, it looks as though it has to be that same provider who determines eligibility—something it surely is not, and indeed should not be, resourced to do. For all those reasons, we are confident that a voluntary approach is the best option and we are confident that more of these agreements can be reached in this way.

As the noble Baroness, Lady Garden, previously stated, many other institutions are already taking steps to encourage young people to ensure that they are on the register. In fact, numerous HE providers have, of their own volition, already implemented a model similar to that used by the University of Sheffield, including, as the noble Baroness, Lady Royall, said, the University of Bath. Nor should we lose sight of the fact that students can choose where they are registered, and some students might not wish to have their data shared.

We are also committed to increasing registration among all underregistered groups, of which students form only a part. This will be part of our democratic engagement strategy, which will be published in spring 2017.

Therefore, I say to the noble Baroness who moved the amendment that the Government have genuinely thought about the arguments put forward in Committee. We have come forward with a new set of proposals, which we think meet the objectives that we all share. Against that background, I ask her to consider withdrawing her amendment.

Baroness Royall of Blaisdon: My Lords, I am grateful to the Minister for outlining all the initiatives that the Government are taking, and of course we all share the same aim. However, he outlined a piecemeal list of initiatives rather than a comprehensive plan. We have been talking about these things for a long time and the pilot undertaken in Sheffield was completed many months ago. The Government said that they would evaluate it and, indeed, they are in the process of doing so, but I simply do not understand the delay. In the meantime, many students have not been able to vote simply because they have not registered to vote.

The Minister also says that universities and electoral registration officers should have a choice about what they do and about whether they improve registration efforts for students. I think we have a duty to ensure that the maximum number of students is registered to vote. I understand the problems in London, for example, where students do not necessarily live near their university. I have talked to many people about this and I am advised by those at the most senior level that these issues are not insurmountable. I would prefer a system which all universities have to adhere to in order to maximise the number of students on the electoral register. I therefore wish to test the opinion of the House.

7.34 pm

Division on Amendment 52

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Amendment 52 agreed.

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7.46 pm

House resumed. Committee to begin again not before 8.46 pm.

Assisted Dying

Question for Short Debate

7.46 pm

Asked by ***Baroness Jay of Paddington***

To ask Her Majesty's Government what assessment they have made of recent legislation on assisted dying in North America; and whether those laws provide an appropriate basis for legislation in England and Wales.

Baroness Buscombe (Con): My Lords, I remind all Back-Bench speakers that they are time limited to one minute—and we have to be strict about that.

Baroness Jay of Paddington (Lab): My Lords, I am grateful for the opportunity to raise this Question for Short Debate today. This House has a very distinguished record of authoritative, informed and wise debate about the very complicated and difficult issue of assisted dying. However, since 2015, when my noble and learned friend Lord Falconer's Bill made considerable progress in this House but was then dropped at the time of the general election, and following a Bill in the House of Commons that failed, there has been very little opportunity to reopen the question of changing our law. I must say that the number of speakers this evening suggests that interest has not declined, and I apologise for the very short time that has been given to the debate.

While the UK Parliament may have been inactive in the recent past, the international picture has changed significantly. This is particularly true in North America, where Canada and several important jurisdictions in the United States have passed, and indeed implemented, laws to enable assisted dying. Overall, these new laws bear a striking similarity in their provisions and safeguards to those proposed in the Falconer Bill.

I have just spent a few weeks in the United States, including in Washington DC, where, as noble Lords are well aware, the political atmosphere is febrile and deeply divided. Nevertheless, on 18 February, the capital city of the United States became the latest place to bring an assisted dying law quietly into effect, without, as far as I know, even a single presidential tweet. It is too early to judge how that will work in practice, but what surprised me was the calm acceptance which greeted its introduction. The same has been true in California, the most populous and diverse state in the union, where legislation was passed in 2015. Colorado followed suit in 2016, after a referendum in which 65% of the population supported the law change.

Canada's Parliament also acted last year, with Canada becoming the first Commonwealth country to legalise assisted dying. The Canadian decision came after a constitutional ruling from its Supreme Court. There are some lessons in that experience for the British situation, and my noble and learned friend Lord Falconer will address those.

It is very important to note that all the lawmakers in the USA have closely followed the state of Oregon's original Death with Dignity Act, which was introduced as long ago as 1997. The citizens of Oregon now have two decades of experience of the Act, and the most recent report shows, once again, the stability that has always characterised its practice of assisted dying. In total, 1,127 Oregonians have made this choice in the past 20 years, amounting to less than 0.19% of all deaths over the same period. Interestingly, in 2016, the number of assisted deaths fell slightly, from 135 in the previous year to 133. The original tightly drawn eligibility criteria have not been challenged or extended beyond the terminally ill, and there have not been proven cases of abuse. The argument that changing the law leads always to a slippery slope of rising numbers and looser guidelines has been shown to be wrong.

Interestingly, Oregon's hospice movement, which in the 1990s was opposed to a change in the law, now acts to support end-of-life options. Palliative care there is very highly rated, as indeed it is in this country, but unlike in Britain there is no suggestion that palliative care may always be an alternative to an assisted death. More than 90% of the state of Oregon's citizens who choose to end their lives are already enrolled in the hospice system and the vast majority of them die at home in comfort. That same kind of experience is reflected in the newer statistics from other states where monitoring is now in place.

This is a gentle and compassionate approach to dying which is working effectively and safely for the minority who make the choice. I emphasise again that all the American laws are very similar to those proposed in the Falconer Bill, although my noble and learned friend's proposals contain even more stringent safeguards, partly of course as a result of amendment in this House. Surely the expanding transatlantic experience should act as a positive guide to future legislation in this country.

Of course it would be wrong to suggest that although death with dignity is now an accepted choice for many North Americans, there was not fierce controversy when it was first mooted. However, what I find surprising is that some of the types of opposition which have so far seemed insurmountable in this country have not prevented change there. Let us take, for instance, the question of religious faith and belief. Americans are known to be more religious and certainly more observant than the British. Surveys suggest that almost three times as many citizens in that country attend a religious service about once a week, and yet within religious practice and faith there does not seem to have been the intransigent opposition to the concept of assisted dying either by faith leaders or their flocks that we have often heard here.

I was impressed by the statements of Governor Jerry Brown of California when he signed that state's End of Life Option Act. Noble Lords may remember

[Baroness Jay of Paddington]
that Jerry Brown, who was indeed a Jesuit seminarian in his youth, said that he did not know what he would do personally if faced with a terminal illness but:

> "I am certain, however, that it would be a comfort to be able to consider the options afforded by this bill. And I wouldn't deny that right to others".

I am delighted that the noble and right reverend Lord, Lord Carey, is speaking in the debate, and I hope that others of our faith leaders will be able to follow what I would regard as the more open approach shown both by the noble and right reverend Lord and people such as Governor Jerry Brown.

Another source of rather adamant opposition to change in this country has been some of the professional organisations representing doctors. Obviously doctors must play a vital role in the safe practice of any assisted dying legislation. Again, the North American experience is instructive. In California and Canada the medical associations, which were initially concerned, have now adopted appropriate positions of neutrality to the new laws. This pragmatism has therefore usefully meant that they, doctors and other health professionals can be actively involved in both shaping good practice and guiding the development of safeguards for everyone involved.

While all this has been happening on the other side of the Atlantic, the situation here remains frozen, and today's Parliament really does seem to be out of step with the overwhelming majority of the British public who, when they are surveyed, always support change. The evidence suggests that more and more people here are now assuming control over the end of their lives by taking the law into their own hands. In 2016, a record number of 47 Britons—those who could afford both financially and physically to do so—travelled to the Swiss organisation Dignitas for assisted deaths. A recent freedom of information request to local authorities revealed that each year more than 300 terminally ill people die by suicide, sadly often taking their lives alone so that they do not involve or incriminate anyone else.

It is now more than 20 years since I first became involved in this issue as a member of a Select Committee of this House. I said earlier that noble Lords have taken a leading role in the assisted dying debate, and perhaps unusually we have been widely commended for our thorough and proper approach. Now, in 2017, the North American experience shows that laws which closely resemble Bills that have been introduced in this House before can operate safely and successfully. I hope that the Government will make a positive assessment of these developments and reflect seriously on how they might be relevant to this country. I also hope that the business managers of the House will make it possible to have a more lengthy consideration of the current issues.

I am grateful to all those who are taking part in this debate, although as I say, I regret the shortness of time to speak. I am sure that noble Lords will continue to play a central part in developing legislation to reform our own laws.

7.56 pm

Baroness Grey-Thompson (CB): My Lords, I raise the legitimate concerns of many people. The current US legislation and the concerns around it certainly impacted on the decisive vote in another place in 2015. After the last debate in the Chamber I was told by a member of the public, as they looked me up and down, that I must have thought about killing myself many times. The answer is a resounding no, but I was shocked. I am resilient, but imagine if you are constantly told that you have no quality of life or you are persuaded that you are worthless.

The disability rights campaigner Liz Carr has said that, "euthanasia denies the value of people who have illness or disability". The noble and learned Lord, Lord Falconer, stated in his commission report that assisted suicide is not meant for disabled people, "at this point in time". If legislation in this area is passed, I and others like me are merely in the waiting room.

7.57 pm

Lord Carey of Clifton (CB): My Lords, I am grateful to the noble Baroness, Lady Jay, for introducing this debate, but what can one say in one minute? For me the fundamental issue that underlies this debate is that of autonomy or, to put it differently, human rights which enable us as individuals to determine the manner of our own death. It was central to the argument of Kay Carter in Canada and Brittany Maynard in the state of California. It will, I dare say, be a central argument for the case launched in this country by Noel Conway.

As a Christian leader, although I acknowledge that I am out of step with my Church and mainstream Christian Churches, it is love and compassion together with personal autonomy that have led me to identify with this struggle. For all its claims, medical science cannot deal with many cases of intractable pain and suffering, and least of all the indignity that often accompanies them. The example of Canada and other countries shows that laws can be made that protect the most vulnerable and therefore halt the unnecessary prolongation of life which, for some, is not worth the candle.

7.58 pm

The Earl of Arran (Con): My Lords, together with the noble Baroness, Lady Jay, I first visited Oregon some 12 years ago as part of this House's consideration of assisted dying. Back then it was the sole state in the US to have legalised assisted dying for the terminally ill. Since then, as has already been said, Oregon has been joined by Washington, Montana, Vermont, Colorado and even the District of Columbia. Most importantly, it was joined last year by the state of California, the largest and most diverse state in the nation. These states represent some 18% of the total US population. Canada too has become the first Commonwealth country to legalise assisted dying nationwide. Law change is also imminent in parts of Australia, where the Government of Victoria have committed to introducing an assisted dying Bill by the end of the year and private members' initiatives are likely in both Tasmania and New South Wales.

As the evidence from overseas continues to grow, our own reasons not to legislate become less and less convincing. The tide is coming in. Rather than fight in vain to prevent it, we should work together to give those in terrible pain and suffering the same rights as are given to our closest cousins in North America.

8 pm

Lord Falconer of Thoroton (Lab): My Lords, English law shows such an arrogant lack of compassion on this issue. In the Carter case in Canada, the Canadian Supreme Court set aside an identical law on three grounds: it forced people to go to an earlier death when they went to a jurisdiction that allowed assisted suicide; it manifestly infringed individuals' right to dignity and autonomy at the time of their death; and the protection it gave to the vulnerable, which is vital, was overwide because it provided protection to too many when it did not need to be done in that way.

In the Nicholson case in our country, the noble and learned Lord, Lord Neuberger, said that the protection currently provided is less than the protection that would have been provided under a Bill that I proposed—less, because an investigation after death is a lot less protection than making sure a court said that it was okay beforehand. The time has come for this country to follow Canada, not with a great fuss or a great to-do, but to change the law to reflect what everybody wants: proper protection, but autonomy for people who want to die in the way they choose.

8.01 pm

Baroness Masham of Ilton (CB): My Lords, opening the door to assisted dying legislation will put many frail, elderly and disabled people at risk of pressure from their families, who fear losing the house if it goes on payment for expensive care homes. There is immense pressure on the NHS and social services. The insecurities of Brexit have already lessened nursing and care help coming from Europe. It will be a disaster if it dries up. Severely paralysed people cannot cope without help. In desperation, they might turn to assisted dying.

Patients need to trust their doctors. Do not forget Dr Shipman: a GP from Yorkshire who killed many of his trusting patients. What we need is the availability of good palliative and end-of-life care across the country.

8.02 pm

The Lord Bishop of Worcester: My Lords, I oppose assisted dying not on religious, but on human grounds. Surely the only place in North America where legislation has been in place long enough to draw any reasonable conclusions is Oregon. The claim of those pressing for assisted suicide here, that there have been no documented cases of abuse or coercion in the two decades since it was passed, is highly contentious. The US Disability Rights Education & Defense Fund—a leading national civil rights law and policy centre—has documented cases of complication and abuse arising from the law in Oregon and neighbouring Washington state. Writing in the *Wall St Journal*, William Toffler, a doctor in Oregon, described how the law there has had adverse consequences for the doctor-patient relationship, and how a developing climate of "secrecy" and "fear" has worsened the situation of the most vulnerable.

Little wonder that here in the UK, alongside medical professionals, those who have been most vocal in their opposition to assisted dying are grass-roots groups of disabled people. Disabled activists see it as a step towards a society that develops social and cost-related judgments about a person's quality and value of life, which then become inevitable factors in the conversation around eligibility for assisted suicide. That is why investing in palliative care, not offering legal assistance with suicide, is the only truly progressive way forward.

8.03 pm

Baroness Finlay of Llandaff (CB): My Lords, North America's evidence is worrying. Oregon's reports show that some people given lethal drugs, based on a prognosis of under six months, lived for up to three years before killing themselves. Who knows how long they might otherwise have lived? Two-thirds of Oregon's doctors want no involvement. "Doctor shopping" is widespread as campaign groups steer patients to ready repeat prescribers. In the two-week delay required, they cannot possibly know a person's domestic pressures, masked depression and subtle coercions, nor adequately assess capacity. Almost half cite not wanting to be a burden as their reason. Lethal prescription numbers far exceed such deaths. What happens to uningested drugs? No one knows whether ingestion is ever coerced.

Canada's recent law, like the Netherlands' and Belgium's, includes euthanasia beyond terminal illnesses, with predictions of around one in 20 of all deaths through medically provided lethal drugs. That would equate to around 25,000 such deaths annually here. Violent suicide rates do not fall where assisted suicide is the norm.

8.05 pm

Baroness Howe of Idlicote (CB): My Lords, last year Canada followed Holland and legalised assisted suicide and euthanasia. Reports emerging from Canada suggest that the outcome is likely to be similar. There are also reports that, after only six months, campaign groups were pressing for relaxation of the rules.

We are told there has been no extension of Oregon's assisted suicide law. The pressures to do so are certainly there. Last week, as it happens, an amendment was tabled in Oregon's state legislature seeking to extend the law there so that lethal drugs could be administered to someone who loses decision-making capacity. I am concerned too about the effect of multiple prescribing in Oregon. In 2015, one doctor issued 27 prescriptions for lethal drugs; in 2016 a doctor—perhaps the same one; we are not told—wrote 25. On present figures alone, Oregon's law would give us 2,000 assisted suicides here every year. That is not a prospect that I believe any of us should view with equanimity. I am far from convinced that our law should be changed. I look across the Atlantic with increasing concern at what is happening where it has been changed.

8.06 pm

Lord Low of Dalston (CB): My Lords, I went to Oregon nearly three years ago. I asked people what they thought of their law on assisted dying. No one could understand why we did not all have one.

[Lord Low of Dalston]

Some disability rights groups oppose assisted dying legislation, yet polling consistently finds that more than 80% of disabled people support such legislation. I cannot emphasise too strongly that no one is obliged to avail themselves of assisted dying legislation unless they wish to.

Research in Oregon demonstrates that groups that might be considered vulnerable, such as disabled people, are not negatively impacted by assisted dying legislation. In fact, they are underrepresented in the numbers of those who make use of it. As far as I am aware, no cases of malpractice or abuse have been reported. Nor is impairment of the doctor-patient relationship general.

We should learn from our friends in North America how best to give dying people the choices they want at the end of life, while ensuring that robust protections are in place for potentially vulnerable people.

8.07 pm

Lord Cavendish of Furness (Con): My Lords, the frequency with which this topic comes before us suggests to me a degree of attrition on the part of those who believe in assisted suicide. Much but not all of my thinking on the subject derives from my experience as a founder of St Mary's Hospice in south Cumbria 25 years ago. I remain its patron, as appears in the register of interests.

My reason for opposing the introduction of new legislation may be summarised as follows. The evidence from North America is patchy and largely anecdotal. What we do hear is hardly reassuring. I remain unpersuaded that the existing law here needs changing—a view quite recently upheld convincingly in another place. Assisted suicide would dangerously alter the doctor-patient relationship. In countries where it is legal, doctors are discontinuing the practice because it impacts so heavily on their workload, with a consequence of doctor shopping, as the noble Baroness, Lady Finlay, said. It also compromises the nursing profession: some have been quoted as saying that they would be forced to collude in taking life whether they like it or not. It would encourage elder abuse and suicide contagion, and it is unsafe. Greater access to our ever-improving brilliant system of palliative care is the safe, humane and moral alternative.

8.08 pm

The Earl of Glasgow (LD): My Lords, I have long associated myself with the campaign to legalise assisted dying in Britain—as long, of course, as the necessary safeguards are in place. Judging by a number of polls taken over the last 20 years, more than 75% of the public also want to see assisted dying legalised. They believe, like me, that in the right circumstances it is a compassionate and humane way of alleviating suffering for those who are terminally ill. It also helps to alleviate the suffering of the patient's family, who, for many months sometimes, must witness the indignity, pain and distress of someone they love.

Yet still in Britain, helping someone to end such misery is a criminal offence. Some feel compelled to travel to a strange clinic in Switzerland where assisted dying is legal, but in British law the relatives are committing a criminal offence by assisting the patients to get there. In practice, the public prosecutor rarely prosecutes and rightly so, but it shows the law to be an ass. It is surely time the Government took assisted dying more seriously.

8.10 pm

Lord Alton of Liverpool (CB): My Lords, the noble Baroness's Question asks whether legislation in North America on what is called "assisted dying" forms an appropriate basis for such legislation here. I will answer that question in just one word: no.

Quite apart from any issues of principle, just look at what is now happening in Oregon. When Oregon's assisted suicide law was enacted, it was to allow people with decision-making capacity to administer lethal drugs to themselves. Now a Bill has been presented to Oregon's state legislature to enable someone to collect lethal drugs for a person who has lost capacity since they were prescribed and to administer those drugs to that person, as the Bill puts it,

"for the purpose of ending the patient's life".

So there we have it: assisted suicide plus, in some cases, euthanasia—not necessarily voluntary.

What price now all those repeated reassurances we have received from the "assisted dying" lobby that there would be no pressure to extend Oregon's law? That and the evidence from Washington, where 62% of those in favour of physician-assisted suicide believe themselves to be a burden to friends and care givers, should give us pause. It is why the House of Commons voted against such proposals. Care and kill should never be used as synonyms.

8.11 pm

Lord Carlile of Berriew (Non-Afl): My Lords, in my view, even official Oregon health division data show how dangerous this law is.

First, non-terminally ill disabled individuals are receiving lethal prescriptions contrary to the law. That is the evidence.

Secondly, in any given case, the certifiers of non-coercion and capability need not even know the person being killed. Furthermore, one witness may even be an heir with a financial interest in the death.

Thirdly, there is no reliable way of checking whether the death is a suicide, and therefore lawful, or administered by a third party and therefore unlawful.

Full euthanasia is being introduced by the back door in some cases in Oregon. In all, it is a dangerously unreliable law which contains unsatisfactory safeguards. My answer to the noble Baroness's second question is a resounding no.

8.12 pm

Lord Rees of Ludlow (CB): My Lords, even with the best palliative care, some will survive beyond the stage where they feel life is worth living. That is why 300 people a year with terminal illnesses commit suicide and why the lives of loved ones are sometimes ended in ways that are, strictly, illegal. Those acts may not result in prosecution, but a shadow of criminality hangs over

them and adds to the grief of those whose motive is compassion. A well-drafted Bill would allow assisted suicide, with safeguards. Few would choose this route, but many of us would be comforted by knowing that that option was available.

Support for such a measure is just as strong among the disabled. Among this majority is Stephen Hawking, my friend and colleague for 40 years. His achievement against all odds has been astonishing. He still craves new experiences and does not want to die. He thinks that suicide would be wrong unless one were in great pain, which, thankfully, he is not. None the less—this is the key point—he says that the disabled should have the option, as others do, to end their lives. Like him, I firmly support an assisted dying Bill and hope that the "nudge" from the Supreme Court will give it a fairer wind.

8.13 pm

Lord Fairfax of Cameron (Con): My Lords, I am in favour of this change in the law proposed by the noble Baroness, Lady Jay, and others, because, as we have heard from noble and right reverend Lord, Lord Carey, it is the civilised and right thing to do.

Allowing people to make their own end-of-life decisions is supported by more than 80% of the population polled here and is seemingly the preferred route of the Supreme Court. The safeguards proposed provide the necessary protection. I remind those who have spoken to the contrary that such protection constitutes two GPs and a High Court judge.

Why should people not be allowed to choose the time and place of their death, especially if they are in great pain? I therefore hope that the Government will follow the North American example and support this much-needed change in our law.

8.14 pm

Baroness O'Loan (CB): My Lords, there are two questions before your Lordships' House this evening. The first is whether this House, this Parliament, wants to revisit the issue of the creation of law enabling assisted suicide in this country and the second is that posed by the noble Baroness in her Question. This House and the other place have answered the first question repeatedly in the negative.

Five of the 50 American states permit assisted suicide. Your Lordships have heard tonight of the terrible consequences of the situation in Oregon, and the other four have adopted laws only relatively recently, so there is no information on how they are working.

Analysis of the Canadian Medical Assistance in Dying Act shows that the legislation is perceived by many as fundamentally flawed because of its lack of definition and because of the uncertainty which it has created. It talks about,

"grievous and irremediable medical conditions",

and about "serious illness", but these basic terms give rise to widespread uncertainty and fear. There is no definition of what constitutes a relevant condition. "Grievous" and "irremediable" are not medical terms. What is an "irreversible decline in capability"? How is it to be defined? What of those suffering from mental illness? Can they make a decision? Are they capable? Are they suffering from such a decline? When is natural death "reasonably foreseeable"? There are no time limits and no proper definitions. Medical professionals are invoking their right to freedom of conscience under the law.

To legislate for assisted dying is to cross a line in the sand, making medical practitioners trained at the most fundamental levels to do no harm into dispensers of medicine which does not cure but kills. North America has little to teach us.

8.16 pm

Lord Warner (CB): My Lords, in North America legislatures have grasped the fact that failure to legalise assisted dying is a denial of human rights and autonomy. The North American reform role is impressive. More Americans already have access to this legislation than the total UK population. Even more will do so even during the Trump presidency. US state legislators are simply less timid than UK parliamentarians. Let me cite the recent suicide of a friend in his early seventies when told of his inevitable dementia from an awful neurological condition. He faced a future in which he would rapidly change into a person unknown to his family and with no escape route at a time of his choosing. Had he lived in Canada, he would have been assured of a better end at a time of his choosing. Our legislative cowardice on this issues guarantees continuing human misery of this kind for many UK families.

8.17 pm

Viscount Craigavon (CB): My Lords, the message I derive from this debate is that, on this issue, the tide of history is continuing to flow one way. We have heard how things are changing. In this country, as we have heard today, we have used for a long time the uncontested figure of 80% plus for support for changing our law on assisted dying. We all know the many European countries, in particular the Dutch, which have faced up to this issue and the demand from those who choose it, while we are continuing to allow unnecessary suffering which palliative care cannot alleviate.

The Californian development is a significant example, building on the now firm foundation of Oregon, which itself has been adopted in other American states. There are similar developments in Australia: later this year the government of Victoria will introduce a Bill to legalise choice in assisted dying for terminally ill people. Other states are likely to follow. The Government of New Zealand have been taking extensive consultation on assisted dying.

Finally, as in the most recent such Bill in this House—which we did not have time to complete—I believe that there is a majority in favour of change here, but I hope that the other House will not want to continue much longer on the wrong side of history.

8.18 pm

Baroness Meacher (CB): My Lords, forgive me for speaking in the gap. Following the Canadian and other North American decisions, Dignity in Dying, an organisation of which I am chair, is proud to support Noel Conway, one of our members, who has launched a judicial review. Noel is seeking a declaration from

[Baroness Meacher]
the courts that the blanket ban on assisted dying under the Suicide Act 1961 is contrary to his human rights. Noel has said:

"Having the option of an assisted death would bring me great comfort in my final months. Without this option I could effectively become entombed in my own body".

What a prospect.

In addition to the human rights argument referred to by many noble Lords, the right to assisted dying for terminally ill patients who are suffering unbearably and are mentally competent is a matter of compassion and also a matter of recognising the right of patients to decide for themselves how and when they die. Noel Conway needs our support.

8.19 pm

Baroness Barker (LD): My Lords, the current legislative framework governing medically assisted dying is failing to protect patients, vulnerable people and medical professionals. Therefore, we on these Benches have a policy that in cases of terminal illness or severe, incurable and progressive physical illness where patients are without hope of recovery, medical doctors should legally be able to provide competent adults with assistance to die if they have expressed the wish to do so, within narrowly defined circumstances. That assistance should be strictly limited to qualifying people who are able to demonstrate, to the satisfaction of a doctor with detailed knowledge of their illness, as well as an independent specialist, that their request to die is voluntary, well considered, persistent and motivated by existing or inevitable unbearable suffering.

Requests for medical assistance to die must be made in writing, after a full discussion with each of the doctors about the situation, prospects and options for palliative care. They must also be countersigned by a practising solicitor who has been satisfied that the patient qualifies and that all procedures have been followed. The law should protect the right of medical and legal practitioners not to participate in the process of assisting a patient to die, but they must make a referral. For those reasons we support the noble Baroness, Lady Jay, in her call to take the growing evidence base from America.

8.20 pm

Lord Tunnicliffe (Lab): My Lords, the position of the Labour Front Bench on this issue is one of neutrality. Given the level of support recently in the Commons—330 against and 118 for—it is unlikely that we would press for parliamentary time to take this issue further. If a Bill did come before Parliament I would expect there to be a free vote on the substance of the Bill, but nevertheless I expect that we would participate in the debate on the detail to ensure that safeguards were adequate.

8.21 pm

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I am grateful to the noble Baroness, Lady Jay, for bringing before your Lordships' House a matter which continues to be of great public interest and concern. As the noble Baroness herself observed in opening, the issue is complicated and difficult. Today is not the first occasion on which this House has debated this difficult and sensitive area of the law. Indeed, as today's debate has illustrated, there are passionately and deeply held yet divided views on the issue. I certainly take issue with the suggestion by the noble and learned Lord, Lord Falconer of Thoroton, that this is "what everyone wants". It clearly is not what everyone wants; indeed, I notice that the contributors to this debate are almost equally divided on this very complex and difficult issue. There is no arrogance to be attributed to those who take one side or other of this demanding debate.

It remains the Government's view that any relaxation of the law in this area is an issue of individual conscience and a matter for Parliament to decide, rather than one for government policy. Of course, we are aware that assisted dying legislation has been introduced recently in some states of America and in Canada—very recently in four states of the United States—but since the Government have taken no policy position on the issue, we have made no assessment of such legislation in North America or elsewhere. I simply note that while five states in the United States have adopted such legislation, 45, of course, have not. Indeed, the only example that has been in place for some years is that of Oregon. As the noble Baronesses, Lady Howe and Lady O'Loan, and the noble Lords, Lord Alton and Lord Carlile of Berriew, observed, there are issues surrounding the attempted development of the law in Oregon. As the Supreme Court said in the case of Nicklinson and Lamb, information from the few jurisdictions where assisted suicide is lawful is,

"sensitive to underlying conditions such as standards of education, the existence of long-term relationships between GPs and patients and other social and cultural factors, which are not necessarily replicated in the United Kingdom".

So it does not necessarily follow that a law which operates effectively—allegedly—in another jurisdiction would provide an appropriate basis for such legislation in England and Wales.

We should remember that "assisted dying" is not a term that exists in law. It is shorthand for two distinct things; namely, assisting suicide and euthanasia. However one interprets the term, assisted dying is a highly emotive issue. It polarises opinion among the public, in the media and across the political spectrum, even within groups which are generally supportive of or opposed to a change in the law, and it raises the most profound ethical, moral, religious and social issues. Of course, the Government are aware of opinion polls suggesting that there is strong public support for a change in the law. But even if one accepts that the law should change, there is no consensus—in Parliament or elsewhere—on where a line should be drawn and what safeguards should be in place and for whom.

As the law stands, there is no offence—or defence—of "mercy killing"; nor is there any statutory exception to the offence of encouraging or assisting suicide under Section 2 of the Suicide Act. That Act was amended in 2009. By amending the law, Parliament confirmed that an offence should remain in respect of assisted suicide. Whether the present general prohibition in Section 2 of that Act is incompatible with the right to a private

life under Article 8 of the European convention was the central issue in the case of Nicklinson and Lamb, which the noble and learned Lord, Lord Falconer, referred to, in which the Supreme Court handed down judgment in 2014.

Like this House, the Supreme Court was divided on some of the issues before it. But the appeal in that case was dismissed by a majority of seven to two on the basis that it was not appropriate for the court to determine the issue of compatibility at that time. While not unanimous in its view, the court explicitly encouraged Parliament to consider the issue further, and Parliament has done so. Both Houses have subsequently had extensive debates on this issue. The Assisted Dying Bill, introduced by the noble and learned Lord, Lord Falconer, passed Second Reading without a vote on 18 July 2014, after almost 10 hours of debate, and was further debated on two full days in Committee, thereby indicating the level of interest and the division between Members over the fundamentally difficult issue that lay behind the Bill.

More recently, the other House debated the Assisted Dying (No.2) Bill in September 2015. That Bill was essentially the same as the Bill of the noble and learned Lord, Lord Falconer, as amended in Committee. It sought to legalise in England and Wales assisted suicide for terminally ill, mentally competent adults who are reasonably expected to die within six months. As the noble Lord, Lord Tunnicliffe, noted, following a lengthy debate, that Bill was voted down by a majority of 330 votes to 118. As things stand, therefore, the will of Parliament as a whole is that there should be no change in the law. Of course, that does not mean that the issue cannot be re-examined either in Parliament or in the courts. Indeed, today's debate has again illustrated that the law in this sensitive area remains a matter of great concern to your Lordships. Reference was also made to further litigation that is ongoing in the courts. We are aware of that but it would not be appropriate at this stage to make any comment on such a case when it is still before the courts.

The debate on this issue is often characterised as being a choice between legalising assisted dying on the one hand and the provision of high-quality end-of-life care on the other, but the two are not mutually exclusive. Compassion for the dying person drives both sides of the debate. Wherever one stands on the desirability of legislative change, it is of the utmost importance that all dying people receive high-quality, compassionate care at the end of their lives. Equally, we are all as one, I am sure, in our desire to protect the rights of those who are vulnerable from direct or indirect pressure to take such a step. The central issue is then whether a blanket ban on assisting suicide is a necessary and proportionate way of achieving this.

Those opposed to change argue that any relaxation of the law would constitute too great a risk to sick and disabled people, and that safeguards would not necessarily give enough protection to vulnerable people who may feel pressure, whether real or imagined, to end their own lives. Those in favour of change argue that safeguards would protect vulnerable people from such pressure, while affording dying adults the choice of an assisted death if their suffering becomes too great. As the Supreme Court recognised in Nicklinson, there is a diversity of opinion about the degree of risk involved in relaxing the law in this area but not about the existence of the risk. It is unlikely that the risk of vulnerable people feeling pressure to end their lives can ever be wholly eliminated or that every person who thinks he or she has a legitimate right to assisted suicide can be assisted.

Whatever provisions may be proposed, therefore, the real question is: how much risk to the vulnerable is acceptable in order not to deny those who would genuinely wish to be assisted to commit suicide the opportunity of an assisted death? That is a very difficult balance to strike and there are no simple answers, especially when those who are vulnerable are not necessarily easy to identify. Whatever the arguments for and against change, it is important that the ongoing debate should not lead those whose lives are affected by illness or disability to feel less valued. If ever the law is changed, appropriate safeguards will need to be considered very carefully indeed.

The legal, administrative, practical and resource implications of any change to the law in this highly controversial area are considerable. We cannot in the very limited time available this evening do justice to them, although I would observe in response to the observations of the noble Earl, Lord Glasgow, that we of course take these issues seriously. I have no doubt that the debate will continue in one form or another, in Parliament and elsewhere. In the meantime, I thank all noble Lords for their contribution to this debate.

8.31 pm

Sitting Suspended.

Higher Education and Research Bill

Report (1st day) (Continued)

8.46 pm

Amendment 53

Moved by ***Lord Carrington of Fulham***

53: Clause 15, page 9, line 19, at end insert—

"(3A) The principles must include principles applicable to an unincorporated designated institution.

(3B) In subsection (3A)—

(a) "unincorporated designated institution" means a designated institution which is not a corporate body;

(b) "designated institution" has the same meaning as in section 129A(10) of the Education Reform Act 1988."

Lord Carrington of Fulham (Con): My Lords, this is a probing amendment to clarify a situation which concerns, pretty specifically and possibly uniquely, the Guildhall School of Music and Drama. The Guildhall school is a very unusual institution, partly because of its history, and partly because of its ownership. It is an unincorporated body. It does not have the legal structure common among higher education colleges. It was set up 137 years ago, in 1880, by the City of London Corporation as a conservatoire, and has never changed its corporate structure since. It is owned by the City of London Corporation, its court of governors is appointed by the City of London Corporation and close to a

[Lord Carrington of Fulham]
third of its funding comes from the corporation. It is, indeed, an integral part of the whole structure of the City of London, in the same way that Hampstead Heath, Epping Forest, and various other schools are run.

This gives the problem under the Bill that the Guildhall is a body that does not really fit into the definitions of what the White Paper was trying to create. The White Paper, which informs the Bill, indicates that the governance principles of the Office for Students, under the powers conferred on it under Clause 15, will be,

"comparable to those currently required of HEFCE-funded providers in line with the HE Code of Governance".

This code has been developed by the Committee of University Chairs, and has been deployed successfully by the Guildhall. There is every reason to assume that the governance principles envisaged by Clause 15, which the Office for Students will be developing, can be applied to the Guildhall with equal success. The clause, however, introduces statutory backing for the principles, and the concern is that in moving to this more formalised position, some of the current flexibility will be lost and the ability to take account of the possibly unique governance structure of the Guildhall will no longer be applicable.

The amendment is to try to flush out whether it is possible to have sufficient flexibility under the new structure to enable the Guildhall to continue in the way that it has in the past—in other words, to be an integral part of the Corporation of London. I am trying to work out whether things can go on as they are or whether they have to change for the Guildhall, possibly with unfortunate consequences. On that basis, I beg to move.

Lord Young of Cookham (Con): My Lords, I am grateful to my noble friend who, not for the first time, has raised in your Lordships' House interests of concern to the City of London Corporation.

Clause 15 enables the OfS to take over the responsibility of scrutinising providers' governing documents against the list of public interest principles. I can reassure my noble friend that we do not anticipate any impact on current higher education institutions being recognised by the OfS as higher education providers in the future. The intended practical application of the current and future list is to ensure best practice within already existing and recognised higher education providers' governing documents, and it is not the intention of these principles to prescribe the corporate form of providers. I hope that gives my noble friend the comfort he is seeking.

The OfS must consult on the new list of principles. With the exception of the requirement that there should be a principle protecting academic freedom for staff, which I am sure the Guildhall has no difficulty with, the Bill does not prescribe what should be included in that list. There is nothing in Clause 15 that should concern the Guildhall School of Music, and it should be able to continue doing the valuable work it has been doing for so long. Against that background of assurance, I hope that my noble friend will be able to withdraw his amendment.

Lord Carrington of Fulham: I am most grateful to my noble friend for that reassurance, because that is precisely what the Guildhall School of Music is looking for in terms of some sort of guidance as to how things will develop as the implications of the Bill become apparent. On that basis, I beg leave to withdraw my amendment.

Amendment 53 withdrawn.

Amendment 54

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

54: After Clause 16, insert the following new Clause—

"Power to restrict enrolments

(1) If the OfS has reasonable grounds for believing that a registered higher education provider is in breach of an ongoing registration condition with respect to the quality of the higher education provided by the provider, or to its ability to implement a student protection plan which forms a condition of its registration, the OfS may place quantitative restrictions on the number of new students that the provider may enrol.

(2) The Secretary of State may by regulations make provision about the procedures for imposing such restrictions and about rights of appeal."

Lord Stevenson of Balmacara (Lab): My Lords, the amendment is returning to a topic that was raised in Committee and discussed in some detail, but not extensively, in relation to what might happen in the hypothetical situation where a higher education provider is in breach of an ongoing registration condition relating to the quality of the education it is providing or its ability to implement a student protection plan. The Bill is good on these issues and it is important that we should have measures of this type in statute.

The question that arose during the earlier debate, and which arises still because the answer was not entirely satisfactory, is about the only penalty specified in the Bill being a financial penalty. In other words, in breach of the registration conditions in the terms I have just outlined, an institution would face a fine that is not specified but which could be quite substantial in relation to activities.

The point was made in Committee that there may be other sanctions available and the question is: why are these not specified in the Bill? It would be helpful for the OfS to have a range of possible opportunities to get redress from institutions and, in particular, not necessarily go down a financial route, which might have the ultimate result—one not entirely satisfactory in terms of the Bill's requirements—of reducing the amount of money available to spend on teaching students. The question specified in the amendment is whether it would be better to have a numbers cap as well as a financial penalty in that area. I beg to move.

The Earl of Dundee (Con): My Lords, within this part of the Bill concerning registration conditions and their enforcement, so far it appears that there is nothing much about restricting enrolment. Clause 16 enables monetary penalties where necessary and, in various other respects, Clauses 17 to 22 inclusive provide powers to correct and adjust, if and when desirable.

Yet the latter will constitute relevant actions in the second place, and thus subsequent to the central matter, which is enrolment in the first place. In this context, by contrast, thus it appears anomalous that enrolments, and in certain circumstances a useful scope for their restriction, should so far not have been addressed at all. However, the proposed new subsections of the noble Lord, Lord Stevenson of Balmacara, redress that omission. His amendment is timely and very much worthy of support.

Baroness Wolf of Dulwich (CB): I support the proposition. When we discussed the matter in Committee, the Minister said that he saw no reason why there should not be a wider range of penalties at the disposal of the Office for Students. It would be very helpful to have that confirmed in the Bill, otherwise there is the possibility of challenge of the OfS exceeding its powers if it moved to restrict the number of students in a way that would seem on many occasions entirely appropriate.

Viscount Younger of Leckie (Con): My Lords, the noble Baroness, Lady Wolf, expressed these concerns in Committee, and I listened carefully to her very short speech just now. The noble Baroness, Lady Garden, and the noble Lord, Lord Watson, also spoke in Committee on the subject. This is the concern that the OfS would not have appropriate powers to restrict student enrolment at a registered higher education provider in the event of a breach of registration conditions, and would instead be compelled to either impose a monetary penalty or deregister the provider, both of which would have a negative impact on a provider's enrolled students. It is our intention that such sanctions would be imposed only in exceptional circumstances. The OfS will operate a risk-based regulatory system, whereby any regulatory action is to be proportionate to the nature of the breach of a registration condition. The OfS will have an escalating suite of actions open to it, ranging from compliance measures, such as agreeing a support strategy with a provider or directing that certain actions should be taken, through to imposing specific ongoing registration conditions, and finally to sanctions.

The imposition of a student number control is precisely the sort of regulatory action that the OfS can use under the powers already contained in Clause 7, which allows the OfS to impose "specific ongoing conditions". Imposing a student number control would not be to the detriment of students already studying with a provider and would help to ensure that new students who were subsequently enrolled would enjoy high-quality, suitably resourced teaching and learning. It is clearly not our intention that the OfS de-register institutions or impose monetary penalties, apart from in exceptional circumstances that merit such an intervention. We anticipate that such action would rarely be in the best interests of the student, the provider or the taxpayer. We have considered whether it would be appropriate to provide a specific power in the Bill for the OfS to impose student number controls. On balance, however, we believe it is unnecessary, as the Bill already provides the OfS with the powers necessary to limit student numbers where appropriate. With that explanation, I ask the noble Lord to withdraw his amendment.

Lord Stevenson of Balmacara: I am very grateful to the noble Earl, Lord Dundee, and the noble Baroness, Lady Wolf, for contributing to this debate. The noble Earl picked up a point that I had not quite spotted myself, and I am very grateful to him for doing so. There is a bit of a lacuna here in terms of how institutions are going to be treated. The Minister has not gone as far as would be obviously the right thing to do. He made all the arguments—rather better than I did, in fact—but then held back at the last minute. At this time, I would like to encourage him to go a little further and would like to test the opinion of the House.

8.58 pm

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9.10 pm

Clause 18: Suspension: procedure

Amendment 55

Moved by ***Lord Watson of Invergowrie***

55: Clause 18, page 11, line 24, at end insert—

"( ) specify what happens to existing students during the suspension period as documented in a provider's student protection plan."

Lord Watson of Invergowrie (Lab): My Lords, we come to Amendments 55, 56 and 57, all of which concern protection for students. We are to some extent returning to an issue touched on in Committee although the specifics vary somewhat.

We have heard often enough that it would be a very rare occurrence for any institution to go bust and drive itself into the sand. Of course, we are ready to believe that. We desperately hope that that is the case. However, it could happen and at some stage it is pretty much certain that it will. When it does, the people who must be everyone's main concern are the students, those men and women who have taken out student loans to study at the relevant institution, identified that as the place they want to be, commenced their studies and, in some cases, nearly completed them. These three amendments deal with various scenarios that students might face if their institution gets into grave difficulty or perhaps folds completely.

Amendment 55 proposes that when the Office for Students suspends a registered higher education provider's registration, various provisions have to be specified in relation to what the notice of suspension must promote. Various provisions are specified in subsection (6) of Clause 18. However, none of them mentions what happens to existing students during a suspension period. The purpose of Amendment 55 is to put that right. The Minister has mentioned on several occasions, and specifically in relation to amendments earlier today, the proposal to change the name of the Office for Students. He said that that was not possible because students are right at the centre of this legislation and the Government want that to be very clear. If that is to be clear, students must surely be accommodated within the clause to which I referred.

Amendment 56 seeks to ensure that students at an institution that becomes deregistered are fully notified about when that will happen. This issue was covered in Committee. It seems to me self-evident that that should take place. I cannot conceive of any reason why that would not be the case. They should also be told the expiry date of any access and participation plan.

In many ways I think that the most important of these three amendments is Amendment 57, which is about ensuring that where a higher education provider ceases to be able to provide courses for its students, the Office for Students must seek to place those students on similar courses at another provider. As I said, if the Government are committed—as I believe they are—to having students at the centre of the legislation, why should they be left to suffer through no fault of their own when a higher education provider is no longer able to deliver the service for which they signed up? If another course cannot be found for them, they will probably be left out of pocket over fees because loans have to be repaid. We believe that the Office for Students has a duty to assist them in every way possible and ensure that they can complete their studies. That is what Amendment 57 is about. However, overall, these three amendments are about protecting students, which I think is a cause to which everyone in your Lordships' Chamber would be happy to subscribe. I beg to move.

9.15 pm

Lord Norton of Louth (Con): My Lords, I support Amendment 57. At earlier stages of the Bill I have welcomed the provisions of Clause 13, which provide that the Office for Students can generate student protection plans. That is to be welcomed but, as the noble Lord indicated, the problem is that we do not know what form that protection will take and more needs to be set out on the face of the Bill. I moved an amendment in Committee to try to address this issue but, at that stage, the Government were not receptive. Therefore, we really need to come back to it.

As the noble Lord said, it is the Office for Students—students are meant to be at the heart of this measure, yet they will have no idea of what protection they have when they undertake a course of study. When it comes to protection, Clause 13 gives the example of a course failing to be provided. So precisely what protection is being accorded to students? They need that reassurance if they are to sign up for and pursue courses in the first place. Amendment 57 gets at this problem and I welcome the fact that we are again considering it. As I said, students deserve to have some idea of what protection they will have when they undertake a course of study.

Baroness Wolf of Dulwich: My Lords, I support the amendments to which I have put my name and agree with everything that both noble Lords have said so far.

When the Higher Education and Research Bill was first introduced, both Ministers pointed out that the environment in which higher education takes place has changed dramatically in recent years, and indeed it has. Very large numbers of students now take out large loans in the belief, and with the confidence, that the institutions they attend have in some sense been guaranteed by government—that what they are doing is safe in that they will be able to complete their studies. Fortunately, in most cases that is true, but of course it is not always or necessarily true. Anybody who looks at the experience in other countries will realise that institutions do fail, and indeed some of our non-degree-awarding institutions have failed in the past. The Competition and Markets Authority says cheerfully on its website that the sign of a healthy sector is that some exit occurs. Exit sounds quite cool—unless you happen to be one of the students in an exiting institution.

At the same time as this Bill is going through, the Technical and Further Education Bill is being debated, mostly in the Moses Room. As I attend the sittings of both Bills, part of the time I whinge but mostly it is a very informative exercise because we now have a tertiary sector as much as anything else. However, the protections being introduced for students in further education colleges go well beyond anything that has been specified for students in higher education, and that is highly regrettable. It is really important that in this new and changed environment, we realise that students need new and changed protection.

To give an example, for a long time the training sector has had many quite small, and sometimes quite large, rapidly changing institutions. Just before these Bills were introduced in the House, we heard the first story of a training provider that went into liquidation, leaving many people with outstanding loans and no obvious recourse. In the few weeks that both Bills have started to work their way through the House, there have been two other such failures. I shall be happy to give their names to anyone who is curious to know them, but, once again, we are left with, in this case, adult learners who have loans but no ongoing course.

When I raised this issue with the Minister and officials, I was told that the risks were lower for university students because they were more mobile and less local. However, that really is not true. It is not true of my own, but it is true of many of our university institutions that they have home students who are almost all highly local—often because they come from less advantaged families and are very unhappy about taking out major maintenance loans. So they are very local, and if their institution fails, they do not have anywhere else to go.

I hope very much that Ministers feel able, ideally, to accept Amendment 57, which seems to me the least that we can do in an environment where we are, in effect, making a promise to students. If it turns out that, for good reasons, that promise cannot be kept, they ought to be looked after.

Lord Bilimoria (CB): My Lords, I have spoken before in this context as chancellor of the University of Birmingham, chair of the advisory board of the Cambridge Judge Business School and an alumnus of Harvard Business School. However, years ago, when I was qualifying as a chartered accountant with the Institute of Chartered Accountants in England and Wales, I spent a year at what is now the London Metropolitan University, where I would later spend time as a visiting professor. I want to draw an analogy. In 2012, the London Metropolitan University lost its right to recruit international students. At that time there were 2,700 international students with valid visas, who had come here in good faith. They were given 60 days to find a place at another institution. That not only jeopardised their lives and futures but jeopardised and placed in crisis an institution with 30,000 students and 2,000 staff. That has implications for not only the institution but international students—as I know as the president of UKCISA, the UK Council for International Student Affairs.

Today, Universities UK has released a report showing that there are almost 450,000 students in the UK, of which almost 130,000 are from the European Union. The contribution they make to the British economy in gross terms—what they spend directly and indirectly—is £25 billion. With Brexit coming up, the uncertainty for international students, let alone EU students, is already there. It is not right that they have the added uncertainty that if, for whatever reason, the institution they join fails, they will be left high and dry. It will affect our economy and our ability to recruit international students. As it is, we have immigration rules that are against international students, which we will talk about later on Report.

I urge the Government to take this measure very seriously. It will give security to our domestic students and it is important for our international students and our reputation around the world.

Lord Storey (LD): My Lords, I did not intend to speak on this issue but I want briefly to say something very important. If any of us had children who we sent off to higher education, we would expect that institution to give them the support and development they needed. There are private colleges that have their courses validated by individual universities. Of course, those private colleges could, under certain circumstances, get into difficulties and cease trading. What happens then to the students and to their student loans? As the noble Baroness, Lady Wolf, rightly said, we are seeing this already in further education, where training providers

[LORD STOREY]
are going into liquidation. They are all right—they have gone into liquidation—but the poor student is left high and dry. I hope that when the Minister replies he might give assurances on this matter.

Lord Young of Cookham: My Lords, I am grateful to all noble Lords who have spoken in this debate, which has raised the important issue of student protection in the case of suspension of registration or indeed deregistration. I think that there is no disagreement that student protection is important, and that is why in this Bill we have gone further than ever before by including an express provision that will enable the OfS to ensure appropriate protections for students through a key condition of provider registration. The noble Lord and others have made some helpful suggestions regarding the likely content of student protection plans, which we agree need to be robust and comprehensive in their coverage. These plans are likely to include a diverse range of measures to protect students, as well as a diverse range of possible triggers for a student protection plan, including suspension of registration.

In response to the concerns that have been expressed in the debate, I can say that draft guidance will be prepared for consultation with the sector and with students as part of the regulatory framework consultation later this year. We would expect it to include information on how and when a provider should refer students to its student protection plan, for example during suspension of registration. It would be wrong to pre-empt the consultation by including these measures in the Bill itself, but I would seek to reassure noble Lords that the measures I have just referred to could include, for example, provision to teach out a course for existing students; offering students an alternative course at the same institution; making arrangements for affected students to switch to a different provider without having to start their course from scratch; and—in response to an issue raised by the noble Lord, Lord Watson—measures to compensate students who are affected financially. I hope that these examples provide some reassurance to noble Lords that we do have in mind the contingency arrangements they have outlined in the debate.

Clause 17 places a clear duty on the OfS to notify, through its maintenance of the register, when a provider has been suspended, and a similar duty is imposed on the OfS by Clauses 19 and 23 whenever providers are deregistered. The OfS already has the power, given in Clause 7, to require a provider's governing body to make sure that students are promptly informed about its actions.

However, widespread publicity of preliminary compliance measures may not always be appropriate in every case. Before the OfS can impose a sanction of suspension and deregistration it must notify a provider of its intent to do so, unless an urgent suspension is being imposed, and then allow the provider the opportunity either to argue its case or to put matters right. As I am sure noble Lords will agree, the desired outcome for the benefit of students and the provider alike is that the provider takes the actions necessary to ensure that it complies with the conditions of registration that have been placed upon it, which would mean that no further action would be required.

There are also important matters of confidentiality at play here, which is a key concern that has previously been raised by Universities UK and a number of noble Lords in the debates in Committee. Higher education providers would not wish the OfS to announce that it was carrying out an investigation into a provider as this could lead to unnecessary reputational damage if the OfS subsequently decided not to take action. We must also be careful not to unsettle or panic students unnecessarily. Disclosing details of possible sanctions when the OfS has yet to decide to take action would not in our view generally be appropriate or helpful to students. It is the inclusion of the words "intention to" that I find real difficulty with in Amendment 56.

On Amendment 57, I have listened to the thoughtful debates we have had today, and indeed I read the debates in the other place, on the issue of student transfer. We tabled Amendment 100 on this important issue which we have already discussed. Our amendment will require the OfS to monitor and report on the provision of student transfer arrangements by registered higher education providers. It will empower the OfS to facilitate, encourage or promote awareness of these arrangements. In doing so, the Government are creating the conditions to allow the necessary flexibility for students to make the right choices for themselves and to have control over those decisions, whatever the reason for their transfer. The amendment that has been proposed and to which noble Lords have spoken would result in the OfS trying to make arrangements for students to be placed on other courses if their current course closed. However, the decision about what courses to offer falls within the institutional autonomy of each provider.

While I recognise the importance of students being able to transfer, particularly where their institution ceases to offer their planned learning, it is not and nor should it be in the OfS's gift to determine whether institutions accept students from elsewhere. This has never been a role undertaken by the OfS's predecessor, HEFCE, and there is no intention for it to be taken on by the OfS. It must surely be preferable for the sector to be in control of transfer processes, including where appropriate as part of the student protection plans, and for the OfS to play a greater role in facilitating and encouraging the availability and take-up of such arrangements.

In response to my noble friend Lord Norton, who was concerned that students would not know what protections they have, we have listened to concerns on this issue. That is why we brought forward an amendment in the other place to require plans to be published and therefore brought to students' attention. This balanced approach is what our amendment sought to achieve. Against that background, I ask the noble Lord to withdraw Amendment 55.

9.30 pm

Lord Watson of Invergowrie: I thank the Minister for that, but he rather gave the impression of a man thrashing around in a deep pool, desperately trying to find something to cling on to. I did not find his arguments convincing. When I moved the amendment I said that it has been stated time and again that the Government want students at the centre of the Bill. I did not quote Clause 18, but I will now. It says:

"Where the decision is to suspend the provider's registration, the notice must …specify the date on which the suspension takes effect … specify the excepted purposes … specify the remedial conditions (if any), and … contain information as to the grounds for the suspension".

It does not specify what happens to existing students during the suspension period, as documented in a provider's student protection plan. Why not? How will that hinder any institution if that were to be placed in the Bill? Surely it is the sort of thing that students are entitled to know when their institution is getting into severe difficulty. I do not see why that should provide any difficulty at all.

I enjoyed the analogy drawn by the noble Baroness, Lady Wolf, between this Bill and the Technical and Further Education Bill, which, as she said, is substantially about the insolvencies of further education colleges. For the avoidance of any doubt, the Minister in charge of that Bill, the noble Lord, Lord Nash, assured noble Lords that that will never happen either. We are to believe that insolvency has no greater a chance of happening in the further education sector, yet three-quarters of the Bill is about insolvency.

It would have been helpful if the vehicle used for dealing with insolvencies in the further education Bill—the special education administrator—had had some equivalent in this Bill, because situations will arise where that kind of role will be necessary. It cannot be carried out just by the Office for Students. That section of the further education Bill concerns further education students getting into difficulty having a special education adviser. With no such equivalent person for higher education provided for in this Bill we are left with a section that is rather like "Hamlet" without the prince. No one will be appointed by the courts in this section. That is the difference between this Bill and the further education Bill.

The Minister talked about draft guidance for consultation with staff and students on when a student protection plan becomes effective, but the amendments here are not about pre-empting. We are saying something different. We are talking about a situation after the college has got into difficulties. It is about reacting to that, not anticipating it. It is important that that difference is understood.

I say to the Minister, particularly in relation to Amendment 57, on which we welcome support from the Cross Benches and the Government Benches, that we would make it easier for the Office for Students. The amendment says that,

"the OfS must, as promptly as possible, seek to make arrangements for the students of that provider to be offered places on similar courses with another higher education provider".

We could have omitted the words "seek to". We have been helpful to the Government by suggesting only that the OfS should seek to do that. I take the Minister's point that some students would not like to be told by the Office for Students, "Very sorry, your university is closed. Here is where you will go as of next week". That is not the way I would envisage it happening. It would be about choices. The Minister talked about student choices. Student choices should, as far as possible and practicable, be provided by the Office for Students, because it will have overall responsibility as the regulator. It should be able to say to students, "You are without a class at the moment. Here's what we suggest".

I acknowledge, as the noble Baroness, Lady Wolf, said, that there will be some cases where colleges are very local and students are unwilling to travel to the next town or, if it were London, to another part of the city to complete their studies. On that basis, they may decide that completing their studies is not possible, but they should be offered choices. That is what we are suggesting. Students are at the centre of the Bill yet the OfS is not to be allowed to provide options for them to continue studies. Again, I find that very surprising. That is a real failing of the Government's commitment. We should ask what their real commitment is to the interests of students. That should be the test, and the test to which we should put it is that of the opinion of the House.

The Deputy Speaker decided on a show of voices that Amendment 55 was disagreed.

Amendment 56 not moved.

Amendment 57

Moved by ***Lord Watson of Invergowrie***

57: After Clause 22, insert the following new Clause—

"Duty of OfS to seek to place students whose provider ceases to offer courses

If a higher education provider ceases to be able, or eligible, to provide higher education courses for its students, the OfS must, as promptly as possible, seek to make arrangements for the students of that provider to be offered places on similar courses with another higher education provider."

Lord Watson of Invergowrie: I apologise for the previous confusion. On this amendment, I wish to test the opinion of the House.

9.36 pm

Division on Amendment 57

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Amendment 57 disagreed.

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9.47 pm

Clause 24: Assessing the quality of, and the standards applied to, higher education

Amendments 58 and 59

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

58: Clause 24, page 15, line 27, at end insert—

"( ) Where there are one or more sector-recognised standards, an assessment under this section of the standards applied—

(a) must relate only to the standards applied in respect of matters for which there are sector-recognised standards, and

(b) must assess those standards against sector-recognised standards only."

59: Clause 24, page 15, line 28, leave out subsection (3)

Amendments 58 and 59 agreed.

Clause 25: Quality Assessment Committee

Amendments 60 and 61 not moved.

Consideration on Report adjourned.

House adjourned at 9.48 pm.