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PARLIAMENTARY DEBATES  
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**HOUSE OF LORDS**  
**OFFICIAL REPORT**

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

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## House of Lords

Thursday 21 April 2016

11 am

Prayers—read by the Lord Bishop of Peterborough.

### Her Majesty the Queen: 90th Birthday

*Motion for a Humble Address*

11.06 am

Moved by **Baroness Stowell of Beeston**

That a Humble Address be presented to Her Majesty The Queen as follows:

“Most Gracious Sovereign,

We, Your Majesty’s most dutiful and loyal subjects, the Lords Spiritual and Temporal in Parliament assembled, beg leave to offer Your Majesty the warmest congratulations of this House on the occasion of Your Majesty’s ninetieth Birthday;

To assure Your Majesty of our deep affection and highest regard;

And to join our prayers with those of the Nation and Commonwealth for the long continuance of Your Majesty’s health and happiness.”

#### **The Lord Privy Seal (Baroness Stowell of Beeston)**

**(Con):** My Lords, it is an honour to lead tributes to Her Majesty in your Lordships’ House today. We are celebrating her 90th birthday, and to do that justice we should first reflect on her early life.

When Her Majesty was born in 1926, she was not expected to be Queen, but at just nine years old her destiny changed and her life of a dedicated public servant began. As a young teenager of 14, during the early years of the war, she made her first radio broadcast to bring comfort and hope to other children being evacuated. Her first solo public engagement followed two years later. At just 25 years old, she succeeded her father to the Throne. That was four short years after she had married and while her first two children were still toddlers. As she became Queen, her first Prime Minister, Winston Churchill, warned:

“She comes to the Throne at a time when a tormented mankind stands uncertainly poised between world catastrophe and a golden age”.—[*Official Report, Commons, 11/2/1952; col. 962.*]

We are fortunate that she will give her name to an era of unparalleled economic growth, technological advance and social change.

Throughout her whole life she has helped our nation to feel at ease with itself, and has served as a remarkable point of continuity for all her people. Despite her tender years, at the beginning of her reign she was admired by even her most experienced subjects. All of us have trembled at making our maiden speech in this Chamber, but nothing we have done could compare with her first gracious Speech from that Throne. Yet, following that first Queen’s Speech, the then Chancellor of the Duchy of Lancaster, Viscount Swinton—a man

who had first entered the Cabinet before she was even born—spoke for the whole House when he said that describing the Speech as gracious was not simply a formality but,

“the true word for all the Queen is and all she does”.—[*Official Report, 4/11/1952; col. 20.*]

As she has grown older, she has remained just as admired by successive generations. His Royal Highness the Duke of Cambridge said on his recent state visit to India that Her Majesty is a “guiding force” for her family, and her contemporaries have looked to her to see how to respond to a changing world. She has innovated to bring the monarch closer to the people, her Christmas message of 1957 being the first to be transmitted live. She pioneered the royal walkabout and last year she sent her first tweet. The fact that she remains as relevant today as ever is testament to her enduring values of decency, honesty, humility and honour.

What is truly remarkable about Her Majesty’s commitment is that she continues to serve with a zest and undimmed sense of public duty. Last year she carried out 306 engagements in the UK and 35 overseas—a workload that would be daunting to someone even half her age. As Head of State, she fulfils her constitutional position with distinction. Uniquely among those who give public service, her commitment is beyond question.

As we mark this milestone birthday, Her Majesty would no doubt want us to acknowledge the lifelong support of her family, not least that of His Royal Highness the Duke of Edinburgh, who remains always by her side. Indeed, those remarkable photographs that we have seen published this week show just what family means to Her Majesty.

As we look forward to the many events that will celebrate Her Majesty’s 90th birthday between now and June, many noble Lords will choose to pay tribute in their own way. Your Lordships may have noticed that my noble friend the Chief Whip is not in his usual place today. Instead, as Captain of the Gentlemen-at-Arms, he is at Windsor Castle, presenting Her Majesty with a sheaf of a new variety of daffodils. These have been raised—that is the term that I am told is used—in honour of her birthday and registered with the Royal Horticultural Society. Appropriately, these daffodils are named “Gentleman at Arms”. My noble friend has taken them to Her Majesty and intends to offer her the warm wishes of those on all Benches in this House.

I know that all noble Lords will join me in wishing Her Majesty a very happy 90th birthday. I beg to move this Motion for a humble Address to Her Majesty.

**Baroness Smith of Basildon (Lab):** My Lords, I am delighted to have the opportunity to follow the noble Baroness and to speak on behalf of these Benches to wish Her Majesty the Queen a very happy 90th birthday and to support the humble Address.

For many of us, milestone birthdays are a time for reflection, but when that birthday is a 90th and a whole life has been spent in the public eye in public service, that reflection has an added dimension. Like all of us, Her Majesty the Queen will have many

[BARONESS SMITH OF BASILDON]

personal memories of births and deaths, and of people, places and events. While her life has brought more privilege and opportunities than most, she has also known the highs and the lows, and the joys and the sadnesses that normal family life brings. As the noble Baroness also said, it is impossible to reflect on the role of the Queen without recognition of her husband, the Duke of Edinburgh—outspoken, sometimes irreverent and at all times totally human, his support has been vital.

The late King George VI, with his sense of public responsibility during the Second World War, had a huge influence on his daughter. I am sure he would take immense pride in how she has conducted herself and shaped the role of our longest serving monarch.

This 90th birthday is a time for public celebration and public reflection. It is not just here at home but across the world that those with memories of the Queen will share them—memories of a visit, a conversation or even just a comment.

As the noble Baroness said, when Princess Elizabeth Alexandra Mary was born on this day in 1926 in London, few could have predicted the life that lay before her. At that time, she was third in line to the Throne, because the then Prince of Wales had not yet met Mrs Simpson and started the chain of events that led to the Queen's father becoming King. Yet the responsibility is one that she readily absorbed, making her first radio broadcast in 1940 at the age of 14, as the noble Baroness referred to, on BBC "Children's Hour", to the children evacuated overseas during the Second World War.

With thousands of other young women, she qualified as a mechanic and driver with the ATS. For the time, that was quite bold and daring for a princess and not a decision that the Government were at all happy about, believing that her most important training should be as heir to the Throne, not as a mechanic. Her determination and persistence in insisting that she wanted to serve her country was a clear indication that she would become a Queen who would bring her own style and make her own way. So on VE Day, the two royal princesses were as keen as anyone to celebrate the peace. Her Majesty has spoken about joining the crowds in Whitehall, where they mingled anonymously with those linking arms and celebrating the end of the war. In a world without selfies or mobiles, I wonder how many thought that the two attractive young women partying with them looked just like Princesses Elizabeth and Margaret.

In the aftermath of the Second World War, as with the first, the royal families from across Europe found that as time moved on so did they. In those post-war years, the monarchies of Bulgaria, Portugal and many other countries ceased to exist. But here in the UK, a country that has known just a very short-lived republic in the 17th century, the monarchy has not just survived but has increased in popularity. We should recognise and happily acknowledge that such success is to the enormous credit of the Queen and the way she has conducted herself and undertaken the role—a role for which there is no manual or guide.

In the age of Twitter, "Celebrity Big Brother" and, at times, the sharing of private moments far too publicly, it is refreshing and enormously valued and respected that Her Majesty the Queen has never spoken out publicly of her views on a political or policy issue. She has maintained a dignified privacy of thought and displayed strict impartiality. If it was frustrating at times, it never showed.

The 12 Prime Ministers who have had weekly audience with the Queen have found a willing listener and someone whose discretion they can rely on absolutely: no leaks, no Tweets, just absolute confidence. Those who have attended Privy Council meetings will recognise that businesslike approach.

Some will have heard of the Labour Minister who, while standing as business was conducted, suddenly heard her mobile phone ringing very loudly from the very large handbag at her feet. Hugely embarrassed, she dived into the bag and desperately rummaged until she eventually and triumphantly retrieved the phone and silenced it. Her Majesty looked at her and sympathised: "Oh dear, I do hope it wasn't anyone important". I do not think either of them will ever talk to me again.

That dry sense of humour has become very evident over the years. At the opening of the Docklands Light Railway, shortly after her election in 1987, the late Mildred Gordon MP was asked by the Queen how she liked her new job. She responded that she felt that she had little power to help her constituents. The Queen replied understandingly, "Once they find out that you lot can't help them, they all write to me".

The fascination with the life of the Queen is magnified overseas, and often the most die-hard republicans show an admiration for her role. Many will recall the somewhat bizarre pirouette of the former Canadian Prime Minister, Pierre Trudeau, behind the Queen in 1977—although he later also spoke of his respect. Just last week, almost 40 years later, the current Canadian Prime Minister and Pierre Trudeau's son, Justin Trudeau, met Her Majesty and paid a glowing tribute. You had to smile as one onlooker observed, "The hereditary principle is alive and well".

There are other well-known people who also celebrate their 90th birthdays this year: Sir David Attenborough, the singer Tony Bennett and Fidel Castro. In those 90 years, the world has seen massive social and cultural change. In technology, John Logie Baird had only just demonstrated his new invention, the mechanical television, yet last Christmas, the Queen's Christmas message had more viewers than any other programme on Christmas Day, even "Downton Abbey"—I was looking for the noble Lord, Lord Fellowes, but fortunately he is not here. In 1926, the first transatlantic telephone call was made from London to New York, the first red telephone box was installed and the national grid was set up. In that same year, the League of Nations convention abolished all slavery—so it seems so disappointing that, almost 90 years later, we had to bring in our own Modern Slavery Act. While this week we debated and sought to improve the Government's Trade Union Bill, it was tougher in 1926, when we had martial law on the streets in response to a general strike.

So times have changed, but values have not. The British Royal Family is one of the most traditional institutions in the world, yet if we stand back and reflect on the past 90 years, both the 90 years of the Queen's life and more than 60 years of her reign, we see significant changes. Many politicians would give their right arm for her approval ratings. She has perceptively, skilfully and without fanfare guided the monarchy into the 21st century. It is clear that Her Majesty values not just the monarchy of today but that of the future, and has encouraged and supported her children and grandchildren in undertaking official engagements and public service.

For some in your Lordships' House, she has been the Queen for our entire lives. Many of us do not remember any other monarch. She is the figurehead of our nation, and I hope that our tributes today convey something of the high personal esteem in which she is held. So today is a day for celebration. Happy birthday, Ma'am.

**Lord Wallace of Tankerness (LD):** My Lords, from these Benches, I am delighted to add our good wishes and congratulations to Her Majesty the Queen on this very special occasion of her 90th birthday. Her Majesty has had, and continues to have, an extraordinary life which she has dedicated in service to our country.

As we have heard, we are living today in a very different society from the one into which Her Majesty was born 90 years ago today. Then, the sufferings and losses of the Great War were still raw. It was less than a decade since the United Kingdom had emerged from the horrors of the First World War, vowing that such devastating conflict should never happen again. And yet, sadly, it did happen again, when Her Majesty, then Princess Elizabeth, was barely a teenager. As we have heard from the Leader of the House and the Leader of the Opposition, during the Second World War Her Majesty not only served in the Auxiliary Territorial Service but brought comfort to many young people by broadcasting a message to evacuees, urging them to have courage.

Thankfully, today the prospect of war breaking out in the heart of Europe is unimaginable. Today, too, we are living in a world which is far more interconnected than it has ever been. Again, the Queen has fully engaged with this changing world. The metamorphosis of empire and colonial rule into the Commonwealth of free nations has in no small way been achieved by the Queen's strong personal commitment to that unique institution and force for good in the world. She has kept up with technology and the IT revolutions which have transformed our world. In March 1976, when almost 50, and taking part in a network technology demonstration, the Queen was the first Head of State to send an email, although I rather suspect they did not call it that then.

Throughout the huge change that this country has experienced in the past 90 years, Her Majesty has been a constant, standing with her people whether it be in times of tragedy or times of joy. Her unwavering sense of duty, supported for more than 68 years by the Duke of Edinburgh, and her commitment to the service and welfare of the people of this country are surely an inspiration to us all. When speaking in your Lordships'

House on the eve of Her Majesty's 80th birthday, my noble friend Lord McNally recalled the vow that the then Princess Elizabeth made in Cape Town on her 21st birthday. She said:

"I declare before you all that my whole life, whether it be long or short, shall be devoted to your service".

Gladly, it has been a long life and surely no vow has been more dutifully honoured.

On behalf of my Liberal Democrat colleagues, I offer my warmest good wishes to Her Majesty the Queen on this most joyous of milestones for a day full of love and affection from family, friends and a grateful nation. Long live our noble Queen!

**Lord Hope of Craighead (CB):** My Lords, as the House knows, members of the Cross-Bench group whom I represent seldom, if ever, speak with one voice. I am reminded of that feature of our existence almost every day, but this occasion, surely, is quite different. I know that each member of the group would wish me to say how delighted we all are to be associated in every way with what has been said, and that we join together as one in supporting this Motion.

The Cross-Bench group brings to this House Members with a wide range of experience. Many have spent their entire working lives in the public service. Some, by reason of the positions that they have held, have a much greater appreciation than the rest of us of the volume of work with which Her Majesty has lived for so many years, with such a great sense of dedication and commitment. But all of us, in one way or another, have our own memories of her and of the service that she has given. We can all share in the memories of the great occasions.

Perhaps one above the others that deserves to be remembered today is Her Majesty's state visit to Dublin in May 2011. Her remarkable speech at the state dinner in Dublin Castle was surely an extraordinary moment in history, which only she could bring about. Her silent tribute in the garden of remembrance the previous day had done so much to settle memories of the past.

One occasion that stands out in my own memory, because I was there, was her Address to both Houses in Westminster Hall on the occasion of her Golden Jubilee. It is hard to believe, but that was 14 years ago in 2002. The then Speaker, Speaker Martin, and the Lord Chancellor, the noble and learned Lord, Lord Irvine of Lairg, who I am glad to see is in his place, presented their addresses and handed them to her after reading them. Then it was her turn. She stood up and went forward to the microphones to read her own speech. There was no table; there was no lectern; she held her speech in front of her as she stood alone. I thought with great courage, on the steps in front of a huge audience. Unlike the speeches at a State Opening, that speech was her own creation—full of warmth and perfect for the occasion. She ended with a triumphant sentence assuring us of her resolve to continue to serve us all to the best of her ability. It was faultlessly read, as always, in a firm, clear voice. She then sat down to prolonged applause, which lasted for well over a minute. She seemed not to have expected that, and was greatly moved by that applause, but it was so well deserved.

[LORD HOPE OF CRAIGHEAD]

Later she joined us for a reception in the Royal Gallery. One of the Law Lords who was with me had his back to her as she reached us. He was tapped on the shoulder by the Lord Chancellor. My colleague had the misfortune to be in the process of eating a large biscuit. Something was bound to go wrong and, indeed, it did. When he turned round, he was so astonished to see her standing beside him that he dropped his biscuit onto the floor right in front of Her Majesty's feet. Her Majesty, who has a great sense of humour, was much amused. Another Law Lord, a judge from New Zealand, was then introduced. Her Majesty said to him, "I hear that you are about to end your appeals to the Privy Council". He replied that it would not affect him, as he had already reached the retirement age of 75 and would no longer be able to sit. "When was your birthday?", she asked. When he said that it was in June, she exclaimed, "You are two months younger than I am". So much hangs on those words—we can all do our own arithmetic—but those words were as clear a demonstration as there could be that retirement was not for Her Majesty, that it is not and it never has been. How blessed we all are that this is so.

On behalf of all of us on the Cross Benches, I join with the rest of the House in supporting the Motion and wishing Her Majesty a very happy birthday. We offer her our warmest congratulations and our profound thanks. I think it is also right to say that we offer our profound thanks to His Royal Highness the Duke of Edinburgh—always there at Her Majesty's side and with his own unique sense of humour, as has been said. For him, too, surely, this is a very happy day.

**The Archbishop of York:** My Lords, on behalf of the Archbishop of Canterbury and all the Lords Spiritual, I wish to endorse most heartily the proposed message of congratulations to Her Majesty, by divine providence Queen, head of the Commonwealth and defender of the faith.

At her coronation, Archbishop Fisher placed on the Queen's wrists two newly-made gold bracelets, presented by a number of the overseas realms and territories as a symbol of the Commonwealth. As he did so, he said these words:

"Receive the Bracelets of sincerity and wisdom, both for tokens of the Lord's protection embracing you on every side; and also for symbols and pledges of that bond which unites you with your Peoples".

Today we give thanks for the Lord's protection that has embraced Her Majesty on every side these many years. We also want to pay tribute to the sincerity, wisdom and devotion which she has consistently manifested throughout her long and glorious reign. They have served greatly to strengthen that bond between the Sovereign and all her peoples.

Since 1952, there have been seven Archbishops of Canterbury and seven Archbishops of York. What Her Majesty has made of that richly diverse and eclectic collection of Primates will no doubt never be revealed. All that I can say, from those of the Archbishops whom I have known, is that each has like me valued the support, interest, faithfulness and prayers of our Supreme Governor more than it is possible to describe.

There are very few other people to whom an Archbishop can open his heart, knowing that his confidences will go no further and certain that at the end of the conversation he will go away affirmed and encouraged.

And so let this be a day for thanksgiving and much rejoicing on Her Majesty's birthday. Long live the Queen!

**The Lord Speaker (Baroness D'Souza):** My Lords, perhaps I may briefly add my warmest congratulations to Her Majesty the Queen on the occasion of her 90th birthday. The tributes that we have heard today from all sides of the Chamber show the gratitude that this House, and indeed the nation, owe her for her extraordinary service throughout her reign. It is therefore my honour to put the Question today that the Motion be agreed to.

*Motion agreed nemine dissentiente; and it was ordered that the Address be presented to Her Majesty by the Lord Chamberlain.*

## Retirement of a Member: Lord Cameron of Lochbroom

### Announcement

11.33 am

**The Lord Speaker (Baroness D'Souza):** My Lords, I should like to notify the House of the retirement, with effect from today, of the noble and learned Lord, Lord Cameron of Lochbroom, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I thank the noble and learned Lord for his much-valued service to the House.

## House of Lords Appointments Commission

### Question

11.34 am

Tabled by **Baroness Boothroyd**

To ask Her Majesty's Government what plans they have to review the powers of the House of Lords Appointments Commission.

**Lord Butler of Brockwell (CB):** My Lords, on behalf of the noble Baroness, Lady Boothroyd, and at her request, I beg leave to ask the Question standing in her name on the Order Paper.

**The Lord Privy Seal (Baroness Stowell of Beeston) (Con):** My Lords, the House of Lords Appointments Commission does an effective job in recommending candidates for non-party peerages and vetting the propriety of all those nominated as life Peers. There are no plans to amend its remit.

**Lord Butler of Brockwell:** My Lords, I ask this Question on behalf of my noble friend Lady Boothroyd because she is having to spend a few days in hospital. I am sure that the whole House will want to wish her well.

The last triennial review of the House of Lords Appointments Commission took place in 2013. Is the next triennial review not now due? Is it not necessary to increase the powers of the House of Lords Appointments Commission in view of the widespread concern at the Prime Minister's use of his unlimited powers of patronage in making appointments to this House?

**Baroness Stowell of Beeston:** My Lords, I echo the noble Lord's remarks wishing the noble Baroness, Lady Boothroyd, a speedy recovery. On the Question he raised, the House of Lords Appointments Commission does indeed play a very important part in vetting all nominees and recommending excellent candidates for the Cross Benches, but it is the political parties that must be accountable for the Members who sit on the political Benches. That is an important principle that should continue. It is also important that we maintain appointment to the Cross Benches, as well as to the political Benches. That is why the Prime Minister appointed 10 Peers to the Cross Benches in the last Parliament, alongside those appointed independently through the HOLAC process.

**Baroness Smith of Basildon (Lab):** My Lords, we look forward to the noble Baroness, Lady Boothroyd, being back with us when she is fully fit again. Does the Minister not recognise that the Question is being raised because of concern about the number of appointments to the House? I have raised this with her before. This Prime Minister has made appointments to your Lordships' House at a faster rate than any other Prime Minister since 1958, when life peerages were introduced. We have had a greater percentage of government Peers appointed and fewer Cross-Bench and Opposition Peers. Is the suggestion from the noble Lord, Lord Butler, not worthy of consideration if we are to maintain public confidence, and your Lordships' confidence, in the work of this House?

**Baroness Stowell of Beeston:** I, too, very much care about the reputation of this House and that the public maintain their confidence in it. The best way for us to assure that is in the way we make our contributions to this House's work. It is worth making a couple of points in response to the noble Baroness's point about size and the number of appointments. Since 2010, nearly 150 Peers have left your Lordships' House through retirement or, sadly, having passed away. Forty-four of those have been since the general election. We have to continue to refresh and renew our membership. It is an important part of our being effective as a House. On the noble Baroness's point about appointments by my right honourable friend the Prime Minister, 22% of the appointments he has made have been to the Labour Benches.

**Lord Forsyth of Drumlean (Con):** My Lords, could my noble friend explain why, when the Appointments Commission considers appointments of Cross-Bench Peers, it is required to look at issues not only of propriety, but suitability—do they have the time and necessary skills—but in the case of party appointments it is allowed to look only at propriety, not suitability?

Should we not amend the terms of the Appointments Commission so that, while the political parties can still put forward names, the commission finds out whether they are prepared to give the time and have the necessary skills and experience to make a contribution to this House?

**Baroness Stowell of Beeston:** It is very important that all Peers make a proper contribution to this House in a way that enables us to give the public confidence in the laws that Parliament makes. However, it is absolutely appropriate and proper that the party leaders are responsible for ensuring that those they nominate will make their contribution effectively, and that they are held to account for that. The process and service that HOLAC provides is important. When it makes recommendations, no Prime Minister, whether this one or any before him, has ever ignored that commission's advice.

**Lord Hope of Craighead (CB):** My Lords, there is nothing wrong, as the noble Lord, Lord Forsyth, has been indicating, with the powers of the commission as far as the Cross Benches are concerned, but there is an issue about numbers and maintaining a fair balance between the Cross Benches and the other groups in the House. Would the Leader of the House be prepared to give an indication that that balance, which is approximately 20% of the House, will be maintained? Ultimately, the decision on numbers depends upon a communication between the chairman of the commission and the Prime Minister, so the Government do have a part to play in seeing that numbers are maintained.

**Baroness Stowell of Beeston:** And the number of Cross Benchers as a proportion of this House has been pretty stable for about three decades now. There is not actually a specific formula for the number of Cross Benchers, but the noble and learned Lord makes an important point about the importance of the Cross Benches to our work. That is why, alongside other appointments that the Prime Minister has made in recent times, he has made important appointments to the Cross Benches of noble Lords who are making an active contribution to our work, and that is something I know he will continue to do.

**Lord Dholakia (LD):** My Lords—

**Lord Campbell-Savours (Lab):** My Lords—

**Lord Gardiner of Kimble (Con):** My Lords, we have not heard from the Liberal Democrat Benches.

**Lord Dholakia:** My Lords, it is right that we should congratulate the Appointments Commission on its work. This House now has the distinction of being represented by more different communities, more women, more people with disabilities, et cetera, than ever before. For this, we should thank the Appointments Commission. But we now face a ridiculous situation: the legal requirement placed on my own party in relation to the hereditary election. We had the distinction of being asked to appoint a person in place of Lord

[LORD DHOLAKIA]

Avebury, who recently died. We had three hereditary Peers and seven candidates, and they appointed somebody who had already been in the House. My Chief Whip assures me that this will go down in the Guinness book of records as the shortest time taken to count the votes. Is it not time to look at the proposal put forward by the noble Lord, Lord Steel, in his original Bill and move towards the second stage of reform of the House of Lords?

**Baroness Stowell of Beeston:** The hereditary Peers who are Members of this House make an important contribution to our work. Any change relating to their arrival in this House would be part of a much wider package of reform, and that is not something that is currently being explored.

**Lord Campbell-Savours:** If we are replacing to refresh, why not cap the numbers?

**Baroness Stowell of Beeston:** My Lords, many noble Lords, as I said, have left your Lordships' House. They continue to use the facility of retirement. That opportunity is to be welcomed, and when we refresh we are ensuring that we are effective in what we do.

## Wheelchair Users

### Question

11.43 am

*Asked by Lord Hunt of Kings Heath*

To ask Her Majesty's Government whether they will introduce uniform standards and a national tariff payment in order to achieve high-quality outcomes for wheelchair users.

**The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con):** My Lords, NHS England is developing a national dataset to ensure transparency about the quality of services in order to drive improvement. NHS England and NHS Improvement are actively working with the sector to define the currencies and reference costs that will enable national tariffs to be set.

**Lord Hunt of Kings Heath (Lab):** My Lords, the noble Lord will know that the wheelchair alliance, chaired by the noble Baroness, Lady Grey-Thompson, has shown that we have, essentially, a set of dysfunctional local wheelchair services with variations in access, standards and waiting times. The noble Lord has referred to a national specification but the reality is that, unless he can ensure that it is mandated at local level we will not get high-quality, consistent services. Will Ministers be prepared to meet the wheelchair alliance to discuss how we can get uniform, high-quality standards at local level?

**Lord Prior of Brampton:** The noble Lord is right: the variation in wheelchair standards around the country is wholly unacceptable. The truth is that we do not

know the level of this variation because we have never collected the data before. The data are now collected and, of course, I can answer yes to his question. In fact, my honourable friend in the other place is making an announcement on 18 May, I think, about the support we are going to provide to local CCGs over wheelchair provision. I am sure that I can speak for him and say that he will be delighted to meet the wheelchair alliance.

**Baroness Gardner of Parkes (Con):** My Lords, is the Minister aware of problems encountered with London buses? I declare an interest in that my daughter has used a wheelchair for many years, although just recently she has made a marvellous improvement after being given an electric impulse and has been able to walk for the first time for 30 years. Bus ramps have been broken by wheelchairs that are too heavy. She has done a lot of work to ensure that wheelchair manufacturers produce wheelchairs with a marked vehicle weight that will not damage buses. Therefore, there is a need for more uniformity in higher standards.

**Lord Prior of Brampton:** I totally agree with my noble friend that there is an absolute need for greater uniformity and standardisation. The level of variation around the country is wholly unacceptable.

**Baroness Brinton (LD):** My Lords, the NHS guidance on the website to people seeking a powered wheelchair says:

"Each service will have a strict criteria of eligibility. Usually the NHS services do not provide powered wheelchairs ... for outdoor use only".

Some areas, including mine, say that this means you get one only if you need to use it inside your own house. This does not mean independent living. When will the criteria be changed to ensure that if a powered wheelchair is needed for work purposes it will be provided?

**Lord Prior of Brampton:** As the noble Baroness knows, the criteria are local at the moment. The point of collecting the data and developing a tariff, which takes into account assessment, the equipment and repair and maintenance, is to have local commissioning against the national standard.

**Baroness Grey-Thompson (CB):** My Lords, I declare an interest as chair of the national Wheelchair Leadership Alliance. Does the Minister recognise that not getting this service right is increasing the burden on the NHS? The cost of fixing a pressure sore alone is about £150,000, whereas providing the right cushion costs £400, so by improving wheelchair services we can save the NHS money rather than costing it money.

**Lord Prior of Brampton:** The noble Baroness is absolutely right. Getting the wheelchairs fitted properly and making the right assessments can save the NHS a fortune. It is outrageous that we have not tackled this before. The tragedy of the NHS is that if you do not have a tariff or target, you do not get the money.

We are developing a tariff. The charter developed last year by the wheelchair alliance is an outstanding document.

**Lord Faulkner of Worcester (Lab):** My Lords, can the Minister indicate how much progress his honourable friend the Minister for Disabled People has made in persuading Britain's sports governing bodies, particularly the football authorities, to make sure that all their stadia comply with the accessibility guidelines, which are of course of particular importance to wheelchair users? I declare an interest as a vice-president of the Level Playing Field charity.

**Lord Prior of Brampton:** My Lords, I am afraid that I cannot answer that question as I do not know the answer. If it is all right to do so, I will write to the noble Lord and place the answer in the Library.

**Baroness Masham of Ilton (CB):** My Lords, I declare an interest as president of the Spinal Injuries Association. Is the Minister aware of the very complex needs of some people who break their necks, are completely paralysed and operate a wheelchair by pushing the back of their head or by their mouth? Will he assure the House that the specialist hospital units are able to advise CCGs on this issue?

**Lord Prior of Brampton:** The noble Baroness raises a very important point. I will do what I can to ensure that we retain that specialist knowledge that can be provided to local CCGs.

## **Iraqi Troops: Training** *Question*

11.49 am

*Tabled by Baroness Mobarik*

To ask Her Majesty's Government how many Iraqi troops British forces are expected to help train this year to fight Daesh.

**Lord Robathan (Con):** My Lords, on behalf of my noble friend Lady Mobarik, and at her request, I beg leave to ask the Question standing in her name on the Order Paper.

**Lord Ashton of Hyde (Con):** My Lords, numbers of Iraqi, including Kurdish, security force personnel in training at any time depend on the operational tempo. Since December 2014, UK military personnel have helped to train more than 12,000 individuals in infantry skills, weapons maintenance techniques and counter-IED and combat medical expertise. We expect this effort to continue in the coming year. The pace of training reflects the Iraqi Government's ability to identify personnel and units not currently committed to offensive operations, who are therefore able to attend training in the subjects we offer.

**Lord Robathan:** Daesh—or Islamic State, call it what you will—is waging war, as your Lordships know, not just in Iraq but in Syria, Libya and, indeed,

against the whole West. It is incumbent upon nations such as ourselves and in our own interest to assist in the battle against this brutal organisation. Will my noble friend tell the House what progress is being made with our assistance in Iraq in the war against Daesh?

**Lord Ashton of Hyde:** My Lords, before I answer my noble friend, as this is a Ministry of Defence Question, I think that it would be appropriate to express the Armed Forces' appreciation to Her Majesty on her birthday for her deep knowledge of, interest in and support to her Armed Forces.

I am pleased to report that the campaign against Daesh in Iraq is making progress. With coalition support, Iraqi security forces have taken around 40% of the populated areas that Daesh once held in Iraq, including Tikrit, Sinjar and Ramadi, and Hit is now being cleared of Daesh remnants. We have also been striking elsewhere in northern Iraq, predominantly on Daesh's lines of communication, to support the Iraqi forces preparing for the retaking of Mosul. We will continue to provide vital air support and specialist training and equipment, as I mentioned.

**Lord West of Spithead (Lab):** My Lords, I have no doubt whatever that the coalition will defeat Daesh militarily in Iraq—but what then? To defeat and destroy Daesh we have to get to its heartland, which is in Syria. Does the Minister agree that, to do that, we will have to talk to the loathsome Assad and deal with the Syrian army? That is the truth on the ground and we will not defeat Daesh militarily overall unless we do that.

**Lord Ashton of Hyde:** My Lords, the noble Lord is right to raise the point that this crosses borders—Daesh does not recognise conventional borders. One problem of course is that when we do defeat it militarily, foreign fighters in particular move to other countries. I agree with the noble Lord that we have to consider what we do in other countries including Syria, and, during the transition, dealing with people we may not wish to deal with. However, defeating Daesh militarily is not the only answer. The coalition has five lines of effort, not only for military support but dealing with foreign fighters, Daesh financing and funding, humanitarian stabilisation work and exposing the true nature of Daesh.

**Lord Touhig (Lab):** My Lords, Britain has a proud record of helping to build a free and democratic Iraq. Like noble Lords across the House, I am full of admiration for the role played by our Armed Forces. I can think of no better way of assisting that country than helping it defend itself, especially against the tyrannical evil of ISIL. Can the Minister say whether the troops deployed on training are embedded forces which, according to the Statement issued by the Defence Secretary on Monday, would put them under Iraqi command and mean that they could become combatants without the British Parliament being told about it?

**Lord Ashton of Hyde:** My Lords, my right honourable friend the Secretary of State for Defence made a Written Statement, to which the noble Lord referred,

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and made it clear that embedded forces are not included in the convention that has grown up since 2011, when troops are sent to conflict zones, of bringing that to the House of Commons. However, he has acknowledged that transparency is needed, and those embedded forces—where they are and who they work for—are made public once a year. There are embedded forces in coalition HQs. At the moment there are 177 embedded forces throughout the world. That number will be updated in a year's time.

**The Lord Bishop of Southwark:** My Lords, having recently returned from a visit to Iraqi Kurdistan under the auspices of Christian Aid, I ask whether due consideration has been given to the fight against Daesh to the extent that it must involve support for the removal of mines and explosive devices. Many millions are still in situ in the places that are being liberated.

**Lord Ashton of Hyde:** I could not agree more with the right reverend Prelate. That is one of the main features of our training and it is particularly appreciated. When forces take over former Daesh territory it is littered with booby traps, so we provide not only training but counter-IED detectors.

**Lord Ashdown of Norton-sub-Hamdon (LD):** My Lords, in the context of increasing turbulence in the Middle East, can the Minister give us an assessment of the effect of this country leaving the European Union along the lines proposed the other day by Mr Gove, who suggested that our model for the future outside the European Union might be something along the lines of Serbia and Albania?

**Lord Ashton of Hyde:** My Lords, the Government's position is that Britain is stronger within the European Union. That includes our security position as well.

**Lord Howell of Guildford (Con):** My Lords, if I could get slightly closer to the Question, which is about training troops to fight against Daesh, does the Minister have the latest figures for how many troops we have in Jordan, which in many ways is the other key front against Daesh operations? I know that this is slightly outside the Question but it is very much part of the overall battlefield.

**Lord Ashton of Hyde:** My Lords, I do not have the precise figures to hand, but we have increased our aid to Lebanon and Jordan with exactly that in mind.

**Earl Attlee (Con):** My Lords, we are beginning to be effective in choking off the finance to Daesh. Are we providing training and help to other states to enable them to improve that capability of choking off the money? It seems to be having a great effect.

**Lord Ashton of Hyde:** My noble friend is absolutely right that Daesh is feeling the pressure on the finance side. We of course agree that it extends to other countries. As I mentioned, we acknowledge that when we defeat Daesh militarily in one area, foreign fighters move to other countries. We are bearing that in mind.

## Crime: Religiously Motivated Crime Question

11.56 am

Asked by **Baroness Berridge**

To ask Her Majesty's Government what assessment they have made of the level of religiously motivated crime and violence in the United Kingdom in the light of the murder of Asad Shah.

**The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon)**

**(Con):** My Lords, first, I believe that I speak for us all in your Lordships' House in saying that we share the shock at the appalling death of Mr Shah. Our prayers and thoughts go out to his family and the wider community at this most difficult time. There were 3,254 religious hate crimes recorded in England and Wales last year, representing an increase of 43%. We are clear that hatred against people because of their religion has no place in our society or country. We will do everything we can to stop those who promote hatred and intolerance in our communities.

**Baroness Berridge (Con):** I thank my noble friend the Minister for his Answer and express our condolences to his own community at this sad time. Over the last 18 months Tell MAMA, an anti-Islamophobia organisation, has reported an increased amount of anti-Ahmadiyya hate crime on the internet. Flyers were allegedly found in a south London mosque stating that Ahmadis should face death if they refuse to convert to so-called mainstream Islam. Will my noble friend please outline what action Her Majesty's Government are taking to identify and shut down social media and other internet sites that incite and glorify violence towards the Ahmadis, which is in fact a crime here in the United Kingdom?

**Lord Ahmad of Wimbledon:** My Lords, let me be absolutely clear that the Government—and, I believe, all in this House and beyond—share the sentiment that people are free to live their lives free from interference and attack simply because of who they are or their religious beliefs. My noble friend is quite right to point out the increased attacks that we have seen on the internet, not just on the Ahmadi Muslim community but on other communities as well. The Government are taking steps on this and my colleague at the Home Office, my noble friend Lady Shields, is leading on internet safety and security. We are building alliances not just with the communities in the United Kingdom but beyond to ensure that wherever we find hate, whatever its cause and whoever the perpetrator and victim, we send a clear message: such hate will not be tolerated.

**Lord Paddick (LD):** My Lords, I associate these Benches with the Minister's remarks about the tragic death of Asad Shah. Religiously motivated sectarian violence has been prevalent in Scotland and other parts of the United Kingdom for many years. The tragic death of Asad Shah is another example, albeit involving a different religion. What training is being

given to police officers, and what advice is being given to victims, to help them differentiate between race-hate crime and religiously motivated hate crime?

**Lord Ahmad of Wimbledon:** The noble Lord is quite right to raise the growing and worrying tide of sectarian differences within different communities and the rising tide of hate crime. In that regard, I am pleased to tell the House that as of 1 April this year, as the noble Lord may well be aware, for the first time all police forces across England and Wales specifically record religious hate crime by religion and not just in its general sense. That is an important step forward.

In Scotland, as the noble Lord will know, there are devolved powers, but we are working very closely with the Scottish Government. Indeed, I will shortly visit Scotland—both Edinburgh and Glasgow—to discuss the issue of the growing tide of religious hate.

**Lord Pearson of Rannoch (UKIP):** My Lords, how do the Government react to the National Police Chiefs' Council's recent finding that only 8.6% of tip-offs to the Prevent programme have come from the Muslim community? How do they plan to encourage very much more collaboration from our Muslim friends and their leaders in exposing potential extremists?

**Lord Ahmad of Wimbledon:** First, let me put on record that every religious community, including the Muslim community, was appalled by the events we saw in Scotland. This is exactly what is required: for the whole country, no matter what your religion or if you are of no faith, to come together to condemn and then unify against extremism in all its ugly guises. I assure the noble Lord that we are speaking extensively to all faith communities, including Muslim communities. There are initiatives such as the Prime Minister's direct community round tables, on which the Home Secretary is leading. I am talking directly to all faith communities. Most recently I have met other and wider Muslim organisations, including the Bradford Council for Mosques, and earlier this week the Lancashire Council of Mosques and the Bolton Council of Mosques, to discuss the rising tide not just of the challenges we are facing but of Islamophobia and anti-Muslim hatred as well.

**Lord Woolf (CB):** My Lords, I disclose my interest as a patron of the Woolf Institute for interfaith relations. Does the Minister agree that an important antidote to race hate is education and that we should support all means of educating the public at large in the way that faiths can interrelate?

**Lord Ahmad of Wimbledon:** I totally agree with the noble and learned Lord's sentiments.

**Lord Tomlinson (Lab):** My Lords, does the noble Lord agree that the Prime Minister in the House of Commons yesterday was getting dangerously close to encouraging race hatred by making allegations against Mr Sadiq Khan, the Labour candidate for Mayor of London, concerning his association with somebody who had been visiting Tooting to work for the Conservative Party and recruit members to it?

**Lord Ahmad of Wimbledon:** Let me put on record and make absolutely clear that at no time did the Prime Minister or any other member of the Conservative Party allege that the right honourable Member for Tooting is an extremist. We need to ensure in the current climate that we take a very responsible view on all the circumstances and the environment in which we find ourselves—and, more importantly, build and strengthen the partnerships that we are investing in. I pay tribute to all across the House who are doing just that, to ensure that wherever we find bigotry and hatred, be it based on race, religion or any other cause, we unify against it and build and strengthen our partnerships across the UK to face up to it.

**Lord Cormack (Con):** My Lords, while echoing everything that my noble friend has just said, may I ask him to make it abundantly plain, in the wake of the question of the noble and learned Lord, Lord Woolf, that there is an enormous difference between race hatred and hate crime and freedom of speech? Many of us are extremely concerned by the erosion of freedom of speech, particularly in our universities.

**Lord Ahmad of Wimbledon:** One of the things that I would say to my noble friend is that the Government's view, particularly in my Home Office brief of countering extremism, is that we must ensure that we face up to hate and bigotry but, at the same time, protect the very freedoms that we battle so hard to achieve, which include the freedom of expression and belief.

## Syria and Iraq: Genocide

### *Private Notice Question*

12.04 pm

*Asked by Lord Alton of Liverpool*

To ask Her Majesty's Government how they intend to respond to yesterday's unanimous vote in the House of Commons declaring a genocide against minorities in Syria and Iraq and instructing the Government to refer this to the Security Council.

**The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con):** My Lords, this Government share the House of Commons condemnation of Daesh atrocities against minorities, and the majority Muslim population of Iraq and Syria. That is why we mandated the UN Human Rights Council to investigate Daesh's crimes in 2014, why we will do everything we can to gather evidence for use by judicial bodies, and why this Government have a comprehensive strategy to defeat Daesh and free people from its barbaric rule.

**Lord Alton of Liverpool (CB):** My Lords, I thank the Minister for that reply. Has she had a chance to read the *Hansard* of yesterday's debate, in particular the reference made by many Members to the disturbing evidence given here to Members of your Lordships' House and another place by a 16 year-old Yazidi girl, Ekhlas, and accounts of crucifixions, beheadings,

[LORD ALTON OF LIVERPOOL]  
systematic rape and mass graves? Has she seen the admission of her ministerial colleague, Tobias Ellwood, that a genocide is under way? Given the unanimous vote of 278 votes to zero, following similar declarations in the United States House of Representatives, the European Parliament and the Parliamentary Assembly of the Council of Europe, would it not almost be contempt of Parliament for the Government simply to say that this is non-binding and that they have no intention of following the will of Parliament in taking this matter to the Security Council, so that those responsible for these horrendous crimes will one day meet their Nuremberg moment and be held accountable for them?

**Baroness Anelay of St Johns:** My Lords, I bear in mind victims of Daesh whom I have personally met, both here and in Iraq. I am not therefore going to get involved in what may or may not be procedural niceties. It is clearly a matter for judicial authorities to determine whether a genocide has taken place. The noble Lord referred to a comment by my honourable friend in another place yesterday, when he expressed his personal view, which he has expressed before, when he said:

“I believe that genocide has taken place”.

He added that,

“as the Prime Minister has said”—

and I am aware that the Prime Minister has written to the noble Lord, Lord Alton, on this—

“genocide is a matter of legal rather than political opinion. We as the Government are not the prosecutor, the judge or the jury”.—  
[*Official Report*, Commons, 20/4/16; col. 995.]

We may not be all those things, but I say to Daesh and to the perpetrators that we have a long memory; we have allies, and we are working with the Government of Iraq. We will not forget the perpetrators, and they will pay the price.

**Lord Collins of Highbury (Lab):** My Lords, the government Ministers abstained yesterday. Of course, the House of Commons spoke with a clear and unanimous voice yesterday, and there is no doubt that Daesh is killing people because they belong to ethnic, racial or religious groups. What it is doing has all the hallmarks of genocide, as well as crimes against humanity and war crimes. The Government have moved on since the Minister spoke to this House in December, and Tobias Ellwood yesterday repeated what he said earlier in the month that we are helping to gather evidence that could be used to hold Daesh to account appropriately. He said, ultimately—and I repeat what the Minister said—that,

“it is not for Governments to be the prosecutor, judge or jury”.—  
[*Official Report*, Commons, 20/4/16; col. 996.]

However, can the Minister tell us what progress the Government are making in gathering evidence, and when they intend to take that evidence to the Security Council so that the matter can be referred to the courts?

**Baroness Anelay of St Johns:** My Lords, I shall address the last part of the noble Lord’s question first, because it covers something that the noble Lord, Lord Alton, properly raised—the Security Council,

which was the nub of the resolution passed yesterday in another place. As I said earlier, we have tried to take this matter forward. We were very successful in achieving a resolution about investigations, but not further than that. Further discussions are taking place across the board. Clearly, all right-minded people are trying to find a resolution to this. The collection of information and evidence has to be robustly done. We are making some progress with that simply because of the bravery of organisations which we, alongside other members of the United Nations, help to fund. Yesterday in this House, I launched the Kurdish-language version of the international protocol on the collection and documentation of evidence, which already exists in Arabic. We are making progress, but only because of great risks taken by people who, having collected robust evidence, have to smuggle it out. They are brave indeed.

**Lord Howell of Guildford (Con):** My Lords, we all appreciate that, technically, the final decision on the genocide label will be taken at the United Nations, but we all surely also recognise that, regardless of various investigations, Daesh is a movement of undiluted evil that has complete contempt for human life and justice and has committed the most appalling atrocities. On the basis of that and of the unanimous view of the other place yesterday, can we be assured that Her Majesty’s Government will at least take the case for the label of genocide to the United Nations, even though we will not be the final body deciding and others will have to join us in doing that?

**Baroness Anelay of St Johns:** My Lords, as I have made clear, it is not for politicians to determine whether something is genocide; it is a legal decision. In January, I visited the ICC to discuss these matters, and I have discussed them with the International Criminal Court on previous occasions. I also held round-table discussions with academics and lawyers—they are not mutually exclusive, I know—on these matters. It is important that we make progress on reaching a position where it is possible for the ICC to determine whether it will proceed. In the mean time, there are further discussions going ahead around the international community, and all right-minded people want to be sure that we defeat Daesh.

**Lord Pannick (CB):** My Lords, the Minister said this is not a matter for politicians. Is she aware of Article VIII of the convention on genocide, which says:

“Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide”?

Why will the Government not do that?

**Baroness Anelay of St Johns:** Because, my Lords, it is the Government’s view that, in order to hold out hope to people who have suffered from the violence of Daesh, one has to be reasonably sure of achieving agreement within the United Nations. We are not confident that that agreement currently exists. That is why we want to make progress with discussions. A lot

of work is going on with regard to this. The noble Lord will be more aware than others that genocide, which has a very high threshold, is not the only determination available. There is also crimes against humanity. Let us consider how we get the perpetrators and work together on that.

**Baroness Smith of Newnham (LD):** My Lords, the Minister suggested that it is not for politicians to make a decision on genocide. As we have heard, there are cases under the treaty where it could be brought. We are not to be judge and jury, but surely political leadership means that we should raise it. It is not good enough simply to say that this should be left to the judge and jury. Does the Minister agree that Her Majesty's Government should raise this at the UN, reflecting the views of your Lordships' House during the Immigration Bill and those of the other place?

**Baroness Anelay of St Johns:** My Lords, as I have made clear, if one wants to persuade the United Nations to pass a resolution on something such as this that means so much to every victim, one should be assured in advance of being able to secure the result that one needs, and that would be for the prevention of genocide. Ultimately, whatever the United Nations determined, it would be for a court to decide whether a genocide had taken place. What has taken place is barbaric action by Daesh, and we need to work together to stop it.

### Privileges and Conduct Committee

#### *Motion to Agree*

12.15 pm

*Moved by The Chairman of Committees*

That the 6th Report from the Select Committee (The conduct of Lord Bhatia) (HL Paper 133) be agreed to.

**The Chairman of Committees (Lord Laming):** My Lords, this is the second time that the House has considered a Motion on the conduct of Lord Bhatia. In 2010, the House suspended him for eight months for wrongly designating his main residence and claiming £27,466 in overnight subsistence and mileage expenses. The report before us today concerns his claims for mileage expenses from January to July 2010.

Following an allegation made on the BBC's "Newsnight" programme, the House's independent Commissioner for Standards investigated Lord Bhatia, and found that on 63 days he double-claimed for mileage expenses both from the House and from a charity that he was then involved with, the Ethnic Minority Foundation. The commissioner found that he breached the House's rules on financial support for Members, and so breached the Code of Conduct. The commissioner also found that, in not being scrupulous about his claims, he had,

"failed to act on his personal honour."

The Sub-Committee on Lords' Conduct recommended that Lord Bhatia be suspended from the House for eight months and required to repay the £756 he wrongly

claimed. He appealed to the Committee for Privileges and Conduct and the committee considered his appeal last week. Having carefully considered the points that he put, the committee decided to dismiss his appeal and upheld the findings of the Commissioner and the recommendations of the Sub-Committee on Lords' Conduct.

*Motion agreed.*

#### *Motion to Resolve*

*Moved by The Chairman of Committees*

That Lord Bhatia be suspended from the service of the House for eight months.

*Motion agreed.*

### Northern Ireland (Stormont Agreement and Implementation Plan) Bill

#### *Committee*

12.18 pm

#### *Clause 1: The Commission*

#### *Amendment 1*

*Moved by Lord Alderdice*

1: Clause 1, page 1, line 6, at end insert—

"( ) The Commission must report two times per year."

**Lord Alderdice (LD):** My Lords, the Bill emerges from the fresh start agreement of late 2015, in which the main parties in Northern Ireland, most particularly the two senior and largest governing parties, the DUP and Sinn Fein, reached an agreement on a series of matters that had been in contention. Some of them are matters of governance involving the budget and welfare payments, but others involve questions of security and the legacy of the past.

I bring forward this amendment because the Bill before us, which we debated at Second Reading recently, is firmly based on the fresh start agreement; that is perfectly appropriate in general principle terms. However, there was one element of the establishment of the Independent Reporting Commission which, from my own experience of it, I felt was unsatisfactory. The Bill does not spell this out, merely referring to Article 5.1 of the fresh start agreement, but that article says that the commission will produce annual reports. That is the issue of difficulty for me.

When the Independent Monitoring Commission was established by legislation and treaty between the Governments of the United Kingdom and the Republic of Ireland in 2003, it was required by law to report at least twice a year. It could also be asked to produce ad hoc reports but it was required to report twice a year on the situation with paramilitaries and security normalisation. The experience of the subsequent seven years was one of some reasonable success. However, one thing that was clear to the four commissioners

[LORD ALDERDICE]

and to other thoughtful observers was that the relentless force of reports coming every six months—everybody knew when they were coming: paramilitaries, the security services, civil society, politicians—meant that in the run-up to them, the IMC would receive many representations and questions. People would want to come to talk to us to say, “This is how we perceive things are”, and would look to the reports. The IMC did not make any statements in between times—we did not have any press conferences, and so on—and that gave greater strength to the reports, but only because they were coming out every six months. In the period of the IMC we produced 26 reports in all. Most were six-monthly. Most were on paramilitary issues, some were on security normalisation, and a few were specific ad hoc reports that were asked for on problems such as UVF violence, murders and so on.

When the question of bringing back the IMC arose in the later part of last year because of a couple of murders, we had a debate on it in your Lordships’ House. I said at that time that I did not think it appropriate to bring back the IMC because it would have been working in a particular context. I was also concerned that if people were asked to produce a single snapshot report in a very short time, without the possibility of building a whole network of people, official and otherwise, through which a commission could establish what was going on, it would be possible only for the PSNI and MI5 to produce the kind of report they produce regularly for the Secretary of State and then have two or three distinguished people read it and say, “Yes, I think this is an accurate report”, without being able to do any of the investigatory work that would help to triangulate or give other evidence for the views being expressed by the Police Service of Northern Ireland and the security service.

As it was, the Secretary of State decided to go ahead and establish a body, and the report that came from that body did not provide particular reassurance; in fact, in many ways it was much less reassuring than the last reports of the Independent Monitoring Commission. That is why, when it came to fresh start, another agreement had to be reached, which this time had to set up by the end of December 2015 a panel of three people who would produce by the end of May a strategy for the disbanding of paramilitary groups. I declare an interest, because I was appointed by the First Minister and Deputy First Minister as one of those three panel members. We have been doing our work and we still expect to report by the end of May, as we have been requested to do. I expect it to be published perhaps some time during June, although that is a matter for the First Minister and Deputy First Minister.

The Bill is putting in place an Independent Reporting Commission to take that strategy, if agreed by the First Minister and Deputy First Minister, and monitor or report on how it is implemented. That is not the same thing as the IMC; it is quite different, as it is to report on a specific strategy, and there may be various aspects of that, but it also reports only once a year. I ask noble Lords to think about that. It is going to take four or five years before a handful of reports is produced so that you can see what is actually happening.

Nearly 20 years after the Belfast agreement, I do not get a sense that there is sufficient urgency in relation to this matter, and I doubt very much that it will be perceived as sufficiently urgent in the minds of many people in Northern Ireland. They want, on a regular but relatively frequent basis, to hear what is happening so that the Executive can be held to account if they suggest legislative changes, which they may or may not do. However, if they do, is it enough to report back only once a year? An annual report is the sort of thing a company produces to fulfil the regulatory requirements and to provide information for shareholders. It is not the sort of thing you produce when you feel that major changes urgently need to take place. It may well be said that matters can be raised within the Northern Ireland Assembly. That is absolutely true, but that is the case at the moment and, if it were satisfactory, there would not be an Independent Reporting Commission.

I tabled this modest amendment not to put the Bill in conflict with fresh start but to appeal to Her Majesty’s Government to understand the need for a greater sense of pressure and urgency in the fulfilment of whatever comes out of the strategy and other matters. I do this not to create difficulties and not to change the Bill, which would mean that it had to go back to the other place. I absolutely appreciate that this legislation needs to be in place before the House prorogues and before the Northern Ireland Assembly has a new Executive, who will have to reach agreement on a programme for government as quickly as possible. I absolutely appreciate that, partly because of other elements of the Bill, but I seek from the Minister, who has been extremely open, helpful and constructive during the relatively rapid progress of the Bill in parliamentary terms, some kind of reassurance that Her Majesty’s Government understand the question I am raising and that they will do what is necessary to find ways of making more frequent reporting possible. There are processes by which that can be done. I absolutely understand that it does not have to be done in the way I have described, but this is the only way we can do something that is reflected in the Bill.

If the Minister could find a way of reassuring us that there will be maintained momentum in this reporting, that would be extremely helpful not just to those of us in your Lordships’ House who want to see movement but to people in Northern Ireland, who at times are despairing and at other times frustrated and impatient at the lack of progress on this important issue. I beg to move.

**Baroness Harris of Richmond (LD):** My Lords, I support my noble friend’s amendment. We hear so little in this House about Northern Ireland. It is really only when we have short debates, reported in *Hansard*, that we bring what happens in Northern Ireland to the attention of this House and the wider public. Having the IRC report twice a year is the very least we can hope for. I echo my noble friend’s thanks to the Minister and to the Bill team for all the help they have given us on the Bill, and I hope that the noble Lord will consider this matter with great speed and alacrity.

12.30 pm

**Lord Empey (UUP):** My Lords, I take this opportunity to support the amendment of the noble Lord, Lord Alderdice, who touched on a number of very significant points. Noble Lords need to understand that this commission was appointed as a mechanism following the very severe events that took place last summer, which nearly brought the whole show down. A number of people have found that the appointment of this body gives them some reassurance that they can remain in the Assembly and that this commission would at least have the opportunity to shine a light on what was going on and to tackle one of the most significant outstanding, unresolved issues: those paramilitary organisations that were deemed to be active and have influence and control over one of the major parties and the totality of paramilitary involvement, which goes right across the community at all sorts of levels—in politics, in security, in crime and in other significant social circumstances where influence is being brought to bear on the younger generation to corrupt their views.

This is a very broad canvas. However, I want to talk about the specific security aspect of it, which is extremely important. The two shootings last year led up to the crisis and to a statement by the chief constable about the continuing operation of the Provisional IRA. That really destabilised the institutions to a significant extent. For many of us, the appointment of this body was an attempt to provide reassurance by shining an independent light on what was actually going on. I was one of those who felt that the removal of the IICD was premature. Perhaps I was wrong, but I felt that that body kept, as the noble Lord, Lord Alderdice, said, relentless pressure on paramilitaries. It also provided a degree of reassurance and kept momentum in the process going. I am not sure that an annual report is sufficient to deal with that.

I digress for a moment to the Explanatory Notes that were prepared by the Government for this Bill. I mention them because they are significant and relevant to this amendment. I refer to paragraph 2, on the policy background, which says that:

“The Fresh Start Agreement was reached on 17 November 2015 after 10 weeks of cross party talks between the UK Government, the five largest parties of the Northern Ireland Assembly and the Government of Ireland”.

The language in that would give the uninitiated reader reason to believe that this document and the Bill that has arisen were the product of that negotiation and agreed by the participants. That is not true. Yes, for the first eight out of 10 weeks of the discussions all the parties were involved. Sometimes they turned up and sometimes they did not, but everybody at least had the opportunity to turn up and most did. However, in the last fortnight, the discussions were taken out of Stormont House and moved to Stormont Castle, where the two largest parties, together with the Governments, produced the document, which some of the parties were then summoned to see on 17 November. My own party, the Ulster Unionist Party, the Alliance Party, and the Social Democratic and Labour Party were provided with this document, and we simply said that we would

take it away and look at it. But this is not the product of an all-party agreement; let us be very clear about that.

The long-term problem that we have with this sort of legislation, and indeed the Scottish legislation, is that when it comes to the parliamentary side of it, government feels inhibited in paying any attention to Parliament, because it deals with these documents as if they were treaties—I made this point on the Scotland Bill. In my opinion, Parliament should be able to scrutinise and amend any of these things should it see fit. Governments, when they are making commitments, should make it very clear that they are subject to parliamentary scrutiny—they should not simply railroad things through whether they are right or wrong.

I believe that this amendment has merit. I would also like to comment on the other amendment in the group, in my name, which concerns appointments to the commission itself. Part of the arrangement is that the British Government and the Irish Government will appoint a nominee, and the First Minister and Deputy First Minister will appoint two nominees between them. There is a perfectly logical argument for that. You could say that for the First Minister and Deputy First Minister of the day, whoever they may be, it is a perfectly sensible arrangement. On the other hand, it means that you have people who are appointed basically on political grounds. Both of them will have a veto over who is appointed. One of them might be from Sinn Féin. We have to understand that the current Deputy First Minister, while he has changed much over the years—which I welcome—is nevertheless a self-confessed member of a paramilitary organisation. I personally believe that he was chief of staff of the IRA; he will have conducted paramilitary campaigns against and ordered the assassination of individuals and destruction of property and assets. Is it correct that the cat is put in charge of the cream?

So, there are two logical arguments for the amendment. However, I wanted to put it down as a probing amendment to assess whether there is an alternative mechanism. Some people say that the policing board is one. Of course, it is not a totally independent body either, but at least there are independent people on it, so it is not a political deal. But I know from experience that whoever is appointed, if the current arrangements are applied, it will be a political deal. That is fine, but I am just saying that the people who could be involved in that appointment are not necessarily independent. One of them at least, should he remain Deputy First Minister, is a self-confessed member of a paramilitary organisation. I would much prefer a more independent appointment process where people are not put in simply as stooges but would be genuinely free and independent and able to make a judgment without being somebody's clone. That risk exists with the present arrangements.

I want to make it clear to your Lordships that this document is not universally agreed, although there are bits in it that I think are perfectly fine and reasonable and have no objection to. I do not understand why language is used which does not tell the reader what the situation in practice was.

[LORD EMPEY]

There is great merit in the amendment in the name of the noble Lord, Lord Alderdice. It could also help to avoid pressures on the new Executive, when they come in, should other events occur that we cannot anticipate. What if we have to wait maybe 10 or 11 months? Let us take the situation of last summer, when those shootings occurred. If somebody said, "Well, the commission reported in June, so there'll not be anything till next June", that would be absolutely useless. This commission has the power to give reassurance to people that the paramilitary issue is being dealt with and will be reported on. It is not unreasonable to ask that the reporting mechanism be brought forward to six months, which could be an important escape valve for events that may occur which could destabilise the institutions once again.

**Lord Eames (CB):** My Lords, I support the noble Lord, Lord Alderdice, in his amendment, but I do so from a point of view which has yet to be mentioned in this debate. On retirement, I have maintained the work that I initiated in those years with those former paramilitary members who were seeking a better way of life and a more just way of expressing their opinions. I have continued that work and am utterly convinced that one of the most extreme pressure points in ensuring that that process continues for the greatest number is contained in the words of the amendment, and for this reason. We may suspect, in the relatively calm waters of this Chamber and the Palace of Westminster, that some of the things that are said are not listened to by the likes of those who have former or present contact with paramilitary organisations, but let me assure noble Lords that that is untrue. Those words are read, thought about and used in deciding the meaning of this. Only recently, a group who I have been working with for some time said, "When will it be recognised that we are trying? We are trying to get out of this cauldron of paramilitary activity. When will society recognise that some of us do want out of it?"

If the commission reports only at the sorts of intervals mentioned in the Bill, this important pressure will cease to have effect unless we accept what is sought in the amendment of the noble Lord, Lord Alderdice. As events move—and they can move very quickly in the world of the paramilitary—if this commission does not have the opportunity to tell civil society, "This is what's happening", and to tell it in a relatively speedy way after evidence has been uncovered, a wonderful opportunity will be lost. I beg the Government to think just as carefully about the meaning behind the proposal in this amendment as they do about what the amendment says. I beg the House to take this very seriously.

**Lord Trimble (Con):** My Lords, I congratulate the noble Lord, Lord Alderdice, on what he has done over a number of years in this area. He was heavily involved with the Independent Monitoring Commission, which played a significant role in accelerating the move away from paramilitarism and enabling the institutions to be recreated on a more stable basis. That would not have happened but for the work of the International Monitoring Commission. Indeed, if the IMC had

been in existence before the summer of 2002, as some of us were trying to bring about, I do not think that the institutions would have collapsed in the autumn in the way that they did. That is the context that one should put the IMC in.

It was a very bad mistake to wind up the IMC so quickly. Had it been there, things would have been somewhat different. I understand the point made by the noble Lord, Lord Alderdice: just bringing back the IMC as it was would not be appropriate because we are in a slightly different context. But within that different context, we want to see that the new body will be just as effective in the contribution that it makes. That means looking a little more closely at some of the provisions here.

The noble Lord's amendment refers to reporting by the IMC, which he wants to happen more frequently. The way for the Minister to achieve that is very simple. In that first clause, he should set out the words used in the so-called fresh start agreement. That agreement says in its paragraph 5.1:

"The body will: report annually on progress towards ending continuing paramilitary activity".

Then it continues,

"(or on such further occasions as required)".

That is all the Minister needs to do. He can table a simple amendment that would carry out the exact terms of the agreement that the Bill is supposed to be implementing. It solves the problems that have been mentioned just as long as no one tries to put too tight a construction on the phrase "as required". I suggest that one does that without adding to the language in the fresh start agreement itself.

Part of the reason for saying that we should make sure that the language does not go too far, is that when we look at how the commission will exercise its functions as set out in Clause 2, something strange happens to the language used. It says:

"In exercising its functions, the Commission must not do anything which might ... prejudice the national security interests ... put at risk the life or safety of any person".

Of course, national security and risks to persons are matters to which people should have regard in a situation such as this and bear in mind carefully, but how will the words "must not do anything" which could engender prejudice or cause a risk operate? How is the commission to construe that phrase? It is something that could create a chill in the commission's operations so it would have to think, "Is there any risk attached to what we are doing?". At what level does the risk become something where it must not do anything to bring it about?

There may be a way out of this. Trying to rewrite this clause is not something we can do easily in the time available to us, but there is a way to put this on a better basis, and that is in the provisions for the Secretary of State to issue guidance about the exercise of the function. That might use language that provides a better balance than the words before us here. Mention of the guidance raises the question: when will it become available? Will it be available before Third Reading? If it is not ready then, will it become available in a form that will enable this House to give it some scrutiny? These are matters about which we would like to hear from the Minister, and he will bear in mind that our

Delegated Powers and Regulatory Reform Committee has recommended that the guidance should be treated as a legislative instrument subject to negative resolution. That will enable scrutiny to take place here, so having it come out in a way that means we cannot look at it and then relate it to the overall objectives of the commission should be avoided if at all possible. I look forward with interest to what the Minister has to say on this point.

12.45 pm

I want to touch on one other point before I come to the amendment of the noble Lord, Lord Empey. In the interpretation provision,

“agreement relating to paramilitary activity”,

is defined as being,

“in pursuance of paragraph 5.1”.

That provision relates only to the Independent Reporting Commission. There are a number of other things such as the strategy, which was drawn up by the three-man panel. Is that an agreement within the terms of the Bill? Is not the interpretation clause here drawn too narrowly because in addition to what the Independent Reporting Commission does, a whole lot of other things are mentioned in Section A of the fresh start agreement, so to confine agreement in the way that the interpretation clause does here leaves me scratching my head. I hope the Minister will elucidate that point for us.

Coming to the amendment in the name of the noble Lord, Lord Empey, I have a lot of sympathy for the points he has made. There is clearly a provision for the First Minister and Deputy First Minister acting jointly to have the power to nominate two persons. If they have the power to do that, inevitably party A will nominate Bloggs and party B will nominate Jones. Whether Bloggs and Jones are suitable people commanding international respect, which is set out as something to be recognised, is another matter. We should not lose hope on this because the mere fact that the First Minister and Deputy First Minister were able to agree on appointing a person to the panel to draw up the strategy shows that they can act responsibly and make a good appointment—of course, I am referring to the appointment of the noble Lord, Lord Alderdice, to the panel. But if they are going to appoint two persons, rather than them agreeing in detail on the merit of those two persons, they are more likely just to do it as a political operation where each appoints one or the other. What happens if they appoint people who turn out to be close friends, colleagues and comrades in this struggle? Is that the end of the story? I think it would be desirable from the Government’s point of view to modify this provision and to talk about them nominating two people, but that there would be some scrutiny of whether they are proper persons to be appointed. It would not be too difficult to draft something that separates nomination from appointment.

Perhaps also, if one modifies that clause, one might have closer regard to the language of the fresh start agreement. On this point, it states that the Northern Ireland Executive, not the First and Deputy First Ministers, should nominate two members. That would mean that the proposals of the First and Deputy First

Ministers would have to come to the Northern Ireland Executive, where the SDLP, the Alliance Party and maybe, after the elections, the Ulster Unionist Party will be there. At least there would have to be some discussion—even if they come with the matter precooked—whereas under the present provisions the First and Deputy First Ministers go ahead without consulting their colleagues in the Executive. The language of fresh start could again be used on this point.

There is one final point on the strategy to end all paramilitary activity. That phrase—or at least its objectives—are reflected in the pledge of office by Ministers in Clause 7, about persons being prepared to challenge “all paramilitary activity”. On that, I draw the House’s attention to something mentioned by the noble Lord, Lord Alderdice, at Second Reading—he keeps cropping up in these brief few comments, but there we are. He drew the House’s attention to the very interesting words used by the Deputy First Minister Martin McGuinness. The context for this was the events happening in Dublin and elsewhere, commemorating or marking the rebellion of 1916, where dissident republicans had been claiming that those events should be about remembering and implementing the wishes of the men of 1916.

The noble Lord said that Martin McGuinness said something like:

“I didn’t get involved in the things I got involved in during the 1960s because of the men of 1916. I got involved because of what I saw happening in the 1960s to my community, and that is not what is happening now. The excuse of 1916, or even of the 1960s, does not stand in the here and now”.—[*Official Report*, 12/4/16; col. 244.]

That is a significant comment. He is, in effect, repudiating one of the lines that the dissident republicans use to build up their organisation, to recruit people and so on, which is, “But we’re only doing what the founding fathers of the Irish state did in 1916”, and, in parenthesis, in the subsequent guerrilla campaign against the British Administration in 1920 and 1921. Dissident republicans argue that they are only doing the same thing and they can claim some degree of endorsement from what happened historically. In his comments, Martin McGuinness takes away one limb of that.

I welcome that very much, and I am sure it has not been done without careful consideration by him, his colleagues and his party. He needs to go just one step further. The other argument that dissident republicans use, in reply to criticism from Sinn Féin and the republican movement generally, is, “We’re only doing what you did in the 1970s and the 1980s”. There is truth in that claim, because dissident republicans are trying to do very much the same thing. Indeed, the prison officer who died recently died as a result of a booby-trap bomb underneath his car. That is the fate suffered by dozens of people as a result of bombs developed by the IRA—part of the Irish republican movement, of which Mr McGuinness is a prominent member. He can take away that limb of the argument, too, by saying to dissidents simply, “Yes, we did that. We did what you’re doing now, but we realised it wasn’t going to work and we realised it was wrong, and in the present situation there can be no justification for repeating what we did”. They need to say that clearly and unequivocally. It will not be easy for them,

[LORD TRIMBLE]

but they need to do it because that helps to remove any ground that dissident republicans can use to justify their activities.

That clear statement by Mr McGuinness and his colleagues would do more to enhance their perception in the community and to advance good, or improved, community relations than any of the schemes that were being dreamed up, which are thankfully not in the Bill but are, unfortunately, parked somewhere and might be wheeled in again. What we really need in Northern Ireland are things that will improve community relations and the way each section of the community addresses the other. That is an area where Martin could make a very significant contribution if he used the language I suggest.

**Lord Rogan (UUP):** My Lords, I thank the noble Lord, Lord Dunlop, for his courtesy in allowing us some very helpful meetings on the Bill. I fully support the amendment of the noble Lord, Lord Alderdice. In the past, many inquiries and commissions have taken far too long and, in the end, when they do report, what they were originally reporting on is perhaps forgotten. I cite the Saville inquiry. It went on and on, cost £200 million and, quite frankly, its report satisfied no one.

I turn to Amendment 2 in the name of the noble Lord, Lord Empey. Northern Ireland is a comparatively small geographical area. To be precise, it consists of 5,344.8 square miles. You can get from point A to point B in one and a half hours. We have a population of some 1.7 million. The effect of these facts is that we all know each other, or we know a friend of a friend. It is almost impossible to meet a fellow Ulsterman or Ulsterwoman and not, within 15 minutes of conversation, find some geographical or other link. At times we are accused of being tribal, whether we come from the inner cities, with their peace walls, from leafy suburbs or the rural countryside.

All these facts make it difficult to identify people who are seen to be completely neutral. I think we did achieve that when we appointed the noble Lord, Lord Alderdice, and the noble and right reverend Lord, Lord Eames, if not, perhaps, with some other appointees. However, in order to appoint people who are neutral and seen to be neutral—and many people in Northern Ireland would fit that bill—we must end the practice of political appointments, appointments being made, currently, by only two of the main parties. We need to broaden it out so that the broadest possible organisation can be the appointing body. While I absolutely agree that the police authority is not the ideal—when are we ever going to get an ideal body?—I feel that the Policing Board would fulfil this role. There still definitely is a political element, with political appointees, but the appointed lay members will dilute that somewhat. I support the amendment.

**Lord Browne of Belmont (DUP):** My Lords, I support the amendment of the noble Lord, Lord Alderdice, and I shall also speak to the amendment of the noble Lord, Lord Empey. It is important that the Executive in Northern Ireland continue to tackle paramilitarism, criminality and organised crime, and therefore I very

much welcome the provision for the establishment of the Independent Reporting Commission. No doubt, it will expose those in both the republican and loyalist paramilitary groups who continue to engage in criminal acts of violence. Regrettably, over past weeks, we have witnessed the murder of the prison officer Adrian Ismay in east Belfast, the murder of Michael McGibbon in north Belfast and the serious wounding of Harry Boyle in Londonderry. The Police Service of Northern Ireland has stated that these all bear the hallmarks of the action of violent dissident republican groups. I am sure that all Members of the House will condemn the vile actions of those groups.

This is why it is all the more important that the Independent Reporting Commission is in place and fully operational as soon as possible, so that it can report to the Northern Ireland Executive and enable them to draw up a programme to promote the ending of paramilitary activity. This commission is to be established through an international agreement between the UK Government and the Republic of Ireland Government. I trust that a Government in the Republic can be formed soon so that there will be no delay.

*1 pm*

I listened very carefully to the arguments put forward by the noble Lord, Lord Alderdice. He has considerable experience and expertise in the workings of such bodies, having served with distinction on the Independent Monitoring Commission, which met from 2004 to 2011.

I fully concur with the cases made for the commission to report at least two times per year. I accept that its task will be onerous, as it will have to consult with a wide range of agencies, but as we have seen, unfortunately, violence can erupt at any time in Northern Ireland. For the commission to report only once a year could inevitably lead to long gaps during which an ill-informed Executive might be slow to act and not be able to reassure the public that all steps were being taken to combat that evil violence. If the commission reported at least twice a year, the members would be fully engaged and the Northern Ireland Executive would be in receipt of up-to-date information and be able to act accordingly. I accept that the commission can report on further occasions as required, but by having to present at least two reports a year, the information available will be current and more valuable. Therefore, I am very happy to support the amendment.

Regarding the amendment in the name of the noble Lord, Lord Empey, I am not against the principle of moving towards greater independence in the appointment of members of the Independent Reporting Commission. However, after considerable talks and negotiations, the consensus was reached that the responsibility for the appointment of two members to the Independent Reporting Commission would rest with the First Minister and the Deputy First Minister acting jointly on behalf of the whole Executive. I understand, and fully appreciate, the problems that victims and survivors would have with anyone from Sinn Féin being involved in the appointments process. However, this amendment would simply pass the responsibility to the Policing Board. I remind noble Lords that three Sinn Féin members are on the Policing Board, two of whom have past convictions for IRA terrorism. Therefore, passing this responsibility

to the Policing Board would not resolve the potential problem that many victims and survivors may have. Indeed, I point out that the arrangement for the First Minister and Deputy First Minister jointly to appoint would give the Office of the First Minister a veto over who was appointed. I am confident that that would deliver a stronger safeguard to ensure that the persons appointed to this very sensitive role are ones who the victims and survivor communities, and indeed the public at large, could have confidence in. If this responsibility passed to the Policing Board, there would be no such veto. Having said that, I fully appreciate the difficult work that the Policing Board does and fully support it.

**Lord Kilclooney (CB):** In saying that the First Minister would have a veto, does the noble Lord recognise that there is an election under way in Northern Ireland and that the next First Minister could easily be a former IRA terrorist?

**Lord Browne of Belmont:** What I said was that the veto would rest within the Office of the First Minister.

**Lord Lexden (Con):** My Lords, like all who have spoken in this very interesting and wide-ranging debate, I warmly endorse and support the amendment of the noble Lord, Lord Alderdice. We seem to have strayed also into Amendment 2, in the name of the noble Lord, Lord Empey, and I have great sympathy with what he said about it. However, I think that this debate is primarily about Amendment 1.

We all remember the deep sense of crisis that existed last summer in Northern Ireland with regard to the extent and viciousness of paramilitary activity. It has been touched on from time to time in this debate, bringing it home to us again. The latest police figures show that nearly 100 people were injured last year as a result of paramilitary assaults or shooting incidents. The sooner the new commission is able to get to work, the better it will be. The effectiveness of its work would surely be most usefully demonstrated by regular twice-yearly reports. No one speaks with more authority on this matter than the noble Lord, Lord Alderdice, who is hugely respected for the work that he did on the Independent Monitoring Commission, to which tribute has been paid today. I would like to be part of that tribute.

The Government will have noted the strength of feeling that exists and I hope they will respond in the way that all of us who have spoken in this debate would wish.

**Lord McAvoy (Lab):** My Lords, I welcome the contributions of all noble Lords on these amendments. I record the Labour Party's appreciation of the Independent Reporting Commission, the creation of which is extremely important. The Labour Party also expressed that appreciation in the other place.

As regards representation, the noble Lord, Lord Rogan, echoed almost completely the view put forward by the Labour Front Bencher in the Commons, Steve Pound. The only thing that I think Steve Pound missed out was the square mileage, but he certainly referred to

the saying that everybody knows one another. I have listened to many debates on representation in Northern Ireland on various bodies. With due respect to those who have far more experience than I do and who live in the place, no one has come up with a solution that is accepted by everyone. That is the difficulty we face with the representation issue. It is important that the view of the noble Lord, Lord Empey, on that issue is heard.

On the amendment of the noble Lord, Lord Alderdice, I make it clear that if the Government can come up with a form of words in an amendment to reflect that position, we would support it. On the other hand—there are always three hands in Northern Ireland—if that would delay the passage of the Bill in any way, we would support the Government on that.

Although the legislation refers to reporting once a year, does that preclude further reports? Can the commission of itself respond to any given situation and issue a report or carry out an investigation and comment on any incidents that arise, or is an amendment needed to enable it to do so? The legislation does not strike me as restricting the commission to producing only one report. As we all know, events can move very quickly in Northern Ireland. Therefore, I would be grateful if the Minister could clarify that the commission will be able to carry out reports as and when required.

In ending my remarks, and as I think that everything has been said, I just echo the view expressed by the noble and right reverend Lord, Lord Eames, that although we know that not everybody listens to what is said in this place, there is a place for us in appealing in moderate language for cross-party and cross-community support. I value his point of view very much.

**The Parliamentary Under-Secretary of State, Scotland Office (Lord Dunlop) (Con):** My Lords, I rise to speak to Amendments 1 and 2, tabled by the noble Lords, Lord Alderdice, and Lord Empey, respectively. I thank all noble Lords who have spoken in what has been, as my noble friend Lord Lexden said, a very interesting and wide-ranging debate. My noble friend Lord Trimble raised a number of issues that go wider than the amendments. He asked, in particular, about the strategy to tackle paramilitary activity. The commission will report on measures of the three Administrations, including but not restricted to the strategy. He also mentioned issues that had been raised by the Delegated Powers Committee: the duties of the Independent Reporting Commission and the guidance the Secretary of State can issue. I have responded to the Delegated Powers Committee. My noble friend raised a number of detailed broader points and I am happy to respond to him in writing on those.

Before addressing the substance of the amendments, I will give an overview of the Independent Reporting Commission and Clause 1, to which the amendments relate. The new commission is one of a series of measures set out in November's fresh start agreement to tackle ongoing paramilitarism. The new commission builds on the precedent set by the Independent Monitoring Commission, on which the noble Lord, Lord Alderdice, gave such distinguished service as a commissioner. As the House knows, the Independent Monitoring

[LORD DUNLOP]

Commission operated between 2004 and 2011, during which time it monitored activity by paramilitary groups and oversaw the implementation of security normalisation measures, which culminated in the ending of Operation Banner in July 2007. Like the Independent Monitoring Commission before it, the Independent Reporting Commission will be an international body, established through an international agreement between the UK Government and Irish Government. Its objective will be to promote progress towards ending paramilitary activity. Its functions will be to report annually on progress towards ending paramilitary activity; to report on the implementation of the measures taken by the Government, Northern Ireland Executive and Irish Government to tackle paramilitary activity, including oversight of the implementation of the Executive's strategy to end paramilitarism; and to consult a wide range of stakeholders, including law enforcement agencies, local councils, communities and civic society organisations.

I said that the commission will report annually on progress towards ending paramilitary activity. The amendment of the noble Lord, Lord Alderdice, proposes that Clause 1 be amended to prescribe that the new commission must report twice annually. I have absolutely no doubt that this reflects the noble Lord's considerable experience, as he suggested, as a member of the Independent Monitoring Commission, which reported twice annually while in operation. I am sure that all sides of the House would agree that there should be urgency in tackling paramilitary activity and establishing momentum in this process.

However, as I have outlined, the new commission, while subject to similar governance arrangements, has a different objective and functions from the IMC, as the noble Lord, Lord Alderdice, recognised in his own remarks. The frequency with which it reports must necessarily take account of those different functions. This question was considered as part of the discussions that led to the fresh start agreement, where it was agreed that annual reporting would strike the best balance between ensuring regular and adequate oversight of measures taken to tackle paramilitary activity and allowing sufficient time between reports for progress to be made. Paramilitary activity has unfortunately been a scourge on Northern Ireland society for many years. The measures to be taken to tackle it, on whose impact the commission will report, will not work overnight.

An annual reporting cycle was judged most appropriate to properly measure progress towards the goal of tackling paramilitarism and offer meaningful commentary on the implementation of measures to this end. The fresh start agreement therefore gives the new commission a function to report annually on progress towards ending continued paramilitary activity connected with Northern Ireland, or on such further occasions as required.

**Lord Trimble:** The Minister says that he is quoting what was said in the fresh start agreement but, as I pointed out, that agreement, while saying "annually", also clearly anticipated other reports as required. I hope the Minister will come on to that.

1.15 pm

**Lord Dunlop:** I am glad that my noble friend raised that point because I am indeed about to address it. I recognise that the intent behind the amendment of the noble Lord, Lord Alderdice, is to highlight that more frequent reporting may be necessary. To respond directly to the noble Lord, Lord McAvoy, this does not preclude more frequent reports. The fresh start agreement does provide flexibility for more frequent reports, as my noble friend Lord Trimble said, should circumstances mean that this is appropriate, but it does not envisage that this will be the norm. This will, I suggest, allow more flexibility to respond to circumstances that may arise than by prescribing twice-yearly reports. We will discuss the circumstances in which more frequent reporting may be appropriate with the new Irish Government, as soon as it is formed. To address the point on which the noble Lord, Lord Alderdice, sought reassurance, the final agreement establishing the committee is still under discussion with the Government of Ireland. It is our expectation, however, that the sponsoring Governments will be able to request more frequent or ad hoc reports as circumstances dictate.

I turn to the make-up of the commission and Amendment 2, in the name of the noble Lord, Lord Empey. As set out in the fresh start agreement, the commission will consist of four members: one nominated by the UK Government, one by the Irish Government, and two by the Executive. For the purposes of the Bill, in the case of the Executive's nominees, it has been necessary to confer the power to nominate members on a specific statutory office holder or body within the Executive, as the Executive is not a body under the Northern Ireland Act. Clause 1(4) therefore confers on the First and Deputy First Ministers the power to jointly nominate their members.

The noble Lord, Lord Empey, has proposed that the Northern Ireland Policing Board should be given this power instead. The same amendment was proposed in the other place. The fresh start agreement specified that the Executive should nominate two members to the IRC. I note what the noble Lord has said about the extent of all-party agreement; notwithstanding that, the Northern Ireland Assembly did give legislative consent to aspects of this Bill that we are bringing forward. It is the Government's view that the First and Deputy First Ministers, acting jointly, are the most appropriate officeholders to nominate members on behalf of the Executive as a whole, in view of the objective and functions of the commission, which go beyond criminal justice. In particular, they have responsibility for delivering a number of the Executive's measures to tackle paramilitarism on which the IRC will report. Moreover, requiring the First Minister and Deputy First Minister to act jointly—which is how they currently exercise almost all of their powers and, as my noble friend Lord Trimble said, the panel on which the noble Lord, Lord Alderdice, serves has emerged from this process—is intended to ensure a collaborative process and nominees that have cross-community credibility.

The NI Policing Board is not part of the Executive and the amendment proposed would therefore be inconsistent with the terms of the fresh start agreement. However, neither the Bill nor the fresh start agreement

specifies how the First and Deputy First Ministers will decide on their joint nominees. They may, therefore, seek suggestions from external stakeholders, such as the Policing Board, and consult with their Executive colleagues in reaching their decision. We would, of course, encourage them to do so. The key point, as I said at Second Reading, is that the four-person commission should collectively carry credibility across the Northern Ireland community. In this vein, as I also said at Second Reading, I welcome the commitment given by Minister Emma Pengelly during the debate on 15 March—in which the Northern Assembly passed a legislative consent Motion for several provisions in this Bill—to consult with the Justice Minister.

This Government are clear that paramilitarism has no place in Northern Ireland society. The new commission will therefore play an important role in tackling paramilitary activity and associated criminality. For the reasons I have outlined, I urge noble Lords to withdraw their amendments and beg to move that Clause 1 stand part of the Bill.

**Lord Alderdice:** My Lords, I am grateful to all noble Lords who took part in this debate and expressed their strong support for the amendment in my name. I am also grateful for the kind words many of them have said about my own efforts. I hope that the existence of such robust support for Amendment 1 will affect the continuing thinking of Her Majesty's Government and of the Minister here. I was at least a little encouraged by his saying that there were still negotiations to be had with the Irish Government. That is important, and I have little doubt that I will be making my views apparent to them. I am also a little encouraged by the Minister's telling the noble Lord, Lord Trimble, that there was more to be said on what the Secretary of State might say and do on regulations, for example. I think we will continue to show interest in that area even after this legislation is passed.

It is very important that the Government understand that it is the relentless pressure that often reaches the successful outcome. The noble and right reverend Lord, Lord Eames, said that we can provide by this process encouragement to those who want to give up, as well as pressure on those who do not necessarily want to. That point has been apparent in my own conversations over the last two or three months. I hope that it will be part of the calculus of Her Majesty's Government. With that hope, and being a little encouraged by the Minister's comments. I beg leave to withdraw the amendment.

*Amendment 1 withdrawn.*

*Amendment 2 not moved.*

*Clause 1 agreed.*

### **Clause 2: Exercise of functions**

#### *Amendment 2A*

*Moved by Lord Lexden*

**2A:** Clause 2, page 2, line 6, at beginning insert "Republic of"

**Lord Lexden:** My Lords, at Second Reading I raised an issue of terminology in relation to the Bill. The text of it contains four references to Ireland as a state, which

led me to wonder how this usage had arisen. Surely in international law the name of the state referred to in the Bill as "Ireland" is in fact "the Republic of Ireland". I have tabled this probing amendment so that the issue could be explored and discussed.

Twenty-six counties of Ireland left the United Kingdom in 1922 to become the Irish Free State in international law. That state significantly amended its constitution in 1937 and, in 1948, its Government declared their intention to create a republic. The legislation which passed through its parliament is entitled the Republic of Ireland Act 1948. Its purpose was,

"to declare ... the description of the state",

as "the Republic of Ireland". This Parliament brought itself into line with the new state of affairs when the then Labour Government of Clement Attlee passed the Ireland Act 1949. It stated that the "part of Ireland" which had declared itself a republic would,

"after the passing of this Act be referred to, by the name attributed thereto by the law thereof, that is to say, as the Republic of Ireland".

So in 1949, an admirably clear state of affairs came into existence. Northern Ireland was plainly part of the United Kingdom and the rest of Ireland, now named the Republic of Ireland, was equally plainly a separate state on the same divided island.

Why depart from that clear position, settled in law by Acts of the United Kingdom Parliament and the parliament of the Republic of Ireland, sometimes referred to in everyday usage as the Irish Republic? As far as I can see, neither country departed from that for many years after 1949. I have been in touch with a number of constitutional experts, for whose advice I am deeply grateful, and they tend to take the same view.

The Government of the Republic of Ireland who signed the European Convention on Human Rights did so in that name; so did the later Government who signed the Anglo-Irish agreement of 1985. Legislation passed by this House which made reference to the Republic used the established legal terminology but suddenly, in an Act passed just 16 years ago in 2000 to amend the Northern Ireland Act 1998, there appears a reference to a Minister of "the Government of Ireland". How could this have happened? The Ireland Act 1949 defined the name of the 26 counties of Ireland outside the United Kingdom as the Republic of Ireland, not as Ireland tout court.

Was this Parliament asked to approve the change of terminology? I have not been able to trace such approval and, in its absence, three questions immediately arise. Was the change the result of a ministerial decision? Could the change be legitimately made in that way without explicit parliamentary approval? If those were the circumstances, should Parliament reassert the law as defined in 1949? I pose those questions and make no party-political points. I accept that constitutional arrangements evolve but surely they should evolve clearly and openly, with full explanations of changes being provided to Parliament. This probing amendment seeks to draw attention to what seems a not unimportant issue. I beg to move.

**Lord Bew (CB):** My Lords, I support the amendment in the name of the noble Lord, Lord Lexden. On Second Reading, he said that it was a terminological

[LORD BEW]

point but it is rather more than that, as he has demonstrated today. It is actually a substantive point of some significance. I will draw attention to the fact that the loose use of the phrase “the Government of Ireland” has a bad history. The noble Lord said in his remarks on the Anglo-Irish agreement of 1985, accurately, that in the British text it is defined as an agreement between the Republic of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland, but there were two texts of this agreement. In the Irish text, the agreement was defined as between the Government of Ireland and the Government of Great Britain.

The consequences of that are really severe for something vital to the whole peace process: the protection, preservation and respect for the principle of consent. When the McGimpsey brothers challenged the agreement of 1985 in Dublin’s Supreme Court, that Supreme Court ruled that it was an agreement between something called the Government of Ireland and the Government of Great Britain, and that any apparent remarks in the agreement of 1985 acknowledging the right of the people of Northern Ireland to determine the status of Northern Ireland were therefore of no substance because it was not clear what Northern Ireland was. It could conceivably have been the case that it was part of the Government of Ireland. This is fairly obviously a spurious argument; none the less, it was so used and accepted by the Irish Supreme Court. It therefore diluted what Her Majesty’s Government thought that they had achieved in 1985: an acknowledgement of the right of the people of Northern Ireland to determine their own future, which exists in the British version of the documentation.

Given the rather difficult history of the loose use of the phrase “Government of Ireland” it seems very surprising that it now not only appears in Irish government documents, which is to some degree understandable, but is starting to appear in the documents of the United Kingdom Government. This is surely a step too far. It has a dangerous prehistory and we need to be very careful about it. I believe that the Irish Government today fully support the principle of consent and that one of the great achievements of the agreement of 1998 was the fact that that support became absolutely explicit through a referendum of the Irish people, passed by a large majority. But having achieved this remarkable development, and therefore the possibility on which the whole peace process rests, we should not be playing around in any of our internal documents by using this loose language, which has such a troubled prehistory.

1.30 pm

**Lord Kilclooney:** My Lords, briefly, I support the amendment in the name of the noble Lord, Lord Lexden. The term “Ireland” is being used very loosely by the present Conservative Government, which is causing great offence to the vast majority of people in Northern Ireland. This error of decision by the Conservative Government has been increasingly noticeable over the past 18 months. Nationally, it is contrary to the laws of this country, as has been said. The Ireland Act 1949 made it clear that the Government in the

southern part of our island are the “Republic of Ireland”—nothing else, not “Ireland”. Why are the present Government pretending that the Government in Dublin are now the “Government of Ireland”, because that is causing offence?

It has been stated that, in international law, they are the Government of the Republic of Ireland, but that is not so in European law. When the United Kingdom decided to accede to the treaty of Rome, the southern part of Ireland agreed to do the same on the same day, just as it is suggested now that, if the United Kingdom leaves the European Union, the southern part of Ireland will also leave the European Union on the same day—that is for the future to decide. At the time of accession, it was the Conservative Prime Minister who was there on behalf of the United Kingdom, and it was Mr Lynch, the then Prime Minister of southern Ireland, who was there on behalf of the Republic of Ireland. As they were signing, Jack Lynch said to Ted Heath, “Do you mind if I sign as the Prime Minister of Ireland?”, and the Conservative Prime Minister of the United Kingdom said, “It’s fine, go ahead”. Since that day, the European Union has referred to the southern part of Ireland as being Ireland and, I am sorry to say, it is Ireland in the context of the European Union and its laws.

However, in the context of the United Kingdom and our laws, it is the “Republic of Ireland”, and the present Government are going contrary to the laws of this nation by referring to it as the “Government of Ireland”.

**Lord Empey:** My Lords, as usual, the noble Lord, Lord Lexden, has an uncanny habit of putting his finger on something that sparks a series of comments.

I am no lawyer or expert in these matters. All I can say is that, when we came to the Belfast agreement in 1998, no agreement would have been reached had the constitution of the Irish Republic remained as it was. We had the issue of Articles 2 and 3, which claimed the territory of Northern Ireland as part of the nation. If I remember correctly, “the island and its territorial seas” was the terminology at the time. Had that remained in place, there would have been no agreement.

A treaty was eventually written to implement the agreement—although it was brought in here as the Northern Ireland Act 1998, there is of course a treaty. The Irish Republic effectively changed its constitution by referendum in 1998 to remove those offending articles. So in terms of our operational day-to-day relationships with the Republic, when we were going to meet Irish Ministers, deal with them and set up bodies with them—which, as the result of the noble Lord, Lord Trimble, appointing me to positions, I had the opportunity to do—it was clear to us that the perceived threat/claim no longer existed from a practical position.

However, the problem was demonstrated by the 1985 arrangements, when there were two separate documents, as was pointed out. There was the question of the United Kingdom being given its full title—the mirror image of this question. This country was not getting its proper legal title from the Republic. We are the United Kingdom of Great Britain and Northern Ireland, as anyone who looks at the passport will see. The Irish state was not legally permitted to acknowledge

anything other than Great Britain as part of our national territory. That was where the agreement of 1998 made progress, in that it was then accepted that we are an integral part of the United Kingdom. That had been the missing link and something that we had attempted to achieve. Several noble Lords who are here today were part of that negotiation.

So we have made huge progress. I am not qualified to judge what the international implications of this could be, but we know from dealing with this issue that things can creep in over time to dilute the agreements that we have made, because there are always people who will never give up their ultimate objectives. We know that people have been prepared to kill, be killed and do all sorts of other things to achieve an objective which does not meet with the democratic will of all of the people on the island of Ireland, as was expressed by the 1998 referendum.

Your Lordships will recall that John Hume's argument always was that, if you got the people on the island to vote, you would undermine the arguments of 1918 and the republican movement, because you would actually get people to vote to accept the position. That was, of course, the whole purpose of the agreement. People were forced into accepting that—through gritted teeth, I suspect—and we got the vote.

I thank the noble Lord, Lord Lexden, for raising this matter, because it brings out whether people truly and actually believe what they have signed up to.

**Lord Trimble:** My Lords, everything that has been said by the previous three noble Lords who have spoken is significant, and how people feel about things and the language that is used is also significant, but in assessing the legal situation we must bear in mind that Ireland—the Republic of Ireland, the Irish Free State, whatever you want to call it—operates under a formal, written constitution. Here, I am speaking from memory, not having consulted documents to refresh my memory and ensure that it is accurate, which is a dangerous thing to do, but the 1937 constitution, in giving a name to the state, said that the name of the state was “Éire, which in English means Ireland”. That is a nice one to reflect on. That constitution was still in force in 1949, when the state was declared to be a republic, but that was legislation. No amendment was made to the constitution, so in Irish constitutional law, the name remained unchanged.

**A noble Lord:** Face the front.

**Lord Trimble:** My apologies. I hope that the microphone caught what I was saying and that the noble Lords could hear it, but I thank the noble Lord for drawing my attention to that. I hope that the noble Lord, Lord Lexden, will not mind if I turn my back to him for the rest of my comments; that is no reflection on him at all.

I was saying that the 1949 Act did not change the Irish constitution, and in Irish constitutional law the name remained unchanged. There is nothing unusual about that, where common popular usage varies from the formal usage. There is a central European state that is always described incorrectly in our media as the

Czech Republic. The name of the state is Czechia, but we call it the Czech Republic because we find it difficult to get our tongue around the name Czechia.

The point where we run into difficulties is that the Irish constitution was changed as a result of the agreement in 1998. What the noble Lord, Lord Empey, said about that agreement was absolutely true. But the question then is: did that constitutional change change the name of the state? I rather suspect that it did, but I would like to go and check. Perhaps I will pause at that point and leave the Minister to direct inquiries on our behalf.

**Lord McAvoy:** My Lords, this is an interesting debate, but I wonder—I might annoy a few people by saying this—about what the noble Lord, Lord Trimble, said about people's perceptions and about the indication by the noble Lord, Lord Kilclooney, that people feel strongly about this. I always listen very carefully and closely to the noble Lord, Lord Kilclooney, because in his life he has experienced things which, to my mind, give him the right to speak on these issues.

I will pose a question—and maybe run for cover once I have asked it. Does this debate, with some of the things said here today, help the situation in Northern Ireland? Does it contribute to cross-community spirit? Does it allay suspicions? Or does it increase them? Clearly, in 1998 the people of the whole of the island of Ireland voted to accept the status quo, so any change must come through consent—and, as far as I am concerned, the principle of consent is a complete and utter guarantee that any change, if it ever happens, will be through consent.

Unlike the noble Lord, Lord Trimble, I managed to call on somebody to give me some advice on the current position. Article 4 of the constitution of Ireland refers to the country as “Ireland”. Legally, that is the country's name. We cannot tell that country what to call itself. We in the United Kingdom of Great Britain and Northern Ireland cannot dictate to somebody else what they can call themselves. To suggest that in any formal treaty or any signed agreement between our two sovereign countries we should tell the Irish Government that they should call themselves the Republic of Ireland is surprising, coming from the noble Lord, Lord Lexden.

**Lord Kilclooney:** I think that the noble Lord is missing the point. We are not telling the Dublin authorities what to call themselves. We are trying to get the present Government of the United Kingdom of Great Britain and Northern Ireland to comply with the law that we created in 1949.

**Lord McAvoy:** I am contributing to the length of this debate and I should not be. These are international treaties. We cannot tell somebody else how to designate themselves. So I am quite surprised at the noble Lord, Lord Lexden—although I was very impressed that the noble Lord, Lord Bew, weighed in to support him. It made me a bit wary of saying what I said—but, on the other hand, I have said it and I will leave it at that.

**Lord Dunlop:** My Lords, in rising to respond to this short debate, I will echo the noble Lord, Lord McAvoy, in saying that when we have heard from two very

[LORD DUNLOP]

eminent historians, the noble Lord, Lord Bew, and my noble friend Lord Lexden, we should tread very warily—but tread I must.

Amendment 2A relates to a number of clauses in the Bill that deal with the Independent Reporting Commission. As my noble friend Lord Lexden made clear, he raised this issue at Second Reading and I am very grateful to him for giving the House an opportunity to debate it this afternoon. My noble friend has proposed that the reference to “Ireland” in Clause 2(3)(a) should be changed to “Republic of Ireland”. I have known my noble friend for well over 30 years and know that throughout that time his interest in and commitment to Northern Ireland has been constant and steadfast—and his sense of history is unfailing. Having also worked under his tutelage, I can also personally attest to his great attention to important detail.

With regard to my noble friend’s amendment, I can confirm that it has been the practice since 2006 to refer to “Ireland” in international agreements and in UK legislation, and that the references to “Ireland” in the Bill are therefore in line with current drafting practice. Indeed, I think I am right in saying that the legislation that established the IMC in 2003 used the term “Ireland”. So the Government are confident that the 1949 Act does not require the use of the term “Republic of Ireland”.

1.45 pm

As my noble friend Lord Trimble and the noble Lord, Lord McAvoy, made clear, the term “Ireland” is also in line with the provisions of the constitution of Ireland, which provide that in the English language the name of the state is “Ireland”. This is also the name used in the 1998 Belfast agreement and in subsequent agreements with the Irish Government, as the noble Lord, Lord Empey, mentioned. The noble Lord, Lord Dubs, who is not in his place, made this point when he was Northern Ireland Minister in the other place during the passage of the Northern Ireland Act 1998.

It is true that the term “Republic of Ireland” continues to be used in some legislation. This is mostly in the interests of clarity, where it is necessary to avoid any misunderstanding about the place referred to. For example, in the Counter-Terrorism and Security Act 2015, the term “Republic of Ireland” is used to distinguish between Ireland the state and Ireland the island. The Government are of the view that this Bill does not require such a distinction to be made as the meaning is clear. On this basis, I ask my noble friend to withdraw his amendment.

**Lord Lexden:** My Lords, this has opened up an interesting and quite valuable debate. It has brought me some mildly critical comments from the noble Lord, Lord McAvoy. In the past his criticisms have been slightly stronger: thus I am grateful to the noble Lord, Lord Bew, for achieving a degree of change. I sometimes wonder whether I will ever be able to produce anything that will appeal wholly to the noble Lord, Lord McAvoy. He even picks me up from time to time on passages that he finds in publications to which I have contributed. Of course, I am extremely grateful for the kind references from my noble friend Lord Dunlop.

The essential point that I would ask the Government to bear in mind is that in 1949, this Parliament voted for a Bill that clearly defined the 26 counties as the Republic of Ireland. This point was stressed by my noble friend Lord Kilclooney. It is important in our documents and laws that the 1949 position should be very clearly borne in mind. I thank all noble Lords who have contributed to the debate and I beg leave to withdraw the amendment.

*Amendment 2A withdrawn.*

*Clause 2 agreed.*

*Clauses 3 to 5 agreed.*

### Amendment 3

Moved by **Lord Empey**

3: After Clause 5, insert the following new Clause—

“Victims and survivors

In Article 3 of the Victims and Survivors (Northern Ireland) Order 2006, at the end insert—

“(3) In this Order references to “victim and survivor” shall not include an individual appearing to the Commission to be any of the following—

- (a) someone who is or has been physically or psychologically injured as a result of or in consequence of their undertaking a criminal act in a conflict-related incident;
- (b) someone who was in whole or in part responsible for an unlawful conflict-related incident if that person took part in all or any of the planning or execution of that unlawful act.”

**Lord Empey:** My Lords, I will take this opportunity first to remind noble Lords of our contributions at Second Reading. The co-called Stormont House agreement is a two-stage rocket. The first stage took place in 2014. Of course, even in 2015 a large part of the discussions rested on legacy issues and not on the issues contained in the Bill. So the Bill is largely devoid of the matters that were discussed for prolonged periods during both sets of negotiations.

I will take this opportunity to thank the Minister for holding a meeting. Sadly, it was in Committee Room 10A, which was far too small and stuffy for the number of people who showed up, but I thank him for holding it. I do not know whether he believes that it served him any purpose—a number of noble Lords are here this afternoon who were there last week to express their views—nevertheless, it gave an opportunity to ventilate on the legacy issues, which the Minister had indicated he hoped to bring before your Lordships at a future date, in a separate piece of legislation. We also have people in this House today, such as the noble and right reverend Lord, Lord Eames, who have a distinguished history of work in this very sensitive area.

As someone who, fortunately, came out of our Troubles without a member of my family or a close acquaintance being directly affected, in the sense of being either killed or injured as a result, I am in a minority, but I know there are still a lot of people who are deeply unhappy that the issues they feel are so significant to them are not being addressed. Consequently,

this amendment seeks to amend the Victims and Survivors (Northern Ireland) Order 2006 to make it clear that, if a perpetrator of an act of violence should subsequently try to claim compensation, that they would no longer be eligible. The situation is fairly clear in English law. When a person is responsible for something that is their own doing and that thing is unlawful, it seems perverse that they should then have full access and be treated as being in exactly the same position as the person against whom an act of violence was committed. Effectively, that is what the amendment seeks to deal with.

There is no common view or belief on what is a victim. For a variety of reasons, it has not been possible to get an agreed definition, despite the fact that many people have tried. We understand the rationale for this—that those who were members of paramilitary organisations feel that they have been fighting in their terms a just war, and therefore they see themselves in the same light as we would see veterans of our Armed Forces, for instance. Strange as that may seem to many people, it is nevertheless the fact, and we have to be aware of that. Similarly, the loyalists and republicans felt that they were involved in just wars. But of course, that is not how the law of this country sees it, and it is not unreasonable to see a distinction between someone involved in an act of terrorism—an unlawful act—and a person who was a victim of that particular unlawful act, and treat them differently. That is what this addition to the Victims and Survivors (Northern Ireland) Order 2006 seeks to achieve. I beg to move.

**Lord Rogan:** My Lords, efforts are increasingly being made by Sinn Fein/IRA to rewrite the history of the Troubles. The forces of the Crown are being portrayed as the bad boys and the bad side and, indeed, have been shown as the perpetrators of most of the violence. The terrorists are being seen as not really to blame—indeed, if it had not been for the British Government's misrule, they would all have been model, peace-loving citizens. They are attempting to airbrush terrorists and terrorist atrocities out of history, and they portray themselves as victims, putting themselves in the same category as those thousands of innocent victims. This revisionism must not be allowed to happen. There is absolutely no way that someone injured or killed when carrying out an unlawful terrorist incident can be equated with an innocent civilian or member of the Crown forces performing their duties of protecting us.

In giving evidence to the Northern Ireland Affairs Committee yesterday, the victims commissioner stated that some 200,000 persons in Northern Ireland, 12% of the population, are suffering from mental health problems as a result of the Troubles. A disproportionate number of these victims—and these people are as much victims as those with physical injuries—live in areas which were, and in some cases still are, controlled by paramilitaries. Paramilitaries were terrorising and exploiting their own communities—one more reason why no more justification can be given to equate innocent victims with terrorists. I support the amendment proposed by the noble Lord, Lord Empey.

**Lord Eames:** My Lords, the amendment proposed by the noble Lord, Lord Empey, takes us to the very heart of the legacy issues that have haunted us every

time we look back on the beginnings of the peace process. I have no reservation whatever in supporting what the noble Lord, Lord Empey, said, and how he defined the distinction between those who, in uniform and on behalf of society, protected us, and those who took it into their hands, as the noble Lord, Lord Rogan, has just reminded us, and simply thought that they were involved in a just war. There is no comparison. Having said that, I want to express a certain apprehension.

When the report, which I spent so much of my time helping to prepare some years ago, was produced, we had no latitude on the question of the definition of a victim. The survivors order, as it was known, was in existence, and that was the law of the land—as it is. The amendment touches on this and seeks to change it. However, in all seriousness, is this the right place and time and the right legislation to bring about that change?

The Bill before us refers to the months of discussion between the political parties in Northern Ireland on the way forward. If we are to believe that, these terms as we have them before us are the result of that negotiation and discussion. I worry that there are those who would wish to continue the Troubles, not by the gun, bomb or bullet but by the use of manoeuvring and language and manipulation. There are those at present in our society at home for whom the Troubles have not ended; for them, matters have simply moved into a different sphere, and they want to use that sphere in every possible way to achieve their aims. I am concerned that, in the legislative process in your Lordships' House and the other place, if we should make the slightest mistake in the tactics of when these important issues are produced and brought together in legislation, that will play into the hands of those who will manipulate it for the very ends that I have just mentioned.

Having said that I fully endorse and support what the noble Lords, Lord Empey and Lord Rogan, have just said about the distinction in the term "victim" and the way in which it is used, I urge Her Majesty's Government to think carefully about the implications of what is being suggested in the amendment, because of its timing and because of the place in which the noble Lord, Lord Empey, suggests that we should make this change. I underline again that I understand the distinction, and the difficulty of distinction, in the use of the word "victim", but I express caution regarding the legislative process. I speak from constant work among the victims and survivors and after constant work and consultation with the organisations that represent them.

2 pm

**Lord Murphy of Torfaen (Lab):** My Lords, when I was asked to help out this afternoon, I reflected that it is 22 years, I think, since I last spoke from a Dispatch Box on Northern Ireland matters. It is 20 years since the noble Lord, Lord Empey, and I, and many others in the Chamber today, worked on the Good Friday agreement. I have a great deal of time for the noble Lord and for what he said about equivalence, which was echoed by the noble and right reverend Lord, Lord Eames. There is no equivalence whatever between

[LORD MURPHY OF TORFAEN]

what the Armed Forces of the state do in the performance of their duty to protect our citizens and what terrorists do. Therefore the essence of what the noble Lord, Lord Empey, said was right on that.

The noble Lord, Lord Rogan, was also right to bring to your Lordships' House the importance of the victims issue. When he spoke, it reminded me of how many people have been affected physically or mentally by the Troubles over the past 30 or 40 years. It is an immense number. However, in the end, I am bound to agree with the noble and right reverend Lord, Lord Eames, about when we deal with this issue. It has to be dealt with, and he, above all, I suppose, has been dealing with this for many years now. I understand from the Government that the reason there are no legacy clauses in the Bill is that there has yet to be agreement among the parties in Northern Ireland on what they should be. I hope that there will be agreement on that over the next months and that perhaps in the Queen's Speech there will be a Bill dealing with legacy issues. It is probably then that we will have to look at definitions of victims and survivors because it will be the result of intense negotiation and discussion. Therefore, although the Opposition have much sympathy with the points put in this amendment by the noble Lord, Lord Empey, we think the timing should be later and should be the result of discussions in Belfast and of further legislation.

**Lord Browne of Belmont:** My Lords, this amendment is essentially concerned with the definition or redefinition of a victim. This is one of the most sensitive issues which still have to be dealt with. People who have suffered most throughout years of terrorism in Northern Ireland and throughout Great Britain must be treated in an appropriate and sympathetic manner. They all deserve to have their plight recognised and their voice listened to. It was disappointing that the problem of confronting the past was not resolved during the recent talks, but I am confident and remain optimistic that, after the election of a new Assembly on 5 May, every effort will be made to come a consensus on this matter. I particularly welcome and congratulate the Minister on holding a briefing with all the interested parties. I am confident that in the not too distant future this House will receive legislation to deal with this matter.

I should make it clear that my party believes that the definition of a victim is wrong and needs to be looked at and possibly changed. As part of those plans, the party proposes that the perpetrators of violence during the Troubles are not defined as victims. The Victims and Survivors (Northern Ireland) Order 2006 makes no distinction between paramilitaries who were killed or injured and other victims. It is therefore important at some stage to look at possibly narrowing the scope of the definition of a victim. I want to see the peace process moving on and a Northern Ireland that puts the past behind it, but in dealing with the past, it is important that we should not be prepared to countenance a rewriting of the Troubles whereby the perpetrators of acts of terrorism, whoever they are, are placed on a par with the thousands of people who were killed or maimed.

**Lord Dunlop:** My Lords, I welcome the noble Lord, Lord Murphy, to the Dispatch Box. He played a very significant role in Northern Ireland, and it is great to see him speaking from the Dispatch Box.

Before I address the amendments, it has already been mentioned that organisations that deal with the legacy of the past may be the subject of legislation in future, but only if sufficient consensus can be established among the Northern Ireland parties. Amendments 3 and 5, tabled by the noble Lord, Lord Empey, relate to the definition of a victim in relation to the role of the Commission for Victims and Survivors. Before I engage on the detail of these amendments and the challenges that they pose, I first make clear that the Government are sympathetic to the import and feeling behind them. Noble Lords will be aware that the definition of a victim in Northern Ireland is a matter of considerable contention. It is a matter that has been debated in this House before—indeed, I think the noble Lord, Lord Empey, tabled a similar amendment to the Northern Ireland (Miscellaneous Provisions) Bill in November 2014—and it remains an area of disagreement between the Northern Ireland parties that is yet to be resolved.

The legislation defining a victim in the context of legacy matters in Northern Ireland relates to the work of the Commission for Victims and Survivors. Under that order, which is now a devolved responsibility, the term “victim and survivor” is defined as a person appearing to the commission to be physically or psychologically injured as a result of a conflict-related incident, or who regularly provides substantial care for such a person, or who is bereaved as a result. This is a broad definition and can include persons who are psychologically injured as a result of being a witness to an incident or of providing medical or emergency assistance to a person in connection with an incident.

The placing of restrictions on the definition of a victim is a difficult and complex issue affecting access to services for those who have suffered losses during the Troubles. However, let me be clear again that the Government believe that there is an unquestionable distinction between innocent victims and perpetrators. As my right honourable friend the Secretary of State said in February:

“The terrorist campaigns caused untold misery and suffering”, and we will never accept any equivalence between those who sought to defend democracy and those who attempted to destroy it.

Under the current definition, it is possible for someone who was a perpetrator of violence or their family member or carer to be defined as a victim and to benefit from the commission's assistance. The Victims and Survivors (Northern Ireland) Order 2006 was passed by the previous Labour Government, and the definition remains highly controversial, with the Northern Ireland parties divided on the issue. The lack of consensus around the definition of a victim is one of the key challenges in dealing with the past, and the issue has not formed part of the two agreements reached in recent cross-party talks: the Stormont House and fresh start agreements.

As I mentioned previously, this legislation is now a devolved matter and therefore the responsibility of the Northern Ireland Assembly. Accordingly, any change

to the definition would require cross-community support in the Assembly, and at present the issue is not one on which the Northern Ireland parties have been able to agree a way forward. Even if the Assembly were currently sitting, I doubt that a legislative consent Motion would be agreed enabling this Parliament to change the definition.

Noble Lords will be aware of the significant progress that has already been made on legacy issues during the Stormont House talks towards the end of 2014. It included the Northern Ireland Executive agreeing the Victims and Survivors Commission's recommendation for a new mental trauma service, better to meet the needs in this area. Advocate counsellor assistance was agreed for victims and survivors in order to provide support and help to individuals in accessing relevant services.

When it comes to the past, and I recognise that many noble Lords have strong views on how best to deal with it, it is clear that victims should be our first priority. These commitments in the Stormont House agreement have the potential to deliver better outcomes for victims and their families. The delivery of the Stormont House agreement still represents the best chance of making progress on these matters and remains the Government's priority in dealing with Northern Ireland's troubled past.

My noble friend has made an argument on the issue of victims with which it is easy to sympathise. As I have made clear, the Government agree that there is a clear distinction between innocent victims and perpetrators. However, the matter is one that I am sure noble Lords will agree is best resolved by the political parties in Northern Ireland, and on that basis I urge my noble friend to withdraw his amendment.

**Lord Empey:** I am obliged to the Minister for his response. I would point out to the noble and right reverend Lord, Lord Eames, and others that I and my party will take any legislative opportunity that we can to put this case forward. It should be drawn to people's attention that the current legislation was introduced during direct rule. Had there been devolution at that time, there would not have been agreement on the current order because it does not do what it says on the tin. For that reason, we would object strongly. The reason why this Parliament has a role is its oversight over some of the fundamental issues. I still believe that while this particular legislative vehicle may not be the most appropriate, it is nevertheless possible to resolve this because it is such a fundamental issue.

The Minister says that Stormont has this responsibility today, but I can tell him that had Stormont been dealing with things at this stage in 2006 it would never have agreed to this particular set of proposals, because they leave the door wide open. They do not distinguish between a perpetrator and victim; in fact, they make the perpetrator and the victim equal. That is what the order says, and my amendment seeks to change that.

I understand the dilemma that the Minister is in. We can run away from this issue as much as we like but sooner or later we are going to have to confront it. Whether in this vehicle or some other vehicle is

unimportant, but I personally and my colleagues in my party will take every legislative opportunity that comes our way to put this case until the matter is resolved. Having said that, I beg leave to withdraw the amendment.

*Amendment 3 withdrawn.*

*Clauses 6 and 7 agreed.*

### **Clause 8: Undertaking by members of the Assembly**

#### *Amendment 4*

#### *Moved by Lord Empey*

4: Clause 8, page 5, line 11, at end insert—

“(5) Standing orders must provide for a process for investigating any alleged breach of the undertaking by any member of the Assembly and for determining whether the undertaking has been breached.

(6) Standing orders must provide for sanctions that shall apply to any member of the Assembly who has been found to have breached the terms of the undertaking.”

**Lord Empey:** My Lords, this amendment was moved in the other place. It is on the back of the fact that a series of pledges were included in the Stormont House agreement, to which people were asked to commit before they took office as Ministers and Assembly Members, relating to a series of things that I have no difficulty with, although I said at Second Reading that I had little faith in commitments because I thought some people would sign anything, and the history over the last 30 years was that they did so. We had issues at local government level where people had to sign, pledging to a peaceful way forward, when we knew that they had no intention of doing so. Still, the language in some of the pledges is quite positive and a step forward.

However, if there is a breach of those undertakings, no sanction whatever is provided for. The point was made repeatedly in the House of Commons from all parties, including the Labour Party, that there were gaps here that should be filled. I suggest that we make it clear that Standing Orders should be provided in the Assembly saying that if a person is clearly guilty of a breach of these undertakings, something happens. At present, nothing happens. What will happen in practice is what has happened before: even where someone is in breach or is challenged over their behaviour in the current Assembly, the party of which that person is a member puts down a petition of concern, if it is in a position to do so, which means that nothing happens. That means we can have the best form of commitments and statements of commitment to pursue peaceful means and all the rest of it, but at the end of the day nothing can be done in the Assembly to have any impact or effect any change. That point was made repeatedly in the other place. It makes sense if you have a series of commitments that people are being asked to make. What is the point of asking them to make those commitments if, when they breach them, absolutely nothing happens?

2.15 pm

The amendment is designed to put a sanction in place so that in the event that someone breaches the undertaking that they sign, whether as a Minister or as a Member of the Assembly, there will be a price to pay by that person, and they cannot be artificially protected by abuse of the “petition of concern” system that effectively means that the person’s own party could block any attempt to sanction that individual. If you are trying to build public confidence by getting people to make commitments—and I believe that many of the commitments are very positive—but there is no impact if you breach those conditions, they will lack credibility in the mind of the public. I beg to move.

**Lord Rogan:** My Lords, Clause 7, which deals with the pledge of office, has seven objectives. The first six are so self-evident that no government Minister in any democracy would not adhere to them whether or not they had taken an oath or a pledge. However, the seventh pledge in new paragraph (ck)—

“to accept no authority, direction or control on my political activities other than my democratic mandate alongside my own personal and party judgment”—

is somewhat different and indeed significant, given that the IRA Army Council still exists and that we were led to understand that it directs political Sinn Fein.

The Secretary of State has clarified in another place that an individual who refuses to give the undertaking will not be able to participate in Assembly proceedings or receive any of the privileges of office or salary. That is very welcome but somewhat different from what applies to Sinn Fein Members of the other place, who refuse to take an oath of loyalty to Her Majesty yet suffer no loss of salary or expense. We have a situation whereby a sanction and penalty for refusing to give an undertaking is in place, but the glaring omission in the Bill is that there is no process for investigating or, more importantly, providing sanctions for those who breach their undertaking.

Not all politicians may be as honourable as noble Lords. A process for investigating an alleged breach of the pledge would be helpful. Surely some penalty must be administered to those who wilfully break it, perhaps after being given orders from a six-man Army Council. I support the amendment.

**Lord Trimble:** My Lords, I indicate my support for this amendment, which, as my noble friend Lord Empey says, was tabled in the other place and debated there. I think it was tabled by Sylvia Hermon, the Member for North Down, and it is a very sensible provision. What is the value of these pledges and undertakings if they can be disregarded? There has to be some form of penalty or sanction available in the event of the undertakings not being honoured.

At Second Reading, the Minister gave two reasons why the amendment was not accepted. The second of the two reasons was to refer to established mechanisms by which the Assembly holds its Members to account, including adherence to the Assembly code of conduct and so on. This is like asking IPSA to take on such a highly political job as deciding what sanctions to apply to Members who take directions from paramilitary

and terrorist organisations and so on. That is not a terribly good reason to give for not accepting this. The other reason the Minister gave was that:

“The Government are firmly of the opinion that it would not be appropriate for us at Westminster to pre-empt the Assembly’s own consideration of this issue”.—[*Official Report*, 12/4/16; col. 225.]

I can understand that—it sounds reasonable enough—but you then have to bear in mind that the likelihood of the Assembly agreeing to significant sanctions as things stand at the moment is round about zero, and maybe even less than zero. Therefore that, too, is not a good reason.

I also add a rider to say that one of the things that disturbs me about our Government’s attitude to the devolved Administrations—it is not just in Northern Ireland but comes across in their attitude to the Scottish Parliament and the Welsh Assembly—is that an exaggerated view of their position runs through all of this. This is the sovereign Parliament of the United Kingdom. We have devolved matters, but power devolved is power retained. At the end of the day responsibility in all these matters rests with Her Majesty’s Government. For the Government to say, “Oh, we’ll leave it up to the devolved Administration” might sound appropriate and diplomatic but it gives far too exaggerated a view of it. To see how at the end of the day that puts you in difficulty, just look at the history of Stormont. The same exaggerated view of Stormont’s position from 1922 onwards was taken by this House, and the result of that was not good in that it led the central Administration not to pay proper regard to what was going on and not to involve themselves in what was going on. If Government here had paid closer attention to it, we might have avoided the Troubles. That is a small point, but I hope the Minister will bear it in mind.

Finally, I understand the Minister’s desire to be diplomatic, on the basis that he is only being diplomatic, and I realise that it will not be possible to accept the amendment without losing the Government’s timetable to get this out before the end of the Session—and that is fine. Can the Minister then change his language slightly when he says that he will leave it to the Assembly to see what it does with regard to it? However, if the Assembly fails to take action on this matter, the Government will have to consider what they do.

**Lord Browne of Belmont:** My Lords, I support Amendment 4, proposed by the noble Lord, Lord Empey. As I have said before, Northern Ireland goes to the polls on 5 May and it is only right that anyone who engages or supports paramilitarism should have no place in a democratic institution. Newly elected Members will thus be obliged to give an undertaking to abide by the principles outlined in Clause 8 and Schedule 2.

I fully concur with the noble Lord, Lord Empey, that it is only right and proper that, when a Member of a legislative Assembly gives an undertaking and then is seen to breach that undertaking, within Standing Orders there should be a robust mechanism, first, to enable an investigation of any alleged breach of the undertaking, and, if proved, surely there should be sanctions that can be enforced. Otherwise, the undertaking those Members take will be meaningless. If not, the

public in Northern Ireland will have little confidence in their elected Members and in the operation of the Northern Ireland Assembly.

Of course, it is only right that the Northern Ireland Assembly should prescribe the nature of the sanction, but surely, as we have heard from the noble Lord, Lord Trimble, it is for the sovereign Parliament to ensure that the Standing Orders of the Northern Ireland Assembly reflect the need for such sanctions.

**Lord Murphy of Torfaen:** My Lords, again, I express a lot of sympathy with what the noble Lord, Lord Empey, and other noble Lords have said with regard to this amendment. There is no doubt that, if you have a pledge of office, there is not much point in having one unless you can enforce it. Your Lordships will recall that, during the course of the talks which led up to the Good Friday agreement, both Sinn Féin and a paramilitary party were excluded from them because they were seen to breach a similar sort of pledge. Therefore, in a way, this has run through negotiations in Northern Ireland politics for a long time.

I agree with the noble Lord, Lord Browne, that this is an issue of public confidence. There is no point in having the pledge, as the noble Lord, Lord Empey, said at Second Reading, unless it is enforceable. However, at the same time we know, and the Minister will undoubtedly tell us, that the Bill needs to go through quickly because of the election and other reasons. Therefore, how do you deal with a situation which is significant but which you are reluctant to legislate on because of the necessity of having to deal with it quickly?

I take the point made by the noble Lord, Lord Trimble, who was absolutely right that there are other ways of dealing with this. That is, the Secretary of State and Minister can return to Northern Ireland at the point when further discussions are held on these matters, ensure that the debate is held here and in the other place, and that there is cross-party support for the need for Standing Orders to express a view that, if the pledges are breached, there should be some method by which you can enforce some sort of punishment. What that would be I am sure would be a matter for great debate and negotiation, but it has to be addressed. Otherwise, the pledges are hollow and meaningless.

It seems to me that, during the course of the negotiations that led up to the fresh start agreement, people accepted the idea that there should be a pledge—obviously, it would not be in front of us otherwise. I am sure, although I do not know, that they must have talked about the enforceability of sanctions. So the ball is now in the Government's court, and although it is not practical or feasible for this legislation to deal with it, it is practical and feasible for the Secretary of State for Northern Ireland to go back and talk with the political parties and try to get agreement.

**Lord Dunlop:** My Lords, this has been a short but important debate. Clause 8 makes provision for a new undertaking to be given by all Members of the Northern Ireland Assembly, in line with the fresh start agreement. To be clear with the Committee, it was necessary to introduce this undertaking through Westminster legislation

because the Assembly is prohibited by the Northern Ireland Act from introducing a requirement for its Members to make an oath or declaration as a condition of taking office. The Assembly has established mechanisms for holding MLAs to account for their adherence to the existing Assembly code of conduct, through the Assembly Committee on Standards and Privileges and the independent Commissioner for Standards. The Assembly already has the power to introduce measures to investigate alleged breaches of the undertaking and to impose sanctions for any such breaches.

The amendment in the name of the noble Lord, Lord Empey, assumes that Standing Orders would be the obvious vehicle for introducing any such measures, but this is not necessarily the only vehicle. For example, it may be open to the Assembly to legislate. There may of course be other options, and it is right that the Assembly should be able to debate and explore the available options for itself. Indeed, the whole issue of devolution was mentioned by my noble friend Lord Trimble. There is considerable value in the Assembly and not this House determining how MLAs should be held to account for any breaches of the new undertaking, just as this House holds its Members to account for their behaviour. Any such measures would of course need to be built upon cross-community support in the Assembly, and it must be right that Assembly Members should be subject to scrutiny for their conduct.

To answer the noble Lord, Lord Murphy, the Government will of course encourage the Assembly to consider carefully how this might be achieved. However, for the reasons I have given, I urge the noble Lord to withdraw this amendment.

**Lord Empey:** Once again, I thank the Minister for his comments and thank other noble Lords who have participated in this. As with the Minister, it is great to see the noble Lord, Lord Murphy of Torfaen, at the Dispatch Box once again. He knows his onions when it comes to this subject.

The Minister is right that Standing Orders may not be the only mechanism. I do not care what the mechanism is, to be honest. The simple point—the noble Lord, Lord Murphy, put it very clearly—is that these pledges mean nothing if they can be ignored with no consequence. That is self-evident. The Minister hinted to us that he intended to bring forward another piece of legislation in the next Session, perhaps to deal with legacy and other matters. There will therefore be time for the Assembly to address this issue, and I welcome that, but there will also be time for the Assembly not to address it. However, I think that we, and the Government, will be provided with an opportunity and the time to get this matter resolved. If it is not resolved, it will continue to fester.

If I may paraphrase MacArthur, I assure the Minister that we shall return to this matter if it is not resolved. On that basis, I beg leave to withdraw the amendment.

*Amendment 4 withdrawn.*

*Clause 8 agreed.*

*Clauses 9 and 10 agreed.*

**Clause 11: Short title, commencement and extent**

*Amendment 5 not moved.*

*Clause 11 agreed.*

*Schedules 1 and 2 agreed.*

*House resumed.*

*Bill reported without amendment.*

## **BBC Charter Review (Communications Committee Report)**

### *Motion to Take Note*

2.31 pm

*Moved by Lord Best*

That this House takes note of the report from the Communications Committee *BBC Charter Review: Reith not Revolution* (1st Report, HL Paper 96).

**Lord Best (CB):** My Lords, I am delighted to open this debate on the report *BBC Charter Review: Reith not Revolution* from the House of Lords Select Committee on Communications, which I have the honour to chair. The only interest that I must declare is that my son, Will Best, is the presenter of a BBC children's programme on CBBC.

I am very grateful to my fellow committee members for their input into this report. They represent different perspectives within your Lordships' House and I think it significant that so much unanimity was achieved on our conclusions and recommendations. Our thanks go to our clerk, Anna Murphy, our policy analyst, Helena Peacock, and our specialist adviser, Jacquie Hughes, and to all those who made submissions to the committee, particularly the 43 witnesses who presented oral evidence.

As a trailer for today's debate, the lunch-break session held by the noble Baroness, Lady Bonham-Carter, on 10 March attracted some 20 speakers but with contributions limited to just one minute. Today, with even more speakers but with a sensible timetable, I hope that we can do rather more justice to a subject which affects virtually every single man, woman and child in the United Kingdom. I thank in advance all those who will be speaking in the debate.

The Secretary of State told our committee that, rather than respond separately to our report, the Government will take it into account in preparing the White Paper on renewal of the BBC's charter. We now know that the White Paper will be published in late May. This means that our debate today is well timed to feed into the final stages of the White Paper's contents, but once it has been released it will be important for this House to be given an opportunity to consider it fully. Can the Minister reassure us that time will be allocated on the Floor of the House to debate the proposals set out in this important White Paper?

The title of our report on BBC charter renewal, *Reith not Revolution*, for which we are indebted to our committee member, the noble Lord, Lord Hart, sums

up the position we have taken. We put our faith in a BBC which respects and appreciates its founding principles, established by the first director-general, Lord Reith, and we rejected calls for radical, fundamental change in the underlying purpose of the BBC or its scale or scope. Speaking personally, I was aware at the outset of our inquiry of a lot of background noise about the possibilities of dramatic change for the BBC. Of course, there had been the Jimmy Savile scandal, criticisms of salaries for executives, accusations of political bias and so on, but, as the evidence rolled in, it became clear to me that mostly the fuss—the call for the BBC to be cut down to size or opened up to commercial competition and the rest—was coming from the Westminster village, not from the world outside. Broadly, we discovered that the public at large were strongly in favour of “their” BBC and would be greatly opposed to radical change.

We recognised that with a limited timescale we could not cover every aspect of the BBC's future, so we deliberately excluded the topics of the governance and management of the corporation, not least because these areas were considered by our sister committee in the other place, and because in September last year the Government announced that Sir David Clementi would carry out a review into the governance and regulation of the BBC. In the event, I do not think the committee would have any disagreement with either the DCMS Select Committee's views or Sir David's recommendations on the creation of a new unitary board for the BBC, with the abolition of the BBC Trust and regulation by Ofcom.

The areas that we did tackle in our eight-month inquiry covered: first, the underlying purpose of the BBC; secondly, the BBC's scale and scope; thirdly, the process for setting the licence fee; and, finally, the timing of the charter—how many years it should run before renewal.

The charter states that the BBC's main objective is the promotion of certain public purposes. We decided to examine the six official public purposes in some depth but, as we ventured further into their detail, it became increasingly apparent—as was voiced most forcibly by the noble Earl, Lord Arran—that the purposes framework, comprising a mission statement, six public purposes, purpose remits, purpose priorities and very detailed service licences, was far too complex. When the director-general came before the committee, we were shown the huge stack of forms and submissions that the BBC must complete to fulfil these multiple requirements. All this complexity, we concluded, makes practical assessment of the BBC's performance more difficult.

We recommended a much simpler and more transparent approach. We liked the distillation of the BBC's objectives as set out by Lord Reith—to inform, educate and entertain—and we recommend that the status of these Reithian principles should be reaffirmed as the BBC's overarching mission. We recommended scrapping the current six public purposes and felt, instead, that the BBC should adopt the four general public service broadcaster purposes that apply to all PSBs—that is, to ITV, Channel 4 and Channel 5, as well as the BBC—but with the BBC setting the gold

standard among them. Its special status and its funding through a universal licence fee gives the BBC, we maintained, unique obligations to its audience. It should reflect the different opinions, lifestyles, beliefs and values of the UK's nations, regions and diverse communities. Indeed, we dared to suggest a fourth dimension to the Reithian mission so that this might become "to inform, educate, entertain and reflect".

We went on to propose the abolition of the cumbersome purpose remits and purpose priorities, and we recommended a full review of the service licences by the independent regulator of the BBC—most likely to be Ofcom—with a view to these being simplified and strengthened, defining clearly what is expected of each service while still encouraging creativity. We were not letting the BBC off the hook. We felt it should be firmly held to account for any non-compliance with the service licences and that these should be reviewed more frequently than the current five-yearly review.

To assist this process, we were clear that the independent regulator should be provided with a comprehensive account of the BBC's spending by genre—for children's programmes, news, drama, current affairs, et cetera. This information was made available to the committee but because of its commercial sensitivity could not be published more widely. In looking at this and other evidence, we expressed some concern at the downward trend in the BBC's investment in current affairs. Spurred on by the noble Baroness, Lady Benjamin, we underlined the importance of the BBC continuing to fund adequately its output as the leader in the field of children's programmes. We noted with concern a decrease in spending on the arts, and we emphasised the important role of the BBC in stimulating creativity and cultural excellence, particularly in the field of music and drama, and through training and developing talent.

We noted the criticism that the BBC was too London-centric, and commended the steps taken to address this by moving production to other cities. We were impressed by the impact of the BBC's investment in Salford's MediaCity, which we visited. However, we heard from a number of witnesses, particularly a panel of young people, that the BBC did not sufficiently reflect their lives, the lives of those with disabilities or those in BAME communities. However, we noted that the BBC recognised its deficiencies here and we expect to see marked improvement.

We also heard concerns about the decline across broadcasting in religious programming, which the right reverend Prelate the Bishop of Chelmsford may mention today. We agreed that the BBC, as the dominant provider, should maintain the quality and content of its output in that genre.

Noble Lords will not be surprised to note that we welcomed additional government funding for the World Service. We endorsed the crucial role that the BBC plays in the UK's cultural influence and soft power on the world stage.

Turning to our second area of interest, the BBC's scale and scope, it is true that the BBC has already had to cut back and find significant savings. We noted that in today's global economy, the BBC is really quite small compared in particular to American players such as Amazon and Netflix. We heard no convincing

case for a significant reduction in the scale or scope of the BBC, nor did we accept arguments that the BBC should be restricted to remedying gaps for which the commercial market does not provide. We were clear that its outputs should bring benefits to all licence fee payers and that it should continue to be a universal broadcaster providing programmes that do not simply inform and educate but also entertain, as Lord Reith believed.

In the changing world of the digital age, we recognised that the BBC had an important role as a non-commercial contributor to developing innovative technologies such as the iPlayer, and also to delivering its content online.

When we came to our third theme, the process for setting the level of the licence fee, strong views were expressed to us about the deal struck behind closed doors in July 2015. Most of the evidence was highly critical of the Government's proposal and the BBC's acceptance that the cost of funding free television licences for the over-75s should come out of cuts to other spending by the BBC. We recommended instead that, in future, the process should be out in the open, with widespread consultation before any such deals are done. We spelled out a detailed process for setting the licence fee, or indeed a household levy, if that were introduced. The independent regulator would make an evidence-based recommendation to the Secretary of State for Culture, Media and Sport. The Secretary of State would have an obligation to accept this or to publish their reasons for not doing so. The regulator, presumably Ofcom, would be allowed to submit an amended recommendation, but not a third one. The Secretary of State would have the final say and, as now, Parliament would be asked to approve a statutory instrument.

Finally, on the timing of the charter review process, we recommended a decoupling from the five-year general election cycle. The present timings could lead to overhasty decision-making soon after an election. We also noted that the impartiality and independence of the BBC could be compromised by a short charter period: there would be a sword of Damocles hanging over the BBC with the ever-present threat of an imminent new charter. Moreover, we recognised the considerable financial and management burden of more frequent charter reviews. We were persuaded, therefore, that the charter period should be no shorter than the current 10 years, which provides the BBC, and the wider creative industries that depend upon it, with the necessary stability for longer-term planning. However, to avoid coinciding with the cycle of general elections, we recommended that the next charter should be for 11 years, with a 10-year period thereafter.

We did not shirk from recommending an enhanced framework of accountability for the BBC, and I think it sits well with the recommendations from the Clementi review and the DCMS committee for new governance and regulation. We were unanimously opposed to a diminution in the scale and scope of the BBC and its position in our national life. We wanted a new, transparent system for setting the licence fee and an 11-year charter period next time. However, while noting valid criticisms of some aspects of the BBC's behaviour in the past, our report was overwhelmingly supportive and

[LORD BEST]  
 appreciative of the BBC. It is indeed a national treasure: an institution from which all of us gain so much and about which we can rightly feel a genuine sense of national pride. I beg to move the Motion.

2.46 pm

**Lord Fowler (Con):** My Lords, first, I congratulate the noble Lord, Lord Best, and the committee on this report. I congratulate the noble Lord on his leadership of the Communications Committee and the way that he has introduced his report. I must say, I found myself in agreement with virtually everything that he said.

It is an important report, and I hope that the Government will follow its proposals. I particularly endorse what the committee said on the principles and guidance of Lord Reith, which make clear, and above all comprehensible, that the aim of the BBC should be to inform, educate and entertain—and even reflect, which has been added. Each is important. I have always been most supportive of the aim to inform, meaning that the BBC should provide the best possible objective news coverage; a duty which to my mind, and in spite of all the sniping, it fulfils excellently. The aim to entertain must be recognised. There should be no question of that being jettisoned so that the commercial sector can fill the gap. We all know what the result of that would be: an assault on the licence fee on the basis that the BBC was not reaching the whole of the nation.

The report begins by going back to 1927 and the formation of the BBC. However, there was a stage before that. In 1925, an all-party broadcasting committee set up by the Government proposed that a public corporation should be set up to act as a trustee for the national interest in broadcasting. It added that the corporation should be set up by statute. But Governments are the same, I fear, in every age. Ministers did not like the idea of them not being in the driving seat or it being set up by statute, because that meant putting things to both Houses. They said that it would become a “creature of Parliament”. So they brought forward the proposal that it should be under a royal charter, and thus it became a creature of government. The royal charter gave the Government the ability to evade Parliament and the power for Ministers to do virtually what they liked. For that is what the royal charter means: a transfer of power to the Executive. That is the position that basically we have today: government may make fundamental changes but without the inconvenience of getting parliamentary approval. How do the Government defend this indefensible position? They say, as my noble friend said only on Tuesday:

“For nearly 90 years a royal charter has been the constitutional basis of the BBC, underlying the independence of the BBC from political interference”.—[*Official Report*, 19/4/16; col. 539.]

I make absolutely no criticism of my noble friend, who is one of our very best Ministers, but this is the consistent line of the Department for Culture, Media and Sport and has been for the past decade and probably more. Even when it says that it is protecting the BBC from political interference, that really is the greatest nonsense. The political interference comes

not from Parliament but from government. The worst political interference is that of Ministers, and so it has been during the past few decades.

It was not Parliament that handed over to the BBC a £600 million bill for free television for the over-75s; it was the Government. Governments are notorious for interfering politically. Unless one understands and accepts that, we are not going to make vast progress. Let us recognise that, quite irrespective of party, all Governments and all Prime Ministers have their views. Lady Thatcher made no effort to disguise her scepticism. At a dinner of the Cabinet, I remember her telling us that if ever she was tempted to say anything nice about the BBC, “Denis soon persuaded me out of it”. It was not that she was tempted very much in any event, but there was just the odd occasion. And then, of course, following the last election, all kinds of threatening noises came from No. 10 that now was the time to take on the BBC.

Antipathy towards BBC reporting is not confined to one party. Harold Wilson was not renowned as a great supporter of the independence of the British Broadcasting Corporation and, even more up to date, nor were Tony Blair and Alastair Campbell, who were beside themselves with rage about the corporation’s coverage of the Iraq war. In the last charter review in 2005–06—there are a number of us here who were on my committee which looked at the charter then—they invented the BBC Trust and deliberately divided responsibility at the top of the BBC.

So when the DCMS says that the charter,

“has served us so well for 90 years”,—[*Official Report*, 19/4/16; col. 540.]

and I fear again that I quote my noble friend, I think we are entitled to say, “Just who are you kidding?”. In 2005, I was chairman of the Select Committee which looked at charter renewal and the proposal for the BBC Trust, which provided divided leadership at the top of the corporation. Like virtually everybody else, we rejected the proposal. Of course, that had not the slightest impact on the decision. The Government, using their charter powers, imposed it. And now, 10 years later, can one see what is happening? It is going to be abolished as a bold step by the new Government. Goodness knows what the cost to the taxpayer is of this fruitless adventure, and this is the direct product of the royal charter that has served us so well.

The only sensible question to be asked now is what we can do about it. There seem to be two possible courses. We can turn the BBC into a statutory corporation like Channel 4. That has substantial attractions. With Channel 4, for example, it means that fundamental changes would have to be approved. It means that if one wanted to privatise Channel 4, and there are rumours of that kind, one would have to introduce primary legislation and bring it through both Houses of Parliament—I am not a Whip, but I would not give too many chances of that surviving all that. It means that if the Government have the slightest sense, they will not attempt such action, so it is a great check on the power of Governments to act. That is one course. The alternative is to make the charter changes subject to approval by both Houses of Parliament. In this

way, the BBC Trust proposal would have had to come to Parliament and be approved by both Houses. That is an alternative and perhaps less elaborate way of doing it. My noble friend Lord Lester—I should say the noble Lord, Lord Lester, but he is my friend as well—has a plan in this regard which I shall allow him to set out.

The point is that the charter as it now stands needs either fundamental reform or total abolition. It is utterly undemocratic; it makes a nonsense of parliamentary sovereignty and it hands all power to Ministers. I would not have thought that that was what anyone in this country really wanted.

I have not tried to cover the whole of the BBC waterfront, but, in conclusion, perhaps I may be allowed just to say this. I am passionately in favour of an independent BBC absolutely free from government interference; of a BBC with a place in the world and a strong BBC World Service; of a BBC where news reporting is put high and the reporting skills of correspondents are properly valued; of a BBC with a licence fee and not some subscription model; of a BBC which is subject to check, but not the check of the BBC Trust, particularly when we have a perfectly good regulator in Ofcom; and, above all perhaps, of a BBC where the director-general and an independent board make decisions regarding the corporation inside the budget that they are given.

What I do not want is for a board for the BBC to be set up consisting of government placement of one kind or another. The other thing that I really do not want is five-year reviews rather than 10-year reviews. All that would mean was that the BBC was not only constantly under review but constantly under the threat of change. It would also mean that government's involvement in the corporation would become greater rather than less, and I do not think that that is what the public in this country want.

My hope is that the Government will recognise the importance of the BBC and its national and international reputation. My hope is that the Government seek to strengthen the BBC, not to weaken it. My hope is also that the Government will follow the advice of this excellent report from the Communications Committee and implement the proposals within it.

2.57 pm

**Lord Puttnam (Lab):** My Lords, I, too, welcome the opportunity of this debate. Like the noble Lord, Lord Fowler, I am very grateful to the noble Lord, Lord Best, and his committee for their sterling work. It is not the first time in your Lordships' House that I have followed a speech on this subject by the noble Lord, Lord Fowler, and found myself in agreement with precisely every word that he has spoken, but I shall try to approach some of the issues from a slightly different angle.

Having chaired the joint scrutiny committee for the 2003 Communications Bill, I am keenly aware of the complexities of any discussion around the future of public service broadcasting; and I should at this point declare an interest: I am chairing an ongoing inquiry into the future of public service broadcasting generally, not just the BBC, and we intend to report in June.

This committee's report which we are debating today is extremely helpful, but it was forced to be somewhat narrower than the debate needs and deserves at this late stage in the process. I entirely welcome its focus on public purpose, its support for a far more transparent process in the setting of the licence fee and its resistance to the notion of the BBC as any form of "market failure" broadcaster. I also strongly support the report's conclusion that there is no need or justification for contestable funding, let alone further top-slicing of the BBC's resources for other purposes. But—and it is a rather big but—the report's remit did not allow it to address the issues of governance and those of funding more generally. It suggested scrapping a good deal of the accountability framework without really putting in place anything substantive beyond supporting Ofcom's definition of PSB.

For me, the crucial issue for anyone seriously interested in the health of plural democracy is to focus on the overriding importance of the corporation's independence. In one sense at least, the Secretary of State John Whittingdale has got it right. The future should not—in fact, the future cannot—be simply a version of business as usual. The overwhelming need is to restore faith in the whole process, and to do so the Government must demonstrate their support for meaningful independence in their approach to appointments. As we are currently seeing, Governments of all persuasions can and do use the prospect of charter review and its associated funding decisions to put pressure on the BBC. For a democracy such as ours, that is a thoroughly unhealthy state of affairs. Surely, after almost a century of extraordinary success, the time has come for the BBC to be constituted on a more secure and permanent basis. I will therefore be avidly supporting the noble Lord, Lord Lester, in arguing in favour of replacing the present charter system by placing the BBC on a statutory footing, if necessary through a new Act of Parliament.

The recent review of the BBC's governance and regulation by Sir David Clementi was right to highlight the problems that the BBC Trust has experienced since it replaced the governors as the corporation's sovereign body. As Sir David noted, the trust model has conflated governance with regulation and, as a consequence, it has often been hard to tell who has been in charge—the executive or the trust. However, I am sure that I was not the only Member of your Lordships' House who was disappointed to read Sir David's suggestion that government could appoint six out of the 13 unitary board members. It is even more disturbing to hear a Conservative Secretary of State suggest that it is perfectly legitimate for government to appoint a significant majority of board members. Given that the Green Paper claims that:

"The independence of the BBC is absolutely central to its mission", surely any proposal to increase government influence over what is intended to be a powerful and influential body suggests precisely the opposite.

At the very least, the appointments process should resemble that of Channel 4, nine of whose 13 board members—and I was a very happy deputy chairman—are appointed by Ofcom, free of any perceptible government influence. Ideally, I would like to see a majority of board members selected through a significantly more

[LORD PUTTNAM]

democratic and, indeed, imaginative process, involving diverse and experienced representation drawn from right across the country.

We should all be conscious of a growing disquiet, and even an anger, over the prospect of a Whittingdale Broadcasting Corporation. I refer noble Lords to the excellent speech given by the shadow Secretary of State for DCMS on Tuesday of this week, in which she quite rightly excoriated the Government for what appeared to be their bullying of the corporation during the current charter review process; for example, by floating proposals that would involve the corporation selling its stake in UKTV's bouquet of channels, thereby stripping BBC Worldwide of one-third of its profits. I also draw the attention of the House to a warning delivered by the person who may well be this country's most trusted public figure, Sir David Attenborough, that the Government need to,

"keep themselves at arm's length",

from the BBC in order to protect its independence.

The Government have an opportunity to demonstrate their support for the BBC through their deeds rather than their words, providing the corporation with the security and the scale it requires to continue in its role as the fundamental cornerstone of the public service information landscape as well as the vital engine room of the UK's ever more successful creative industries. Yes, the BBC needs to enter into new partnerships, but these should not be imposed through top-slicing or by forcing it to become more distinctive, when it is obvious that that is simply another way of saying that it should retreat from popular formats.

For almost 20 years, I had the pleasure of sitting on the board of Anglia Television. As such, I witnessed at first hand the manner in which ill-considered legislation—in that case, the Broadcasting Act 1990—led to significant and wholly unnecessary job losses; the evisceration of an excellent regionally based training structure; a general decline in regional pride and identity; and, most regrettable of all, the erosion of democratic accountability. Noble Lords have only to consider the dramatically reduced level of visibility of any Back-Bench MP as against the situation 30 years ago—a time when every MP, along with other significant local political figures, could expect to get their views aired across their regions and to their local constituents on at least a quarterly basis. That is what I am referring to when I speak of ill-thought-through legislation creating a damaging loss of democratic accountability.

I am pleased, however, to report that not every senior member of the Government shares a lingering antipathy towards the BBC. Here is what the Lord Chancellor and Justice Secretary had to say on Radio 4, no less, just two days ago:

"Britain is a great country—the world's fifth largest economy with the world's best armed forces, best health service and best broadcaster. We are first in the world for soft power thanks to our language, culture and creativity".

Unless I am very much mistaken, I do not think that Mr Gove was referring to Sky, but then who knows?

We have been assured that the White Paper on the future of the BBC will be with us shortly. We can only hope that it contains measures designed to strengthen public service broadcasting and not to eviscerate it at

the behest of its commercial rivals. Indeed, we should do more than hope. I would like to believe that today's debate will be seen as a shot across the bows of any Government from any party wishing to bring forward measures that could damage one of this country's two most highly regarded institutions. In a world running short on trust, the BBC remains a significantly more credible organisation than any of those who, for political or for commercial reasons, seek to undermine it.

Two weeks ago I had the pleasure of chairing an event at BAFTA discussing the future of public service broadcasting. At the end of what was a very lively session, I suggested that there was such public interest in this area that any attempt by the Government to undermine the BBC and its independence would be met by a march down Whitehall that would make the Countryside Alliance look like a tea party. I sincerely believe that that could be the case. I sincerely hope that I will be there, and I sincerely believe that the rest of the country would back it.

3.06 pm

**Lord Foster of Bath (LD):** My Lords, I, too, congratulate the noble Lord, Lord Best, and members of his committee on an excellent and wide-ranging report. I have long been a critical friend of the BBC, believing it to be the best broadcaster in the world and one of the best gifts of this nation to the world. The committee's report talks in similar terms, describing the BBC as,

"one of this nation's most treasured institutions...

the keystone of British broadcasting",

and,

"respected across the world".

The report talks of the BBC playing,

"a central role in the wider creative industries".

It is vital that, as the Government finalise their deliberations on a new charter, nothing is done that will undermine the BBC's ability to continue to merit such accolades, and nothing should be done to undermine the independence and impartiality of the BBC.

The noble Lord, Lord Puttnam, said that this should be the top priority and I entirely agree with him. The noble Lord, Lord Fowler, with a distinguished track record in these areas, talked powerfully about the need to develop mechanisms to reduce government interference in the BBC. When he speaks later, I understand that my noble friend Lord Lester will talk about how he believes statutory underpinning can help, and I look forward to hearing his contribution.

The committee report makes clear—and I entirely agree—that maintaining independence and impartiality will be aided by a new charter which lasts for at least 10 years. On Tuesday, in your Lordships' House, I noted that the Minister referred to the value of a royal charter lasting for,

"a good period of time".—[*Official Report*, 19/4/16; col. 540.]

I hope that she will accept the committee's recommendation for a minimum 10-year period, since that will not only help to protect independence and impartiality but provide security in terms of planning and investment for the BBC and, as the report points out, stability for the wider creative industries that relate to the BBC.

Of course, that security and stability would be undermined if the charter period is set for a good period of time, but includes a mid-term review whose scope allows for the unpicking of bits of the charter itself. I hope that we can receive reassurances that that will not be the case.

The report makes one other important recommendation on the length of the charter. It suggests that the next charter should be for 11 years, not 10 years, to decouple the charter review process from the general election cycle and allow full consultation and dialogue. That is an extremely sensible proposal, and I look forward to hearing the Minister's thoughts on it.

The committee, as we have heard, consciously did not cover the issue of governance of the BBC. Its decision, in the words of the report, to "eschew" governance was well-founded, given the subsequent announcement of the Clementi review. Sir David Clementi's review proposed the most radical overhaul of the BBC's governance in its lifetime, ensuring that regulation of the BBC fully passes to an external regulator in Ofcom while governance is transferred to a new unitary board with executive and non-executive directors. I opposed the establishment of the BBC Trust—a fruitless venture, as the noble Lord, Lord Fowler, called it. I thought it was entirely wrong to set up a body that sought to be both a flag-waver for the BBC and a regulator of the BBC. These two roles are incompatible. Sir David's proposal for an external regulator and a unitary board resolves this conflict, and I welcome it.

However, like others who have already spoken, I do not believe that the independence of the BBC will be achieved if the non-executive members of the proposed board are government appointees. The Secretary of State at DCMS said recently that he did not think that the Government's appointment of BBC non-executives to the board would undermine independence, and pointed out that all 12 of the current members of the BBC Trust were appointed by the Government. I think that he is wrong. The current trust is far less powerful than the proposed unitary board, which will set the BBC's editorial direction, make key decisions on programmes and even have a say in how the BBC manages news.

Giving these important powers to government appointees will understandably lead to accusations that we are creating a state broadcaster, not a public service broadcaster. A bizarre situation could arise in which decisions around how the BBC is reporting government policy or the action of Ministers is being decided by people appointed by the same Government or by the same Minister. That simply cannot be acceptable. Channel 4 has a similar board to the one proposed for the BBC, and its non-executives are all appointed by Ofcom, not by the Government. I believe that the BBC non-executives should also be appointed by an independent body, whether that be Ofcom or some other independent group.

While the report eschews governance, it has a great deal to say about the scale and scope of the BBC. There has been much talk about the BBC becoming a "market failure only" broadcaster, filling in the gaps left by other broadcasters, and of the BBC becoming

significantly more distinctive. I hope that, in their deliberations on this issue, the Government will not be influenced by the recent Oliver & Ohlbaum/Oxera report on the BBC's market impact and use it to justify going down this route. That is because I believe that the report is flawed. For example, contrary to all of the evidence such as Ofcom tracking data, it claims that BBC 1 has become less distinctive.

The Oliver & Ohlbaum/Oxera report also ignores the wider public value benefits and wider economic benefits to UK plc. The report authors merely looked at what revenue benefits there would be to commercial broadcasting competitors of making the BBC less popular, and the revenue benefits that they came up with would be small. The £155 million they quote is just one-quarter of last year's increase in TV advertising revenue and one-sixth of ITV's pre-tax profits. Following this route—according to research by Reuters, PwC and Enders Analysis—would have an overall negative impact on the wider UK media sector, let alone on UK plc, for a very small benefit to the BBC's direct competitors. So I entirely reject the market failure only approach and I am delighted that the committee came to the same conclusion.

As we heard from the noble Lord, Lord Best, the committee said that,

"we have not heard a convincing case for a significant reduction in the scale or scope of the BBC".

The committee goes on to conclude that:

"The BBC should not be restricted to remedying gaps for which the market does not provide. The BBC must continue to be a universal broadcaster providing content which does not simply inform, and educate but also entertains".

In terms of "inform, educate and entertain"—the Reithian principles—I entirely support the committee's views that they should be the basis of the BBC's mission and given greater prominence.

But if the scale and scope of the BBC is to be maintained, it needs to receive the appropriate income to achieve that. That means that there should be no further top-slicing of the licence fee income and no additional constraints on the BBC's commercial activities. During the coalition Government, I strongly opposed the Conservative proposals to take money from the licence fee to fund free TV licences for the over-75s. I argued that government policies should be funded by the Government. I was pleased that my right honourable friend Nick Clegg vetoed the proposal and it did not take place. It is extremely disappointing that the current Government have now gone ahead to the detriment of the BBC.

Proposals for further top-slicing or new contestable funding should be rejected. Such proposals would mean less money for the BBC to spend on its services, would create additional bureaucracy and transaction costs, would risk transferring resources away from advertising-free services and from programmes that are guaranteed high reach and impact, and would risk poor quality programming. Two-thirds of BBC content spend is already contested, and that figure is set to increase. There is therefore no case for a separate "contestable" fund top-sliced from the licence fee, nor is there any case for requiring the BBC to sell off either BBC Worldwide or its stake in UKTV. Both

[LORD FOSTER OF BATH]

would deprive licence fee payers of the financial and other benefits they currently receive, including funding for high-quality programming.

The BBC is undoubtedly the best broadcaster in the world, so I hope that in their charter negotiations the Government will do nothing to damage that reputation. Heeding the recommendations of this excellent Select Committee report should form an important component of their deliberations, so that we achieve Reith and not revolution.

3.17 pm

**The Lord Bishop of Chelmsford:** My Lords, I too speak as a member of the Select Committee that produced this report. I must declare an interest as a co-chair of the multi-faith standing conference of the BBC on religion and ethics, and related to that work I want to talk about the place of faith in public service broadcasting, and indeed to speak for all the faith communities in these islands.

It has been said that if a mission statement is more than two or three words long, it either means that the organisation does not really know its purpose, or even if it does, no one else will. Let me give a few examples: glasnost, girl power, flower power, New Labour and the big society; I will not go on. Consequently, if a mission statement is going to work, it has to be pithy and memorable. Lord Reith's "inform, educate and entertain" does the job, and has done it very effectively for a long time—everyone knows it. When the last charter renewal process landed the BBC with six rather wordy and worthy public purposes, it was not necessarily doing it a favour. As the committee took evidence on those six public purposes, it was clear that the people who came to talk about them did not really know them very well themselves. I noticed that each person came with a crib sheet to remind themselves of what the purposes were about: they had clearly failed the memorability test. I also noted that while the new purposes are in some senses impossible to disagree with, the word "entertain", which is surely a first base requirement for someone actually paying the licence fee, does not appear at all, and hence the title of the report: *Reith not Revolution*.

As we look forward to the forthcoming charter renewal, it is our strong view that the BBC should regroup around this historic vocation. We also want to say that it is good for the BBC to be entertaining. We do not want public service broadcasting relegated to just those bits of the output that a free market will not deliver. In this country we are rightly proud of the BBC and its place in our national life, its wider mission through the World Service, and its key contribution as part of a vibrant mixed economy of broadcasting in this country—one that is the envy of many other countries.

But we are not without criticism. To those three words that so admirably sum up the whole point of public service broadcasting, we tentatively add a fourth—the noble Lord, Lord Best, already mentioned it: "reflect". It is to this recommendation that I will speak and limit what I say. Just as the BBC is called to educate, inform and entertain the nation, surely it must reflect the nation as well. This reflection must be

more than merely regional. It is not just about sprinkling the airwaves with Yorkshire, scouse, Essex or Scottish accents. The UK is still a family of nations and, within that, a network of regions, each with its own culture and identity, but 21st-century Britain is also a network of communities. Many of these communities find their identity in ethnic origin and religious faith much more than geographic location. This is certainly the case in the East End of London where I serve as a bishop—one of the most multicultural and multifaith places in the whole of Europe. Having returned yesterday from the 16th meeting of the worldwide Anglican Consultative Council in Lusaka, where we discussed with Christians from all around the world what it means to be Christian in a world of great diversity and difference, we should also remember that multifaith and multiculturalism in Britain today also means significant Christian communities from around the world practising their faith here, as well as the presence of other faith communities. The BBC needs to work harder at being better at reflecting this new multiracial and multifaith face of Britain. In particular, religious broadcasting needs to be given a much higher priority in educating, informing and, yes, entertaining us with the beauty and challenges of this diversity.

However, across the public service broadcasting sector, religious broadcasting has been in decline for quite a long while. Contrary to the assumptions of a largely secular media, religion is not a just a private matter—a sort of "add-on" to the rest of life for people who like that sort of thing. Faith is not a leisure activity. Rather, for those of us who live by faith, religious belief is essential and formational—a prime motivator of individuals and communities, shaping their world view and inspiring and informing their political, economic, ethical and social behaviour. Our whole nation needs to wake up to this, and if the BBC is to be the broadcaster of the nation and reflect our national life, it must do too.

That being so, it is hard to comprehend why the BBC has never appointed a religion editor in the same way that it has an editor—an "interpreter"—for business, economics, politics, the arts, sports, et cetera. In July 2015, Ofcom voiced similar misgivings. Its *Third Review of Public Service Broadcasting* identified religious broadcasting as an area of immediate concern. The BBC is still the dominant provider of religious programmes and many of these are excellent. For this I give thanks, but it remains the case that the BBC downgraded the post of head of religion in January 2015 so that the postholder no longer has authority to commission programmes. Commissioning is where the power really lies. This now sits with non-subject specialists in multigenre commissioning, in a team of history, science, business and religion. This makes strategic decisions about commissioning almost impossible to make and limits the BBC's ability to fulfil its mission.

This is a time where it is nigh on impossible to understand the world, what is going on in it and how best to find solutions so that we can live in peace, without an understanding of religion. Those who care about our democracy, as well as those who care about faith, need to press the BBC to answer this question: who has overall responsibility for the range, quantity and quality of religious programming? Since our report

also voices concerns over the “downward trend” in spending on current affairs, it is not difficult to see how the BBC needs to strengthen its commitment to these areas of broadcasting. Hence the expectation in our report that the BBC maintain its commitment to religious broadcasting and increases its commitment to current affairs and the arts—my personal hope is that this is improved upon—and the following recommendation: that,

“the BBC, as the recipient of the universal licence fee”, meets,

“its duty to serve all the diverse communities of the UK”, and that,

“this obligation should be incorporated into any future accountability framework”.

### 3.27 pm

**Lord Hart of Chilton (Lab):** My Lords, I have the very great pleasure to serve on the Select Committee on Communications, under the distinguished chairmanship of the noble Lord, Lord Best. I also pay tribute to our assistants, clerks and special adviser, to whom he referred.

The BBC played a very important part in my life, both in my childhood and after. I must declare that interest straight away. Each day at 5 pm, while I had my tea, I listened to “Children’s Hour” with Uncle Mac. The Reithian principles of inform, educate and entertain were, so it turned out, to be a bedrock of my formative years. A favourite was “Toytown”, with Mr Growser, Larry the Lamb and Dennis the Dachshund. I immediately identified with Larry the Lamb, being a shy and mild-mannered child. I did not realise until later in my life that there are so many Mr Growers in the world—even, as I discovered, one or two in your Lordships’ House.

I also identified with “Norman and Henry Bones”, the boy detectives. I had cousins who were very similar, called Norman and Peter, who often looked after me during the wartime air raids. They used to let me out of the air-raid shelter to see searchlights illuminate the sky, and then to listen out for the drone of the German bombers on their way to raid the docks at Ipswich. One stray bomb destroyed a house only three or four houses away. I always remember my cousins’ wise advice, “Don’t tell your mother”, which came in handy in the years to come.

On another occasion, one afternoon in the garden I noticed the sky full of planes towing gliders. It seemed ages before they passed and no one could tell me what they were. Later, however, we heard on the news that the gliders had landed at Arnhem as part of Operation Market Garden. The BBC news was an important part of our day. My father was a soldier overseas in north Africa, Italy and then Europe, building bridges. We did not hear from him very often but the BBC war correspondents wove a narrative into which my imagination inserted my father. Wynford Vaughan-Thomas, Frank Phillips, John Snagge and Richard Dimpleby were household names with their brilliant word pictures as the war progressed from depression to jubilation and the theme music for plays and serials remains with me. The intermezzo from “The Jewels of the Madonna” by Wolf-Ferrari introduced each part

of “Ballet Shoes”, one of many superbly serialised books. Whenever I hear “Coronation Scot” I remember “Paul Temple”, and who can forget the introductory music to “Dick Barton, Special Agent”?

The BBC entertained us. At 1.10 pm on Saturday, “ITMA” with Tommy Handley made us laugh, and on Sunday “Down Your Way” with Franklin Engelmann introduced us to different communities. As I grew older the importance of the BBC did not diminish. All children must stare at the night sky and wonder at its enormity; I certainly did and the programme “Journey Into Space” provoked that wonder and stimulated the imagination. Laughter has always been of great importance. I think it brings wisdom and good health and well-being. Laughter and the absurd is part of the glue binding us together and a feature of a civilised society. “The Goon Show” and “Hancock’s Half Hour” were exemplars of brilliant scripts brilliantly performed and that tradition has continued and extended, with television nurturing comic talent. The sad death yesterday of Victoria Wood is a reminder of a tradition which includes “The Likely Lads”, “Not Only... But Also”, “Fawlty Towers” and many others. Your Lordships will have your own favourites.

The sheer brilliance of performers, producers and programmers at the BBC has brought entertainment, education and information to me in my lifetime; and as we listened to the evidence in the committee, I reflected on how fortunate I had been to live through times of enormous technological change, such as colour TV, HD, Freeview, YouView, iPlayer and so on, but during which the skills of programming had maintained a very high level. Today, the quality and creativity have never been higher, with programmes such as “The Night Manager”, “War & Peace” and “Line of Duty”. The ability to market programmes such as these worldwide provides an essential stream of income for the BBC and must not be harmed or diminished.

Wherever I go in the world I hear accolades for the BBC and how envied we are to have such an asset. I do not think that we appreciate sufficiently how significant this soft power is. There were many criticisms, of course. We met a focus group of young people, some of whom told us that they thought the BBC did not represent minorities and they did not see their own lives reflected on the screen, but the noble Lord, Lord Hall, for the BBC, replied that he was seeking to make a real difference on BAME representation, both onscreen and behind it. We expect the BBC to honour its commitment and encourage regional development. We were impressed by Salford Quays and the increased programme efforts at Birmingham and Cardiff. The BBC has become less London-centric and this must continue.

We did not believe that the BBC should be restricted to remedying gaps which the market does not fill. On the contrary, we concluded that the BBC must continue to be a universal broadcaster providing content that does not simply inform and educate but that also entertains. We had no evidence to support a claim that the BBC crowded out commercial competition. On the contrary, we received evidence of the benefits of the wider discovering and developing of talent and the encouragement of training. We were not persuaded that

[LORD HART OF CHILTON]

the BBC should reduce the scale or scope of its news operations, either in the United Kingdom or overseas.

Others have described our recommendations on the licence fee and on the charter period, with which I totally agree.

I end as I began. The BBC has played an important part in my life, and it continues to do so. I was once a part-time sheep farmer and each day I would begin by listening to “Farming Today”; and having spent some time each day here in your Lordships’ House, I end with “Today in Parliament”—sometimes enraged, sometimes entertained, but always a little more educated and informed. The BBC is one of our greatest assets and nothing should be done to harm it.

3.36 pm

**Viscount Colville of Culross (CB):** My Lords, I declare an interest as a producer and director in BBC television, and I am very grateful for the kind words that have been said about the content that my colleagues produce. We do, indeed, try to inform, entertain and educate.

I congratulate the Communications Committee on producing such an excellent report, which stresses the importance of the BBC as an independent, well-funded public service broadcaster. I am particularly pleased with the emphasis given in chapter 2 to the importance of a strong, independent regulator for the BBC. I understand why the report did not look at governance, but I am concerned—like the noble Lords, Lord Puttnam, Lord Foster and Lord Fowler—that the assumption in paragraph 20 of the report, that the charter will deliver satisfactory governance for the corporation, could be misplaced. I understand that the White Paper is proposing to set up a unitary board, combining the present BBC executive board and the BBC Trust, which will be regulated by Ofcom.

What is very important, as the noble Lord, Lord Foster, explained, is that this unitary board will be much more powerful than the BBC Trust. It will control the BBC’s strategy, governance and, even more importantly, certainly from my point of view, the editorial guidance. It will control the day-to-day broadcast output of the BBC, drafting and approving editorial guidelines, maintaining editorial standards and dealing with editorial complaints—unless, of course, these are appealed to Ofcom. The trust has nowhere near such editorial influence. As a result, the board of this body has to be absolutely independent so that it cannot be accused of being subject to political interference or pressure.

I fear that that independence will not be safeguarded. I, too, was disappointed by Sir David Clementi’s report suggesting that the chairman, the vice-chairman and four non-executives directors should be appointed by the DCMS. My fears were heightened when I read the interview in the *Sunday Times* in which the Culture Secretary said he intended 10 of the 13 members of this unitary board to be appointed by the Government, with only three members coming from the BBC. My concern about the adverse effect this will have on the independence of the BBC was compounded by fears voiced by Sir David Normington, who retired as

Commissioner for Public Appointments earlier this month. He told the *Financial Times* this month that without the check and balance of the Liberal Democrats in government, there is a feeling by the present Government that,

“if you want to get things done you need to have people who are your sympathisers working in some of the key roles”.

Sir David followed that with his evidence last week to the Public Administration Committee in which he expressed concern, following the Government’s response to Sir Gerry Grimstone’s report, that there is a threat of increased ministerial interference in the selection for public appointments. He said that the appointment of the last BBC Trust chair had been well run and was free from ministerial interference. However, he warned, having seen the Government’s response to the Grimstone proposals, that such a hands-off approach might not be possible in the future. I support the suggestion of the noble Lords, Lord Foster and Lord Puttnam, that there should be an independent body to appoint these members of the unitary board. If we fail to do that, your Lordships have only to look at the political interference in the appointment of executives of public service broadcasters that takes place in many of our partner countries in the European Union. Either the heads of the public service companies are appointed directly by the Government and change when the Government change, or individual channels are controlled by separate parties. These appointments inevitably have an influence on the political alignment of the stations and mean that the stations are not impartial, which I am sure your Lordships would not want to happen.

This morning I received an email from the wife of an opposition leader in Poland which explained what was happening with Polish broadcasters. Of course, this is not relevant to what our Government propose but it is a warning of how extremely fragile the independence of public service broadcasters is. The email says that the Polish Government have dismissed the independent board which is supposed to supervise state TV and fired all the heads of radio and TV and appointed new ones. All such appointments will now be made directly by government Ministers and drastically alter the nature of programming. As a result, more than 100 journalists have been fired or resigned. The result is Communist-style, pro-ruling party propaganda of a kind not seen in Poland since 1989. Of course, that will not happen here but I urge noble Lords to be aware of what a precious thing we have in the independence of the BBC.

As a former day editor of “Newsnight”, I know at first hand the lengths to which government communications advisers will go to ensure that their view of the world is projected on the BBC. In my experience, I am afraid this relates to all Governments of all political persuasions. I fear that we live in a world in which many people think that if you are not with them, you must be against them. The BBC and other broadcasters are mandated to be impartial and it is crucial that everything is done to defend that position. As this report emphasises, impartiality is at the very core of the BBC. I sincerely hope that the noble Baroness the Minister, in preparing for the White Paper, will listen very hard to the massive public

response to the BBC Trust consultation, in which the people of this country overwhelmingly said that they wanted the BBC to be independent and free from political interference. I ask the noble Baroness: what will be done in the White Paper to ensure that this happens with the appointments to the new unitary board?

3.42 pm

**Baroness Bakewell (Lab):** My Lords, I, too, congratulate the Communications Select Committee, under its excellent chair, the noble Lord, Lord Best, on having delivered an exemplary report that is both focused in scope and wise in its conclusions. I concur with and support much of what has already been said in its favour. It is to be commended to all parliamentarians, especially those who are eager to see the BBC broken up, sold off or simply shackled. The public—as a recent poll indicated—are not with them. The BBC remains a loved and admired institution by a great majority of those who own it, by which I mean the licence payers of this country. To act in defiance of their expressed opinions would be to damage one of the greatest of our national institutions simply to gratify the self-interest of the commercial radio and television enterprises.

When I interviewed Lord Reith in this House back in 1970, he was very disapproving of television. He deplored the fact that it broadcast jazz, which he regarded as the music of the devil. He had a distinct preference for educational programmes and those that instilled rigorous Christian principles of behaviour. But, of course, he was then a man at the end of his life, to some extent disappointed with that life and embittered by what he had seen happen to broadcasting. But I am still sure that the younger Reith—that vigorous young man who pressed ahead with exploring television's possibilities in the 1930s to be ahead of the Americans, as he said—defied government interference, turning away Churchill's emissaries at the time of the national strike. He would be proud of the leading role the BBC plays in sustaining standards, promoting British interests and influence around the globe, and in not having commercial breaks.

As we have heard, Lord Reith managed to sum up the purpose of the BBC in just one phrase, which can scarcely be bettered—namely, to “inform, educate and entertain”. As the right reverend Prelate said, that phrase is terse and exact. I did not think that it could be improved. However, the suggestion that the phrase “and to reflect” through the addition of a single word encompasses and enlarges the remit of the BBC appropriate to the times is to be commended.

The committee's recommendations covered much so I will speak to just two of them. Having worked within the BBC throughout numerous licence renewals, I know that the prospect throws BBC management into a distracted frenzy of concern. Licence renewal casts a long shadow, distorting the focus and concentration of its managers, heads of departments, channel controllers and even programme makers. It is an ordeal that lasts for years. When the licence is finally renewed, everyone sinks back, sighing with relief that the negotiations have gone away, but for how long? It will be for a good few years.

This frenzy is even worse around the time of elections, whether they are coming up or are just over. Both leading parties—indeed all parties—blame the BBC for the supposed broadcasting bias that robbed them of victory or even greater success. They cannot all be right. But it is a matter of blaming the messenger, and it makes for a climate of resentment and revenge that is no mood in which to address serious and thoughtful considerations of the BBC's future. For these reasons I support the committee's recommendation that the charter should come up for renewal only every 10 years, and that it should be uncoupled from that deadly electoral cycle. The recommendation is sound and wise. It would allow for long-term planning, which, in the global media world, needs precise marketing knowledge and a sense of the rhythm of change to which this industry is subject.

The second concern of the committee that I wish to address is this matter of scale and scope. There have been suggestions, mainly from other broadcasting bodies, that the BBC should be limited in its scope, possibly confined to news, current affairs, serious documentaries, and education—all areas of broadcasting that attract low viewing figures and, therefore, are not prize pickings for commercial companies. This is clearly a pitch to cut the BBC down to size and would be disastrous for the BBC as a global player. It is essential that its creative heartline is given the scope to be inventive across the whole area of human activity. That is where its genius lies. What other company would have backed a modest idea to encourage people to bake cakes and see it grow into a global format? Once it were successful, would such a format then be declared beyond the BBC's scope? What happens then? The whole concept is flawed and unworkable.

The BBC faces change, and needs to change. The media landscape is always shifting; the BBC needs the backing of government and the industry to continue as the flagship of broadcasting that it is known to be worldwide.

3.48 pm

**Lord Selsdon (Con):** My Lords, I have been in your Lordships' House for only 52 years but I used to do media research, and I think that I am really only here because of my grandfather. In May 1934, the Government appointed a committee under the guidance of my grandfather, Lord Selsdon, to begin inquiries into the viability of setting up a public television service, with recommendations on the conditions under which such a service should be offered. The result was the Selsdon report. I had never heard of it—I was not quite sure for a time why I had a different name from my father, which is often the case with peerages—but I did media research, quite thoroughly, for a period of time. At home, we were allowed to listen only to the BBC, as everything else was banned, and that included the early days of television.

I have a tremendous affection for the BBC—I cannot help it. In the days when I did media research, we tended to be influenced primarily by characters. Here in your Lordships' House, we have a remarkable depth of knowledge and experience, but we do not necessarily know each other. There was and still is a BBC advisory council, which goes on and on, but the BBC is a global

[LORD SELSDON]  
 institution, not a British one. If you have been in parts of Africa where, to encourage local communities to co-operate in mining or other things, you hand out a little pay phone to workers so that they may listen to the BBC, you realise the extent of its coverage and the respect in which it is held.

What the BBC does next is another matter. Television is a fairly difficult and doubtful exercise. We had the television advisory councils, we now have everyone guiding us here and there, we have the script-writers, but we do not necessarily have the media research and the depth of marketing that one would expect globally. I do not see why there should not be a special relationship with every Commonwealth country for broadcasting programmes daily and constantly right the way around the world. The technology and the expertise are already there.

I would like to make a very simple suggestion. We need to have a programme, a business plan, so that we may all look at the BBC. I know that I am here entirely because of my grandfather; I know, too, that I was never allowed to listen to any programme that was not BBC—they could not, however, teach me languages and I was sent off to various countries in order to speak the foreign languages. With this level of respect, I find myself unable to be of much assistance to your Lordships but I would like the Government to give a little more attention, in developing British relationships on a global basis, to the much more important role that the BBC can play than it does today, not least in the production and syndication of television programmes across the world, and its value in the learning of English.

I thank noble Lords for coming here today. I am so surprised that, in looking up the BBC, I found out more about myself than I would have deemed possible and wonder why my grandfather never told me anything about it or why I was never allowed to watch television until I reached a certain age. I wish the BBC well—I have a great affection for it and that affection will remain with me until I die.

3.52 pm

**Lord Bragg (Lab):** My Lords, I congratulate the noble Lord, Lord Best, on securing this debate at a particularly timely moment and for his Communications Committee's first-class charter review. There is so much that I agree with that, if I were to talk about it, I would just say "Tick, tick, tick"—I am sure that your Lordships do not want that.

In this debate, I hope that there is room to proceed by indirections and to see the BBC not so much through the prism of the review—although that has been marvellously addressed by previous speakers in detail, who in the way they did so have educated, informed and entertained us and given us plenty of time for reflection—but from the general point of view of someone who works for it, as I do. I am one who began his career there in 1961 as a trainee, listened to the radio in the 1940s and was, if I may use the word, suckled by it, and who believes that at its best it is a unique force for excellence and cohesion in this country.

Currently, the BBC is on tremendous form. Its recent television dramas including "The Night Manager", "War and Peace" and "Undercover" are pulling off the envied double act of high ratings and high praise. This is rare in any broadcasting organisation anywhere in the world, or at any time, but it has three out of three so far and it is only April. In the end, the BBC is the sum of its programmes. The "Panorama" programme on the Panama set-up boldly set the context for what should become an essential and continuing debate. "Newsnight" had the nerve to bite the hand that feeds or could starve it and has wounded it already with its piece on Mr Whittingdale. The news struggles with impartiality and the delicate task of balancing what are often rather overheated and undercooked arguments but it is still walking the tightrope admirably. A magnetic murder in "The Archers" has caught the imagination of so many people in this country. Above the noise there is the even beat of the five national and many regional radio channels, which perhaps more than any of the BBC's productions best represent the muscle, pulse and mind of this nation.

As has been mentioned, wherever there are debates on the BBC—I have taken part in half a dozen over the last six months, as many of us here have—if a vote is asked for there is always a wholly convincing majority for supporting the BBC. I see no demonstrations about the BBC in our streets, yet in our country where there would be demonstrations about the removal of a bus stop. There is global admiration of the BBC, which is Britain's most admired brand. It encourages a multitude of writers, actors, producers, directors and researcher talents in radio and television, which is the cornerstone of the cultural power that this country undoubtedly has at the moment. No other country has this and it is, per head, comparatively inexpensive. I do not need to go on. It works magnificently, delivers for this country and is still recognisably within the discipline of Lord Reith.

However, we seem to exist in an atmosphere of permanent crisis about the future of the BBC, from the Government and from parts of the media, as if it were a patient etherized across the sky, in constant need of attention and operations from higher forces that are dive-bombing it again and again. Most of us do not see what the fuss is about. It is not too difficult to pick out sources of discontent, some of which have grievances that need to be addressed, of course. Principally, for instance, the imperial growth of the BBC disturbs the unsubsidised parts of our information economy. The BBC is right to be much more aware of that now than ever before. Even imperialism that is thought to be by the good guys is still imperialism and ultimately unacceptable. The BBC is so vast in its output that it is not too difficult to pick up or embellish an anti-Auntie story quite regularly, in sure and certain knowledge that the compelling letters "BBC" will draw readers' attention to the contents of that story. The BBC is at once a national treasure and a national dartboard; that seems to be its dual role.

Digging into this, it is argued by some that the BBC's fundamental singularity—or to use a royal term today, peculiarity—is an affront to the prevailing free-trade and ever-rolling capitalism of the day. Indeed, in some respects it interferes with it unacceptably.

Or you could see it another way: as a stimulating alternative, it adds to the variety and richness of this country and gives an oppositional argument. It appears to me that the BBC's many roles are seamlessly interwoven into the tapestry of broadcasting that we have in this country and, further, that the roles of others are tempered—they are often encouraged and even enriched—by the competition and interchanges with the BBC.

This country is and always has been a place of tribes, since it began to emerge as a place of its own about 1,300 years ago. They are ethnically different, always, and culturally diverse, mostly. These are islands containing differences but, for all that, islands bounded by and often bonded together by the seas. Many have tried and often failed, but tried again, to reach out to all the jostling or sometimes rival groups over those centuries. Through democracy, we have finally arrived at a plausible though often fragile method of inclusion. The BBC's democratic inclusiveness, which began as a demand of genius by Lord Reith, is not only its strength and its burden; more than that, it is its purpose. We want the best in our society and despite catcalls from the galleries several of our institutions, including this one, try to and can succeed in the attempt to bring together the still-existing and the new tribes.

There is something beyond even that. The BBC does what it does with style, consistency and force. It brings together majorities and minorities in watching the same programme or live event. Most of all, though, the BBC is a statement of public service. That phrase has seen its meaning and strength weakened over the years. In area after area of our public life, too often those at the top who were once content to be public servants have found themselves outflanked and diminished by those who believe that public service is just another ladder to personal riches. *Pro bono publico* has not gone away, though. Millions of people in the United Kingdom are still alive to it, still working by it, still believing that work is one thing and serving the public is another, and they need not be separate.

We can say that especially today. We see the monarchy, under Her Majesty Queen Elizabeth II, as a symbol of public service. The admiration, even reverence, that is felt for her is entirely to do with her palpable sense of service to the public.

The BBC remains still, despite its gaffes, despite muddles, despite being treated by this Government as a cash cow for social policies, a symbol of something that this country craves for deeply. People who are divided want to return to what they think of as living properly—what Orwell called the decency of these people, which of course includes us.

Of course we have to create wealth, make a living and construct a complex society, but we need an element of something else, and perhaps the word “higher” might serve, or the word “better”—that there are great bodies which speak in our name, unfettered by the demands of making and getting, independent and, in the name of all of us, standing for an ideal without which we would be so very much poorer, so much less of a place.

If it is chipped away, as the BBC is chipped away—as some of them out there want it to be—we will be much less than we could be. We will have lost what has been

so strenuously built up, cherished and loved over many decades. That is, in brief, something unique, something of which, as the noble Lord, Lord Best, said at the beginning of this debate, we can be, and are, proud.

4.01 pm

**Lord Lester of Herne Hill (LD):** My Lords, like all noble Lords who have spoken so far in the debate, I congratulate the noble Lord, Lord Best, and his committee, on a very important and excellent report.

Continuing uncertainty about the Government's plans is very harmful to the BBC and the public interest. The continuing uncertainty, and the Government's dumping of the cost of free licences for the over-75s on the BBC, rather than taxpayers, have undermined morale within the BBC as well as public trust and confidence.

The Government are likely to replace the BBC Trust with a new unitary board, as recommended by Sir David Clementi. The new board will have executive functions relating to the content of its broadcasts. That makes it essential that the chair, deputy chair and other members of the board are independent and manifestly seem to be independent. It is essential that they are independently appointed, without ministerial influence.

The noble Lord, Lord Hall, has rightly said that the BBC needs regulation that is effective but not prescriptive. He has emphasised the importance of protecting the BBC's independence, recalling that Willie Whitelaw gave the BBC a 15-year charter. The Government should follow that example and give the BBC a charter for the next 11 years.

What we call a royal charter is really a ministerial charter. It is a charter shaped by Ministers using the prerogative powers inherited from the Crown. We speak of parliamentary sovereignty as the cornerstone of the British constitution, but it is Ministers, and not Parliament, who determine the scope and effect of the charter. There are no overarching, binding principles approved by Parliament that Ministers or the BBC must respect. As the noble Lord, Lord Birt, former director-general and television journalist, said during the debate on 10 March, a royal charter,

“far from being a powerful symbol and safeguard of the BBC's independence, on the contrary enables Governments to be less accountable even than medieval kings; to amend the charter through the Privy Council ... and to inflict unprincipled and material change on the BBC”.—[*Official Report*, 10/3/16; col. 1055.]

The noble Lord, Lord Birt, agreed with the noble Lord, Lord Fowler, that it is time to place the BBC on a statutory footing. The noble Lord, Lord Fowler, on whose most powerful speech I congratulate him, the noble Lord, Lord Inglewood, another former chair of the Communications Committee, and the noble Lord, Lord Pannick, have each suggested that the charter is an anomaly that should be replaced by legislation, much like that which governs Channel 4. But it is inconceivable, as the Minister will confirm, that the present Government will agree to dispense with the charter.

In truth, the choice is not a binary choice between legislation and charter. A statute could and should set out the governing principles protecting the independence and effectiveness of the BBC as a public service

[LORD LESTER OF HERNE HILL]

broadcaster, and the core duties of the BBC and the Secretary of State. It should make the charter and charter changes subject to approval by both Houses of Parliament. In that way, the BBC's independence would be protected against political interference.

So, as other noble Lords have indicated, I am fashioning a Bill to provide a framework of core principles and duties governing Ministers and the BBC, and the charter and its renewal, while leaving the detail to be covered in the charter and the accompanying agreement. I hope that it will have support in Parliament and Whitehall. Several noble Lords who cannot be here today have authorised me to indicate their support, including the noble Lords, Lord Alli, Lord Inglewood and Lord Pannick.

The Bill will provide for the BBC to be a statutory corporation established by royal charter but subject to the Bill's criteria. It will underpin the BBC's duty as a public service broadcaster to serve the public interest by informing, educating and entertaining the people of the United Kingdom, including its nations, regions and communities, by means of television, radio, online services and other similar services. It is important that the BBC—and nobody else—defines the scope of its public service broadcasting and its limits. The Bill will protect the BBC's independence as regards the content of its output, the times at which and the manner in which that output is supplied, and the governance and management of its affairs. The Secretary of State, other Ministers of the Crown, the BBC and anyone else with responsibility for the BBC's governance will have a duty to ensure that the BBC is able to operate independently from Ministers and other public authorities in the United Kingdom.

The Secretary of State will be required to make available to the BBC sufficient funds to enable it to perform its functions to promote public purposes as a public service broadcaster. The licence fee must be for the exclusive use of the BBC in performing those functions. It will be index-linked and increased at least in line with inflation. The BBC's funding must be protected against top-slicing—as happened, for example, under the current licence fee deal, under which £150 million a year was diverted from the licence fee to subsidise BT's rural broadband rollout. The Secretary of State will not be able to transfer public expenditure to the BBC. If Ministers and future Ministers want to change this, they will have to persuade Parliament to legislate.

The BBC's use of the licence fee carries responsibilities, but those are matters not for the Government but for the new board and senior staff, and for the regulator. Under my Bill, there will be an independent, external regulator, whether Ofcom or another body, to oversee the performance of the BBC's duties as a public service broadcaster, including any increase above inflation in the licence fee. The Secretary of State and other Ministers will be forbidden to seek to influence the BBC's decisions. The Secretary of State will be required to have regard to the need to defend the BBC's independence, to the need for the BBC to have the financial and non-financial support needed to enable it to exercise its functions, and to the need for the public interest to be considered in regard to matters relating to the BBC.

An independent board of, I suggest, no more than 14 members, including the chair and deputy chair, will govern the BBC. The members should be people with the skills, knowledge and experience needed to perform the board's function of directing a public service broadcaster. They should be drawn from across the nations and regions of the United Kingdom, including from BBC licence fee payers and present and former members of staff. Crucially, they must not be political appointments but must be appointed by an independent appointments committee established by the Commissioner for Public Appointments. The board will be required to carry out its duties in an open and transparent manner. The royal charter and any amendments to it will not have effect or be granted unless a draft of the charter or amendment has been laid before and approved by a resolution of each House of Parliament.

For the last six years, the BBC has seen no increase in its funding for the licence fee, so it has had to make millions of pounds of cuts in its services and staff. But reforms are needed and are being made. The number of managers remains far too high, in spite of commitments to reduce their ranks by a thousand. The BBC must not operate from an ivory tower, broadcasting to an intellectual elite. But the BBC has become over-blown and top-heavy, involved in commercial projects that could be left to others. Again, these are matters for the board, senior staff and the regulator to address, and not the Government.

As we have said in this debate repeatedly, the public enthusiastically trust the BBC and appreciate the public service it provides. The BBC's staff do their best to deliver a first-class and balanced public service, despite the worsening financial pressures. This Government have dumped more than £600 million of public spending on to the BBC by transferring the cost of licence fees for the over-75s. This makes the BBC carry the burden of fulfilling part of the Government's welfare policy. The BBC is faced with the serious threat of a new unitary board that is appointed politically by Ministers and may influence content.

As several noble Lords have said, the BBC is a national treasure that could easily be harmed by government interference. We all want to ensure the independence of the BBC, so that it pursues the Reithian principles that have made it the most respected broadcaster in the world. I hope that the Government will accept the need for a properly funded BBC that is independent and free from political interference, and is able with its guaranteed income to continue to produce impartial high-quality programming that is envied the world over. That is what my Bill will seek to safeguard—but, ultimately, it is the public that, to coin a phrase, must fight, and fight, and fight again for the BBC they love.

4.12 pm

**Baroness Healy of Primrose Hill (Lab):** My Lords, I am delighted to take part in this debate on the Select Committee report on the future of the BBC, aptly named *Reith not Revolution*, on which I served, and thank the noble Lord, Lord Best, for his excellent and diligent chairmanship. As many noble Lords have already made clear, it is essential that the BBC remains the keystone of British broadcasting, and continues to

play a central role in the wider creative industries. The BBC must retain its reputation for quality and independence throughout the world. This is possible only with the continued support from the Government in keeping with the overwhelming wishes of the British public, apparent from the DCMS consultation response summary published on 1 March. The findings showed that the public value the BBC, believe it produces high-quality and distinctive content and want it to remain independent. As in our report, however, concern was voiced that the BBC falls short for some viewers, such as reaching black, Asian and ethnic minority and young audiences, and representing the lives of people in the UK's nations and regions.

Just to highlight how important the BBC is for the country, it is worth stating that BBC services reach 97% of the UK population every week, with an average of around 8.5 hours of TV and over 10 hours of BBC radio per head. For £145.50 a year, audiences are provided with nine national TV channels, 10 national radio stations, 39 local radio stations and a wealth of online and mobile services including BBC Three, iPlayer and [bbc.co.uk](http://bbc.co.uk).

However, as our report said,

“audiences have higher expectations of the BBC than ... of other Public ... Broadcasters”.

The BBC must play its part by reaffirming the Reithian principles to inform, educate and entertain and by reflecting better the society we live in, which other noble Lords mentioned. The BBC should,

“make a particular commitment to reflecting the nations, regions and all the diverse communities of the UK”.

The BBC has,

“unique obligations to its audience”,

because,

“it is established by royal charter”—

no matter how controversial that is today—

“and its principal source of funding is a universal licence fee”.

It must,

“set the gold standard amongst the PSBs”,

and thereby remain,

“one of this nation's most treasured institutions”.

I acknowledge that the BBC recognises that it should be held firmly to account by licence fee payers, Parliament and the new regulator, but it is also imperative that the BBC retains its editorial and creative freedom to react to the changing needs of the public, the highly competitive evolving media market and social conditions. That is why our report wants to see the BBC better reflect UK society in all its diversity. We were concerned to hear,

“from a number of witnesses who felt that the BBC did not reflect their lives, particularly the panel of young people, those with a disability and those within the BAME community. We note that the BBC has recognised this and we expect to see a marked improvement here”.

In a recent article Tunde Ogungbesan, head of diversity, inclusion and succession at the BBC, wrote:

“We all want to get the same result: a BBC where all our audiences can see their lives authentically portrayed in our programmes, where our shows are made by a broad range of people, and where your background—whatever it is—is no barrier to a successful career here”.

The BBC is aware of its responsibilities to make itself a truly diverse organisation and states that almost half its workforce—48.5%—are women and that the proportion of the workforce that is black, Asian and other ethnic minority is at an all-time high of 13.1%. I welcome its independent diversity advisory group of disabled and BAME experts and cultural leaders, including the noble Baroness, Lady Grey-Thompson, which continues to hold the BBC to account.

Likewise, it is good to see the efforts made in training by the new BBC Academy, which is based in Birmingham and aims to attract the best new talent from all over the UK. Its Extend recruitment programme, aimed at people with disabilities who are hired on six-month placements across the BBC, has reached 628 people over the 18 years it has been running, and last year, with the help of my noble friend Lady Lawrence of Clarendon the BBC launched a pre-employment traineeship with the Stephen Lawrence Trust to identify and develop young BAME talent. Everyone who successfully completed the traineeship was fast-tracked to near the end of the application process for BBC production apprenticeships.

I welcome the BBC's new four-year diversity strategy, which aims to make a difference to the audience and employees. I hope that it meets its target for 15% of leadership grades to be BAME by 2020. For disabled staff the target is 5% by 2017. Currently the figure is 3.1%. It is also important to improve on-air portrayal. The BBC recognises this with its target to increase BAME presence from the current 10.4% to 15% by 2017 and to increase disabled portrayal from only 1.2% to 5% by 2017. I hope “Redefining Juliet”, which is to be aired on BBC4 on 1 May as part of its Shakespeare festival, will be a trailblazer for increasing such portrayal. In it a diverse group of actors, all with disabilities or differences, led by Storme Toolis, a wheelchair user, brings Juliet into the 21st century and recasts her for today's diverse society.

Also to be welcomed is Peter Bowker's new drama “The A Word” on BBC1, which was described by Charlotte Moore, the new controller of BBC TV channels and iPlayer, as,

“a brilliant story about autism and contemporary family life”.

In documentary, the new series “Employable Me”, which follows adults with neurological conditions such as Tourette's or autism, is also ground-breaking.

I hope the BBC will continue to meet the challenges of reflecting our modern and ever-changing Britain, to ensure that it remains pertinent to the concerns of the young as well as to the rest of its audience, and to preserve its vital role in the life of our nation. I am sure the BBC can have a great future, and there is absolutely no case for the Government to consider reducing its scale or scope. However, all great institutions must continue to change and innovate, and I hope the charter renewal process will prove an opportunity to refresh, but not fracture, the BBC. I look forward to an assurance on this from the Minister.

4.20 pm

**Lord Williams of Baglan (CB):** My Lords, I rise with some trepidation. As the register of interests notes, I am that much maligned species, a trustee of

[LORD WILLIAMS OF BAGLAN]

the BBC. Noble Lords might ask why I joined the BBC Trust. I did so because the BBC has always been important in my life and career. Indeed, I worked in that iconic building, Bush House, as a journalist and editor for the World Service for some eight years from 1984 to 1992. Thereafter I left the BBC to work for the United Nations and served for many years in Cambodia, the Balkans and the Middle East. During those years, the BBC was vital for me. Far more important than that, though, I saw that it was critical for the people with whom I worked in those countries.

I worked for Kofi Annan, the former Secretary-General of the UN, who once famously described the BBC as Britain's greatest contribution to the world in the 20th century. The World Service has been able to make that enormous contribution because it is part of the wider BBC, which over the past 90 years has done so much to inform, educate and entertain, in the words of the great John Reith, one of the greatest public servants this country has produced.

At the outset, there can be no argument—the BBC is one of the best public broadcasters in the world, if not the best. Is there anyone who can challenge that? This year marks the 400th anniversary of the birth of our greatest writer, William Shakespeare, and the BBC will be marking that event with a special programme on 23 April, bringing together Dame Judi Dench, Sir Ian McKellen, Joseph Fiennes, the Royal Shakespeare Company, English National Opera and the Royal Ballet in a televised event to honour the birthday of the national bard. It is typical of what our great public broadcaster can do at its best, bringing together our finest cultural institutions and actors, broadcast nationwide and internationally to the widest possible audience.

The very concept of public service broadcasting was pioneered here in Britain by the BBC. We should be immensely proud of that. From 1932 the BBC began to broadcast globally, first in English and then, interestingly, on the eve of the Second World War in 1938, in Arabic. The need for broadcasting in that language is as great now as it was then.

The journalism of the BBC goes from strength to strength under the leadership of James Harding, the editor of the news department. Recently I saw an extraordinary report on the “Ten O’Clock News” from Alastair Leithead in Nigeria, looking at the horrible movement Boko Haram and the mystery of the 200 girls who were kidnapped by that vile group more than two years ago. I cannot think of another public broadcaster that, in prime time, would have given such attention to that movement and the hideous work it has done.

I congratulate the noble Lord, Lord Best, and his committee on producing an excellent report that has informed this debate on an institution that is national as well as international. At a time when our international presence is diminishing, when much of the world watches with amazement at the spectre of our pending referendum, we can ill afford to see the BBC retreat.

I commend the Government for the extra funds they have made available to the BBC in 2015 for African languages such as Amharic and Oromo, for the establishment of the Korean service, so long championed by the noble Lord, Lord Alderdice, and

also for further enhancement of the BBC Arabic and Farsi services, which play such a critical role in the Middle East.

This year, of course, is the year of charter renewal, which I hope will not be marked by the cuts that have been inflicted on fellow public broadcasters in Canada and Australia in recent years. I submit that that is not a path we want to see the BBC go down. The BBC can ill afford to accept any more surprises from government of the sort meted out by the Chancellor last year. As a result of that step, as many noble Lords have noted, the BBC has had to take responsibility for the free licences for over-75s, introduced by the Labour Government led by Gordon Brown. There should be no more fiats of this order. The BBC is not a state broadcaster. It is for Governments to decide appropriate levels of social welfare for the elderly and to accept the costs, not to pass them on to the BBC. Assurance from the Minister that there will be no similar action in that respect would be most welcome.

On the report of the noble Lord, Lord Best, like other members of the trust I welcome the suggestion that there should be an 11-year charter, which is vital to detach the process from the electoral cycle—that should be obvious to us all; the need for the licence fee process to involve an independent regulator to propose the level of the licence fee; and an end to top-slicing of the licence fee or any kind of contestable fund paid for by licence fee payers.

The importance of the BBC's independence—financial, editorial and operational—comes through strongly in the Select Committee's report. This independence is vital for the future of the BBC and it matters crucially to licence fee payers. Following the publication of the *BBC Charter Review Green Paper* in July 2015, the trust launched its own consultation for members of the public to have their say on the future of the BBC. Alongside this, the trust commissioned qualitative and quantitative research studies to examine issues in greater depth. That consultation found that nine in 10 respondents—88%—felt that it was important that the BBC remain independent, and a large majority—79%—felt it was “very” important.

I will make three critical points. The BBC's financial independence is absolutely imperative for the organisation's future. Future funding periods should be fixed for no less than six years to provide certainty for planning. Licence fee moneys should be dedicated to BBC services and should never again be used to fund wider Government programmes. The crucial new proposal, developed by the trust, relates to a process to determine the licence fee. After three unsatisfactory processes for the BBC's funding, the trust is now calling for a clear process to be written into the charter. It also adds that a formal process and timescale needs to be established; the regulator, whether it is Ofcom or something else, needs to be empowered to bring neutral, evidence-based analysis into the debate about the BBC's funding and to give advice, in public, to the Government; and Parliament and the public need to be provided with a proper opportunity for debate before final decisions are taken.

It is also our firm opinion that there should be no mid-point review, which has been much speculated upon in the press. This would create significant operational

uncertainty for the BBC and would make long-term planning difficult. Moreover, it could undermine the BBC's ability to invest in innovative projects which benefit both audiences and the UK's wider creative industries. The current 10-year charter has shown sufficient flexibility to enable the BBC to respond effectively to significant shifts in the media and the technological landscape—for example, the decision to launch the iPlayer in 2007. A mid-point review is, we believe, unnecessary.

Thirdly and finally, we support the proposal in David Clementi's report for the creation of a unitary board which is fully independent of the Government. We have significant concerns, however, about the suggestion that the DCMS should have the power to appoint all members of the BBC's new unitary board. This, we believe, is unacceptable. Instead, the charter should set out a clear and transparent process for the appointment of members of the board. Ministerial involvement should be limited to the appointment of the chair. This view is widely supported by polling the trust has carried out.

Earlier today in this House, in the humble Address to Her Majesty, we marked her 90th birthday. The BBC, at 94, is slightly older. Her Majesty's Christmas Day broadcasts are watched by all, and it is remarkable that, when so much has changed during her reign, last Christmas it was the most watched programme on that day. I believe that it shows again how the BBC can play a powerful role in bringing this nation together.

4.31 pm

**Lord Macdonald of Tradeston (Lab):** My Lords, I, too, thank the noble Lord, Lord Best, and the Communications Committee for this excellent debate based on their excellent report, both of which highlight in particular the importance of better governance, greater diversity and protection against political pressure.

The report anticipates that the existing BBC Trust will be replaced by an independent regulator—most likely Ofcom, which I would welcome because it is very well regarded across business and politics. Given the replacement of the BBC Trust by an independent regulator, Sir David Clementi's recent review proposes a unitary BBC board of perhaps 13 members, led by a non-executive chair with a deputy chair acting as senior independent director, plus four other non-executive directors "designated" from the four nations of the United Kingdom, and the balance of five or six non-execs also to be appointed to a 13 or 14-strong board. The proposed unitary board might therefore have only two or perhaps three executive directors from BBC management, including, of course, the director-general.

As we have heard, the DCMS Secretary of State, John Whittingdale, suggests that the Government might appoint all the non-executives. That would be, as previous speakers have made clear, a very real threat to the independence of the BBC because, in an organisation controlled by a unitary board, these government appointees could exert influence in many sensitive areas, including programming decisions. One consideration should therefore be that the next royal charter must make it clear that the ultimate editor-in-chief of all programme output is the director-general.

The noble Lord, Lord Hall, the current director-general, recently stressed that the independence of the BBC from political pressure must be a priority. As we have heard today, it is clear that most noble Lords share that view. We now know that the White Paper on charter renewal will finally be published next month, and I hope that by then the Government will have backed away from proposing an appointments procedure that would threaten the BBC's traditional independence and would be very vigorously contested.

The weakness of the royal charter process in protecting the BBC from government interference has long and cogently been argued by the noble Lord, Lord Fowler, who rightly states that it should be rooted in statute, with more transparent and democratic decisions debated and endorsed in Parliament. The noble Lord, Lord Birt, a former director-general, criticised the way in which the royal charter's supposed safeguards have been so easily bypassed to divert around 25% of BBC programme budgets to fund Treasury schemes. Unfortunately, it is almost too late to push through fundamental reforms, but I look forward to the draft Bill from the noble Lord, Lord Lester, to which I hope this House can give attention and momentum. However, we must still use next month's White Paper to press for reforms in other arrangements.

Your Lordships' Communications Committee recommends scrapping the multiple accountability layers of BBC bureaucracy and adopting Ofcom's four general public service broadcasting purposes, which are: informing our understanding of the world; stimulating knowledge and learning; reflecting UK cultural identity; and representing diversity and alternative viewpoints. So to the BBC's traditional Reithian mission, to inform, educate and entertain, we might now add a fourth priority: to reflect the diversity of the UK. That diversity will, no doubt, become even greater over the life of the next BBC charter, and I pick up here on some of the issues raised by my noble friend Lady Healy.

In the House of Commons last Thursday, a debate on the BBC and diversity was introduced by the MP for Tottenham, David Lammy, in an excellent speech. Mr Lammy's Motion noted with concern that black, Asian and minority-ethnic people working in the UK's creative media fell by 31% between 2006 and 2012. It also noted that the BBC had fallen behind other broadcasters in setting and achieving targets for a more diverse workforce. Diversity, of course, embraces more than BAME matters; it is also about the representation and employment of people with disabilities, about lesbian, gay, bisexual and transgender people, about regionalism and about gender. Noble Lords may recall that our own Communications Committee recently reported on the problems facing older women working in television.

Over the 15 years from 1999, the BBC launched 29 initiatives aimed at improving BAME employment, and no doubt another initiative will be announced soon, which will be welcomed. However, clearly what is needed are action and results if the BBC is to meet its targets, which, at present, lag behind Channel 4 and Sky. Sky Entertainment has decreed that all new shows will have 20% of people from BAME backgrounds in significant on-screen roles, plus targets for senior roles

[LORD MACDONALD OF TRADESTON]  
 off-screen in all productions. On Sky News, 15% of interviewers were from black, Asian and minority-ethnic communities. Channel 4 has ambitious targets in its *360° Diversity Charter*, with an increase from 15% of BAME staff in 2015 to 20% in 2020. Channel 4 has also made remarkable progress in employing and presenting, on-screen and off-screen, people with disabilities. My noble friend Lady King is the driving force on these issues at Channel 4.

Currently, the reckoning is that in London, where national broadcasters are based, about 40% of the population are from BAME communities or are not British born. Across the UK, the figure is around 14% and rising. Significantly, BBC1 has a share of 22% of the television audience but only a 13% share of BAME viewers. The BAME percentage of the BBC workforce has crept up pretty slowly in recent years to just over 13%, but that is markedly lower in senior positions.

Interestingly, the Minister for Culture, Ed Vaizey, who took part in the Commons debate, was repeatedly praised for the personal and very positive role he plays in encouraging greater diversity. The Minister in turn praised the work done to highlight diversity issues by Sir Lenny Henry, the actor Idris Elba, who recently addressed a packed meeting here in Parliament, and Simon Albury of the Campaign for Broadcasting Equality, who is a former chief executive of the Royal Television Society. Mr Albury says that the advances made on-screen in BAME representation are important but that on-screen representation must now be matched by more off-screen employment, especially in the areas of commissioning power and editorial influence, which must be mobilised to drive faster change across the BBC.

Regarding regional diversity, the BBC can be proud of the progress it has made in spending much more of its programming budget outside the M25. Media City in Salford has given a great boost to production in the north of England. ITV has also built on its old regional structures in Yorkshire and in what used to be called “Granadaland” in the north-west, especially with location drama and serials such as “Emmerdale” and “Coronation Street”. Scotland, Wales and Northern Ireland now have shares of BBC programme production that better reflect their share of UK audiences, a much welcome advance on past practice. BBC television and radio now have a more diverse regional spread, but there is surely a lot more that could be done for the populous Midlands and the north-east of England. Our judgments on these matters might be better informed if the BBC were not so grudging in giving out information about programme budgets and staffing, for which it was criticised in the Commons debate. How viewers’ licence fee money is spent demands and deserves more transparency.

The diversity of the UK can be defined in so many ways that no royal charter or PSB purpose can capture all its complexity. The creative challenge in producing BBC programmes has been defined as “making the good popular and the popular good”. With digital platforms and alternative channels multiplying, competition increasing and audiences fragmenting, the demands on executives and creative producers will intensify. These demands for quality and higher ratings will at times not sit easily alongside the targeting of more

diversity. That challenge must be guided strongly and imaginatively from the top of broadcasting organisations, especially one as indispensable to the UK as the BBC—I speak as somebody who has spent his 30 years in broadcasting in the rival, independent side of television. That leadership will not be achieved by a unitary board of the BBC if it is dominated by political appointees.

Between the publication of the White Paper and the start of the new BBC charter, Parliament must strive to put the right structures of governance in place to encourage creativity and diversity, to sustain impartiality and independence, and to reward the viewing public for the trust and affection they have for the BBC.

4.42 pm

**Lord Sherbourne of Didsbury (Con):** My Lords, I, too, want to pay tribute to the noble Lord, Lord Best, who chaired our committee. I also pay tribute to my fellow committee members. These are warm-hearted tributes, and I will explain why.

Our report reminds me of how one produces a soufflé. We served up a dish which looks simple. It contains clear and straightforward observations and recommendations. But as with a soufflé, it involved hours and hours of toil and sweat in the preparation. Only members of the committee who were involved in this process can appreciate what agonies we went through.

What happened was this: we did not want to have an inquiry into every element of the BBC, so we said that we would focus on specific elements, one being the public purposes of the BBC. Little did we know what we were getting into. We thought that this arena, the arena of public purposes, would be a light stroll in a garden involving a pair of secateurs for a little light pruning. Instead, we found ourselves entangled, almost strangulated, in a thicket of six public purposes, a further six public remits, 28 purpose priorities and 26 service licences. Add to these Ofcom’s own public purposes.

Not surprisingly, we decided that what were needed were not secateurs but heavy garden-shears. So we came to the view: “Keep it simple, please. Get back to the simple Reithian mission—the three objectives—to inform, educate and entertain”. We were then encouraged by the right reverend Prelate the Bishop of Chelmsford to add a fourth: to reflect—the right reverend Prelate has spoken today about the need to reflect beliefs across the country. So our report says that the BBC should reflect,

“the different opinions, lifestyles, beliefs and values of the nations, regions and diverse communities of the UK”.

I hope that the BBC will take note of the recommendation to reflect the range of different opinions across the UK, because I do not think that it has always done so. I have heard highly respected BBC commentators, such as Nick Robinson, say that the BBC has sometimes been slow to reflect public opinion on controversial subjects. He cited, for example, Europe and immigration. I suspect that that is partly the result of a metropolitan bias in news reporting. How often have we heard the anchor-man or woman on the “Today” programme as they introduce the weather forecast say, “It’s raining over Broadcasting House. What’s it doing in the rest of the country?” It was

therefore very encouraging when our committee went to visit the BBC in Media City at Salford Quays. That move has been a great success and not just for the BBC but for the locality and the region. The same will be true, I think, as the BBC extends its presence elsewhere—for example, in Cardiff.

The Government will soon publish their proposals on charter renewal, so I shall make a few points about that. It is right, as has been said by many noble Lords—notably my noble friend Lord Fowler and the noble Lord, Lord Lester, who is not in his place—that the BBC should be independent and be seen to be independent. Points have been raised about how the process by which charter renewal takes place should happen. I listened very carefully to what was said. As I understand it, the provisions of the BBC charter and charter renewal might be put into legislation—an Act of Parliament—and decided by Parliament, but I wonder whether that might not make the process more political. I wonder if my noble friend Lord Fowler can imagine the kind of amendments and who might move them that such a Bill might attract. I look forward to seeing what proposals the noble Lord, Lord Lester, has when he comes forward with his proposed Bill. Let us judge it when we see the details.

On the licence fee, I would not want to see a repeat of last year's process, which pushed on to the BBC the cost of free licences for the over-75s. Not surprisingly, that has led to calls for a more independent system for setting the licence fee, and our committee indeed recommends one. But I am not sure that it is quite as straightforward as that. At the end of the day, the level of the licence fee surely has to reflect the scale and scope of the BBC. At least under the present regime, that will, at the end of the day, be decided by the Government. But let us suppose that the Government were to adopt a system of licence fee settlement along the lines of our report, and that it should be handed to an independent body to make a recommendation. Surely, there would have to be factored into that process a view or calculation of what efficiency savings are required of the BBC. Every well-run organisation and company looks each year at how it can run itself more efficiently and cut costs where it can. The BBC should not be immune from that process.

That brings me to the tough choices that the management of the BBC has to confront. It is faced with demands from the public for extensive news and current affairs, loads of sport, top-class drama, brilliant wildlife programmes, high-quality entertainment, comedy, the arts and the list goes on. But of course the BBC has very little control over its funding, so the demands made of the BBC in the new charter must be realistic—ambitious but not overambitious. In my opinion, the BBC cannot do everything unless the public are really prepared to pay for it. Therefore, I do not think that the BBC should always try to compete with the commercial channels at every level. But that emphatically does not mean that the BBC should confine itself to output that the market will not provide—the so-called market failure model. It is not a binary choice. What I want to see is market enrichment.

The BBC makes programmes which inform, educate and entertain, but which are distinctive because of their high quality. Its programmes are innovative, break

new ground and are challenging. It has been mentioned in the course of the debate that programmes such as “The Great British Bake Off” and that of the noble Lord, Lord Bragg, “In Our Time”, are wonderful and brilliant. The BBC can and does make a huge range of programmes, and here in the UK we are blessed with an abundance of creative people within the BBC and among the independent producers with the ideas, imagination and expertise to conceive and make these programmes. They will go on doing so as long as the BBC has clear objectives, its culture and ethos encourages them, and as long as it is not swamped by an incomprehensible hierarchy of public purposes and remits involving endless and pointless box-ticking.

Give the BBC a new, straightforward board structure, appoint independent people at the top and establish a clear regulatory framework, and then quite simply let it get on with the job.

4.50 pm

**Lord Judd (Lab):** My Lords, it is good to hear all the tributes to the committee and its chair, the noble Lord, Lord Best, on this really quite statesmanlike and distinguished report. The way the noble Lord introduced the report had the ring of Reithian authoritative comment at its best. The debate got off to a good start because its introduction was followed by the noble Lord, Lord Fowler. There has been no more consistent and firm champion of the cause of the BBC in this House and beyond than the noble Lord. He not only champions the BBC; he analyses situations, underlines the strengths, sees the challenges and—what is so important—puts forward constructive remedies to take it forward. He is no Greek chorus: he is an active player who wants to engage in the whole dynamic of the future.

What has also been very good for a layman like me is that we have again discovered the value of hearing from my noble friends Lord Puttnam and Lord Bragg. There are no people in the political community in Westminster who have done more, practically and in an engaged way, to advance the cause of the arts and to bring them to the widest possible cross-section of people. If I am allowed to make a personal observation, I am constantly reminded of this in Cumbria, where I live. It is really quite remarkable how, in his demanding life, my noble friend Lord Bragg has found so much time to nurture what has become a very significant event—the Keswick literature festival.

My noble friend Lord Puttnam underlined splendidly that if what we appreciate and love about the BBC is to survive and foster, its independence is crucial. In that regard, the way the governors and the chair are appointed is of course essential. We need to watch that very carefully indeed. The report put forward the thought that an additional objective might be added to the BBC mission, and that is to “reflect”. Of course the way in which the word is used is that the BBC must reflect society as it is. It must reflect society generationally, it must reflect the nations that make up the United Kingdom, and it must do so demonstrably and with commitment. It also needs to reflect the ethnic mix which is now Britain. But the word “reflect” has two meanings. I hope it feels as strongly about the other dimension of “reflect”, which is to pause, consider

[LORD JUDD]

and evaluate the society in which you are living. This is a tremendous contribution that the BBC can make: encouraging people to think about the world in which they live, to see the challenges and not just react to the world, but see how they can become engaged in shaping that world.

In this context, I was also very glad that the report unashamedly emphasised children. Gosh, I cannot help forgetting my upbringing, but “Children’s Hour” was a very important part of my young days, not least because I was growing up in the war, with all its tensions, stress and drama. How we waited for the next episode of the radio drama on Thursday nights. Some children were asked in a serious survey soon after television came in and started working with children, “Which do you prefer: radio drama or television drama?”. At that stage, a majority of children said radio drama. When asked why, they said, “Because the pictures are better”. I wonder whether, with all our high-tech cameras and the rest, we are stimulating vision and imagination to quite the degree that children’s radio programmes used to do in the 1930s and 1940s.

If it is about stimulating imagination and vision in the young, we have to look at what the BBC is making available to the young in the context of the crisis in our society. I almost literally lose sleep about the fact that the concept of citizenship is withering in our society as consumerism takes over. Consumerism fosters responsive attitudes in terms of personal need, self-aggrandisement and the rest, but citizenship demands thought and participation. Without becoming propaganda agents, the BBC has a unique opportunity to begin effectively to introduce children to the importance of citizenship, what its issues are and how they can participate in it.

When I was a Member of Parliament I had an inner-city constituency. I used to make a point every year of going to visit every secondary school in it. It was not a cheering experience, because when I talked to the youngsters about the importance of participation in politics, they would say that they had nothing to do with politics. I used to say to them, “Look: does your family have any housing problems? Do your families ever encounter medical problems? Do your families have issues about education?”. I was repeatedly told by these youngsters, in words of one syllable, sometimes very bluntly, “That’s got nothing to do with politics”. That was some years ago, but I suspect that disillusionment with the political community is even worse today. The BBC has a terrific opportunity to rehabilitate the political context and quality of our society.

Local radio has a particular part to play in that. I can speak with real warmth and appreciation of Radio Cumbria and the key part it played in two terrible flooding episodes in recent years. It was crucial to the well-being and safety of the population. Local radio has another opportunity, which is to link local perceptions—local engagement—to national issues. I was struck at the time of the last floods that they virtually coincided with the great conference in Paris. There was a terrific opportunity there to get people thinking about what relevance events in Paris had to their situation and the difficulties they were facing. There again, the role the BBC can play locally must never be underestimated, but it is not just about reporting

local crime, murders and so on—it is quite easy to slip into that kind of preoccupation. It is about taking the opportunity to stimulate a better neighbourhood and community understanding of how the issues of the world affect people and relate to them as a community.

In view of the pattern of my own life, I cannot conclude without saying how glad I am that there is so much fulsome support for the World Service in the report. The World Service is something very special. As a young man, not infrequently I found myself in Bush House. Bush House had, it seemed to me, all the characteristics of a unique university. It had a real sense of community in journalism, of shared experiences and depth, and a very high level of analysis and thought about the issues before the world’s society.

Of course, if we have one reality with which we all have to live—I really cannot say how strongly I feel this, and it is so sad to see in Britain so many people, not least in the Westminster community, who wish it were not true and want to run away from it—it is that from the moment we are born, we are locked into a world community. We are utterly interdependent with the world. There is hardly a single issue of significance that can be solved, resolved or dealt with successfully on our own as a nation: it has to be dealt with in the context of co-operation and participation in the wider world community of which we are a part. Here, the BBC—not only in the quality of thinking it brings and the contribution it makes, but in the practical reality of its link between the World Service, the national service, the regional service and the local services—is in a strong position to help ensure the quality of the future of our democracy.

5.03 pm

**Baroness Benjamin (LD):** My Lords, I thank the noble Lord, Lord Best, for being a wonderful chairman and I thank my fellow committee members for the stimulating experience of putting this report together. I speak as a proud member of the committee looking into the future of one of our most valued treasures, the BBC, and I declare an interest as per the register. I want to concentrate on children’s programming and diversity.

Key figures in the children’s industry, including PACT, the Children’s Media Foundation, Animation UK and academics, contributed to this report. They called for a funding commitment by the BBC into children’s content at around 8% of the network original content spend and insisted that this should not fall below £100 million per year over the next charter period. However, it was felt that any ring-fencing of funding for children’s content before the final funding settlement for the BBC’s charter is negotiated would tie the BBC’s hands when it comes to negotiating the final funding package for BBC children’s programming.

There has been much talk of contestable funding for children’s programming, but everyone in the children’s industry, including those who gave evidence for the report, made clear their strong opposition to a contestable fund for children’s content. Nor is there any support for topslicing of the licence fee to establish a contestable fund, because of the risk of the BBC doing less and the uncertainties of establishing a fund without a clear

idea of who would administer it, as well as the cost of doing so. Also, where would the content find a home? The direct and indirect costs of administering contestable funding would take money directly out of PSB content and therefore result in net negative investment. Also, it could mean that the funding would be taken from BBC's children's budgets or wider content budgets within the BBC. It is acknowledged that contestable funding that shifts PSB away from the BBC to other providers will most likely reduce audience reach and impact. It would be wholly unacceptable to have reduced BBC budgets to fund commercial PSB activity and there is a general consensus that contestable funding would not be an incentive for commercial PSBs to commission more children's content.

Contestable funding has not worked when tried in other countries, such as New Zealand or Canada, where it has been criticised for being inefficient and bureaucrat-led and for commissioning low-impact and low-quality programmes. Any ring-fencing or topslicing would also impede the funding of new initiatives such as iPlay and tie the BBC down in ways that do not take into account how children's viewing habits are evolving, as the introduction of the dedicated and highly successful BBC children's channels CBeebies and CBBC has shown.

Investment in PSB UK original children's content has declined sharply over the last 10 years. Spend has fallen by 95% since 2003 and it will not be long before there is little of our excellent children's production sector left. If this decline is allowed to continue, the UK will no longer be the world leader in children's content, as it has been for many years, which has contributed hugely to the UK economy. It is strongly felt that new money should be found to boost original production of children's PSB content that is culturally relevant to them, especially in the areas of drama and factual.

Many believe that the answer could be to encourage Channel 4 and other commercial broadcasters to re-enter the children's market specifically targeted at 12 to 16 year-olds to fill the gap in provision for older children. This would provide competition for the BBC because at the moment there is virtually only one buyer in the marketplace for UK-made children's content—and that is the BBC. This is a chance—maybe the last chance—for real radical thinking, as supported by PACT and the Children's Media Foundation. So I ask the Minister: will the Government consider addressing this issue through primary legislation and make children's content a tier 2, rather than a tier 3, requirement for broadcasters, and include this in the digital economy Bill to be announced in the Queen's Speech next month? Will they also set up a feasibility study into new ways of funding children's content, which should not be dismissed as too difficult?

A 48 year-old woman once told me that as an eight year-old child she was abused by her foster parents' sons, but the BBC's children's programmes and their presenters got her through it because they were there for her. They told her—through the television—that she was loved and was worthy. This still applies today; these programmes are a support tool for children. The whole landscape of broadcasting and media is changing but, whatever happens, quality and inspirational content

has to be created for children, reflecting their world. We must not do anything to hinder the BBC continuing to do this in the way that it has historically.

I turn my attention to diversity. One in five nursery school children is from a diverse background. They are the future and they desperately need—and expect—to see role models to inspire them, to encourage them to find a place in society, so that they feel valued and appreciated. Without this feeling of aspiration, the gaps between the haves and the have-nots will for ever widen.

I have been dealing with the issue of diversity all my life and professionally, for more than 40 years, have been trying to make change. It started when I asked a television producer back in 1973 why we could not have a more diverse and positive portrayal of professional black characters, such as lawyers and accountants. He dismissively told me that it was not realistic. In 1976, when I first appeared on children's programmes—good old "Play School"—I asked why there were no black, Chinese and Asian faces represented in the illustrations of the stories that I read. The producer said, "Oh, we hadn't noticed". Thankfully she acted on it immediately and, from that day on, BBC children's programmes became the most diverse genre on television and a great example of how differences can be so brilliantly represented on our screens and, in turn, in society.

Television is perhaps the most influential sector of the media. It affects people's thinking; it forms attitudes, tolerances, acceptances and how we have empathy with others. That is why I believe that it is important that we all work together to make lasting change. It is widely acknowledged that the lack of diversity within the television industry has always been a major issue. Many have fought hard to make changes for decades with very little effect, even after Greg Dyke called the BBC "hideously white" in 2001. Suddenly, however, things have taken a dramatic turn for the better and now all the major broadcasters are coming up with strategies, including the BBC's dynamic drive to improve its diversity remit, which sweeps away the shocking practices of the past. But we need to see results—and fast—in the commissioning process, production staff, senior management team and, of course, the make-up of the independent production companies that the BBC commissions. Diversity has to freely filter down from the top with no blockages or obstacles in the middle. This is essential for change.

I am so pleased that the noble Lord, Lord Hall, director-general of the BBC, has set up a BBC diversity advisory panel, on which I sit along with the noble Baroness, Lady Grey-Thompson. We advise the BBC how to put right what should have been addressed decades ago: ensuring that diversity is sustainable and embedded in the BBC's DNA, both in front and behind the camera, as well as in its promotional material. We must not forget that that needs to be reflected throughout BBC Radio as well.

Having said that, I am still concerned as to whether the BBC can and will deliver on all its promises. My heart has been broken on this important diversity issue so many times over the years. Many others are also justifiably concerned about this issue. As we have heard, the honourable David Lammy led a strong

[BARONESS BENJAMIN]

debate on BBC diversity in the other place last week, which was the first time in history that this had happened. But I am an optimist and I am encouraged by the commitment of the right honourable Ed Vaizey to address some of the diversity issues across our creative industries. He has become a true diversity champion; now, he really gets it.

On a personal note, after 43 years of campaigning, persuading and being told to shut up or I would never work again, I believe that at last things are really beginning to change for the better. Will the Government ensure that diversity features strongly in the White Paper as a requirement on the BBC to fulfil its obligations to all licence fee payers? I long for the day when everyone is given an equal opportunity to take part in the process of making Britain the great country that we know and love. The BBC must play a vital role in this process. It is its duty to comply.

5.16 pm

**Lord Young of Norwood Green (Lab):** My Lords, this has been a fascinating and wide-ranging debate and I declare an interest as a former governor of the BBC. I suppose that it was a unitary board in those days, when I reflect on it. I am also an avid listener and viewer and I go back as far as the crystal set, so that dates me. I do not want to indicate the programmes that I liked then, because I have done that once before, and my noble friend Lord Hart took us through some programmes for which I shared an enormous affection. I congratulate the noble Lord, Lord Best, and the committee on a report which was well crafted in the way that it confined itself. It did not seek to reach too far and wide, which was a strength in the report and the way that it was introduced.

As has been said, the BBC is a great institution and a world beater but that does not mean that it is incapable of reform or does not need it, or does not need constant attention to the way that it behaves and produces programmes. That has been said today in the Chamber, including in the previous contribution from the noble Baroness, Lady Benjamin. The ways that people interact nowadays with the media would have been beyond the comprehension of Lord Reith in his day. He had a different set of challenges in establishing the broadcasting corporation. We know that the BBC will need to continue to change. However, the idea that having examined its role it should somehow restrict itself to being a market-failure organisation seems an approach designed just to undermine the BBC.

There is one bit of the committee's report which I profoundly disagree with. Fortunately, the right reverend Prelate the Bishop of Chelmsford is not here but it is the desire to tinker with the mission statement—but it ain't broke, so don't try to fix it because you will ruin it. Come on: "To inform, educate, entertain and reflect" would mean that the statement ends with a whimper. Of course we want the BBC to reflect today's diverse multicultural and multiracial society, but we do not need to put that in the mission statement. In my view, that is the responsibility of the board and the regulator. The responsibility to produce programme content is what shows what the BBC is really doing, so that is my plea about the mission statement.

Looking at and listening to today's programmes, as I do, their track record is brilliant. The BBC does not always get it right but then no organisation is always going to do so. Some really interesting programmes have been cited. Look at the programmes which seek just to entertain—the way in which they not only entertain but inform and educate is when the BBC has really cracked it. I like the programmes that attract large viewing numbers, because what they are doing is important. One episode of "Call the Midwife" dealt with thalidomide, which, for many people, is an issue that has drifted away, a part of history that they had probably forgotten about. It dealt with it sensitively, in a way that informed and educated us. In my view, that is the BBC doing it right.

"The Great British Bake Off" has been referred to several times. I want to refer to it in a slightly different way. Last year's winner was Nadiya Hussain. What a fascinating result that was. There was an obvious example of the multiracial, multicultural country that we are today. There was a young woman of Muslim faith winning such an essentially British competition. That, I hope, did much to make us a society that understands how different we are but how people can make their contributions regardless of their background.

The noble Lord, Lord Selsdon, said that this debate had both informed and educated him, and I would say the same thing. I was fascinated by the contribution of my noble friend Lady Healy, for example. She gave so many interesting statistics about programme content, training, et cetera that she will drive me to *Hansard* to read them again.

Although it is clear that the BBC has further to go on diversity, there are programmes such as "The A Word"—I do not know whether noble Lords have watched that recently—which deals with autism in such an imaginative way, and "Employable Me", which is another great example of the BBC combining that mission to inform, educate and entertain. We should not forget about things that we take for granted. What other broadcaster in the world would have a season like the Proms every year? We take it for granted.

So where to with the BBC? I agree with the analysis of the noble Lord, Lord Fowler, of the weakness and deficiencies of the charter, and I wish him well in his attempt to reform it. That would be better, given the way that we have seen the Government behaving to the BBC by hiving off to it their responsibility for free licences, and by top-slicing.

I repeat my question to the Minister from the previous debate. I hope that the White Paper will make it clear that the licence fee is to ensure that the BBC can function and do all the things that we expect it to, which have been mentioned in this debate, such as producing those quality programmes appealing to a wide section of the population, and that the BBC will not be attacked yet again by taking a slice of the licence fee to perform another necessary function. Everyone knows that we want good broadband services, but it should not be part of the BBC's job to provide them out of the licence fee.

Similarly, there are those who say that 10 years is too long in a world that is changing fundamentally in its technology. I do not endorse every aspect of the

Clementi review, but it may have got it right that the BBC should return to a unitary board. I agree with the view of the noble Lord, Lord Lester, about the importance of independent board members—and not just their independence but their skill, competence and ability to challenge the powers that be at the BBC. I often reflect on my time, when we were invited to endorse yet another large increase in the director-general's pay on the basis that they could get far more if they were working outside the corporation. We desperately tried to point out, "Yes, but the job of director-general of the BBC is something special, given only to a few". That has been proved now, as although the pay has been halved it has continued to attract a really good-quality person in the noble Lord, Lord Hall. If that is the way we are going, the importance of the independence of the board cannot be stressed too much.

I am conscious of the time and of the fact that most of the points have already been made—although, as some wag said, not by everyone. At this time in the day, I will conclude my thoughts on the future of the BBC by expressing the hope that the Government will produce a White Paper that genuinely ensures that what is definitely one of the greatest things that this country has produced—and which gives a service not only to this country but, as many noble Lords said, all round the world—will continue to be able to do so in a way that we can have confidence in.

5.25 pm

**Lord Berkeley of Knighton (CB):** My Lords, I must at once declare a dual interest, having been a presenter for the BBC for some 40-odd years—like other noble Lords—and also a recipient of several commissions, including one for this year's Proms. Indeed, I look forward to seeing noble Lords of a brave musical bent at the Royal Albert Hall in July.

I contend that my declaration of interest amounts to something of a double-edged sword. On the one hand, I have clearly gained, like countless other composers, writers, designers and actors, from my association with the BBC. So you could say, "Well, he would say that, wouldn't he?". On the other hand, I could be said to have a degree of experience and knowledge, like other noble Lords, of how the BBC works, and in particular of the cultural dimension, to which I will largely confine myself.

In many ways, the BBC is not unlike your Lordships' House: it does very good work, but there are many areas that have required overhaul. There have been ludicrous pay-offs at the corporation, and a huge and disproportionate ratio of middle management to people actually working in studios on programmes. However, the BBC is manifestly getting its house in order on these points. I have witnessed the cuts on the shop floor, as it were, in the studio and on location, because programme budgets have been cut to the bone.

Just as I believe, despite anomalies such as the political appointment process for Peers that we heard about this morning, that this Chamber does a hugely valuable job in scrutinising and improving legislation, so I believe that the BBC fulfils well the Reithian principles of informing, educating and entertaining in a way that really is the envy of the world. Like other

noble Lords, whenever I go abroad, I am told, "Gosh, you're so lucky. You have the NHS and the BBC". When I was artistic director of the Cheltenham festival, it was my partnership with Radio 3 that helped secure the festival's truly national and international reputation. Radio 3 embraced and encouraged my initiative of saying that every artist had to include a contemporary piece in their programme.

The sheer number of people whose lives have been transformed by access to experiences that, were it not for the BBC, would have been denied them is staggering. That is why I wholeheartedly endorse paragraph 23 of the committee's summary and conclusions, in which it welcomes the additional funding that the Government have found for the World Service. I congratulate the Government on this initiative because the link to the free world has been—I witnessed it in the bad old days in Czechoslovakia and the former USSR—and still is a lifeline for those living under oppression. It is also a marvellous vehicle for the subtle dissemination of the soft power of thoughts and ideas that are often restricted or forbidden elsewhere.

Closer to home, I have had countless artists, such as the playwright Alan Plater, tell me of the huge debt they owed to the BBC for shining a light, in a distinctly underprivileged area of the north, on to music and art in the days of the Third Programme—whose 70th birthday, incidentally, the BBC is about to celebrate. As we sit here in Westminster, in central London, able to pop over the bridge to enjoy the best theatre, film, visual art and music that the world has to offer, we should think about these priceless riches and how they are paid for by taxpayers in communities in areas where there is a dearth of cultural provision. That the BBC can disseminate these riches must always be a social imperative. I am often told by the disabled or infirm that, for example, choral evensong and the morning service provide much-appreciated spiritual nourishment.

Today's BBC is a listening organisation—hence the move to Salford, the emphasis on regional diversity and the celebration of a tapestry of cultural accents, if I might put it like that. I agree with the committee in paragraph 35, where it says that,

"lack of a clear process for setting the level of the licence fee",

or whatever replaces it, is unacceptable. Anyone engaged in business or festival planning knows that a primary prerequisite is a budget to allow forward planning. I also believe that it was not right for the Government to propose free television licences for the over-75s to be provided by the BBC. I can understand the dilemma that the director-general was in when he accepted it and, doubtless, the bridge that he hoped it would build—but this should not, in future, be a dilemma in which he or any other director-general is ever placed again.

The committee rightly says that it is persuaded by the argument that a charter period of at least 10 years is necessary. When I was on the, now defunct, general advisory committee of the BBC, I recall that a huge amount of time would be spent—we have heard this from other noble Lords—preparing for charter and licence fee renewal, with scarcely a break before having to embark on the next one.

[LORD BERKELEY OF KNIGHTON]

The cultural position that the BBC holds is extraordinary, providing orchestras, not just in London but throughout the land, and singing this country's gifts still further afield. At this very moment, the BBC is exporting the Proms, with performances in Melbourne, in Australia, featuring young generation artists. Really the question that one needs to ask is this: if the BBC were curtailed still further in its current work and potential, is there another broadcaster that could take on the Proms, "Young Musician of the Year", "Shakespeare's Celebrations", or the Free Thinking Festival in Gateshead? Would another broadcaster commission to the same extent new work from writers and composers or relay from all over the kingdom, and often the world, artistic experiences that are the right of the many and not just the privileged few?

Would any other organisation be able to take risks to uncover originality and innovation, which are so central to a prosperous cultural landscape—furthermore, one that feeds directly into and nurtures the hugely successful creative industries for which the Government have often been fulsome in their praise? These industries, which are so often allied to the BBC, bring vast income into the Treasury. Tamper with one leg of that industry—the cultural side of the BBC—and you begin to risk toppling the entire edifice, for they are inextricably linked.

Surely we and the Government should seek not to constrain but to celebrate the BBC and what it brings all of us and a global audience. What better advertisement could there be for the United Kingdom? Any Government who seriously damage the BBC would simply not be forgiven by the electorate. Even if Ministers may feel justified in discounting a certain percentage of opinion polls—although I am not sure that they are right so to do—that have shown huge support for the BBC, they surely cannot be unaware of the overriding message and warning that they are confronting and will, make no mistake, continue to confront.

To continue the point about political interference from the noble Lord Fowler, I would argue that, if politicians never feel irritated by journalistic inquiry, those journalists are simply not doing their job properly. An external board, constructed by government appointment, would not be truly external or independent, in the broadest sense of the words, but *parti pris*.

Finally, in thanking my noble friend Lord Best for his considerable contribution today, I endorse his request to the Minister that your Lordships' House has real time to debate the forthcoming White Paper.

5.35 pm

**Lord Desai (Lab):** My Lords, coming 20th out of 21 speakers is not a great position to be in. I endorse most of the things the committee said about the governance of the BBC, regarding independence, a single board and so on. In his concluding remarks, the noble Lord, Lord Sherbourne, summarised those very well. Let this be the last royal charter. Let us get rid of the royal charter. As the noble Lord, Lord Lester, said, in our system, "royal" actually means the Prime Minister's prerogative and politicians' power. Royal just gives an impression that somehow it is above politics. It is

actually deep down in politics. I hope the noble Lord, Lord Lester, once again brings about a revolution like the many others he has brought about in our public life. I wish him good luck.

Before I get on to what I wanted to say, let me say that I do not watch the BBC that much. I watch only the news on television. There are perfectly good substitutes available. I am not completely given over to the uniqueness and fantasticalness of the BBC. I am not saying it is not good, but I do not watch drama and those sorts of things. As far as the news is concerned, it is all right. However, I somehow feel very surprised that everybody is so fulsome about Lord Reith and the mission statement. I dislike the phrase "mission statement", which is another reason. Why does anybody need a mission statement? Just get on with the job. It is so paternalistic to say: "educate". It is commanding, "Out you go to educate and entertain". As Douglas Jay said, "The man in Whitehall knows best". So the man in Whitehall said to education and entertain and everybody responded, "Wow". I am sure that if we had a few people under 25 in your Lordships' House, they would be laughing at us.

I want to talk about the licence fee. No body can be independent unless it has an independent source of income. Ministers love the licence fee because it gives them immense power and a constant blackmailing force over the BBC. I want to explore how we can find substitutes for the licence fee. The licence fee is regressive because it is a household levy, as the noble Lord, Lord Fowler, said. If you own four televisions, you pay the same as somebody who owns just one television. If you own four cars, you have to get four discs, but not with televisions. It is very inelastic. My main worry is that it may be anachronistic because we are going to have a generation that will not receive its entertainment from a box. A box may not even be needed. Entertainment will be streamed or whatever. We may be talking about the medium, especially the instrument through which we receive this education, entertainment and information. The instrument may not be there in 10 years' time. Therefore, we have to start thinking now about other ways of financing the BBC which will give it a substantial degree of independence and ensure that the money continues to come. The BBC has a budget of around £5 billion, and £4 billion of that comes from the licence fee—I am keeping the numbers fairly broad—and £1 billion comes from its own business. So we have to find £4 billion at any point in time. Obviously the Government list the receipts from the licence fee among their tax receipts, but we could find from other sources of taxation a form of income whose proceeds could be hypothecated to the BBC. For a long time hypothecation was anathema to the Treasury, but recently it has increasingly adopted the idea that certain taxes should be hypothecated.

I was looking around to find out what kind of numbers there are. Take, say, the duty on fuel along with those on tobacco, spirits and wine. Together they raise about £48 billion, so we are basically looking at a 10% enhancement of the receipts. Noble Lords would be surprised to know that the fuel duty, which has been frozen for the last few years, is right now 25% below what it would have been had the fuel duty regime continued and not favoured people who pollute our air.

Just by taking fuel duty back to what the level should be, we would get a substantial part of the £4 billion that we are worried about. I say that as an illustration. I strongly believe that one should have consumption taxes, not income taxes. If you tax people on their consumption basket, tax is felt less acutely than in any other way. The Government ought to explore alternative forms of hypothecated taxes, or increases in existing taxes, which would be given straight to the BBC for its budget. Then it could just continue and no time would have to be spent on the next licence fee renewal.

I have a more expensive proposal to pass on. Right now, the Government pay about 3% on their debt. If they were to gift the BBC a debt stock of £100 billion to perpetually finance its income of £3 billion-odd for a long time, that would be the corpus that the BBC could keep and get on with it. If the yield could be indexed, that would be even better. That would be very cheap; £100 billion is not very much these days.

It should be possible for us to think of elastic, progressive and modern ways of raising money for the BBC. If we can find that, we will guarantee its independence more than in any other way. As soon as the White Paper is issued—it may be too soon for the White Paper itself to include such things—I urge the Government to set up a Joint Committee of both Houses of Parliament to examine the reforms proposed in the report of the Communications Committee and the other proposals that have come up in your Lordships' House, starting now. If we start now, then by the time the charter needs renewing we will be ready with all the necessary equipment: the structures, the financing and the mission statement.

5.43 pm

**Lord Maxton (Lab):** My Lords, I am last but, I hope, not least. I thank the noble Lord, Lord Best, for the excellent way in which he introduced his report, and for the report itself, which is very good, although there are criticisms that I will make of it as we go along. For a start, the report does not mention the fact that the BBC ought to be established by an Act of Parliament, not by royal charter. That ought to have been in the report, and it should have been said loud and clear.

On the idea from the noble Lord, Lord Lester, for an independent board and so on, I would like to combine the two and suggest that we ought to look at an advise-and-consent procedure, whereby anyone who is named as an appointee should appear before a Select Committee of the House of Commons before being appointed. They would then be appointed thereafter. That is just a thought that I am throwing into the debate.

On the licence fee, I think that it is time that we looked at it. I am not saying that my noble friend Lord Desai's ideas are the right ones, but we certainly have to look at it. We have to remember that the licence fee was introduced, in the first place, for one radio in one house. It was then expanded to include one television and one radio in one house. Now, if you take just myself in my house in Hamilton as an example, we have eight different ways of watching television—we have two televisions, two computers and two phones, which we can watch television on; I even have a phone

in my car, which I emphasise is a Skoda—as well as having a radio in my car, and a radio in my son's car as well. We are all covered by a single licence fee. It cannot be right that we have one licence fee to cover so many different options.

I am standing here today with two devices in my pockets—one my mobile phone, one my mini iPad—on which I could watch television now. In fact, I could go further than that, because if I forget to record a programme at home in Hamilton, I can look it up on the Virgin app on my mobile and set it to record the programme. I can do that now, standing here—although I will not. That makes a nonsense of the whole idea of having a single licence fee to cover one house, which was the initial idea. It is regressive and it means that those who are poorer or older—not a lot older than me, maybe—and who have only one television and one radio in their house pay exactly the same as I pay for all the devices I have in my house, and that cannot be right.

My third point relates to a word that has not been mentioned in the whole of this debate—yet no other area has seen a bigger decline in BBC output than sport. It used to be the case that, if you wanted to watch or listen to a football match or a cricket match or whatever, you went to the BBC. The BBC cannot do that anymore. It appears that it cannot afford it, and maybe it cannot. However, there are a lot of other sports that are not professional which would welcome the BBC showing their sport on television. I am told that netball, for instance, which is now being shown on Sky, has become a very popular sport indeed. Sky shows it, young girls are encouraged to go and play netball, and as a result the number of people who participate in that sport has increased. Noble Lords may say, “What's this got to do with the BBC?”. The BBC's mission statement is to “inform, educate and entertain”. I accept that sport entertains, but it also educates. There is a lot of evidence that, if you show a sport on television, you raise the participation rate of that sport generally in the country, and as a result you increase the levels of health in the country. There is no question that playing sport is a way of ensuring that people are healthy. They may not necessarily lose a large amount of weight when doing sport but they are kept healthy.

I will also raise an issue, which again was not raised in the report, which is that the BBC has a wonderful, enormous archive, both as regards sport and a whole range of different programmes. Why is that archive not readily available to all of us? Why are we not able to watch programmes on the BBC website? We can watch some programmes which are on Gold, or whatever the channel is called these days, but a lot of them are not. That brings me back to sport, because a whole range of great sporting events are never shown on television but they are in the archive. The BBC promised years ago that it was going to digitalise its archive. It has failed to do so and it has failed to put it on its website.

I now turn to the major point. I accept the report, which I think is good, but I do not like the title, *Reith not Revolution*. I looked up Lord Reith on the internet—not on the BBC website but on Google. I googled his name and discovered what a nasty piece of goods he

[LORD MAXTON]

was. He was a thoroughly nasty man. He supported Hitler and Mussolini during the 1930s. He also disliked Winston Churchill. There may be a reason for that, but he was an enemy of Winston Churchill throughout the whole of his career. He also never watched television. He sometimes listened to the radio when he was director-general, but I do not think that he ever listened to it after that.

However, my main point relates to the words “not revolution”. The fact is that we are living through a revolution. We are in the middle of a technological revolution that goes much further than just the media, but the media are living through it as well. Since the 10-year period when I sat on the Select Committee under the chairmanship of the noble Lord, Lord Fowler, the world, even in those 10 years, has changed dramatically with the advent of the iPad, the iPhone and all these new devices and means of getting on to the internet. We have seen the way in which apps are now used on the internet. There is now a whole range of things that were not available in those days. So there is a revolution and it is going to continue. I can watch programmes on my television set via my iPad, and that will become easier and easier to do. How do we combat that?

I am a supporter of the BBC. I believe that it ought to continue and that it ought to be part and parcel of the revolution, but it will become a producer of programmes—and I am happy to pay a licence fee towards that—rather than a broadcaster in the sense that we now know it. People will not watch a television or listen to a radio; they will record programmes and watch them on catch-up or on the internet. They will do that in a variety of ways, but they will still be watching the BBC.

5.53 pm

**Baroness Bonham-Carter of Yarnbury (LD):** I am afraid that the noble Lord, Lord Maxton, is not the last.

I add my thanks to the noble Lord, Lord Best. I sit on the committee and he has been an admirable chair. Picking up on the all too accurate description of the toil and sweat given by the noble Lord, Lord Sherbourne, he has also been an admirably patient chair, and patience was needed. Patience was also exhibited by the team: the clerk, Anna Murphy, the policy analyst, Helena Peacock, the committee assistant, Rita Logan, and our special adviser, Jacque Hughes.

I sat on the Communications Committee with the noble Lord, Lord Maxton, and, not for the first time, I am going to disagree with him because I commend the noble Lord, Lord Hart, for what I think is an excellent title for our report: *Reith not Revolution*. That is what the British public—the licence fee payers—want. According to the BBC Trust, 85% of the public support the BBC’s main mission to inform, educate and entertain.

What I did not realise until today is that the noble Lord, Lord Hart, and I share an appreciation of *Ballet Shoes* as well as the BBC. What a rounded man he is.

We welcome the fact that the elusive White Paper will be published next month, and, as I understand it, the Minister has confirmed that the Government

intend to hold debates on that in both Houses. We are disappointed that she could not confirm that there will be approval Motions, but perhaps she can today.

The process of charter renewal has confirmed that the British public overwhelmingly support the BBC. Over 80% of people responding to the Green Paper believe that the BBC is effectively serving audiences, around 75% support the licence fee, and almost three-quarters believe that BBC services are truly distinctive and that it has a positive wider impact on the market. As the summary of responses document says, it was one of the largest ever received to a government consultation, highlighting that the future of the BBC is an important issue to a great many people.

Despite this, the Secretary of State seemed to suggest that the involvement of the organisation 38 Degrees has somehow distorted the responses. Replying to an Oral Question in January, he said:

“That does not mean they are not valid expressions of opinion; it just means that perhaps they are not wholly representative of public opinion at large”. —[*Official Report*, Commons, 21/1/16; col. 1536.]

No surprise, then, that a recent YouGov poll found that 53% of voters do not trust the Government’s intentions where the BBC is concerned, rising to 62% among the over-60s. What is clear is that despite what you read in certain newspapers, and despite such reservations expressed by the Secretary of State, public opinion at large does support the BBC. It is clear that across Britain people use the BBC’s services every day and very happily, because it serves them well. So what fuels the negativity—something that the noble Lord, Lord Bragg, questioned? We seem, as Armando Iannucci said in his MacTaggart Lecture, to be in some artificially concocted zone of outrage.

The public largely support the licence fee, and why not? At 40p per day, the BBC is tremendous value for the consumer, but it is also great for the UK economy, generating the equivalent of £2 for every £1 of licence fee—in other words, it doubles its money and is a crucial pillar of our very successful creative economy. Sir Peter Bazalgette, chair of Arts Council England, when giving evidence to the committee, said that:

“One of the justifications for the intervention in the marketplace that is the BBC is the value of the creative industries democratically, culturally, socially and economically”.

What we do not support, along with so many other speakers today, is how the licence fee is set. As our report says, a new process must be established to set the level of our licence fee in a transparent way. The covert way in which the Chancellor negotiated the BBC taking on the cost of funding free TV licences for the over-75s was inappropriate, to say the least. Will the Minister agree with so many of the participants in this debate that the process in future should be transparent and, as our report says, that the level should be recommended by the new regulatory body?

As was pointed out, our report did not address governance, but we on these Benches agree with Sir David Clementi’s recommendation that a strong unitary BBC board matched by a strong external regulator is the right model for running and overseeing the BBC. However—I am going to repeat what everyone has said, but I have to say it too—it is absolutely vital that the Government ensure the appointment of a genuinely

independent chair and non-executive directors. The Secretary of State's plan to give the Government power to appoint most members of the new board is not acceptable. The BBC is a public broadcaster, not a state broadcaster. It must be independent to do its job, and must be seen to be independent. Does the Minister agree that there should be a transparent and independent process for appointing a BBC unitary board, starting with the Commissioner for Public Appointments, and then a wholly independent appointments panel, as my noble friend Lord Lester said? Also on independence, does she agree, as our report has recommended, that the next BBC royal charter should last for 11 years so as to decouple the charter review process from the general election cycle, and thereafter that charters should last for 10 years? The noble Baroness, Lady Bakewell, with her experience, pointed to how this would provide stability for the BBC.

Another recently published report on the BBC was titled, *An Assessment of Market Impact and Distinctiveness*. On market impact, crowding out, there seems to be a particular concern in the area of online news. As the noble Lord, Lord Fowler, said, BBC news has a higher level of trust than any other news source. In what Sir Peter Bazalgette referred to in evidence as,

"the Klondike mayhem of the internet world",

it is surely more important than ever that it has an online presence. There was a fascinating "Start the Week" on Radio 4 this Monday about journalism in the digital age and the struggle to sort out the abundance of information and misinformation—I think that this addresses the point made by the noble Lord, Lord Maxton—and how new technology is increasingly manipulated in certain parts of the world by those who exert power. Images being circulated in Syrian refugee camps, for example, of Sunnis decapitating Shias were actually footage of members of a Latin American drug cartel murdering their rivals. I quote Sir Peter again when he said in evidence that,

"yes, it—

that is, the BBC—

"does compete and it is a market intervention, but if it is to have an impartial and independent news and information service for the country—if we believe in that—it has to have an online iteration".

Our concern about BBC news as expressed in the report—the noble Lord, Lord Best, referred to this—is different: the downward trend in investment in current affairs, noted by Ofcom in the last review of PSB. It is vital that the BBC maintain both quality and quantity in this genre.

Then, there is the matter of a word very much in the ether—distinctiveness, which I think has somehow replaced scale and scope. The Oliver and Ohlbaum report called in particular for BBC1 to be more distinctive, echoed by the Secretary of State, which is odd considering the channel comes out top in Ofcom's distinctiveness measure. There is a Trojan horse element to this request, alluded to by the noble Lord, Lord Fowler, and the noble Baroness, Lady Bakewell, and identified by the actor and writer, David Mitchell, who said:

"An overt challenge to the corporation's existence remains politically unfeasible—the public would miss it too much. The first step, then, is to turn it into something that fewer people would miss—and eventually, over time, to make it so distinctive that hardly anyone likes it at all".

As many have said, there are of course areas where the BBC's choices and behaviour have been far from perfect. The "officer class", as the noble Lord, Lord Hall, refers to them, has on occasion been out of step, and there are still too many layers of them, as well as bureaucracy, referred to so eloquently by the noble Lord, Lord Best. We therefore welcome the appointment of one head of TV channels, Charlotte Moore, and her very plain pledge that:

"Life's going to be simpler".

The BBC must learn to understand the true definition of partnership and to do so, as we say in our report, "in an open and generous manner".

Here, I echo the noble Baronesses, Lady Benjamin and Lady Healy, the noble Lords, Lord Macdonald and Lord Hart, and the right reverend Prelate the Bishop of Chelmsford. If the BBC is properly to reflect the country, it has to address the problem of a lack of diversity. We need diversity at production and management level, as well as on screen. As Idris Elba said here in Parliament, there is a disconnect between people who make TV and people who watch TV. Charlotte Moore has personally committed to champion and drive diversity, but this must be delivered on, because in the past, as so many of your Lordships have said, there have been too many commitments and too little action.

I end as I did in the last debate, with the words of Terry Wogan, because I feel that their pertinence bears repeating. My first job at the BBC was working for him. He was a great man who certainly knew how to entertain, but also how to inform and educate. I wonder, would he be distinct enough if seeking a job under the world of Whittingdale? He said of the BBC:

"The BBC is the greatest broadcaster in the world. It is the standard that everyone measures themselves against. If we lose the BBC it won't be quite as bad as losing the Royal family but an integral part of this country will have gone".

Before then, many of us here will be marching with the noble Lord, Lord Puttnam, because once the BBC has gone, it is never coming back.

6.05 pm

**Lord Tunnicliffe (Lab):** My Lords, this has been a good debate and we owe a great deal to the noble Lord, Lord Best, and the Communications Committee for their excellent choice for this topic. Anticipating more opportunities to debate the wider issue in the future, I will restrict myself mainly to comments arising from the Communications Committee's proposals, specifically how the BBC is held to account, and its priorities, and on the issue of distinctiveness before briefly addressing the process of the licence fee and the timing of the charter renewal.

We on this side of the House do not claim that the BBC is perfect: we are critical friends. But what we will do is fight hard against a politically motivated attack on the BBC. In some senses, the BBC is the quintessential public good whose value is really only quantifiable if it were to disappear or be harmed. However, the question that must be settled before any others is: what is the BBC for? As the committee said, the Reithian principles to inform, educate and entertain are widely understood and recognised as forming the BBC mission. We agree, and believe that they should remain embedded in the BBC royal charter.

[LORD TUNNICLIFFE]

We agree with the committee that it is time to sort out the regulatory and accountability problems that have hampered rather than helped the BBC since 2007. The structures put in place at that time were considered appropriate, but we believe that a leaner and more effective structure should be introduced under the next royal charter. We also think that Ofcom should be the independent regulator of the BBC. It must be given not only the responsibilities appropriate for that role, independent of government, but the staff and other resources that it needs to fulfil it.

The BBC board of governors should be reconstituted, with a majority of independent, external members and an independent chair. It should deliver the Reithian principles across all activities using what the committee describes as,

“a simpler, more transparent framework that both encourages creativity and allows all stakeholders to analyse the BBC’s performance”.

The new unitary board has not only to be fully independent of government, it must be seen to be so. There is significant concern over the suggestion that the DCMS should take the power to appoint all non-executive members of the BBC’s new unitary board. We therefore agree with the committee that, to strengthen the BBC’s independence, the new charter should set out a clear and transparent process for the appointment of members of the board at arm’s length from the Government.

We also need to take account of the different nations in the United Kingdom and that they have appropriate levels of engagement with BBC management and governors. That needs to be carefully considered. On the one hand, a set of national committees may be required, but it is important not only that the BBC management embraces such a structure and devolves real power but that the committees themselves have real expertise and are not captured by local political or operational interests. It will be for the new unitary board, independent of government, to set the objectives for the BBC, and it is difficult to see why the Government would want to become involved in specifying in the charter particular genres or indeed individual programmes which should be included in, or excluded from, output delivered. We hope that the Government will steer clear of this issue.

Ofcom already carries out a periodic review of public service broadcasting. It has drawn attention to the decrease in PSB spend in the commercial sector, hence it may be appropriate for the licences which form part of the charter renewal process to reflect the committee’s concern that important genres which make up our understanding of PSB should be given priority in the next charter period. These might include current affairs, children’s programming and the important role the BBC plays in stimulating creativity and cultural excellence. This it does through its own content and through its impact on the wider industry, particularly in the fields of music and drama, and through training and developing talent. In this context, the committee’s comment that it had heard from a number of witnesses who felt that the BBC did not reflect their lives, particularly the panel of young people, those with a disability and those within the BAME community, is of concern and should be addressed with vigour.

The Secretary of State has on several occasions suggested that the BBC should be restricted to “distinctive” programmes, although he has not spelled out what that means, other than to hint that it means that the BBC should not produce programmes offered by the other broadcasters. Charlotte Moore, the controller of BBC TV channels and iPlayer, addressed this issue on Tuesday this week in a speech she gave to the Voice of the Listener and Viewer. She put up a very robust defence of the distinctiveness of BBC programmes in a much richer and more textured sense than used to date by the Secretary of State. I think it is important that I should summarise the main arguments. She said that distinctiveness carries with it a promise of quality—a promise that all BBC programmes across all genres should aspire to be the best in class. Distinctiveness means ambition, and this in turn derives from the unique way the BBC is funded. It allows the BBC the chance to give the country’s best creative talent the freedom to pursue its creative ideas, back it to take risks, push boundaries and try new things; to innovate, to challenge and to surprise. Distinctive means range. It means accepting and celebrating the fact that the BBC has a duty to serve everyone, whoever they are and wherever they come from. While that means that the BBC has to provide programmes across a broad range of genres, it also means that there is an aim to make the good popular and the popular good. What a weird world we would live in if it were required of the BBC that, as soon as one of its programmes becomes popular, it has to stop making it. Distinctive means home grown. The BBC’s priority is a high level of first-run, UK-originated content across the whole of the BBC, and it is its goal to take those great British programmes to the world. Importantly, this allows the BBC to reinvest the proceeds back into more home-grown hits and the next generation of home-grown talent.

I think that everyone in this debate today agrees that there need to be changes in the way the licence fee is set. The committee made a good start on how a better process might be conducted, and we certainly think that the key to a new process going forward must be transparency. On the timing of the charter review, there is a growing consensus that the review process should be decoupled from the general election cycle resulting from the Fixed-term Parliaments Act 2011, and we agree. We also agree that the impartiality and independence of the BBC could be threatened by a short charter period. Eleven years takes us to 2018, which seems a sensible and pragmatic way of dealing with both points.

The BBC is the cornerstone of the creative industries in this country, which are the powerhouse of our future prosperity. They represent one in 11 jobs, bring in £76 billion a year, enhance our reputation overseas, are intrinsic to our whole added-value economy and have seen growth year on year well ahead of the rest of the economy. But the truth is that the British creative industries cohere as a balanced ecology with the BBC at its heart. Only a madman would take an axe to the tallest tree in the middle of a forest and not expect to do serious harm to the whole of the forest. The BBC does not harm the wider industry; it fosters it and creates a competition for quality.

Its £3.7 billion from the licence fee is the largest and most productive investment we make in the arts. We should support it.

The history of broadcasting in this country is rightly praised for what it has achieved, bringing on stream over time both state-funded and commercial services that compete for audiences, but not for funding. Let us hope that the White Paper next month builds on where we are and allows the BBC to make progress in its mission to inform, educate and entertain.

This has been an interesting debate. Twenty-three Peers have spoken to this point. The extent of the consensus on the central theme of the values and shape of the BBC is amazing. It has been a calm and thoughtful debate, but there has been an underlying passion. If the Government plan to damage, restrict or interfere with the BBC, or challenge its unique character, they will release a torrent of opposition, not just from these Benches, but from all round the House. That opposition will spread throughout the country. I have only one request of the Minister: that she communicates the depth and passion of the debate not just to the DCMS, but forcefully to the whole Government. If the Government do not listen they will create a storm that they will sorely regret.

6.17 pm

**The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con):** My Lords, I am very grateful to the noble Lord, Lord Best, for introducing this very timely debate. I join the House in congratulating him, the entire Communications Committee and their staff on their excellent report. After a busy week it has been an enjoyable, interesting and important afternoon. I will ensure a further opportunity for a debate on the charter this year. I am in discussion with the usual channels about the timing and the detail.

The report endorses the Reithian principles that the BBC should be about information, education and entertainment. The committee proposes adding an extra dimension with the fourth word “reflect” to commit the BBC to reflecting,

“the different opinions, lifestyles, beliefs and values of the nations, regions and diverse communities of the UK”.

This has been endorsed by the right reverend Prelate the Bishop of Chelmsford, the noble Baroness, Lady Bakewell, and by inference by the noble Lord, Lord Bragg. The Government agree that the BBC must serve every corner and community of the country, and next month’s White Paper will elaborate on that.

As a former businesswoman I was very taken by the eloquent deconstruction of the panoply of missions, activities and objectives by my noble friend Lord Sherbourne of Didsbury. As a gardener, I know that heavy garden shears do wonders to help the light in. The Committee’s report rightly advocates greater transparency and a simpler accountability framework for the BBC. These are themes that we have heard throughout the charter review and they are extremely important.

I am glad that, once again, the House has shown its full-throated commitment to the BBC. The Government share this commitment. The BBC is the finest broadcaster in the world. It is an indispensable part of our national

life and makes an enormous contribution to our standing in the world. The 192,000 responses to the culture department’s consultation and countless surveys demonstrate the fact that the public care intensely about the BBC. I agree with the noble Baroness, Lady Bonham-Carter of Yarnbury, about that and, indeed, about its huge contribution to our creative industries.

The proof of the pudding, of course, is always in the eating, and some 97% of Britons use the BBC’s services on a weekly basis, for an average of more than 18 hours. I enjoyed the way that the noble Lord, Lord Hart of Chilton, took us on a walk down memory lane. I was, of course, another fan of “Ballet Shoes”. Programmes such as “The Night Manager”, “The Great British Bake Off”, “Sherlock”, “Doctor Who”, the new sports that the noble Lord, Lord Maxton, spoke of and “University Challenge” all bring great delight to millions. And, of course, BBC radio should not be forgotten because it hits commanding heights as well. What would we do without “You and Yours” and “The Archers”? Both show how the BBC provides insightful, popular programming day after day, week after week. All inform, educate or entertain. Like the noble Lord, Lord Foster, I am a critical friend.

I am always interested in global perspectives, because of the way the world is changing and because of the interdependencies which were mentioned by the noble Lord, Lord Judd. BBC international services now reach 308 million people across the globe every week. This is higher than the weekly reach of the international group of broadcasters which includes Voice of America, China Central TV and Al Jazeera.

The BBC World Service is consistently recognised as the most accurate and highest-quality news outlet on earth and is also a much-needed corrective to state-run broadcasters that are controlled by despots. The noble Lord, Lord Berkeley of Knighton, hinted at that. It reached 210 million people in 2014-15. In the words of the noble Lord, Lord Best, and my noble friend Lord Selsdon, it is an extraordinary source of soft power. It helps—even more importantly, perhaps—to ensure the continued prominence of the language of Shakespeare in this year of his 400th anniversary. BBC global news operates in more than 170 countries and was accessed by 283 million people in 2014-15.

It is because the Government recognise how much the BBC matters that we want it to be as efficient and effective as possible. At the time of the last charter review, most households had access to five television channels. Now the BBC has eight channels and one online channel and the media landscape has changed beyond all recognition.

The BBC’s status as a pre-eminent player, both domestically and internationally, is not in doubt. Far from wishing to threaten this status, the Government want to solidify it.

One of the fundamental issues that the White Paper must address is the constitutional basis of the BBC. Some, including my noble friend Lord Fowler, and the noble Lord, Lord Lester, take the view that the royal charter affords too much power to the Government and that the BBC should be established under statute. As I said in the House earlier in the week, the charter has been the basis of the BBC for nearly 90 years,

[BARONESS NEVILLE-ROLFE]

ensuring, in my view, the BBC's independence. We have consulted on the way the BBC is enshrined and no strong argument has come through in that consultation to change the approach of a charter which has served the BBC well over the past century. That included the Communication Committee's own report.

Moreover, the BBC Trust has set out concerns about a statutory basis. Far from protecting the BBC, it would mean that the BBC could be subject to amendment, or at least the threat of it, at any time. I agree with the view expressed by my noble friend Lord Sherbourne, who is very experienced, that a statutory approach could in practice be more political and less independent. The noble Lord, Lord Lester, kindly described an array of mechanisms by which legislation that he is hoping to bring forward might secure the independence of the BBC. I share the view that independence is central to the BBC's future. However, as the noble Lord, Lord Williams, suggested, there are many ways in which the charter may achieve the same effect of securing independence. As someone who has a passion for good government, I am not convinced that legislation is necessarily the way to deliver independence or the best possible outcome for the BBC.

I assure the House that this Administration takes editorial independence extremely seriously. The BBC must have the freedom and independence to take creative risks so that it can inform, educate and entertain. It must be free to be robust and critical in holding power to account through its hard-hitting journalism. The Government have been clear throughout the charter review that independence is not negotiable, and will set out their plans in the White Paper shortly. Of course, the BBC is in receipt of nearly £4 billion—£3.7 billion—of public money, as was said by the noble Lord, Lord Desai. It also has a very significant impact on the commercial sector, although it is also important to acknowledge—and I think we should do so—that the BBC spends more than a billion pounds a year in the external creative economy, which I think is absolutely vital.

The White Paper, which we plan to release in May with a view to the new charter being in place for the beginning of next year, will strike a balance between giving the BBC the space and independence it needs to thrive and ensuring that it is efficient and fit for purpose in a much-changed media landscape. It is for this reason that we do not agree with the committee's suggestion that the licence fee should be set by a regulator. To respond to the noble Lord, Lord Young of Norwood Green, the licence fee is essentially a tax and should therefore be government-led. The funding of free licences for the over-75s was agreed between the Government and the BBC. As a public institution in receipt of £3.7 billion a year, it is right that it should play some part in balancing the books.

As Ofcom has noted, some areas of public service broadcasting, such as children's TV, are at risk, and there have been calls from some quarters to allow part of the licence fee—or some other form of public funding—to be made available for public service broadcasting to organisations other than the BBC. That is the contestable funding model. This could

introduce greater competition and allow more creative risks to be taken. We have heard these calls and the concerns articulated so clearly by the noble Baroness, Lady Benjamin, this evening. I share her passion for children's television, which she has done so much to advance. That model is under discussion and our plans will be set out in the White Paper.

The Communications Committee has also called for future BBC charters to last for 11 years in order to decouple them from the electoral cycle and avoid the review acting as a sword of Damocles, as I think the noble Lord, Lord Best, said. This is an interesting idea, and we are looking at the length of future charters, recognising the need for stability within the fast-changing industry, which several noble Lords have mentioned.

There is widespread acceptance, including from the BBC, that governance has not worked properly. The Jimmy Savile outrage, the excessive payouts mentioned in the debate, the complaints procedure and other failings have naturally caused consternation and concern. The opacity and complexity of the current governance system make it far harder to find out what has gone wrong, and sort it out, than should be the case for such a vitally important and influential institution.

Noble Lords have made it clear that they feel strongly that BBC appointments should be wholly independent of government. The Government currently appoint, through a public appointments process, all members of the BBC Trust. As has been noted, all members of the executive board are appointed by the BBC Trust itself. The independent report published by Sir David Clementi recommended a unitary board for the BBC and found that the Government have a legitimate role in appointments. We are looking at this issue very carefully and will of course set out our proposals in the White Paper.

**Lord Fowler:** So far, my noble friend has said that there is basically going to be no change—certainly not to the government control of the charter. But when she and the Government come to make their proposals in the White Paper, is it their intention that they will be put to the vote in the House of Commons and House of Lords?

**Baroness Neville-Rolfe:** As I said right at the beginning, the detail and nature of the parliamentary scrutiny of the charter is a matter being considered by the usual channels.

**Lord Lester of Herne Hill:** Does the Minister appreciate that everything that she is saying makes me more and more depressed and convinced that I shall have to introduce a Bill? She has not yet made a single concession to the point that, in a parliamentary democracy, it should not be for the Government wearing the robes of the monarch to make all these decisions; it should be Parliament with external criteria. If the Minister is able to tell the House, or to tell us in a White Paper, that the Government accept the kind of criteria that I have tried to describe, I would not dream of pursuing a Bill, because it could be achieved in other ways. But she has said nothing so far to cheer me up.

**Baroness Neville-Rolfe:** I cannot anticipate what the White Paper will say. I have tried, partly by encouraging the usual channels, to have a debate today and to make it clear that there will be a debate on the charter to ensure that there is a process going forward.

**Lord Puttnam:** I ask a quick but quite important question. I listened very carefully to the remarks by the noble Lord, Lord Sherbourne—there are of course countervailing arguments one way or another for the charter, as against a legislative solution. I put to the Minister that, as we watch the retreat from the possibility of privatisation of Channel 4, I have no doubt whatsoever that this retreat is occasioned by the fact that it would require Parliament's agreement and that the Government are fully aware that they would never get it. I would suggest in fact that the security of Channel 4 is created by its legislative status—why would that not be true of the BBC?

**Baroness Neville-Rolfe:** No decisions have been taken on Channel 4. Obviously I hear what the noble Lord has said; equally, there are arguments on the other side, which I will not weary the House with repeating.

The Committee's report says that there should be no reduction in the scale and scope of the BBC and that it should not restrict itself to content that is not provided commercially. The Government does not believe that "public service" simply means "minority interest". The BBC is, as we have all agreed, able to take creative risks that other broadcasters cannot and we certainly want this to continue. It includes the important roles of supporting local democracy and reflecting diversity, as noted by the noble Lord, Lord Puttnam, and the right reverend Prelate the Bishop of Chelmsford.

Several people spoke very helpfully on the issue of diversity—the noble Baroness, Lady Healy, the noble Lord, Lord Macdonald of Tradeston, and the noble Baroness, Lady Benjamin. The BBC is for everyone and must serve and represent all audiences. The totemic programmes that were mentioned are very important and the new BBC1 drama "Undercover" is another one. Noble Lords can expect to see diversity addressed in the White Paper. Ed Vaizey recently responded to an important debate on that subject in another place and I will pass on the kind comments from noble Lords about his role as a champion of diversity. It is not, in conclusion, for the Government to tell the BBC what programmes it should make, but diversity is of course important.

I also noted with great interest the comments of the right reverend Prelate the Bishop of Chelmsford in relation to religious programming. Programming about faith and religion has a vital role and, I believe, is an important part of the BBC's distinctiveness. The BBC itself has acknowledged the importance of distinctiveness.

The BBC is of course a public service and, as a former public servant, I know that it is essential that the BBC delivers value for money for the licence fee payer. The public need to be assured that it is well-managed and that every pound is spent well.

The BBC's commercial activities are an issue that we are considering as part of the charter review and, to reassure noble Lords, we certainly do not believe

that the BBC should refrain at all from commercial activity. This is another issue that we will address in the White Paper.

I am grateful to the noble Lord, Lord Best, and to all colleagues for their contributions to an invigorating, if at times challenging, debate. The Communications Committee, along with the whole House, has made a big contribution to the charter review process. Today's debate adds richly to the deliberations by the Government in the coming weeks and months.

In their concluding comments, the noble Lord, Lord Tunnicliffe, and the noble Baroness, Lady Bonham-Carter, focused on a range of issues that have been raised today in relation to independence and transparency. I can only say that the Government recognise the importance of an independent BBC and will be setting out their plans to that end in the White Paper.

The BBC—this is common ground—matters a great deal to us all. It is hugely admired around the world and something of which our country can be very proud. The Government want it to be the very best that it can be. The purpose of the charter review and next month's White Paper is to ensure that it is fit for purpose, able to thrive and serves each and every licence payer and their families outstandingly well.

6.37 pm

**Lord Best:** My Lords, six hours on, I am deeply grateful to everybody for their contributions. I feel privileged to have been part of a succession of contributions from some of the country's wisest and most experienced politicians and public servants, along with some of our most senior lawyers and most successful and well-known broadcasters, with their unlimited knowledge of the BBC. Together, we have created a collection of essays that will probably be the standard text for students, politicians and policymakers for years to come. We have covered the BBC's successes: from the Proms and "War and Peace" to "The Great British Bake Off", from "Panorama" on the Panama papers to murder in "The Archers", and from the BBC's Korean service to Larry the Lamb. Almost unanimously, your Lordships have supported and endorsed the conclusions and recommendations of your Communications Committee, for which I am deeply grateful.

It took us until speakers 21 and 22 for the noble Lords, Lord Desai and Lord Maxton, to add a little note of dissent. I will make one comment on the remarks they made. We felt that if the licence fee is to be replaced by a household levy, which may be a better way of collecting the resources needed, that should follow the same transparent and open process in being set as we were recommending for the licence fee itself. It might be a better system but we thought that the process should be the same.

The debate has drawn out some continuing unease that the new unitary board, if that is what emerges from the White Paper, will not be truly independent if the non-executive members are seen as creatures of the Secretary of State, and we will need to watch that very carefully. I am grateful to the Minister for reassuring us to some extent on that, and we await our debate on the White Paper, when we will be able to have a go at that.

[LORD BEST]

We noted also that the report of the noble Lord, Lord Puttnam, is coming out in June. The noble Lord, Lord Lester, may well be bringing before us a Private Member's Bill to put the BBC on a statutory footing and end what he regards as a ministerial charter. The noble Baroness, Lady Benjamin, reminded us that a digital economy Bill is also coming, and that is an opportunity for us to comment further on some of these matters. But the White Paper debate itself will be significant, and we look forward to that.

The House has sent out a very clear message to any politician not to meddle or interfere with, micromanage or diminish the BBC. Long may the BBC reflect all the diversity of our nation as it informs, educates and, indeed, entertains us so brilliantly. I beg to move.

*Motion agreed.*

*House adjourned at 6.41 pm.*



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