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House of Lords

Friday 11 March 2016

10 am

Prayers—read by the Lord Bishop of Durham.

Riot Compensation Bill

Order of Commitment Discharged

Relevant documents: 22nd and 23rd Reports from the Delegated Powers Committee

10.05 am

Moved by ***Lord Trefgarne***

That the order of commitment be discharged.

Lord Trefgarne (Con): My Lords, I understand that no amendments have been tabled to this Bill and that no noble Lord has indicated a wish to speak in Committee or to move a manuscript amendment. Accordingly, and unless any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Access to Medical Treatments (Innovation) Bill

Order of Commitment Discharged

Relevant documents: 22nd and 23rd Reports from the Delegated Powers Committee

10.06 am

Moved by ***Lord Saatchi***

That the order of commitment be discharged.

Lord Saatchi (Con): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

NHS (Charitable Trusts Etc) Bill

Order of Commitment Discharged

10.06 am

Moved by ***Baroness Massey of Darwen***

That the order of commitment be discharged.

Baroness Massey of Darwen (Lab): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Gambling (Categorisation and Use of B2 Gaming Machines) Bill [HL]

Second Reading

10.07 am

Moved by ***Lord Clement-Jones***

That the Bill be now read a second time.

Lord Clement-Jones (LD): My Lords, through the Bill I am today pursuing a matter of considerable concern that has been raised in this House on a number of previous occasions by myself and my noble friends in particular, and which reflects great concern outside in the country.

Fixed-odds betting terminals—FOBTs—are touch-screen roulette machines in betting shops that allow the user to bet up to £100 every 20-second spin. They have transformed the betting sector since their introduction in 2001, and the Gambling Act 2005 classified FOBTs as B2s. The noble Baroness, Lady Jowell, stated at the time that if evidence of harm emerged, the £100 stake could be reduced as FOBTs were "on probation". It is clear that the experiment to allow high-speed roulette in easily accessible betting shops has been a disaster and it is notable that as a result, the noble Baroness, Lady Jowell, herself recently called on the Government to act as the evidence of harm continues to build.

The essence of my Bill is to reduce the stake to £2 a spin. This is the maximum stake on gambling machines in all other easily accessible venues such as arcades and bingo halls. It will reduce gambling-related harm, prevent further betting shop clustering and restrict high-street money laundering.

The human misery caused is enormous. I will not rehearse all the harrowing stories, but many have been reported and they are extremely distressing. Clinical psychologist Anna Henry, who treats gambling addicts, said that FOBTs are designed to foster addiction:

> "Basically the industry has created casinos in the High Street … These machines isolate the player, there is nothing to distract him from that screen. Its speed is to encourage frenzy. And thus more spending".

More crime takes place in betting shops than in any other gambling venue. A freedom of information request to the Gambling Commission revealed 11,232 incidents in 8,980 betting shops from January to December 2014—an average of 1.25 incidents per premises, up from 0.82 the previous year. This compares to just 479 incidents related to the remaining 2,747 venues. These incidents account for 97% of police call-outs to all gambling venues.

The reality is that these machines are highly dangerous products which are a catalyst for problem gambling, social breakdown and serious crime in communities. Just take the case of a gambler in Leeds who was given a two-year sentence for attacking a betting shop worker

[Lord Clement-Jones]
with a knife. The man had lost £1,000 playing FOBTs—money that was intended to be a deposit on a flat. He said that he was "utterly possessed" by the machines.

FOBTs are also useful to money launderers, as huge amounts of cash can be inserted into the terminals to legitimise the proceeds of crime. There were 633 suspicious activity reports in betting shops last year related to money laundering, but much of it goes unreported. A Gambling Commission report that will be considered by the Treasury said:

"The betting sector is regarded as high-risk relative to other gambling sectors. The customer base is varied, and often customers remain anonymous to the operator within the non-remote sector. The reporting and detection of suspicious transactions in the non-remote betting sector is often frustrated by the ability of a customer to remain anonymous".

Bookmakers have a legal duty to comply with the licensing objectives of the Gambling Act 2005, but how can they comply and keep gambling crime-free and harm-free when the FOBT stakes are so high? Each betting shop is permitted four FOBTs, which now account for more than half of bookmakers' profits. One has only to look at the importance of these machines in the recent figures for William Hill and Ladbrokes. The gross win on each machine is worth £1,000 a week. That led to a 43% increase in the number of betting shops on the high street between 2004 and 2012.

While planning authorities are in a better position to refuse applications, licensing authorities are still required to aim to permit betting shops. They are still powerless to stop the proliferation of betting shops and FOBTs on the high street. One street in the London Borough of Newham has 18 betting shops. As a result, 93 local authorities led by Newham Borough Council submitted a proposal under the Sustainable Communities Act. They called for the stake to be cut to £2 due to the anti-social behaviour, crime and problem gambling that the machines are causing in their local areas. This unprecedented step represents the widest support that any Sustainable Communities Act proposal has ever received. The Government rejected that proposal last year, but the Local Government Association has since resubmitted it under the terms of the FCA. What will the Government's response be in the coming months, when discussions are due to take place?

There are wider economic arguments. There has been much scaremongering about the economic impact of any action to restrict FOBT machines. The ABB has claimed that 7,800 betting shops and 39,000 jobs would be at risk if there were a reduction in the maximum FOBT stake from £100 to £2 per spin. However, a report by NERA Economic Consulting, *The Stake of the Nation—Balancing the Bookies*, concluded that cutting the stake on these machines would reduce the number of bookmakers by about 800, primarily where clusters had developed. Moreover, it found that the move would create a net positive 2,000 or so high-street jobs as money returned to other, more labour-intensive and productive high-street shops.

Elsewhere, other Governments are concerned about the impact of these terminals. The machines are already banned in Ireland. Above all, there is the impact of FOBTs on the vulnerable and the disadvantaged. Research published last year by SPICe, the Scottish Parliament Information Centre, found that problem gambling is seven times higher in deprived areas, seven times higher among harmful drinkers and six times higher among the mentally ill. A 2014 survey by 2CV found that 80% of all betting shop users think that FOBTs are addictive, rising to 89% among FOBT users. The survey found evidence of harmful levels of gambling. Users playing weekly or more often account for 63% of session activity and 90% of cash inserted into FOBTs.

We have all seen that the Responsible Gambling Trust is now facing problems with the Charity Commission as a result of conflicts of interest on its trustee board. I do not want to add to its woes but its lengthy research programme failed to carry out its primary purpose—establishing whether FOBTs are safe. It did, however, provide some insight into worrying trends in machine gambling, including the fact that a person gambling with higher stakes is more likely to make a poorer judgment than when gambling with lower stakes, that the number of people betting the maximum £100 stake doubles between 10 pm and midnight, and that 37% of FOBT gamblers are problem gamblers. The Gambling Commission has stated that, in interpreting the available evidence where the evidence is mixed or inconclusive, it will take a precautionary approach in accordance with its principles for licensing and regulation. So surely, in the face of this evidence, the stake should be reduced until there is an indication that it can be safely increased above £2.

The fact is that government measures to date have been ineffective. After months of grass-roots pressure and concerns expressed across the country, last year the Government introduced the Gaming Machine (Circumstances of Use) (Amendment) Regulations 2015, which were implemented on 6 April. These regulations require FOBT customers to authorise stakes of £50 or more either via account-based play or via over-the-counter staff authorisation. In January 2016, the DCMS published an evaluation of the impact of the regulations. However, a study by Landman Economics has demonstrated that the DCMS was completely unable to determine whether the regulations on the £50 stake had led to an increase in player control, let alone a reduction in the number of problem gamblers. The DCMS argues that increased session length may have led to more considered decision-making, but the time between spins increased only very marginally. It is much more likely that players who used to stake up to the £50 to £100 range are simply losing their money more slowly. This would not represent more controlled play. The report concludes that the DCMS evaluation is flawed and cannot realistically be used as a reliable guide to policy.

Where one has regard to the scale and nature of the problems that FOBT machines are causing, on the precautionary principle a very much more serious and more appropriate response is required, as set out in the Bill before us. The time for tinkering has gone, and there is no doubt that the public support action against FOBTs. In fact, a YouGov poll showed that only 4% of the public would oppose a ban on them, with 58% of those who gamble more than once a month being in favour of an all-out ban. ComRes polling showed

that two-thirds of people in marginal constituencies believe that FOBT machines are harmful and they support the reduction of the maximum stake to £2. FOBTs are destroying lives and damaging communities. The Bill will reduce the maximum stake on FOBTs to £2 a spin. I believe that it will reduce the serious harm caused by the machines, deter money laundering and reduce betting shop clustering on the high street.

I am an optimist and I very much hope that the Government will support the Bill. Modest though it is, if the Government reject it, and especially if they claim that they can achieve the same goals by other means, I believe they will be obliged to answer some vital questions. Will the Minister confirm when the next review of stakes and prizes is due to take place, and that the issue of FOBT stakes will be included within it? Does he agree that, as proposed by the Gambling Commission, and given the evident harms that FOBTs are causing, the Government should act on a precautionary basis and reduce the stake on FOBTs? In that context, does the Minister believe that a substantial review of FOBTs stakes is the best way to deal with the harms the terminals are causing? Will he make sure that FOBTs are properly regulated through harm-mitigation measures to ensure that they no longer present a risk to the vulnerable? If so, how? And how will the Minister ensure that the Government properly address the money-laundering risk that FOBTs present? I beg to move and look forward to the Minister's reply.

10.19 am

Lord Mackay of Clashfern (Con): My Lords, I rise to support the Motion that the noble Lord, Lord Clement-Jones, has moved so eloquently. I do not propose to rehearse the ground that he has covered so clearly and well.

I want to make three points. First, it is obvious that this type of machine produces very substantial returns for the industry. That is usually quite an important factor if you believe in a market economy, but the market economy requires action to prevent abuse in some cases. Not long ago, your Lordships passed a Bill to restrict legal highs, which are very popular as far as markets are concerned—rather dubious markets at that—but are of terrific harm to people across the community. The Government have rightly acted in that area. In my submission, the Government should act effectively in this area also, given that, as the noble Lord has demonstrated so clearly in his speech, this is a very damaging social problem in our communities, particularly in the less affluent communities. Obviously, if one is in a desperate situation, one takes desperate measures. Sometimes, the idea that you will possibly make a big profit overcomes every other consideration. In the mean time, what you have done is deplete your assets even more.

Secondly, I want to say a word or two about the question of money laundering. This is an important area, and I was interested to know how this money laundering works. Apparently, if somebody has some money that is of doubtful origin, he goes into the betting shop and uses this money to wager on these machines. But because the maximum wager is so high, it is possible to choose a machine in such a way as to reduce to a minimum—to about 4%—the actual risk of loss. Therefore, to launder the money, all you have to do is be prepared to suffer a discount of 4%. In these conditions, that is probably a pretty good bargain. It seems to me that this is a desperate situation, and the Government certainly need to do something about it. The idea that the recent regulations introduced do anything about that is completely farcical. I would very much like the Minister to tell the House what the Government's view is on money laundering in this particular area and what, if anything, they propose to do to put a stop to it. The importance of a reduction in the maximum wager is that, if it were brought down to £2, the option of a 4% maximum loss would be eliminated.

The third point I want to make was already mentioned by the noble Lord, Lord Clement-Jones. The Scottish committee with responsibility in this area was very much in favour of taking drastic action in connection with this. However, the Scottish Parliament did not have any powers in this area. In view of the Scotland Bill—soon, I hope, the Scotland Act—the Scottish Parliament will have the possibility of dealing with new machines, but there is still a difficulty about existing machines. Therefore, the Government of the United Kingdom have a responsibility to see what they can do to implement measures to deal with the very deep concern that the Scottish authorities have drawn attention to and which they are powerless to deal with. In my submission, this Bill is a very simple and adequate remedy to a very serious social problem in our United Kingdom.

10.24 am

Lord Lipsey (Lab): My Lords, for safety's sake, I declare a rather remote interest as a member of the Starting Price Regulatory Commission.

For most of my life, I have been the customer whom most bookmakers most wanted to see walk through their door. So, if the House will forgive me, I will do a bit of bragging about the annus mirabilis that has just gone by. First, there was Many Clouds in the Grand National at 33:1. Secondly, there was the Lib Dems to get fewer than 10 seats at the general election—combining business with pleasure there, I landed the bet at 16:1. Thirdly, there was Jeremy Corbyn for Labour leader—I have to say that that was combining displeasure with business, and, again, was a 16:1 shot. Finally, there was the spectacular victory of Fearless Fantasy, owned by Mr Matt Engel and me, in the maiden at Didmarton last Saturday at a very tasty 9:1. The House will understand that I am not anti-gambling.

I worry about some of the people who support this Bill today. We all know and love the noble Lord, Lord Clement-Jones, but he is a Lib Dem and the Lib Dems have been going on about gambling since the 19th century. So it is nothing new for them—good on them for keeping going. However, the puritan spirt that encapsulates it may be part of the reason why I won my bet on them doing badly at the general election. Anyway, next week, the noble Lord, Lord Clement-Jones, will doubtless be introducing a Bill to reduce the strength of beer to below 3%, and I wish him good luck in pursuing Lib Dem causes.

[LORD LIPSEY]

On a slightly more serious note, some of the lobbying that we have had does deserve a closer look. Take, for example, CARE. If the name Christian Action Research and Education rings a bell in this House, it may be because in the debate last year on mitochondrial transfer it produced the most disgraceful polling, conducted by the firm ComRes, which the Minister the noble Earl, Lord Howe, rightly demolished at the Dispatch Box. I have made an official complaint to the Market Research Society about that polling and that is still being deliberated on. I am very glad that CARE has, this time, used the reputable pollsters YouGov to conduct its research. However, you have to worry about these ideologically committed groups.

Even worse, I am afraid, is the Campaign for Fairer Gambling. Much of its work is very good, well researched and has contributed to debate, but the House needs to know that it is largely funded by a man called Derek Webb, a former casino games inventor who lives, I think, in Las Vegas, and who has been involved in a commercial dispute with the British betting industry over the machines that he invented. When you have that kind of background, you have to watch it a bit before you take the moral high ground in debates of this kind.

I have also noticed the swelling press opinion. I take my hat off to whoever invented the phrase "the crack cocaine of gambling", because not an editor in the country can resist it, but we get some very strange stories. The *Guardian* this week claimed that bookmakers are targeting ethnic minorities with these machines. But the facts are these: of course bookmakers set up betting shops in areas that are less prosperous—I wonder whether anyone in this House has played an FOBT; Members of this House do not go into betting shops but bet on the phone or online—because betting shops are a pastime that is most common in deprived areas. There are more ethnic-minority people in deprived areas. If bookmakers open more betting shops in deprived areas, that is a perfectly sensible commercial decision. It is nothing to do with targeting people from ethnic minorities, and it is a grotesque distortion of the facts to complain otherwise.

Noble Lords can therefore see that my disposition is to reject this Bill and the thinking behind it and to claim that all is well—but I cannot. Most reluctantly, I cannot. I am persuaded that the regime for FOBTs is too liberal, that the £100 stake limit—£50 without human interaction—is too high, that the bookmaking industry has been defending the indefensible and that the Government have acted with the energy of a hibernating sloth. The bookmakers should have seen this coming and done something off their own bat, but greed stopped them doing it.

I am wearied, too, by this constant repetition in their propaganda that they are waiting for the evidence. I perhaps do know a bit about evidence in this field because I have been a visiting professor in gambling at a reputable British university and read more of this research than many of your Lordships have had hot dinners, though much of it is a great deal less digestible than the hot dinners that you will have eaten. I have to say that this is a very hard field to research. We can all find out what the number of betting shops is—whether it is going up, going down or whatever—but this is about human behaviour and human motivation in an area where people have all sorts of motivations to keep things secret and where, to be truthful, the bookmakers have been very reluctant to make available the commercial evidence that they have at their disposal. It is very hard to come to firm conclusions, and you can find an evidence-based way of backing any case that you cared to argue, which is why they keep coming back to it. There will never be enough evidence. The only thing I would say is that, if anyone is in any doubt, they should go into a betting shop—something I do on occasion—watch the people putting the money into the FOBTs and see whether this is an activity that they feel wholly comfortable with on the scale with which it is conducted. It really is not very pretty.

I would not stop people—I am against stopping people wherever possible—but I think that a degree of restraint is justified. If anyone had any doubt, they should study the case that was in the newspapers this week of the Paddy Power customer who, the staff warned, had a real gambling problem and higher management forced them to try to make him continue to bet. It has paid £280,000 in a fine for that. That was two years ago and I am prepared to believe that Paddy Power, which is my bookmaker, has tightened up since, but that shows a depth of cynicism and a willingness to wreck human lives that devalues the whole case that the bookmakers are making. I do not know if £2 is the right limit; I should be inclined to settle for something higher, particularly if it could be done by consensus rather than as a result of disputes between the extremists on either side.

I have two quick points to conclude. Lower limits will hit bookmakers' profits, and they have been hit already by the increase in gaming machine tax. Coral's recent results show an extra £50 million a year in tax; for Hill it was £87 million. We understand that the Government are going to levy a sort of tax on bookmakers—or, rather, on poor punters—to subsidise horseracing and rich owners like myself. George Osborne has been egged on in this by Matt Hancock, who is not only a former BIS Minister but the Member for Newmarket. I think we are going to hear something in the Budget speech this year, as we did last year, though the racing right canvassed there went away. Well, I call this "Hancock's Half-minute" and I hope it will go away very quickly, because if the bookmakers put in more and more money to subsidise me, they will not have the spare resources to cut down on the use of FOBTs by sensible restraint. I am not sure whether this stuff will survive European scrutiny under state aid, but I think it has to be taken account of and taken into proportion.

This is not, and should not be, a puritan campaign. Many of us in this House, I am sure, have pictures of betting shops—I go in, as I say, probably more than most of those present—as sordid places of iniquity. There is an element of that, but there is much more an element of them as places of cheap entertainment. Actual socialising takes place in betting shops, of which we have far too little in our community. I fear that if the proposals of the noble Lord, Lord Clement-Jones, were adopted, there would be many more people doing this online, in the privacy of their own homes,

with no social interaction and not having the pleasures that go with it. Betting shops also create—it is not a negligible point—thousands and thousands of jobs in areas where jobs are very scarce on the ground. They are not just jobs; they are jobs where people can learn skills and grow. To be a betting shop manager is to be a wonderful retail manager and these are great opportunities. We do not want to kill the bookmaking industry. We want to cut off the worst aspects of it while preserving those aspects of it that we should either tolerate or welcome. More restraint of FOBTs, yes; destroy the bookmaking industry, no.

10.36 am

Lord Foster of Bath (LD): My Lords, I rise to support my noble friend Lord Clement-Jones's Bill, and I can assure the noble Lord, Lord Lipsey, that my party will continue to raise important issues such as this one. Unlike the noble Lord, until quite recently I had relatively little knowledge of gambling or gaming, but all that changed in 2004 when I had to the opportunity to serve on the Gambling Bill Committee in the other place. During our discussions there we learned a great deal. Although there was some discussion of fixed-odds betting terminals, the majority of the debate centred on the issue of super-casinos and, rather bizarrely, the maximum amount of money that could be charged for a teddy bear in an arcade grab machine. However, since the Bill was passed and became the Act, concerns about fixed-odds betting terminals have continued to be discussed and the concerns have increased.

I had the opportunity to work on some other related issues, internet gambling in particular, and the use of voided bets and unclaimed winnings in betting shops. However, the concerns about FOBTs grew and grew, and I had an opportunity to meet many of the individuals and organisations that were expressing concerns about them. I can say to the noble Lord, Lord Lipsey, that yes, I have indeed played on a FOBT machine and seen how easy it could be to lose a great deal of money. I had the opportunity to come forward with one or two proposals for how we could move forward. One particular concern was the growth in the number of betting shops and the way that they were clustering together on our high streets, particularly in areas of high unemployment. It is worth reflecting on the fact that in betting shops that are allowed up to four fixed-odds betting terminals, up to 50% of profits come from those terminals. In the past 10 years, because of the drive from those profits, there has been a 50% increase in the number of betting shops on our high streets. Indeed, there are twice as many betting shops per head in areas of high unemployment than in areas of low unemployment. They are also very closely linked to payday lending and often have such premises next door to them.

In the London Borough of Newham, for example, there are currently 82 betting shops—that is, six per square mile—and some high streets have more than a dozen betting shops in close proximity to each other, creating in effect casinos on the high street that are far less regulated and far less supervised than the official casinos. Local councils are almost powerless to stop it because betting shops used to fall into the same planning category as banks, so that when a bank or building society branch closed, it could be converted into a betting shop or gaming outlet without the need to apply for planning permission to change it. I and many others propose that there should be a separate use category for betting shops. I am delighted that in the last days of the previous coalition Government such a measure was introduced. Unfortunately, however, there was still a duty on licensing authorities to "aim to permit" betting shops. So despite the welcome change in the planning legislation, the problem remains. That is why my noble friend's Bill is so important—it tackles the problem from a different direction.

The FOBTs that we are talking about, as noble Lords have said, allow bets of up to £100 on a single spin or game, and three games can be played in just a minute because of the very high spin rate. No other machine offers such high stakes or play speeds. The evidence is clear that they are addictive and linked to social vulnerability and payday lending. One FOBT player, who sadly later committed suicide, had said, "It's quick and easy to win and lose money in a short space of time". As the noble Lord, Lord Lipsey, has said, they have been described by some as the "crack cocaine of gambling", while others have described them as "the scourge on the High Streets across Britain" and the "misery machines doing our society no good at all". From these "misery machines" bookies are making record profits. Some suggest that Ladbrokes is now making £1,000 per week per machine. With the increased number of machines, overall profits are rising. As one insider put it, it is inescapable that FOBTs are the only reason many betting shops are still running. As the profits rise, so does the misery these machines cause. For instance, the *Times* recently ran a story with the headline:

> "Violence, debt and devastation brought by the spin of a wheel".

At the end of last year, the Metropolitan Police recorded a record number of violent incidents, including assaults, linked to these terminals running into hundreds, but across the UK police were called out no fewer than 11,200 times during the past year. As we have heard, concerns about the use of FOBTs for money laundering are widespread. Tragically, as newspaper after newspaper testifies, there are far too many stories of family breakdown, financial ruin and even suicide caused by these machines. Clare Foges, the Prime Minister's former speechwriter, wrote recently:

> "At the heart of these statistics are the fiendishly seductive fixed-odds machines that act like sirens on the rocks to the weak-willed and addicted".

Most significantly, the Secretary of State then in charge of the Gambling Act 2005, now the noble Baroness, Lady Jowell, has acknowledged that FOBTs were "under probation" and should be removed if evidence were gathered that they were promoting harm. The noble Baroness has admitted that the 2005 Act, which gave power to the Gambling Commission to step in, had not worked. FOBTs are highly addictive, hence the sobriquet of "crack cocaine of gambling". One study has shown that FOBTs have the strongest association with gambling-related problems, with 37%—more than a third—of FOBT users having experienced gambling-related harm.

[Lord Foster of Bath]

Despite all this, the Government have failed to act—despite, indeed, the Prime Minister's assertion in 2014 that something had to be done. When I had the opportunity as a Minister to try to do something, I was allowed by the then Government to take the weakest of all responses: to announce a review. Sadly, that review came to naught. It is also sad that the current Minister, Tracey Crouch, who has spoken out strongly against FOBTs, has also attempted to introduce a review, but, quietly and mysteriously, it was blocked by No.10 a few months ago.

As we have heard, the bookmakers have, understandably, carried out an impressive campaign to delay action while protecting their profits—codes of practice, so-called trial player self-regulation measures and always the call for more, long-running research projects, none of which has stopped a vulnerable person chasing their losses and bringing themselves and their families into further debt and ruin by playing these £100-a-spin machines. Questions are even being asked by the Charity Commission about the charity that commissioned the most recent key FOBT research and the influence that the bookmakers have had on that research. Even the gambling regulator, understandably daunted by the prospect of taking on the powerful bookmakers, has failed to recognise that the reduction of the £100 stake would be the one measure that ensured protection of the most vulnerable. Like the Government and so many others unwilling to take on the might of the bookmaking lobby, the regulator has said that it needs more evidence that there is a credible risk of harm before it would be prepared to recommend the precautionary approach and adopt a stake reduction.

Inaction is destroying lives, as newspapers and the rest of the media illustrate all too regularly with case after case. We do not need more research; we need action. It could be action to reduce the spin rate—that would help. It could be action to reduce the number of machines in each betting shop—that would help. It could be action further to strengthen the power of local councils to prevent the proliferation of betting shops by giving them, as they have for pubs, the ability to take into account the cumulative impact of a proliferation of gambling activities when considering planning applications—that, too, would help.

But the best action would be to accept and implement the proposal in my noble friend's Bill: to reduce the stake to a maximum of £2 so that the FOBT is comparable to other categories of gaming machine. I recommended such a move several years ago and so did many others. As we have already heard, last summer, 93 councils of all political persuasions across England and Wales called for FOBT stakes to be reduced from £100 to £2. Yet, sadly, the Government said no, despite the fact that it would be easy to do: no primary legislation is required. Terminals could simply be recategorised in line with other betting machines.

The bookmakers and those who support them will, of course, argue that we need more evidence. They are protecting their profits while lives are being destroyed. However, the evidence is clear and anybody with a conscience should be willing to see it and not close their eyes to it. The Gambling Act 2005, arguably the source of all this misery, had as one of its overriding purposes the protection of the public from the harm that gambling can do. Ten years later, it is time to take the action needed to meet that purpose. It is time to reduce the stake on the FOBT to £2.

10.48 am

Baroness Howe of Idlicote (CB): My Lords, I thank the noble Lord, Lord Clement-Jones, for introducing his more than timely gambling Bill, which proposes reducing the maximum stake per spin from £100 to £2. While I recognise that for many people gambling is not associated with harmful behavioural patterns, as the noble Lord, Lord Lipsey, pointed out, I am keenly aware that some forms of gambling are much more associated with problematic forms of behaviour than others. Where that is the case, I strongly believe that policymakers have a responsibility to take robust action to protect the vulnerable.

I have previously moved amendments whose purpose has been to enhance protections for the vulnerable in relation to online gambling, which poses a unique set of challenges arising out of the fact that, unlike terrestrial gambling, it is available 24/7 and can be accessed without leaving one's bedroom, let alone the house. FOBTs, similarly, represent a form of gambling that presents a particular challenge as far as problem behaviour is concerned. Rather than arising out of 24/7 availability, the central problem with FOBTs is the way in which they combine a very high speed of play with high stakes. This means that it is possible to lose large sums very quickly indeed.

Secondary research on the British gambling prevalence survey, conducted by Orford et al and published by the National Centre for Social Research, demonstrates that 26% of days that were spent playing FOBT machines were by problem gamblers as well as 23% of spend. These figures are noticeably high when compared with other gambling products and activities. Another study published by the National Centre for Social Research conducted by Heather Wardle et al meanwhile showed that 37% of loyalty cardholders who regularly gambled had experienced problems with machine play. That number is likely to be even higher for FOBT users when considering the fact that the research examined problem gambling prevalence for both fruit machines—B3 machines that were not particularly associated with problem play—and FOBTs. It is in any event the highest problem prevalence figure of which I am aware and means that, of any 100 people, 37 regular users are getting into difficulty. An attrition rate on that scale is wholly unacceptable.

The Campaign for Fairer Gambling has multiple testimonies of people whose lives have been wrecked by FOBTs. I will mention just two. One began playing FOBTs aged 18 and spoke of how they had lost over £150,000 on the machines over an eight-year period. Another explained that they had started playing FOBT machines placing small bets at first, and then going on to bet £100 per spin. They suggested that:

> "These things very nearly killed me, and I've lost most of my family".

Similarly, recent reports in the *Guardian* highlighted the financial difficulties that individuals may experience. One individual suggested:

"I started gambling when I was around 18, just 5p-a-go fruit machines or £1 bets on football acca's. I then started playing the bigger fruit machines in snooker clubs and then eventually fixed-odds betting terminals (FOBT). This is by far the most addictive form of gambling that's easily accessible to anyone. I could lose £80 in one night on fruit machines, but with a FOBT you can lose that in literally seconds".

While the Government have seemed very slow to take the problem of FOBTs seriously, it is worth noting that the gambling industry feels increasingly uncomfortable about these products. Adrian Parkinson, who actually helped develop FOBTs, felt so troubled that he became a whistleblower on the industry and joined the Campaign for Fairer Gambling to campaign for the change in the law proposed by the Bill of the noble Lord, Lord Clement-Jones. Yesterday, moreover, the former chairman of Paddy Power, Fintan Drury, called for fundamental change on FOBTs. Interestingly, he has done so in a way that provides an explanation for government inaction. He begins his *Times* column stating that:

"As chairman of a major betting firm I came to realise how high-stakes machines wreck lives".

He continues:

"Did you know that it is possible for someone to gamble £18,000 an hour playing a Fixed Odds Betting Terminal in any betting shop in Britain? The industry does. So, to its shame, does the government but, as the estimated annual investment by gamblers on these machines runs to something like £50 billion, the benefit to the Treasury means that Whitehall turns a blind eye".

The evidence is very clear that the gambling industry tends to concentrate FOBT machines in deprived areas. A report conducted by the Campaign for Fairer Gambling and verified by Landman Economics reveals that in 2014 more than £13 billion was gambled on high-speed, high-stakes gambling machines by the poorest quarter of England's population—double the amount staked in the richest areas. The report reveals that, in the 55 most deprived boroughs of the country, high streets were lined with 2,691 betting shops in which £13 billion was gambled or staked on FOBTs by punters, and £470 million of that was lost last year. By contrast, there were 1,258 bookmakers in shopping centres in the 115 richest districts, containing the same population, where players staked £6.5 billion and lost £231 million in the same 12 months.

The report did not cover Northern Ireland because, quite shockingly, there is no requirement on those betting shops providing FOBTs to register them, so no one knows where they are located in the Province. However, the charity CARE conducted research in 2014 using betting shops as a proxy that demonstrated that more than a third of those shops are located in the 10% most deprived wards in Northern Ireland. Moreover, the British gambling prevalence survey itself showed that the unemployed were more likely to use FOBT machines in comparison with those in employment, in retirement, in full-time education or caring for the family. Is it right for the Treasury effectively to develop a tax that is targeted on the poor?

I am quite sure that the Chancellor would not want to be thought of as a modern-day Sheriff of Nottingham, but if Mr Drury is correct, and he should know, that would seem to be the case. Even those with the closest possible associations with Downing Street are deeply troubled. Former speechwriter for the Prime Minister, Clare Foges, who has actually called for FOBTs to be banned, likens the Government's attitude to FOBTs as,

"curiously retro; like turning a blind eye while the poor destroy themselves on Gin Lane".

Surely it is time for the Government to square up to the socially destructive reality of FOBTs. The public can see it, we can see it, even the gambling industry can see it. How long must it take for the Government to see it? I do hope that they will not allow the prospect of lost tax receipts to cloud their judgment on what is fast becoming one of the great social justice issues of our time. The best way to address this challenge is to do precisely what the noble Lord, Lord Clement-Jones, proposes: namely, to reduce the maximum stake per spin from £100 to £2, bringing B2 machines into line with B3 machines. That is the solution proposed by Newham Council, supported by no fewer than 93 other councils in their Sustainable Communities Act application. It is the solution proposed by the Campaign for Fairer Gambling and by CARE. It is also the solution backed in a letter to today's *Times* by a cross-party group of parliamentarians, including prominent Conservative MPs, NGOs and academics. Surely it is a proposal whose time has come. I very much hope that the Government recognise that today and adopt this Bill.

10.59 am

Lord James of Blackheath (Con): My Lords, I need to declare several interests that are set down in the register, one of which I have to say with some embarrassment is that I am probably the only Member of your Lordships' House who has run a casino. That is almost as bad as admitting to having run a bordello—which I emphasise I have not. The consequence of my experience in the casino has given me some suggestions to make as to what we might do to make this Bill a little more effective because I got to know a great deal about how a roulette wheel behaves. It has a real pattern of behaviour, and if noble Lords think that I have studied this for too long and that I am a guy who should get a life, they are probably quite right.

The other interest I should declare is that for some years I was chairman of Jockey Club Racecourses, formerly known as the Racecourse Holding Trust, which operated 14 racecourses. You might say that the racing industry is not directly connected to this, but it most definitely is. The reason these FOBTs exist today is that the racing industry was failing to provide the continuity of competitive racing necessary to stimulate a continuity of turnover at betting shops. As a result, these other forms of betting activity were invented because the shops said that they were not there for the luxury of keeping the British horseracing industry in races when they were getting only around seven races a day, which was not enough turnover.

Noble Lords should note that by the time the sun goes down tonight, since Monday of this week some 106 horseraces will have been run in England—which is a great many more than was the case when the FOBTs came into existence. This is a powerful argument for trying to bring the bookmakers back to the table. We can say, "Look, you can't have it both ways. You've got your FOBTs and you've got your racing back.

[LORD JAMES OF BLACKHEATH]

Something's got to go". The betting shops should be made to participate in a dialogue to make this a better and fairer process.

In the days when I was chairing those racecourses for the Jockey Club, every year I had a £10 million share of the horserace betting levy proceeds. Noble Lords may ask what on earth I did with £10 million when there were all these rich owners of racehorses. The owners put up all the money for every race that is run in England—all 14,000 races a year—and they get back only around half of what they invest. In order to keep the prize money going, that contribution of £10 million is needed from the levy board to fund the quality races, otherwise a large part of our very important British sporting heritage would be wiped out. We must be careful that we do not have an unintended consequence by causing the bookmakers to curtail or wreck the levy process because they are going to lose the proceeds of their FOBTs.

I am highly critical of the way the FOBTs work, and I want to make two particular points. First I will address the remarks made by my noble and learned friend Lord Mackay of Clashfern. I am going to destroy his innocent illusion of how money laundering works in a casino. It is not quite as he said; it is much worse. If my noble and learned friend wanted to launder, say, £10,000, I can tell him how that could be done very easily. You need a close friend and you take £10,000 out of the bank. You and your friend have £5,000 each in folding money in a briefcase and you go to a proper casino where you buy £5,000-worth of cash chips each. You then go to a roulette wheel and find the three even-money chances: odd numbers, even numbers, high numbers—19 to 36—and low numbers—one to 17—and you both bet on each of the three even-money chances on every spin of the wheel, so you are betting against each other. If you both put £200 on each even-number spin for 20 spins in a row, one of you will have lost the lot and the other will be up by that amount. At that point you ask the cashier for a cheque for £10,000 in the name of one of you. That money is untraceable by the revenue and you have laundered the whole sum. Yes, there is a risk of losing half your stake if zero comes up on an even-money chance, but you have paid a tax of £1,000 to go away with £9,000-worth of clean money. It is very easy. But do not go to a FOBT for this.

I ended up running a casino in Malta owned by the Kursaal group, a company created by some British businessmen. They had five casinos, but amazingly all five of them were losing a great deal of money—more than £150,000 a night—which is a pretty creative thing for a casino to do. I was sent to find out why they were losing all that money and to stop it. I think I knew the answer before I got off the plane: beeswax. If you want to corrupt a real roulette wheel, you use beeswax to build up the ridges between the numbers so that the ball cannot get over the ridges. In that way you have blocked off which numbers will come up and which will not. It is so easy.

In the world of the FOBTs, I am concerned that they do not replicate a realistic roulette wheel. While I was running Kursaal I did a big analysis which led me to certain conclusions. They do not even begin to compare with those of the famous Eduardo Boanelli, "The Man Who Broke the Bank at Monte Carlo" in the music hall song. Eventually, having been expelled from France, he sailed out of Nice harbour on an oligarch's superyacht to an island in the Caribbean that he had just purchased with the proceeds of his huge winnings. He published an amazing analysis of the behaviour of roulette wheels, while I have made my own more modest one. He relied on a sequence of 40,000 spins of a single wheel while mine was limited to 10 hours a day for six days at 40 spins an hour, because that is the maximum a croupier can manage.

It is important to note that. If a croupier can manage only 40 spins an hour, it makes a mockery of the 20 seconds per spin that we have been hearing about on the FOBTs. That has a huge effect on a player's behaviour: the faster the thing will spin, the faster you go. The sum of £2 every 20 seconds is ridiculous and also does not take into account the fact that a player can put 10 chips at £2 each on to the electronic screen. There must be a limit on how many times a player can press the button for each spin, not just set it at £2 per chip per spin, otherwise a player will still get through their money.

Most roulette players are playing to recover their money after five or six spins, and they become more desperate the longer they go on. You need a much longer interval between plays. I would like to see an interval of two minutes between each spin. Here I have a question for the bookmakers. If there are four FOBTs in a row all displaying a roulette wheel, does the same software drive all four machines identically or do they operate individually so as to lure a player into direct competition between him and the machine? That is hugely dangerous. I can easily imagine a system in which the software is written so that if a player puts £10 on five adjacent numbers on the wheel, it will automatically block off those numbers as long as that player continues with the game. Those numbers will never come up, so he loses every penny with no possibility of winning anything back. It would be the easiest software in the world to write. I want to know from the bookmakers whether they do that. I also want to know whether the software in each machine is identical so that everyone sees the same number come up.

What I want to know most emphatically—this is not the Boanelli theory, it is the David James one—is this. Every roulette wheel generates all 36 numbers plus zero once in every 121 spins. Every croupier making 40 spins an hour will generate 28 different numbers, give or take two. There are therefore eight numbers including the zero that will not have come up at all. You cannot take those eight numbers and put one chip on each of them for the next 81 spins to get to 121. If you do, you will lose something like £450 at £1 a chip. It is quite ridiculous.

The FOBT machines are one great big rip-off. I do not believe that the software is fair and provides the balance of a fair game between the punter and the casino. If this Bill goes through, I shall table an amendment that will require every manager of a betting shop and every bookmaker to provide a software printout that the DCMS can have independently audited of a sequence of no fewer than 2,000 spins on every terminal so that it can be easily and automatically

checked to see whether it is meeting the requirements of every number coming up in every 121 spins and at least 28 in every sequence of 40 spins. That would be at least the first step towards showing that it was an honest machine.

I have similar concerns about what we call cartoon racing, which is simulated horseracing using computer-generated images of horses that do not exist ridden by jockeys who certainly do not exist. You usually have about 18 of these imaginary horses lined up. This is a worse cheat than the FOBTs. They run one every five minutes. You have 18 computer-generated horses and there is no form for any of them. There is no specific benefit that one can show—any ability that it has above another. Clearly, if you have 18 runners, the odds ought to be 17:1 on every horse in the race, but the bookmakers make three short-priced favourites, because punters are used to seeing ordinary horseracing, where the favourites run better and it is an indication of a trainer's intention that their horse should win. The punters back the horses that the bookmakers have identified to them by cutting the odds as being the favourites, and they lose.

This will be another amendment I will table: all cartoon racing must be supported by an onscreen analysis of the percentage of winning favourites going in over the previous three months. For every ordinary race, this information appears in the *Racing Post* every day. You should get a figure of about one favourite in five. I want to see what the winning percentage of favourites on cartoon racing is. I also want to see on the screen what the overround and underround percentage is. Overround and underround is the simple calculation which shows, if all the prices in a race are assessed on a bet of £1 to win on each horse, whether the bookmaker comes out with a guaranteed profit or a loss. That could be so easily put on screen as a warning to the punter not to do it if it is against him. I want the bookmakers to undertake to put that up as well.

My point is: if the bookmakers do not like what we have been talking about here, and they will not, let the British Horseracing Board convene a meeting between the DCMS, perhaps with some representation from ourselves, to discuss what they can concede, on their own admission, to make this a fairer and more honest process. Otherwise, we would impose with this excellent Bill a requirement to get the maximum stake down to £2 and to limit the number of chips that can be used in any one spin to three, maximum four—and for goodness sake, let us have a certification of how many spins it takes for the whole wheel to come up in every occasion so that it is there onscreen to be seen. It would not cost the bookmakers anything and it would at least give us a chance to frighten off the punter by showing him how bad the chance was of him winning. Also, slow the whole thing down, please: one spin every two minutes would be the maximum I would want to see.

It is an excellent Bill. We need some work on it. I will be putting forward some tricky amendments.

11.13 am

The Lord Bishop of St Albans: My Lords, I am grateful to the noble Lord, Lord Clement-Jones, for taking forward the Bill, which I support. It enables us to have an opportunity to discuss an area of deep concern to many people on all sides of the House. There is little doubt that B2 gaming machines can be very addictive, which is why, for well over a decade now, successive Governments have talked tough about regulating them, although it seems to me that regulation is not tough enough. This modest Bill is immensely helpful.

I assure the noble Lord, Lord Lipsey, that my friends would be greatly amused if they thought I was motivated by puritanism. This is not about trying to get rid of the whole gambling industry, but trying to address one particular point that is causing great concern. I also have to say in passing that I am constantly amazed to be part of this House, having just received a masterclass on how to launder money. I thought, with the television cameras around, I should not be filmed making notes assiduously as that happened.

I also say to the noble Lord, Lord Lipsey, that I have not tried one of these FOBTs, but I do have the anecdotal evidence of many of our clergy who live in every single part of our nation, who are often the only professionals living in some of the poorest neighbourhoods of this country. For example, in my diocese we are deeply involved with a charity that deals with all forms of addiction, so we hear very real stories from the grass roots, most of which do not get in the newspapers, of the concerns being expressed.

As other noble Lords have pointed out, some people are suspicious that one of the reasons why the Government have not responded robustly enough is that there are considerable receipts to the Treasury. In response to my Written Question at the end of January, the Government informed me that the total value of machine games duty receipts for 2014-15 was £562 million. Given the increased top rate of machine games duty announced at the last Budget, the 2015-16 figure will no doubt be substantially higher. Not all of this tax revenue will come from FOBTs, of course, but we can expect that a significant majority of it does. It has been suggested to me by someone who has understanding of these things that the proportion is likely to be just under 70% of the total value. I would welcome clarification from the Minister on whether that sounds like a fair reflection of reality.

Fixed-odds betting terminals may well bring in substantial tax receipts, but they come in at a considerable and substantial cost, not just to individuals, but to local authorities and to the wider economy. Even for the Treasury, it seems, there is no such thing as a free lunch. The cost to the individual has already been brilliantly outlined by other Peers, and I do not want to repeat a lot of stories. I also recognise that there is some question of finding really precise and conclusive statistics on the precise number of individuals who suffer gambling-related harm as a result of FOBTs, although I think there is some not insignificant evidence. I think we can also agree that the cost to the individuals affected has the potential to be very serious indeed. I imagine that noble Lords have read, as I have, stories recently in the paper of at least two young men who committed suicide, having lost thousands of pounds on FOBTs. I guess that many noble Lords would feel, as I do, a deep sense of sadness—indeed anger—at what has gone on.

[The Lord Bishop of St Albans]

However, for every individual tragedy that reaches the headlines there are thousands of other individuals, often young people, people from poorer areas and areas of high unemployment, who fall into traps of addiction and problem gambling, losing very significant sums of money over a short period of time. There is a popular fiction that this is the limit of FOBT harm: individual harm resulting from addiction and problem gambling, with little to distinguish unregulated casino gambling on the high street from unregulated casino gambling online, in the privacy of one's home. Yet, as other Peers have indicated, the prevalence of FOBTs has a profound social effect, particularly in those areas of deprivation where betting shops tend to congregate in the greatest number. The extraordinary fact that 93 local authorities—the people on the ground who see the effect it is having—have demanded a reduction in the maximum stake is telling. These are communities that suffer, by their own account,

"significant crime and anti-social behaviour",

as a result of the prevalence of high street betting shops. To add to those statistics, Newham Council recorded 9,308 incidents in 2013-14 that required police assistance as a result of gambling activity in betting shops.

We know from anecdotal evidence that many incidents go unreported. There is also Gambling Commission data that many betting shops are themselves reporting concerns about cash laundering, and we have heard that it happens in many different ways. There are particular concerns about the way betting companies seem to be targeting socially vulnerable areas of deprivation and high unemployment. Analysis from Landman Economics found that there were more than twice as many FOBTs per 1,000 people in areas of highest deprivation than there are in areas of lowest deprivation. Even more concerning is the fact that 61% of Paddy Power betting shops are located in the 40 UK authorities with the highest percentage minority-ethnic populations; Luton, in my own diocese, being one.

Given that studies by the Responsible Gambling Trust have identified a higher likelihood of at-risk gambling among ethnic minority groups, this fact might suggest to one of a cynical disposition that such communities have been targeted in the hope of richer rewards. I note from his comments that the noble Lord, Lord Lipsey, disagrees—nevertheless, there is a significant correlation. I am not arguing for a causation. The Government need to tackle the issue of FOBTs head on.

In 2013's triennial review the Government protested that they did not have the necessary evidence on levels of gambling-related harm that would have allowed them to act. That excuse will not wash this time around, not least after debate after debate and news item after news item in the media. If the Government do not have the evidence, they need to go out and gather it, through a fair, objective and impartial process. Will the Minister assure the House that Her Majesty's Government will have the necessary evidence available, when the triennial review comes around, to facilitate a well-informed decision on FOBTs? Will the Minister further assure the House that the concerns of local authorities will be considered under the Sustainable Communities Act and appropriate action taken to relieve those concerns?

For far too long, decisive action on this issue has been absent. We cannot leave it to the betting industry to self-regulate, certainly not when profits from FOBTs now make up around half of the industry's high street revenues. The conflict of interest is simply too great. I hope that this debate will serve as an opportunity for Her Majesty's Government to consider their position and I look forward to engaging with Ministers on this issue in the coming months.

11.22 am

Baroness Sherlock (Lab): My Lords, I should say at the outset that I am firmly outside my official territory and my field of expertise, but today has been an important part of my education, for which I have many noble Lords to thank. In this Second Reading debate I add my voice to those expressing concern about the harm being done by this form of gambling to individuals, their families and the communities around them.

This issue first came to my attention when I served on the Riots Communities and Victims Panel set up by the Prime Minister in the wake of the 2011 riots. Between us, the four panel members visited all the areas in the country that had riots. I was struck during the visits by the astonishing concentration of betting shops in those areas. I assure my noble friend Lord Lipsey that I am not positing a causal relationship between the two. I do not like FOBTs but even I do not think that they caused the riots. I do think, however, that there was a clear correlation between the two and the correlation, of course, was deprivation: both were happening in areas of high deprivation.

As well as the harm to individuals and their families, I am getting increasingly concerned about what is happening in those neighbourhoods. Many such areas now barely have high streets worthy of the name, being simply a collection of betting shops, pawn shops—which are also payday lending outlets—fast food outlets, and the odd charity shop. I was surprised at the sheer number of individual betting shops, but I did not know then, of course, about the rule limiting the number of FOBTs in any one shop, which has caused the proliferation of shops. I also did not realise then that FOBTs contribute half of industry revenue. One colleague with a nice turn of phrase put it to me that betting shops are at risk of turning into tiny casinos with a few nice horse races being shown on televisions around them.

The key issues have already been flagged up today and it is for the Minister to persuade the House that the Government have convincing answers to the challenges that have been laid down if they are to allow the present situation to carry on. I have tried to look at the evidence without having the experience of my noble friend. It is complicated, but it seems to be beyond contradiction that FOBTs are particularly problematic for gamblers. The nature of the game is particularly addictive and NatCen research of loyalty card holders found that 37% of these regular gamblers have a problem with machine gambling. Does the Minister accept that FOBTs are particularly problematic?

The second issue is that of location. On reading some of the research, it seems that my riots experience was typical. Research by Geofutures on the Responsible Gambling Trust website analysed the location of betting shops with machines and looked at who used them. It found that areas close to betting shops tend towards higher levels of crime events, resident deprivation, unemployment and ethnic diversity. In a way, it does not matter whether my noble friend Lord Lipsey or the right reverend Prelate the Bishop of St Albans is right about the intentions behind location; the point is that the betting shops are in those neighbourhoods and, therefore, location determines who uses them. There may be some variation in the average distance that players travel to betting shops, but the research found that 400 metres is the modal, or most common distance that those regular players travel to the shops they use for machine play. In other words, location really matters.

These shops are located in poor areas and used by poorer people, those who can least afford to lose the money. We know from NatCen research that rates of problem gambling are higher among lower-income groups, those living in deprived areas and those who are economically inactive. The same research shows that problem gamblers bet at higher stakes than non-problem gamblers, deposit more cash into the machine when gambling and gamble more often.

The third issue is that it is clear that existing regulation is not adequate. If it were, we would not be reading the horror stories we have. To me, the worst horror story of all was the Paddy Power case that was mentioned in passing by my noble friend Lord Lipsey. When I read it I actually could not believe it. Just in case any noble Lords have not read it, I am going to read it into the record. The *Guardian* reports:

"In May 2014, Paddy Power staff became aware that Customer A was working five separate jobs to fund his gambling and 'had no money', the Gambling Commission said. Although he claimed to be comfortable with his level of gambling, shop staff passed their concerns up the chain to senior staff, who advised monitoring him. Later that month, the shop manager informed a more senior member of staff that Customer A would be visiting the shop less frequently. The senior employee responded by advising that 'steps should be taken to try to increase Customer A's visits and time spent in the gambling premises'. The Gambling Commission said, 'This was grossly at odds with the licensing objective of preventing vulnerable people from being exploited by gambling'."

Do you think so? The article went on:

"The shop manager 'recorded some discomfort' about the senior employee's advice, according to the commission, and staff later noticed that the customer was 'spending heavily and [...] looked unwell and as if he had not slept for a while'. He was only advised to seek help for gambling addiction in August 2014, when a staff member met him on the street and learned that he had lost all of his jobs, was homeless and had lost access to his children".

The problem is that the sheer profitability of these machines is going to tempt staff within the industry not to act properly and ensure that regulation takes place. Does the Minister think that the situation is properly regulated? Paddy Power agreed to pay, not a fine, but a voluntary payment of £280,000 to "a socially responsible cause", a sum it could make back in three hours of trading. I will not comment on the money-laundering dimension, but I am grateful for the education I have received from the noble and learned Lord, Lord Mackay of Clashfern, and the noble Lord, Lord James of Blackheath.

What we have here is a gambling product which is particularly addictive, often located in high streets, disproportionately used by people who are poor and run by an industry which has failed to act to reduce harm and which, at worst, has produced cases like that Paddy Power case. These are machines which allow someone to bet £100 a spin, £50 without human intervention. Can we really allow that to continue? It may be that the Government will accept this Bill and reduce the maximum stake. If not, will the Minister please deal with the issue of location? My personal view is that these high-stakes FOBTs do not belong on the high street. They are highly addictive machines which, if they are to be offered to the public at all, should be located in large, well-staffed, properly regulated casino environments, not in betting shops in poor neighbourhoods with one member of staff behind a counter who cannot possibly monitor customer betting and could not come out to address it if she did. We need some action.

11.29 am

Lord Smith of Hindhead (Con): My Lords, I declare an interest as the CEO of the Association of Conservative Clubs, the second largest private members' club organisation in the UK, which operate in the region of 1,700 gaming machines, and as chairman of CORCA, a national clubs group encompassing the main political, social and ex-servicemen personnel clubs in the UK, which collectively operate some 12,000 gaming machines.

In referring to this interest, I should however point out that a private members' club can operate only up to three category B4 gaming machines, with a maximum £2 stake and a £400 jackpot prize, which has only recently been increased, with the option of one of this allocation of three machines being a category B3A gaming machine, which has a maximum £2 stake and a £500 jackpot, but which does not attract machine games duty. In other words, I know a bit about gaming machines but have no specific interest in category B2 machines, which are being discussed today, since these machines cannot be operated in private members' clubs. I also clarify for the purposes of my speech that I shall refer to these gaming machines by their legally accurate name of B2s, as opposed to fixed-odds betting terminals or FOBTs, for the simple reason that it is slightly easier to say.

I speak only to make a few points in relation to this Bill and, in so doing, I ask noble Lords to appreciate that I am, to a large extent, undecided on this issue. This indecision is caused partly by conflicting statistics and partly due to the fact that the gambling industry has moved on so much since the Gambling Act 2005 was introduced in 2007. The increase and development of online gambling is such that B2s and many of the anxieties surrounding them can very easily and rapidly be replaced by other forms of high-stake gambling that are both accessible and easily available, but which are also unlimited and unsupervised. Therefore, I have concerns relating to this Bill, specifically Clause 1(2).

While I understand the rationale behind some of the reasons of the noble Lord, Lord Clement-Jones, for introducing the Bill, which are, I believe, to help

[Lord Smith of Hindhead]

prevent people who have a problem with gambling furthering their addiction, or to protect those who may become problem gamblers by removing temptation, I am not yet convinced that the reduction in stakes being proposed is a "silver-bullet" solution to the problems which are of concern. Those opposed to B2 machines will often cite them as being a cause of a rise in crime and anti-social behaviour, and will say that they are located in betting shops with little or no proper supervision, that clustering of betting shops creates gambling hot spots and that, crucially, the speed at which this particular machine can be played means that significant sums can be lost—and, we must assume, won—very quickly. However, a great deal of information is available which sets out different views on these points. If I may, I will touch on a couple of these.

On 4 February this year in a Written Question, I asked Her Majesty's Government,

"how many arrests were made in 2015 in (1) licensed betting shops, (2) adult gaming centres, (3) casino premises, and (4) licensed bingo premises".

The Answer, given on 8 February, stated:

"The Home Office does not hold data centrally on the number of arrests made in licensed premises such as betting shops, adult gaming centres, casinos and bingo premises.

The Home Office collect data on the number of arrests broken down by offence group and police force area, but these do not include the specific location".

Bearing this in mind, the claims being made by various sources of an increase in both crimes being committed in betting shops and of anti-social behaviour require further clarification and need to be properly established. I would be very happy to discuss any of those statistics with noble Lords taking part in this debate.

We should recognise that the ability to make B2 machines available is entirely contingent on obtaining a betting premises licence from the local licensing department. Local government already has the power to avoid clustering by not issuing betting licences, in the way it has done up to now. I accept that there is an aim to permit in the legislation, but an aim to permit does not mean to say that this must happen. At some point, local government must say, "Enough is enough, we are not going to do this", and see whether a test case is brought. I am sure that a decision could be appealed. However, this is a matter for local government, not Parliament.

In relation to levels of supervision, the Gaming Act 1968 put in place a regulatory pyramid, with harder gambling such as casinos at the top, soft gambling such as seaside arcades at the bottom, and medium gambling in the middle, which includes high-street betting offices, bookmakers, bingo halls, pubs and clubs. One of the key characteristics that determine the level within the pyramid in which an establishment is situated is the existing level of supervision and of player protection. There are now, however, so many anomalies within the gambling industry that I wonder whether that pyramid can still be recognised. We have online, unlimited gambling that is completely unsupervised and unprotected, but has the highest stakes. A 16 year-old can walk into almost any newsagent and purchase as many scratchcards as he or she wants without anyone batting an eyelid. We have private members' clubs, with strict rules of entry and conduct, with, as I have already mentioned, a maximum of three very low-level machines. We have betting shops, with easy access and at best average supervision, offering high-stake gambling; and casinos with the maximum amount of supervision and the maximum amount of player protection, but in this instance the ability to have the same four B2 machines as a high-street betting shop. In addition, noble Lords here in your Lordships' House are able, should they choose to do so, to participate in unlimited gambling via their phones 24 hours a day.

This inverted pyramid has effectively created a situation whereby a provincial high street could have four betting shops with a total of 16 B2 machines, but a casino in central Manchester is able to operate only four. Indeed, one of the flaws in the noble Lord's Bill is that it does not make a distinction between hard and soft gambling outlets and seeks to place a blanket restriction on all category B2 machines, instead of recognising that the high supervision and high player protection of a casino creates a very different player environment where stakes would not need to be reduced to the same level as the noble Lord is proposing.

Furthermore, I do not think that reducing the stakes on B2 machines will change the pattern of play. I say this since a report on patterns of play in 2014, published by the Responsible Gambling Trust, found that around 97% of gaming sessions on B2 machines did not reach the £100 stake, that only 1% of all gaming sessions started at the maximum stake and a further 2% reached the £100 stake before the end of the play session. Does this not demonstrate that the maximum level of stake may perhaps not be the sole issue of concern? I have other areas of concern that I shall come on to in a moment.

What is of slight concern, however, are the recent headlines stating that B2 machines can be responsible for a person losing up to £18,000 in one hour. According to the Gambling Commission, this figure is astronomically improbable. If those bodies and individuals who are opposed to certain forms of gambling are to make progress with their cause, more care needs to be taken over the accuracy of statistics. However, I believe that the gambling industry, and betting shops specifically, can do much more to help themselves in addressing some of the legitimate concerns which have been raised. I have to say that I am surprised that they have not already recognised this. Bearing in mind the very low level of people who are playing at the very highest level of stake, it seems strange that, with a growing weight of negative opinion on this issue, the industry itself has not yet collectively agreed simply to cap the maximum stake of B2s at £50 or less, which would go a long way to alleviating the criticisms being levied against it, and would make the Gaming Machine (Circumstances of Use) (Amendment) Regulations 2015 effectively redundant. The industry could also at the same time invest greater resources to ensure that staff are properly trained to spot problem gamblers and make sure that advice and help is given in the same way as occurs in a casino.

An additional measure the industry could undertake would be to ask the manufacturers of B2 machines to ensure that they do not resemble B3 machines, which

have a £2 stake: in other words, a person who wishes to participate only in lower-level gambling could not then mistakenly play a machine that has higher-stake options.

No Member of this House wants to create an environment where we are in danger of driving people to unsupervised online gambling with unlimited stakes. Internet roulette, where one can place €500 per bet, is a danger zone for those who may be vulnerable, but let us not be anti-gambling. As a nation, we enjoy the fun of a flutter, whether it is a scratchcard, a lucky dip, the Grand National, a trip to the slot machines at the seaside or a night out in a casino. There is a responsibility deal with the brewing and alcohol industry, under which government agrees not to interfere unduly, in return for the industry dealing responsibly with areas of concern such as excessive or underage consumption. This deal has largely been a success: why should there not be a responsibility deal with all sections of the gambling industry to provide a similar, happy outcome? I would strongly advocate this, since the alternative for the industry in the longer term may well involve Parliament legislating on matters which are not properly dealt with. No business in the UK wants to be run by Parliament. I therefore submit that, before we have a Bill like the one being debated today, industry itself should recognise the legitimate concerns raised by noble Lords and consider opting for self-regulation.

Finally, I pass on some good advice which my grandfather gave me: the best way to double your money is to fold it once and keep it in your pocket.

11.41 am

Lord Collins of Highbury (Lab): My Lords, this has been an incredibly interesting and informative debate. I have learned things today that I did not know before. It seems to sum up the world today. Is legislation catching up with the new world of technology? It certainly seems like that is the issue. One issue which concerns me, but has not been mentioned so far, is bingo. It is a community activity and, conducted communally, it is a very positive thing. But online gambling has taken the word "bingo", adapted it and changed it out of all recognition. It has now become a gambling activity done in isolation, not a community one. How do we catch up with these things?

My noble friend Lord Lipsey made a very strong case for gambling, as he regularly does in the Bishops' Bar. I agree with him. I value the local bookmaker's shop; it is a community resource. People still visit it on a Saturday morning to plan their bets for the day's racing. I pop in occasionally. I have been known to visit casinos. I enjoy gambling. But what we are talking about here is a change. My noble friend Lady Sherlock is right to draw our attention to these things. Do we expect the sort of activity which we have heard described in a casino to be in multiple shops in our high street? Has something not gone wrong here? The noble Baroness, Lady Howe, and many other noble Lords highlighted this. Whether we are talking about betting shops, FOBTs or even private clubs, nowadays people only have to pick up their mobile phones to gamble huge amounts of money constantly every minute, every hour. They do not have to go too far. We have to grapple with these issues and better understand them.

It is just over a year since the noble Lord, Lord Clement-Jones, instigated a QSD on this subject. That was followed, in the same month, by a debate on the Government's Gaming Machine (Circumstances of Use) (Amendment) Regulations. The Minister assured me that he had read my speeches in both debates, so I will not repeat them today. We have heard some very strong arguments that were also made a year ago. We debated those regulations when the Government introduced the £50 cap for supervision. The cap was set without any evidence that it would protect vulnerable people from getting into debt or developing a gambling addiction. Even today, the Government cannot really explain how they came to decide that a £50 cap would deal with problem gambling. The limit that was set then relies on the betting industry to apply it. Also, customers can bet above £50 with permission from betting shop staff.

As other noble Lords have said, last month the DCMS published an evaluation of those regulations. As the noble Lord, Lord Clement-Jones, pointed out, there has been, despite marketing campaigns, a relatively low uptake of verified accounts, and over-the-counter authorisation of stakes over £50 appeared to occur in a very low percentage of sessions. The evidence showed that people bet below £50 but increase the duration of their sessions. The department is saying that this is possibly because people are being more cautious and taking their time over gambling, thus meeting the objectives of the regulations. However, given the speed of these roulette tables, it could be that they are betting more.

The report states that there was a £6.2 billion fall in stakes over £50 from 2014 to 2015 but that there had been an increase in the total amount staked in the £40 to £50 range. The Government have said that the evaluation of the 2015 regulations,

> "indicates that a large proportion of players of FOBTs may now be making a more conscious choice to control their playing behaviour and their stake level. We will now consider the findings of the evaluation before deciding if there is a need for further action".

I will come back to this point later on.

I am not sure if it is a foretaste of what is to come, but, as a consequence of the Smith commission stating:

> "The Scottish Parliament will have the power to prevent the proliferation of Fixed-Odds Betting Terminals",

the Scotland Bill devolves legislative competence to the Scottish Parliament for gaming machines where the maximum charge for a single play is more than £10. As the noble and learned Lord, Lord Mackay, said, the power would be limited to applications for new licences. This means that FOBTs with a stake of less than £10 would remain the responsibility of the UK Government. The threshold does not extend to other matters such as the speed of play or the type of game being played. Is this move in the Scotland Bill an indication of the Government's intention to set a national FOBT threshold of £10?

After 16 years of fixed-odd betting terminals on our high streets at £100 per spin, we are still no nearer to a conclusive answer on whether they are safe to operate in local betting shops. Clearly not enough has been done to curtail the proliferation of FOBTs, which

[Lord Collins of Highbury]
many—I am one of them—consider to be a blight on our high streets. We have heard today and read evidence of how they can damage the lives of many of the most vulnerable in our society, so it is vital for the Government to look closely at their approach and do more to protect FOBT users. Clearly, as we have heard in the debate, the use of FOBTs is a growing concern among the public.

As the noble Lord, Lord Clement-Jones, said, local authorities have a statutory duty to uphold the licensing objectives, which are to ensure that gambling is fair and open, is not associated with crime and does not harm the young or vulnerable. As we have been reminded in the debate, 93 councils believe FOBTs are in breach of all of these objectives and so have joined Newham in calling for the maximum stake to be capped at £2 a spin.

During the passage of what became the 2005 Act, my noble friend Lady Jowell expressed concern about the gambling industry becoming "overly dependent" on growth driven by the machines and about their role in problem gambling. On the decision to have a limit of four machines in each betting shop, she said that,

"there was no certainty that these machines would remain, because we were absolutely clear that we could not know at that stage what their effect was likely to be".

As the Opposition, we maintain our commitment to tackling FOBTs at local level, through the devolution of power over planning issues. In our manifesto, we stated clearly that communities would be,

"able to review betting shop licences in their area and reduce the number of fixed-odds betting terminals in existing betting shops—or ban them entirely—in response to local concerns".

Another issue we have heard about in the debate is that of betting shop staff, who are on the front line when it comes to consumer protection and to spotting criminal activities such as money laundering. They face a very difficult job in difficult circumstances, but single-staffing is commonplace in betting shops and becoming increasingly so. I raised these concerns with the Association of British Bookmakers, which remains convinced that it is proportionate to have single-staff betting shops. I am not convinced that that can ever be the case, particularly when the Government have regulations about monitoring problem gamblers, which the bookmakers have agreed to. Does the Minister agree with me that staff would be in a better position to intervene and help problem gamblers if they were not on their own? Are the Government prepared to act to ensure that FOBT operators have at least two members of staff present at all times, making this a licensing condition if necessary?

We have heard from across the Chamber today that one of the key issues cited for inaction on FOBTs is lack of evidence—or, where there is evidence, whether it is sustainable. The Government have continually referred to research commissioned by the Responsible Gambling Trust as justification for their approach. To be clear, it is certainly our view that any response or action must be evidence-based—anything else would be wrong—but my concern, which was touched on by my noble friend, is that while bookmakers continue to have such a strong influence over the research agenda and the commissioning process, we will never, in the words of the Prime Minister, "get to grips" with this issue. Does the Minister agree that betting shop operators and FOBT operators should be required to collect and provide standardised data on the use of FOBTs, to allow independent researchers to analyse their impact, so as to help inform future decision-making?

At the end of last month, my honourable friend Carolyn Harris, the MP for Swansea East, asked the Secretary of State for DCMS when his department planned to launch the next triennial review of gaming machine stake and prize limits. The noble Lord, Lord Clement-Jones, raised this as well. The Minister—unfortunately in my opinion—linked the response to that question with the department's review of the regulations on the £50, and said that the department would be considering the findings of that evaluation before deciding whether there is any need for further action. But I think we have heard in this debate that there is a consensus across the board that action is needed.

One action the Minister can make today is to give a clear indication that the triennial review will be conducted and to give us a date for when it will start. I do not think that we can wait any longer for some clear indications about this. I agree with the noble Lord, Lord Clement-Jones, that the triennial review should include the limits to FOBTs and should come through quickly. The last time the review was conducted, it took a year to come to any conclusions. Let us get a date now before we have to wait any longer.

11.56 am

The Earl of Courtown (Con): My Lords, I thank the noble Lord, Lord Clement-Jones, as ever, for this fascinating and very important opportunity to debate his Private Member's Bill, not least because it offers the Government an opportunity to highlight existing measures in this area and to provide reassurance on what is obviously an emotive subject. All Members of the House are united in their view on these machines.

First, I will just touch on what the noble Lord, Lord Collins, said about the importance of bookmakers as a community asset. I remember from my youth spending quite a lot of time in what were then called turf accountants rather than bookmakers. The noble Lord, Lord Lipsey, is nodding—he knows exactly what I am talking about. They are a very important part of the community in the villages and towns in that part of the world.

I state categorically, particularly in response to the question asked by the noble Baroness, Lady Sherlock, that the Government understand the public concerns around B2 gaming machines and will continue to keep them under review. In April 2015, we introduced a series of measures to protect players, including regulations to end unsupervised high-stake play on B2 gaming machines and measures to give more powers to local communities by requiring planning applications to be submitted to local authorities for new betting shops.

Her Majesty's Government subsequently conducted an evaluation of the regulations, mentioned by noble Lords, which put an end to unsupervised high-stake play on B2 gaming machines. The results were published

on the government website on 21 January. In short, there are indications that, as a result of these regulations, players on B2 gaming machines may now be making a more conscious choice to control their playing behaviour. However, we believe it prudent to now consider the findings of the evaluation before deciding if there is a need for further action.

It is worth reminding the House that the industry has a responsibility to assist gamblers who display signs of problematic behaviour, including when playing these particular gaming machines. The betting industry introduced new measures in 2014 under its code on social responsibility, which was further updated in 2015. Many elements of the code were subsequently made mandatory by the Gambling Commission in its update of social responsibility provisions in its licence conditions and codes of practice in May 2015, including additional measures on gaming machines, requirements on shop window advertising and self-exclusion policies across the whole industry.

We believe that the measures that the Government, industry and the Gambling Commission are taking are currently sufficient to improve player protection across all forms of gambling, but we are equally clear that industry, along with the Government and the commission, should never feel that there is an end point to social responsibility.

The noble Lords, Lord Clement-Jones, Lord Foster and Lord Collins, and the right reverend Prelate the Bishop of St Albans mentioned the existing powers held by local authorities. I turn to the resubmission made under the Sustainable Communities Act by Newham Council and other local authorities for the Government to reduce B2 stakes to £2. Although the resubmission is currently under consideration, the Government are determined that local authorities should play a central role in managing local gambling provision—a principle deeply embedded in the Gambling Act 2005.

Although local authorities are bound by law to aim to permit gambling in so far as reasonably consistent with the licensing objectives of preventing crime and disorder, ensuring that it is fair and open and protecting children and vulnerable people, the licensing process gives authorities considerable scope to attach additional conditions to licences where necessary to achieve the licensing objectives, to review licences once they have been granted and to impose licence conditions after review.

On planning, the Government agree that responsibility for managing high streets should rest with local areas, and local authorities already have powers to control gambling premises in their areas. On recent changes, as noble Lords mentioned, new planning measures came into force in April 2015 which mean that planning permission is required for any new betting shop, allowing for a local decision.

It would not be appropriate for me to say much more on the issue while exchanges between central government and local authorities are ongoing in the wake of the Sustainable Communities Act submission. As I said, discussions with Newham Council on its resubmission are ongoing, and we will make a decision in due course.

The noble Lords, Lord Clement-Jones and Lord Collins, the right reverend Prelate and other noble Lords mentioned a review. In particular, the noble Lord, Lord Collins, mentioned a point made by my honourable friend Tracey Crouch—who, I should add, takes a particular interest in the issue of B2 machines. The Government are open-minded about the review, and will set out their view in due course. The noble Lords, Lord Clement-Jones and Lord Foster, drew attention to the rise in crime in bookmakers. Any rise in crime is concerning, and we and the Gambling Commission will look at the figures very closely, but it is important to state that the increase is from a low base. Any crime is unacceptable, but the level is equivalent to one instance per betting shop per year.

The noble Lords, Lord Clement-Jones and Lord Foster, and my noble and learned friend Lord Mackay raised the issue of money laundering—and we had amazing instruction from my noble friend Lord James of Blackheath. The Gambling Commission already requires operators to take measures to prevent money laundering through its licensing conditions and codes of practice, and it is currently consulting on regulatory changes to strengthen the fight against crime linked to gambling. In addition, the Treasury plans to consult shortly on the EU's fourth directive on money laundering, which will introduce further measures in this area.

The noble Lords, Lord Clement-Jones and Lord Foster, raised the issue of planning powers in relation to bookmakers. Local authorities already have powers to control gambling premises in their areas. They can reject applications, grant licences with conditions, review them once granted and impose licence conditions after review.

My noble and learned friend Lord Mackay of Clashfern and the noble Lord, Lord Collins, raised the issue of B2s in Scotland. As they said, the Scotland Bill contains the agreed clauses necessary to take forward the Smith commission recommendation on B2s. The Bill will give the Scottish Parliament and Scottish Ministers the power to vary the number of subcategory B2 gaming machines permitted by new betting premises licences in line with the recommendations made by the commission. Both noble Lords raised other points in connection with that issue, and I will write to them to clarify our position.

The noble Lord, Lord Lipsey, and the noble Baroness, Lady Sherlock, raised an issue relating to the recent Paddy Power case. The dereliction of duty by Paddy Power is completely unacceptable. The case shows that bookmakers will not be able to get away with failing to meet their licence conditions. Gambling firms have a duty to comply with their licence rules to the letter, and must ensure that there is absolute consistency across their business. The Government will continue to monitor the effectiveness of existing gambling controls, and will take further action if required.

My noble friend Lord James of Blackheath and the noble Lord, Lord Foster, raised the issue of spin time. As they said, the spin time of B2 machines is about 20 seconds, compared to a rather faster B3 gaming machine, which has a spin cycle of about 2.5 seconds. As noble Lords will be aware, there is limited evidence

[THE EARL OF COURTOWN]
on the impact of game speed on gambling-related harm. The Government are of course happy to consider any new evidence to inform policy in this area.

Several noble Lords, including the noble Baronesses, Lady Sherlock and Lady Howe, and the noble Lord, Lord Clement-Jones, mentioned problem gamblers on B2 machines. It is important to clarify this point. The sample of gamblers used in the RGT research was specifically sought to include a high proportion of problem gamblers to assess their behaviour on those gaming machines. The sample is therefore not entirely representative of wider gaming-machine players.

The right reverend Prelate the Bishop of St Albans and the noble Baroness, Lady Howe, also raised the issue of tax on B2 machines. I do not have the information available at present, and I will of course write to the noble Baroness and the right reverend Prelate. The Government understand the concerns about problem gambling and, in particular, about fixed-odds betting terminals. We are clear that this issue will be kept under continual review.

I re-emphasise that we will continue to keep this under review as well as the points relating to stake size. The Government continue to monitor the effects of existing controls and, if need be, will take action if they are found to be insufficient. The principal purpose of the Bill is to reduce the maximum B2 stake. There is no need to use a Bill to do this as a stake reduction could be achieved using the existing powers set out in the Gambling Act 2005, which enables changes to stakes and prizes for all types of gambling machines to be made via secondary legislation. However, the Government recognise that problem gambling, which has remained at less than 1% of the adult population, is not limited to one product or one issue, such as stake size. Making changes to B2 stakes now would tie the Government's hands when trying to promote a comprehensive strategy.

Lord Clement-Jones: My Lords, before we proceed any further, can the Minister give us an indication of the timing of the review?

The Earl of Courtown: I am sorry I have not referred to that point, which was also raised by the noble Lord, Lord Collins. I cannot give any indication of that, but as soon as I am able to give any indication I will write to noble Lords and put a copy in the Library. At the moment, I am not able to give any more information.

We recognise this problem. The Bill would tie the Government's hands when trying to promote a comprehensive strategy to tackle problem gambling across the piece. The Government therefore express reservations about the Bill.

12.12 pm

Lord Clement-Jones: My Lords, I thank all those who spoke in the debate today. We heard some very powerful and very interesting speeches, and I am extremely grateful for the support around the House and, indeed, outside the House. A number of noble Lords mentioned a letter from some very prominent Members of the Commons and others in the *Times* today. We have had some very instructive speeches, too. I think we may have confirmed the reputation of the Lords as a den of iniquity, especially for specialists in money-laundering and various other nefarious activities. That will no doubt mean that *Hansard* is read with unusual interest in future.

I want to reassure Members of the House, particularly those who enjoy a regular flutter, that despite having some Quaker antecedents, I am no puritan. Indeed, I had a cousin who was the Bishop of St Albans. I am very much of the liberal persuasion on that sort of matter. My late father-in-law owned a casino, so if that is not the sort of respectable quality to recommend me to the gambling industry, I do not know what will. This is about problem gambling, a social ill; it is not about ordinary, everyday having a flutter. It really is not. I hope that people will take that away.

One of the key issues that was raised by the noble Lord, Lord Smith, the noble Baroness, Lady Sherlock, and the Minister was action by the industry, which has not been forthcoming. That is one of the problems in all this. I suppose my prejudice would be first in favour of voluntary action, but the fact is that that has not been forthcoming. Whether or not we think it has been effective, the Government had to regulate on the £50 supervised stake. That was not volunteered by the industry, so we have real questions about the activities of bookmakers.

The noble Lord, Lord James, was extremely interesting, and if we ever got to a Committee stage on this Bill, I am sure we would have several happy hours looking at some of the intricacies of the regulations on the software and disclosure and at issues about spins and so on and so forth. I think I had better go with the noble Lord, Lord James, to my nearest bookmakers and get further instruction. The noble Lord, Lord Lipsey, will probably come along as well.

Some very interesting points were made. The noble and learned Lord, Lord Mackay of Clashfern, compared this issue with that of legal highs, on which we have legislated. That is entirely right. This is a damaging social problem. He also talked about money laundering.

I wish I was as shrewd as the noble Lord, Lord Lipsey, is in the bets he has placed. I do not think anybody would have approved of me if I had placed the kind of bets that he has placed, but nevertheless I bow to his knowledge of the industry. I was quite relieved that at the end he came out in support, because I know that his knowledge is considerable. As he says, there will never be enough evidence because it is very difficult to extract if the industry does not allow the access that is necessary to evaluate the situation. The precautionary principle has to apply. That is why the Gambling Commission adopts it.

A number of noble Lords talked particularly about the concentration—I do not use the expression "targeting"—in the most deprived areas. I think the noble Baroness, Lady Sherlock, had it right in terms of "correlation". I think a number of noble Lords would go as far as that. It may tip over into targeting, but we do not yet have that evidence.

In answer to the noble Lord, Lord Smith, who said we have online gambling and so on, we know that FOBTs are peculiarly damaging and are peculiarly

related to problem gambling. As we get evidence that particular forms of gambling disproportionately cause problem gambling—and I pay tribute to the noble Baroness, Lady Howe, who has campaigned on online gambling—then of course we should tackle it, but that does not mean to say that the best is the enemy of the good. That is a very important point when you are legislating. I take the noble Lord's point about casinos. I have no argument with high-stakes terminals in casinos, properly regulated. Where the environment is right, of course these machines can be legitimately used. It is in betting shops where we are particularly concerned.

The way that the right reverend Prelate talked about the real problems at the grass roots was very telling. He talked very eloquently about the human misery, harm, addiction and so on, the need to gather evidence and the challenge to the Government to take the trouble to gather the evidence. The noble Baroness, Lady Sherlock, described betting shops turning into casinos, and that was particularly powerful.

I am grateful for the contribution from the noble Lord, Lord Collins. I understand that the Opposition take a slightly different approach. Their approach is more about licensing and planning rather than a change of stakes. They, like the Government, would prefer to see that debated on a review of stakes and prizes, and I understand that, but that means there must be genuine intent to review.

Although the cricket season has not started, the Minister started with a dead bat but rather livened up and started playing a few strokes, which was quite interesting. He started coming round to the fact that, yes, there is a problem and said that the Government might think about it in the review of stakes and prizes. We do not know when the review is going to be, but it is always a possibility that we will talk about it. That may be about an eighth of a loaf, but at least we are moving a little further than we were before this debate started.

The Minister raised all sorts of matters including improvements in planning and self-exclusion. I do not think self-exclusion has been proven to be effective. The issue is about the stake. We are going to be keeping up the pressure on that. We need to listen to those who have been intimately connected to the industry.

The noble Baroness, Lady Howe, mentioned Mr Fintan Drury, a former chairman and non-executive of Paddy Power, and I think that we really do need to listen to those who have been intimately connected with the industry. Even he is saying:

"Gambling may be less addictive than cigarettes but its potential to trap those with a predilection to spend money irresponsibly is beyond doubt. I have a few friends who go to Gamblers Anonymous meetings and whose testimony is not that different to those who attend AA meetings. These people would not want gambling to be banned outright — that would simply drive it underground. What they would argue, though, is that easy access to addictive behaviour contributes to the problem and that society has a responsibility to protect its most vulnerable from making bad choices".

I would have thought that any political party would subscribe to that philosophy. I certainly do, and I very much hope that we will listen to those informed voices as we proceed.

I hope that the House will give the Bill a second Reading and that we can move on to the next stage.

Bill read a second time and committed to a Committee of the Whole House.

Criminal Cases Review Commission (Information) Bill

Committee

12.20 pm

Clause 1: Extension of powers to obtain documents and other material

Amendment 1

Moved by ***Lord Black of Brentwood***

1: Clause 1, page 1, line 20, at end insert—

"(7) If the material being requested under subsection (1) is protected by legal professional privilege or is journalistic material or disclosure could lead to the identification of a journalistic source, the person holding the material must be—

(a) notified in advance of the hearing of the application which must be held inter partes, and

(b) permitted to make representations to the court regarding the application.

(8) Where the material is of the kind provided for under subsection (7), the court may not make an order unless it is satisfied that—

(a) the material is of substantial value and relevant to the matter under investigation;

(b) it is not possible for the Commission to obtain the information by other means;

(c) it is in the public interest for the material to be disclosed, as determined by its benefit to any investigation; and

(d) taking into account the circumstances, there is no significant reason why the information should not be disclosed.

(9) "Journalistic material" and "legal and professional privilege" shall have the same meaning as set out in sections 10 and 13 of the Police and Criminal Evidence Act 1984."

Lord Black of Brentwood (Con): My Lords, as this amendment relates in many ways to the question of journalistic material and journalistic sources, I declare my interest as executive director of the Telegraph Media Group and draw attention to my other media interests in the register. This Committee stage follows the very useful debate that we had on this admirable Bill at Second Reading. As I said then, this is a very important Bill and I support it wholeheartedly. During that debate, though, the noble Lord, Lord Beith, and the noble and learned Lord, Lord Falconer, raised the question of the protection of journalistic sources and of legally privileged material. I have brought forward this probing amendment for two reasons. First, it seemed to be the mood of the House that it wanted to discuss this matter further, and indeed in his concluding remarks the noble Lord, Lord Ramsbotham, said that it might well be useful to do so in Committee. Secondly, it is important that when we legislate on issues that impact on fundamental freedoms—and this is a question of freedom of expression—we do so with our eyes

[Lord Black of Brentwood]
open, having looked at all the possibilities, particularly if significant new powers are being granted to an organisation such as the CCRC.

I am very pleased that the noble Lord, Lord Lester of Herne Hill, has added his name to the amendment. He has asked me to say that he regrets that he cannot be here as the timing does not work out today. At Second Reading my noble friend Lord Faulks set out the reasons why he believed the Bill already had adequate safeguards. I know he is sorry he cannot be here today either, but I am delighted that my noble friend Lord Gardiner is in his place to provide further reassuring balm on this matter. However, I have a problem with reassurances, no matter how strong they may be. I hope noble Lords will forgive me if I sound slightly cynical, but the media have from time to time been here before. Bills come forward, objections relating to sources and so forth are raised, the press and broadcasters are told that everything is okay and at the end of the day the ECHR will be the ultimate protection, but then problems begin to arise. The most obvious example is the Regulation of Investigatory Powers Act; when it was going through these Houses back in 1999-2000, the newspapers made it very clear that they thought it would cause a problem with access to journalistic sources. We were told that there was no way that that could happen, but now we know that dozens of police forces have successfully obtained material from local and national journalists. That proves the point that if broad powers are introduced, they can be abused. The same thing happened over the Protection from Harassment Act 1997, so there is history here. Reassurances are fine, but perhaps sometimes we need more than that.

My amendment seeks to put safeguards in the Bill for journalistic and other legally privileged material. It is important for me to underline that this amendment would not restrict the reach of the Bill, nor inhibit the commission in how it would pursue an order. The commission would still apply for an order relating to journalistic material and other material in the same way as it would make any other application. It is the process of the court, and the criteria that must be satisfied, that would provide the additional protection, ensuring that Article 10 rights of freedom of expression, including the protection of sources, were properly taken into account.

Under this amendment, when the court received an application relating to journalistic material or legally privileged material, it would be required to consider whether the material requested would be of substantial value to the investigation in question, and whether it would be possible to get the information by other means. It would also consider whether the disclosure of the material would be in the public interest, not just in the context of how it would benefit the investigation, because in many ways that is self-evident, but in the circumstances by which the material was held by the person in possession of it, including the public interest in the protection of confidential sources. To ensure that the court considered these matters fully and was in possession of all the facts, the media would have prior notice of an application and the right to be heard at that application so that, should they wish, they could make representations to the court.

I underline that this protection would not make journalism exempt from the reach of the commission. It would not even provide the same level of protection that journalism enjoys in some other areas of the law. Under the Police and Criminal Evidence Act 1984, for instance, the restrictions on material that would reveal a journalist's source are more onerous than those protecting journalistic material more generally.

The amendment certainly is not perfect and, if my noble friend were so inclined, I would of course be very pleased to hear from her about how PACE procedures for both journalistic and excluded material could be more simply and effectively incorporated into this excellent Bill. Could she also clarify whether the Government consider that the Crown Court will operate as an effective safeguard for journalistic and legally privileged material in the manner envisaged by the amendment? Will the Government work on the assumption that the court will be likely to have regard to the criteria outlined in the amendment? What other criteria, if any, does she anticipate that the Crown Court should or would apply? I beg to move.

Lord Beith (LD): I indicated at Second Reading that I strongly support this Bill, which implements a proposal made by the Justice Committee when I chaired it in the House of Commons. However, I have some sympathy with the points that the noble Lord, Lord Black, has raised, and I indicated that at Second Reading. It is no part of the intention of the Bill to pose a general threat to journalistic sources or indeed to professional or legal privilege. I therefore look forward, as does the noble Lord, to what he described as the "reassuring balm" that might come from the Minister, but perhaps a little more as well: some clarification of the extent to which existing law and practice, when combined with this legislation, should not pose the kind of threats that he is worried about.

I would not be entirely happy with the wording of the noble Lord's amendment anyway. Proposed new subsection (8)(d), which would become new Section 18A(8)(d), says:

"taking into account the circumstances, there is no significant reason why the information should not be disclosed".

Of course a significant reason might be that the disclosure of the information in this case might lead future potential sources not to have confidence in doing so. There might be the overriding reason in the commission's mind that someone who was serving a long-term imprisonment might have their innocence proven if the necessary information was obtained.

12.30 pm

These are delicate judgments but a Crown Court judge is perfectly capable of making them, having regard to things such as the European Convention on Human Rights as well as other parts of the law, which have long protected both professional privilege and journalistic sources. In addition, I would not want the delicate and fragile processes of getting Private Members' Bills through both Houses of Parliament to impede the passing of this piece of legislation. I remind your Lordships of the number of times when lack of a suitable legislative vehicle has been advanced as the

reason why this widely accepted improvement in the commission's ability to do its job should not be brought into law. We must not pass up this opportunity. Therefore, I hope that the Minister in her reply will give sufficient assurance to all of us that we should not need to pass this amendment.

Lord Ramsbotham (CB): I am most grateful to the noble Lord, Lord Black, for sharing the content of his amendment with me in advance, which allowed me to obtain a response from the CCRC. I am also glad that those responsible for drawing up the rules, to which I will refer in due course, will have access to our discussions in *Hansard*. I am also grateful to the Minister for meeting with me and discussing what the Government's response might be.

The CCRC recognises that the amendment is drafted in similar terms to the police powers to access journalistic material contained in Schedule 1 to the PACE Act 1984. However, it points out that it operates in a very different context from the police:

"The measures in this Bill will only apply in criminal cases in which there has already been a trial, a conviction and (in most cases) an appeal. Therefore, from the outset of its investigation, the CCRC will already know a great deal more about a case in question than a detective in the early stages of an inquiry.

The CCRC is an independent public body, whose whole *raison d'être* is to ensure that the rights of an individual defendant/appellant are protected *vis a vis* the State. It is not part of the executive, is independent of the police, the prosecution and government, and exists, not to detect crime but to check for potential miscarriages of justice".

At Second Reading I mentioned that the powers that the Bill seeks for the CCRC have only once been contested since the Scottish CCRC was established with those powers in Scotland in 1995. I will quote from the judgment given in that one case, which said that,

"the petitioners have a statutory obligation to carry out a full, independent and impartial investigation into … miscarriages of justice and the legislation under which they act was clearly designed to give the widest powers to perform that duty".

On the amendment itself, Clause 1 of the Bill specifies that a person will be obliged to provide the CCRC with private documents or other material only if ordered to do so by a Crown Court judge, who is best placed to consider and weigh up factors such as the potential relevance of the material, confidentiality issues and the public interest in uncovering miscarriages of justice. The CCRC considers that the most appropriate way of resolving issues of concern in an inter partes oral hearing before a Crown Court judge is by Criminal Procedure Rules rather than in the Bill. The CCRC is represented on the Criminal Procedure Rule Committee and tells me that currently the committee stands ready to put appropriate rules in place as soon as the Bill becomes law. I remind the House that the CCRC always seeks voluntary disclosure first, which process could also be said to be inter partes.

As regards the understandable concern about the protection of the identity of informants expressed by the noble Lord, Lord Black, the CCRC's already existing processes have been designed to protect such identities, which it is routinely required to do in highly sensitive cases involving police informants. Furthermore, it has many years' experience of reviewing and storing highly sensitive material, obtained through its existing statutory powers, up to and including "top secret". Those procedures are regarded as satisfactory by MI5, MI6 and GCHQ, and no accusation of abuse of its powers has ever been made against the CCRC.

In sum, the CCRC believes that the amendment is unnecessary because the points it contains are covered already by existing safeguards or could be covered by the rules committee. Therefore, not least to help the CCRC in its important task of investigating possible miscarriages of justice, I hope that the noble Lord will feel able to withdraw his amendment.

Lord Mackay of Clashfern (Con): My Lords, obviously, this amendment raises matters of considerable interest. I should have thought that proposed new subsection (8)(a) to (c) would inevitably be either part of the new rules or considered already part of the existing system. I find difficulty with proposed new paragraph (d), because it seems that if proposed new paragraphs (a) to (c) are satisfied, that should be sufficient to allow the matter to proceed. It is also very important, as the noble Lord, Lord Ramsbotham, said, to recall that, as far as I know, no complaints about the procedures of the CCRC have been made since it was set up, when I had some responsibility in this area. So I think we can safely leave these issues to be determined in terms of the criminal rules if necessary, while realising that we appreciate the importance of these issues subject to the omission of proposed new paragraph (d) in the amendment.

Lord Beecham (Lab): My Lords, I begin by echoing the remarks of my noble and learned friend Lord Falconer in congratulating the noble Lord on bringing the Bill forward. I also congratulate the noble Lord, Lord Beith, and the Justice Select Committee on their work, which has informed this process.

At Second Reading, the noble Lord, Lord Black, touched on the concerns which are now reflected in the amendment. I do not often support policies or philosophies advanced by those closely associated with the *Telegraph* but on this occasion I have every sympathy with them. My initial reaction was to believe that it would be sensible to pass the amendment. However, having heard from the noble Lords who have addressed the Committee today, I am persuaded that it is unnecessary to write the rules for the commission when it is clear from its track record that it is in any event very likely to incorporate them. I am sure that the commission will look carefully at the tenor of today's debate and the Second Reading debate before finalising its ultimate response, assuming that the Bill secures its enactment with the approval of the House of Commons.

I certainly bear in mind the time constraints and perhaps the undesirability of adding material which may in any way impede the progress of the Bill when it is considered in the Commons. In the circumstances, therefore, I certainly join others in respectfully advising the noble Lord not to press his amendment. However, I hope that the Minister will clearly put on the record support for what lies behind the amendment, as I think that will assist in securing the positive response from the commission that all of us wish to see.

Baroness Evans of Bowes Park (Con): I thank my noble friend Lord Black for his probing amendment and all other noble Lords for their contributions to this short debate.

The amendment would stipulate that, where material is protected by legal professional privilege or if it is journalistic material or might reveal journalistic sources, there should be an inter partes hearing. Further, it says that, where such material is involved, the court must be satisfied that the material is of "substantial value" to the investigation; that it is not possible for the commission to obtain the material by other means; that it is in the public interest for the material to be disclosed; and that there is no significant reason why it should not be disclosed. Those are admirable principles with which we would not argue.

Of course, I understand the concern that the balance between freedom of speech and miscarriages of justice is a delicate one which we need to get right. However, we believe that the amendment is unnecessary and that in fact some of the terms used may go too far and would prevent the commission fully investigating cases where, we must remember, there may have been a miscarriage of justice. I was about to say a "significant or serious" miscarriage of justice, but of course all miscarriages of justice are significant and serious for those concerned.

Turning to the first point, we absolutely agree that inter partes hearings will be needed. However, it is not necessary to say so in the Bill as we intend that this will be dealt with in Criminal Procedure Rules, as the noble Lord, Lord Ramsbotham, said. I understand that the drafting of those is well advanced.

In addition, it is important to remember that the Crown Court, in deciding whether to make an order for disclosure, must act compatibly with the right to a fair trial under Article 6 of the ECHR. This means that, where a civil right or obligation is being determined, the court must ensure that the respondent has practical and effective access to the court, which includes notice of the proceedings and a reasonable opportunity to present their case. In other words, even without any Criminal Procedure Rules or anything on the face of the Bill, the Crown Court will need to ensure that there is an inter partes hearing before making an order.

There are four strands to proposed new subsection (8) in the amendment. The first requires that the material is of "substantial value" to the investigation. Of course, we may not know this until the material has been disclosed, so this could substantially hinder the court and defeat the objective of the Bill. The Bill currently stipulates that for all and any material:

> "The court may make an order only if it thinks that the document or other material may assist the Commission in the exercise of any of their functions".

That prevents the commission trying to make any fishing expeditions if it is inclined to do so. It is a clearer and more objective requirement and we believe that it is the right test.

I am further persuaded that the test proposed in the amendment is too high when I look at the wording in Schedule 1 to the Police and Criminal Evidence Act, which deals with decisions by the court to order material to be disclosed to a constable. The PACE test requires a judge to be satisfied that,

> "there are reasonable grounds for believing … that the material is likely to be of substantial value … to the investigation".

If we need any safeguard at all, I think that it should follow that model. However, as I said before, we do not believe that anything further needs to be added to the Bill.

The second requirement is that it should not be possible for the commission to obtain the material by other means. If the material were available in any other way, the commission would not be likely to pursue a court order at all, and if the material were otherwise available, the court should not make an order because the order would be unnecessary. We expect applications to the court to be rare. As the noble Lord, Lord Ramsbotham, outlined, that has been the case in Scotland, and we have no reason to believe that it will be different in England, Wales and Northern Ireland.

The third requirement is that it should be in the public interest for the material to be disclosed. There must be a substantial interest in the disclosure of any documents which may be needed in connection with decisions about a potential miscarriage of justice. Very compelling arguments would need to be made to justify material remaining confidential. Where there are such arguments, the respondent has the opportunity to put them before the court at an inter partes hearing, as I have said.

The final point is that there should be "no significant reason" why material should not be disclosed. This does not take into account the balance that the court must always make. There may be significant reasons why the material should remain confidential, but they may be outweighed by the more significant reasons in favour of disclosure. The amendment would prevent the court making that judgment. It would not be able to make an order no matter how pressing the case for disclosure, and we do not believe that that can be right.

If my noble friend is concerned that the safeguards I have mentioned so far are not enough, I can highlight a couple more. First, there is a restriction on information given to the commission being further disclosed. Section 23 of the Criminal Appeal Act 1995 prevents members or ex-members of the commission making unauthorised disclosure of information obtained by the commission in the exercise of its functions. Those disclosing information may ask that it should not be further disclosed without their consent. That provides a safeguard in the case of, for example, commercially sensitive information.

Clause 1(3) of the Bill clarifies that the restrictions on onward transmission will apply to documents obtained under the commission's new powers in the same way that they apply to documents the commission may have obtained under its present powers. We should remember that the commission is used to dealing with confidential, sensitive and, indeed, classified material. It is in the nature of its work that its investigations uncover such information, and the necessary safeguards are already there.

12.45 pm

The Government are committed to ensuring protection for journalists' sources, so much so that we mentioned it in our manifesto. The final piece of the puzzle is the Human Rights Act, which provides specific recognition of the importance of freedom of expression. Where journalistic material is involved, the courts must have regard to freedom of expression, and that includes the protection of journalists' sources. The court would make an order that interferes with the ECHR only if it were satisfied that the order was both necessary and proportionate in pursuit of a legitimate aim. Article 8 of the ECHR would be engaged where the court is considering a requirement that legally privileged material be disclosed. Article 10 would be engaged where the court is considering a requirement to reveal journalistic sources. As I said, there would need to be a strong case for withholding any information where the correction of miscarriages of justice is at stake. However, the court will need to consider these issues.

I hope my noble friend accepts that we have suitable safeguards in place and, on the basis of my response, I ask him to withdraw his amendment.

Lord Black of Brentwood: My Lords, this has been a very useful and important short debate on an issue of great sensitivity. I am grateful to all noble Lords who have taken part, and am particularly grateful to the noble Lord, Lord Ramsbotham, who was able to give us the view from the CCRC. Its work, as we know, is extremely important, and we all want to do what we can to ensure that that continues. We must place great weight on the view that he gave us. I also thank my noble friend the Minister and welcome the Government's commitment, which she restated, to the protection of sources. I particularly welcome the assurance that there will be prior notice to the holder of the material at an inter partes hearing, should the case arise. In an ideal world, I would obviously prefer that this was in primary legislation rather than in Criminal Procedure Rules—rules can be changed, whereas legislation cannot be without further scrutiny. None the less, this is a very important safeguard.

The Minister referred to the PACE schedule provisions and suggested that the amendment goes a little further than that. It was my intention to reflect the sentiment of those provisions rather than replicate them in an amendment. I would obviously be delighted if the Minister was to be persuaded to incorporate PACE provisions in the Bill or, more likely, recommend that their equivalent be enshrined in the Criminal Procedure Rules to achieve the balance that she quite rightly mentioned between freedom of speech and correcting miscarriages of justice. I am sure that media organisations would be very happy to discuss that in more detail with the Government or the Criminal Procedure Rules Committee. If she would find that helpful, perhaps the Minister could drop me a note about it.

On that positive and collaborative note, and with thanks for what was genuinely reassuring balm, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Clause 1 agreed.

Clause 2 agreed.

House resumed.

Bill reported without amendment.

Driving Instructors (Registration) Bill

Second Reading

12.49 pm

Moved by ***Earl Attlee***

That the Bill be now read a second time.

Earl Attlee (Con): My Lords, I am grateful for the privilege and the opportunity to bring forward this Private Member's Bill. This is a simple Bill which makes amendments to the Road Traffic Act 1988 to simplify the registration of driving instructors. As part of my TA military service I qualified as an Army HGV driving instructor, and I have taught HGV driving both to military personnel and in civilian industry. I think I can safely claim that I know something about the subject. Nevertheless, I am under no illusions and I know that it would require a great deal of effort on my part to qualify as an approved driving instructor. Your Lordships should not underestimate the difficulty of becoming an ADI.

Put simply, the Bill will introduce two small deregulatory measures to update the current legislation to remove barriers that previously prevented driving instructors from voluntarily leaving the profession at a time of their choosing and returning to the profession when it is convenient for them to do so without having to retake their qualifying examinations.

As your Lordships may already be aware, professional driving instructors have been regulated since the 1960s to help ensure that people receive a minimum standard of training for taking the driving test. It is therefore unlawful for a person to conduct driving instruction for payment unless they are registered as an approved driving instructor. To become registered as an ADI, an instructor must take and pass a three-stage examination of theory, practical driving ability and, most importantly, instructional ability; and be a fit and proper person. Once qualified, ADIs are registered for four years.

Once their name has been added to the register it will remain there until registration expires at the end of four years or is extended. To get their registration extended, they must take and pass a standards check of their continued ability to deliver instruction. The only way that a person can currently be removed is if the registration runs out or if they are removed from the register by the registrar for conduct, competence or disciplinary reasons. Once an instructor has been removed from the register they can return only if they requalify by retaking the three-part examination.

The Bill provides two deregulatory measures to simplify the re-registration. The first simplifies the process for re-entry to the register of approved driving instructors if the registration has expired. It is proposed that those instructors who have been away from the profession for between one and four years, apart from those removed for conduct reasons, are allowed to rejoin the register by undergoing a standards check of

[Earl Attlee]
their ability rather than to have to requalify via the three-part examination. This simplified process will make the return much quicker and more straightforward, as the time and effort for preparing for and taking repeat examinations can be used more effectively to get back into employment and earn a living. The simplified process will take on average around six weeks, as opposed to an average of 34 weeks for requalification.

ADIs operate mainly as sole traders and therefore fall under the micro-business definition of having fewer than 10 employees, so any cost savings will be beneficial. The proposals therefore accord with the Government's commitment to help small businesses.

I want to assure the House that the Bill will not compromise standards. The standards check for rejoining the register is the same check as practising ADIs undergo to remain on the register and renew their registration.

The simplified route is not open to those have been removed from the register for disciplinary reasons. The Bill makes provisions to safeguard against any lowering of the standards and prevent misuse of the simplified route by instructors who would have been removed from the register to protect public safety. Those instructors will have to apply for re-entry via the existing route by undertaking the full, three-part examination.

The second measure allows a driving instructor to request voluntary removal from the register at a time of their choosing and to return at a later date under the simplified process. Current legislation allows only either for their registration to expire or for them to be removed for refusing to undergo a periodic standards check. If they refuse the standards check, it is recorded on their file as a disciplinary matter and could affect their joining the register at a later date. Allowing ADIs voluntarily to leave the register at a time of their choosing is only right. An ADI may wish to take a break from the profession for career, family or health reasons, and it is somewhat perverse that they are not able to do so without it being treated as a disciplinary matter if they have failed to attend the standards check because they are no longer practising.

There are examples where ADIs have contacted the registrar, who administers the register of approved driving instructors, to request voluntary removal from it as they are no longer practising due to raising a family or caring for an ill relative, or because they are unwell themselves. Being able voluntarily to leave and then return at a later date without having to requalify will remove barriers that are out of date with current work practices and help reduce any stress for the ADI concerned, especially if the break has been made necessary to undertake medical treatment.

I hope that I have set out the case today for adopting these two simple, deregulatory measures and that they will find favour with the House. I beg to move.

12.57 pm

Viscount Simon (Lab): My Lords, the noble Earl has given us an excellent and detailed background to his Bill. I will therefore speak in general terms. I should declare my numerous interests, which are in the register.

The process of qualifying as an ADI is costly, difficult and time-consuming and sometimes those doing so are taking a leap into the unknown in respect of future employment. However, if an ADI fails to attend a check test or, for whatever reason, temporarily suspends their work, that person is removed from the register. Currently, in order to re-enter the profession, the applicant is required to repeat the whole process which, as before, can be costly, time-consuming and, in the case of temporary suspension, unjustified.

This Bill is very sensible in that it can provide a fast track for re-entry to the profession in agreed circumstances, as the noble Earl indicated. People would still need to have their competence checked by the appropriate person, but there would be no need to undergo the whole process of re-qualification within a four-year period rather than the current 12 months following the ADI being off register.

Of course, if somebody is off the register for more than four years, it makes complete sense for them to become up to date with changes that may have taken place during that period. This Bill makes so much sense. It simplifies all the matters, and I thoroughly approve of it.

12.58 pm

Lord Rosser (Lab): I congratulate the noble Earl, Lord Attlee, on bringing this Bill before the House and on his helpful introductory speech. I have three questions to ask about the Bill, but I am not sure whether I should address them to the Minister, bearing in mind that the Government are supporting the Bill, or to the noble Earl, Lord Attlee, who is in charge of it. Before I go on to those questions, I make it clear that, as we did in the other place, we welcome the measures in the Bill, which will update and simplify regulation of the registration of driving instructors and make it easier for them, for example, as the noble Earl, Lord Attlee, said, to take a career break for family, personal or health reasons.

The first question relates to voluntary removal from the register of driving instructors. In the House of Commons, the Minister said that in the previous year, 610 approved driving instructors had asked to be removed from the register as they had other commitments, but legally the registrar was allowed to remove people only for reasons of conduct, competence or discipline. In the light of the other key change being introduced by this Bill to simplify the process for rejoining the register where an instructor's registration has lapsed for between one and four years, could it be clarified, for my own benefit at least, what the advantage or advantages would be of seeking voluntary removal from the register? Is there, for example, an annual fee or other payment that has to be made for being on the register, which would no longer have to be paid, or is the benefit secured by voluntary removal that of no longer being required to take a standard check if called on to do so?

The second question relates to the following sentence in paragraph 4 of the Explanatory Notes:

"Once a person is on the register as an ADI they are required to take a 'standards check' every few years".

What does that mean in practice? In particular, who decides when and at what intervals, and on the basis of what considerations, a person on the register has to take the standards check within the definition of "every few years"?

Finally, the Explanatory Memorandum refers to the very positive response to the consultation exercise on the two key proposals in the Bill. I accept that one could have a pretty good guess at the answer; nevertheless, since this information does not appear to be in the Explanatory Notes, could I ask which types of organisations and bodies and which categories or groups of individuals were consulted?

1.01 pm

The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con): My Lords, I thank all noble Lords who taken part in our debate this afternoon and in doing so join other noble Lords in thanking my noble friend Lord Attlee for bringing forward this Bill. I thank him for laying out the particulars of the Bill so clearly and comprehensively. I also thank the noble Lord, Lord Rosser, and the noble Viscount, Lord Simon, for their support behind the principles of this Bill, which the Government are pleased to support. I confirm that in my view the provisions of the Driving Instructors (Registration) Bill are compatible with the European Convention on Human Rights.

As my noble friend Lord Attlee has pointed out, it is unlawful for a person to carry out paid driving instruction unless they are an approved driving instructor and appropriately registered as such. That has been the case since the 1960s. Primarily, that is to protect road safety by ensuring that instructors are qualified to deliver a suitable level of instruction to learner drivers. Great Britain has some of the safest roads in the world—a position we should be justly proud of, but not complacent about. We therefore need to ensure that a robust system is in place to assure the qualification of driving instructors and maintenance of standards of instruction. That said, Great Britain is considered by many other countries to have a proportionate regime in place for the qualification of driving instructors. However, we must recognise that some of the legislation regarding the registration of instructors is out of date and due for a change. That is why we are here today—to make some minor, deregulatory changes to update that legislation and modernise the system for registering driving instructors.

I will come to the reasons for the changes very shortly, but first, let me assure noble Lords that standards of instruction will not be compromised. Updating the system to allow instructors to take a break from the profession and then to return via a simplified route will require a demonstration of competence as a driving instructor. I want to make that very clear.

The simplified route will still require a test to be passed and a check of driving instructors' character and conduct to be taken, commonly known respectively as a standards check and a fit and proper check. The standards check will test their continued ability to deliver driving instruction and is the same check that practising instructors on the register must pass to renew their registration for a further four years. This route will be available only to instructors who have been away from the profession for between one and four years, so they will have been practising fairly recently and will not have lost their skills and knowledge.

The fit and proper check which is carried out when ADIs first qualify for entry on to the register and upon renewal of their registration is a check of criminal records which includes checking for road traffic and other offences which may be taken into account in determining their fitness to instruct. We must also be aware that the regulation of driving instructors is to protect young and vulnerable persons who may be isolated in a one-to-one situation with an adult. Many new drivers start lessons at the age of 17 and are considered to be children until they reach 18 years old. We have a duty to ensure that these persons are not put at risk.

A further protection is that this simplified route will not be open to those who have been removed from the register due to disciplinary reasons. Instructors who would have been removed from the register to protect public safety will have to apply for re-entry by undertaking the full three-part examination to demonstrate that they are fully competent. For this combination of reasons, I am reassured that the Bill will offer benefits to those who genuinely need them, but will not offer a loophole to others seeking to avoid having to demonstrate their competence as driving instructors.

This brings me specifically to the reasons for introducing the Bill. The current system in place for the registration of driving instructors does not take account of modern-day working practices which allow for flexible working conditions such as career breaks to start a family, to undertake caring commitments, developmental opportunities or to receive medical treatment. When the system was introduced in the 1960s, it was a very different time and many women who left work to raise a family found it difficult to return. It was also unknown, I think, to consider a break for developmental reasons such as to take further education courses. Moreover, back in the 1960s the recovery rate for people having undergone treatment for serious illnesses was considerably less than it is today, given the progress we have seen with modern medicines and therapies. It is for these reasons that the system and the legislation need to be updated.

The registrar, who is responsible for maintaining the register of approved driving instructors, received over 600 requests last year from ADIs to be voluntarily removed from the register as they were no longer practising for one reason or another. As we have heard from my noble friend Lord Attlee, the only way a person can leave the register is if their registration expires or they are removed for refusing the standards check, which is considered a disciplinary action and can affect their return. The noble Lord, Lord Rosser, also mentioned this point. That is greatly unfair. To return to the register under such circumstances means that currently they have to requalify by taking the three-part examination. Changes are needed to allow those who wish to leave the profession to do so without penalty and to return within a reasonable timeframe so as not to compromise standards, but without having to undergo another qualification.

[Lord Ahmad of Wimbledon]

Requests have been made to leave the register voluntarily to start a family, to care for a sick relative, to receive medical treatment for cancer or because of a heart attack, among other valid reasons. Many of these people have stopped practising their profession and are in no fit mind to undergo a standards check to continue with their registration, but take the standards check anyway to avoid having to requalify. These people should be able to leave the register voluntarily and then return if they so wish within the timeframe allowed under a more straightforward route.

Let us also not forget that driving instructors are in the main sole traders, so are defined as microbusinesses. The Government are committed to helping small businesses, and this is an opportunity to do so. It is for this reason that the Bill provides, as we have heard, for two deregulatory measures to simplify the registration of driving instructors. First, it allows them re-entry to the register under a simplified procedure if they apply within four years of leaving, and secondly, it allows an instructor to request voluntary removal from the register and to return at a later date under the simplified process.

The noble Lord, Lord Rosser, asked about the consultation. There was a full public consultation in 2013. Almost 90% of the responses received supported the two proposals in the Bill. The responses we received were mainly from ADIs and amounted to 1,679. There was a further consultation more recently, which took place with the main six ADI national associations, which also support the provisions.

I consider the Bill appropriate for the Government to support and once again thank my noble friend Lord Attlee for bringing it forward. I hope that he gets the support that he deserves.

1.10 pm

Earl Attlee: My Lords, I am grateful to all noble Lords who contributed to this short Second Reading debate. Under the Private Member's Bill procedure, it is a fine judgment as to whether a question is for me or for my noble friend the Minister, but I can assure the House that we work as a close team and we know how we will work together.

The noble Lord, Lord Rosser, asked me about the benefits of voluntarily retiring from the register, given that you can get back on to it after a standards check by virtue of Clause 1. The fee is not an issue as it covers the four-year period of the registration. Subsequent four-year periods attract a further fee. The problem is the need for the standards check. The noble Lord also asked what stimulates a registrar into requiring a standards check.

I understand that there are two grades of pass for the standards check. If an instructor secures only a B-grade pass, he or she is good enough to practise but the registrar will want to ensure that the instructor has improved or is at least up to the required standard. Thus, another standards check will be indicated. The words "every few years" give the flexibility required. The registrar will also be aware of the instructor's student pass rate and whether any complaints have been recorded against the instructor. This may also indicate a further standards check.

Clearly, if an instructor appears not to be too keen on taking a standards check, the registrar will be particularly concerned and will draw negative conclusions. Failure to take a standards check is regarded as misconduct, as I think we have already covered. This is unfair if the instructor has decided to stop instructing for perfectly good reasons, such as the ones I suggested earlier. I hope that that satisfies the noble Lord. I beg to move.

Bill read a second time and committed to a Committee of the Whole House.

Road Traffic Act 1988 (Alcohol Limits) (Amendment) Bill [HL]

Committee

1.13 pm

Relevant document: 20th Report from the Delegated Powers Committee

Clause 1: Prescribed limit of alcohol

Clause 1 agreed.

Clause 2: Proportion of alcohol for replacement of breath specimen

Debate on whether Clause 2 should stand part of the Bill.

Lord Brooke of Alverthorpe (Lab): My Lords, on the Second Reading of my amendment Bill on 29 January, I opened by saying that the Bill was precisely in accord with what had been piloted through the Scottish Parliament. As a consequence, it contained a provision in Clause 2 that permitted a person to elect to have a specimen of breath replaced with a specimen of blood or urine. However, as this former statutory option was removed from the Road Traffic Act 1988 by Part 1 of Schedule 11 to the Deregulation Act 2015, which came into force in April 2015, I therefore need to withdraw Clause 2 from my Bill. Therefore, I oppose the question that Clause 2 stand part of the Bill.

Clause 2 disagreed.

Clause 3: Extent, commencement and short title

Amendment 1

Moved by ***Lord Brooke of Alverthorpe***

1: Clause 3, page 1, line 17, after "regulations" insert ", made by statutory instrument,"

Lord Brooke of Alverthorpe: My Lords, this amendment arises from the 20th report from the Delegated Powers and Regulatory Reform Committee, published on 5 February 2016, relating to Clause 3(2) on the powers to appoint the commencement date for enactment. The committee recommended that, additionally, subsection (2) should require the regulations for the commencement date to be made by statutory instrument. I accept this and accordingly move the second amendment, which meets its recommendations and relates to Clause 3.

1.15 pm

The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con): I thank the noble Lord, Lord Brooke, for bringing the Bill forward and for his subsequent amendments. I am sure he is aware that the Government take the threat of all dangerous drivers, including drink-drivers and drug-drivers, very seriously, and will continue to monitor all the elements that contribute to the number of deaths on our roads. I have previously set out what the Government are doing to reduce all road casualties in England and Wales, but I will re-emphasise the important steps we are taking that will help to tackle drink-driving specifically.

Drink-driving is still responsible for too many deaths and injuries. In order to prevent this, we will continue to take tough action against the small number of drivers who ignore the drink-drive limit. Many drivers killed in drink-drive collisions, or prosecuted for drinking and driving, are significantly over the drink-drive limit. The Government therefore believe that rigorous enforcement and serious penalties for drink-drivers, particularly these dangerous individuals, are a more effective deterrent than changing the drink-drive limit.

As I have previously said, the Deregulation Act 2015 made important changes to the drink-driving laws. First, it removed the so-called statutory option that allowed drivers who were slightly above the breath-alcohol limit to demand a blood or urine test. Secondly, it made it a requirement for high-risk offenders to undertake medical tests before they are allowed to drive again.

I note that we have just removed Clause 2, as the noble Lord proposed, which refers to Section 8(2) of the Road Traffic Act 1988, as it was removed by the Deregulation Act 2015. If the Government were in favour of the Bill, we would have agreed to the removal. However, I want to reiterate that the Government do not support the Bill. We believe that the legislative changes already made are very important steps that will help to reduce drink-drive casualties.

With regard to the lower drink-drive limit, we will, of course, remain interested to see the substantial evidence base from the changes made in Scotland, when it is available. The noble Lord, Lord Brooke, and I have talked about this issue and I am sure he agrees that it is important that the Scottish Government carry out a full evaluation of its impact. It is also important to note that the penalties for drink-driving in England and Wales are more severe than in other countries, and despite the majority of these other countries having lower alcohol limits, they do not have a better record on reducing drink-drive casualties. The Government therefore maintain our position that lowering the limit in itself is not going to change people's behaviour and would not be the best use of resources to improve safety on our roads at this time.

In thanking the noble Lord for his contribution, I reiterate that this remains a very key and important issue. I assure him that we will continue to support the police in their rigorous enforcement efforts against all dangerous drivers—for example, through the introduction of roadside evidential breath-testing instruments, which are expected next year. I hope the noble Lord is also assured that we continue to enforce strict drug-driving laws with our award-winning THINK! campaigns.

Lord Rea (Lab): The noble Lord mentioned a similar measure that was introduced in Scotland about a year ago, the results of which the Government are observing. The Scottish licensed catering association has said that the introduction of that measure has been "catastrophic" for the industry. In other words, drinking as a whole has gone down—no one has mentioned that effect of the measure—quite apart from any effect on accidents on the roads. When the prohibition on smoking in public places came in, it reduced the prevalence of heart disease. Heart attacks, for instance, came down measurably as a result of that step. Therefore, small measures such as the one we are discussing will gradually reduce the consumption of alcohol, which, when used excessively, is very harmful, as we all know.

Lord Ahmad of Wimbledon: I thank the noble Lord for his comments. I agree that changes such as these have an impact. As he rightly pointed out, Scotland has introduced changes. We are talking regularly with our counterparts in the Scottish Government, but it is right that we await a more substantial evidence base for these changes. As I said, we are not contemplating any changes at this time.

Lord Brooke of Alverthorpe: My Lords, neither of the amendments today is contentious so they should not pose any difficulties for the Government, although I know that the purpose of the Bill does. I am grateful to the Minister for setting out again that the Government are endeavouring to limit the damage done to individuals by drunken drivers. However, I am sorry that they still maintain there is not sufficient cause for embracing this measure, which would, in my opinion, lead to further lives being saved, fewer accidents and fewer people being damaged than is the case at present.

I do not want to repeat all that I said on Second Reading. However, notwithstanding what the Government have done, the numbers of deaths, accidents and injuries have virtually plateaued since 2012. Notwithstanding the minor changes made recently, there does not seem to be any indication of significant change ahead, even though Scotland has shown that very big changes can be effected by moving down to the 50 milligrams limit. While the Government are still digging in, I hope that the many individuals, organisations and members of the public who have supported me—I express my public gratitude to them—and who are in favour of this measure will continue to put pressure on the Government to bring about a change which will be in the best interests of all concerned, other than, perhaps, the drinks and hospitality industry.

Amendment 1 agreed.

Clause 3, as amended, agreed.

House resumed.

Bill reported with amendments.

House adjourned at 1.24 pm.

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