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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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House of Lords

Tuesday 3 May 2016

2.30 pm

Prayers—read by the Lord Bishop of Peterborough.

Schools: Academies

Question

2.36 pm

Asked by ***Lord Watson of Invergowrie***

To ask Her Majesty's Government whether there is any evidence that academies automatically perform better than local authority maintained schools, particularly those that are already categorised as high-performing.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, schools that have chosen to convert to academies—that is, those that are high-performing—are obtaining better results, improving their results and more likely to be rated good or outstanding by Ofsted. Secondary converter academies are performing seven percentage points above the national average and continue to improve. Primary converter academies improved by one percentage point in 2015, and those open for two years or more by four percentage points since either 2012 or their last results as an LA-maintained school.

Lord Watson of Invergowrie (Lab): My Lords, I thank the Minister for that reply. Academy status is appropriate for some schools, but there is simply no evidence that mere conversion in itself guarantees success, as the Education Select Committee reported last year. What counts is hard work and a clear plan for improvement, both of which can be achieved without conversion. The Government need to accept that they have failed to win the argument on mass academisation. They have, however, achieved a remarkable feat: since the publication of the White Paper we have seen the emergence of a broad alliance involving parents, head teachers, trade unions, local government leaders, both Labour and Conservative, and MPs, more of a few of whom are Conservatives—all implacably opposed to forced academisation. Can the Minister tell the House who, apart from existing academy chains, has come out in favour of the White Paper's proposals?

Lord Nash: A great many people have come out in favour of the White Paper's proposals. I am glad the noble Lord got to a question eventually; I think I answered his original point in my first Answer. There has been lot of international research. The Sutton Trust has told us that sponsored academies are doing better at closing the gap. Ofsted has said that attainment in sponsored academies has increased over time, with the longest-standing academies having the strongest performance. The NFER has told us that the attainment gap between pupils eligible for FSM and those not is narrower in converter academies than in similar maintained schools.

Lord Grocott (Lab): Has the Minister seen the report of the National Audit Office and its serious criticisms of the accounts of the Department for Education in respect of academies, and the words of the head of the National Audit Office, who said:

"Providing Parliament with a clear view of academy trusts' spending is a vital part of the Department for Education's work—yet it is failing to do this"?

Should the Minister and his department not put their own house in order before they have a blanket development of new academies?

Lord Nash: I have seen that report. The issue is purely technical, based on different year-ends for schools and for the department, which will not be an issue this year because of methodology. I also saw the Audit Commission's 2014 report, which found 200 cases of fraud in local authority-maintained schools in the previous year. Given that I walked into the Department for Education in 2010 to find a department completely financially out of control after 13 years of Labour government, I do not take lessons from the party opposite.

Lord Lexden (Con): My Lords, there has been considerable concern about poorly performing primary schools. How many have been taken over by academy sponsors and with what results?

Lord Nash: There are 960 primary sponsored academies open as of April this year, many of which previously suffered from chronic underperformance. In 2015, the percentage of pupils in sponsored primary academies achieving the expected level in reading, writing and maths at the end of key stage 2 rose by four percentage points to 71%. Results in primary sponsored academies open for two years have improved on average by 10 percentage points since opening—more than double the improvement in local authority-maintained schools over the same period.

Baroness Hayman (CB): My Lords, I listened carefully to the noble Lord's answer. I thought that the noble Lord, Lord Watson, asked how many organisations had come out in favour of every school being forced to become an academy. The Minister made some comments on academies in general but I am not sure he answered that question.

Lord Nash: I do not think I did, and I do not think PR is actually my job.

Noble Lords: Oh!

Lord Nash: We make absolutely no apology for our belief in academies and multi-academy trusts, because of the substantial benefits of academy freedoms and working together in close families of schools. If noble Lords were to spend any time meeting the people who run academies or multi-academy trusts and saw the substantial benefits—for instance, for their staff and pupils—they would understand.

Baroness Farrington of Ribbleton (Lab): My Lords, will the Minister explain to the House when answering a direct question became a matter of PR? Will he answer the concern of local authority and church

[Baroness Farrington of Ribbleton]
voluntary-aided schools in counties such as Lancashire? Will he say that no small primary schools will be closed on financial grounds in his programme of academisation?

Lord Nash: I will give the noble Baroness an independent view from the chief inspector, who believes that every school should be an academy. As for local authorities, of course there are a lot of high-performing local authorities and we very much hope that people there will continue to be involved, by spinning out and setting up academy trusts. As I said in an Answer last week, no strong schools will close as a result of the policies in the White Paper. Indeed, we think that many rural schools will be much stronger working together in multi-academy trusts. There are very strict rules about the closure of small and rural schools, and I expect that all such considerations will continue in the future in relation to all rural schools.

Baroness Howarth of Breckland (CB): My Lords, I have a slightly different angle on this Question. Where there is a playgroup that wishes to join a primary school that is an academy, because it wants to get that continuous stream of education through the playgroup, the primary school and into the secondary schools, what kind of help do the Government give to that playgroup?

Lord Nash: We are now seeing quite a lot of primary academies opening nurseries. The issue of playgroups and children's centres is one we are considering and I would be happy to discuss it further with the noble Baroness outside the House.

Local Government Pension Scheme

Question

2.43 pm

Asked by ***Lord Whitty***

To ask Her Majesty's Government whether they intend to introduce any safeguards as part of their reform of the local government pension scheme (LGPS) in order to ensure that British wealth funds conduct their investment strategies solely in the interest of their LGPS members.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, the 90 pension fund authorities in England and Wales will continue to be responsible for determining their own investment strategy and for making strategic asset allocation decisions. Those responsible for making investment decisions must take proper investment advice and comply with their legal duty to act in the best long-term interests of scheme beneficiaries.

Lord Whitty (Lab): My Lords, I thank the Minister for that Answer. However, does she understand that whatever the merits of the pooling and merging system between local authority funds, there is anxiety because of the way that the Government have designated them as British wealth assets, and a fear that they may be advised to move in directions which reflect the priorities of the Treasury rather than those of the members? In particular, why do she and the Government not accept the advice of the LGA and the Law Commission that this provision should be written specifically into the new regulations covering the combined schemes, particularly the reference to Article 18 of the IORP directive, which underlines the need to manage these schemes, and their investments, in the interests of their members and nobody else?

Baroness Williams of Trafford: My Lords, the funds have a duty to manage the schemes for their scheme beneficiaries—that is their first duty. I understand why the noble Lord has concerns at the pool level. However, the strategic direction will be set at the funding level and carried out at the pool level.

Baroness Janke (LD): My Lords, will the wealth funds have the opportunity to prioritise investment outside London, where it is much needed? Will she also comment on nation-wide representation on the governing boards of wealth funds?

Baroness Williams of Trafford: My Lords, schemes should make decisions in the best interests of the beneficiaries, so wherever those decisions are best made is where those schemes should direct their strategies. As the noble Baroness will know, beneficiaries are now represented on those boards at local level. Because those boards represent the beneficiaries and set the strategic direction, the scheme beneficiaries are protected all the way along.

Lord Lea of Crondall (Lab): My Lords, the Norwegian sovereign wealth fund, which is worth £850 billion, clearly believes that it has a role in looking at such issues as the role of remuneration committees in enterprises. Does the noble Baroness agree that large wealth funds have a number of responsibilities in society?

Baroness Williams of Trafford: I certainly agree with the noble Lord. In terms of pooling pension funds, we now have a huge opportunity in this country to do what other countries do so successfully, particularly Canada—namely, pool resources to invest in infrastructure.

Baroness Warsi (Con): My Lords, will my noble friend explain whether the proposed changes result from cost-saving measures to ensure proper investment or a response to our obligations under a European directive?

Baroness Williams of Trafford: My noble friend raises an important point because pooling certainly has the potential to make the management of our pension funds more efficient. However, we also have to look at how we can maximise some of the returns for beneficiaries.

Lord Watts (Lab): My Lords, can the Minister categorically deny that the Treasury will try to influence these decisions? That is the concern. What will be the Treasury's role in investment strategy?

Baroness Williams of Trafford: I can categorically say that the investment strategy will be made at the fund level, which is the local level. As far as I know, the Treasury has no will to start meddling in local decisions as regards directing at pool level. However, the Secretary of State may intervene—that was one of the concerns—where funds have been managed poorly.

Sport: Governance Standards

Question

2.49 pm

Asked by ***Lord Triesman***

To ask Her Majesty's Government, in the light of the current and long-term crises in the governance of a number of sports, including allegations of corruption and doping, whether they intend to introduce legislation to establish standards by which sports governing bodies should conduct their affairs in order to restore public confidence in the fairness and efficacy of competition.

The Earl of Courtown (Con): My Lords, Her Majesty's Government have been concerned by recent sporting scandals. We are currently reviewing existing anti-doping legislation which will assess whether stronger criminal sanctions are necessary. The findings of the independent review into UK Anti-Doping's processes, following recent *Sunday Times* allegations, will be considered as part of the process. Sports bodies must adhere to the highest standards of governance and the Government will introduce a new governance code for sport in the UK later this year.

Lord Triesman (Lab): My Lords, I thank the Minister for that Answer. As an avid Spurs supporter, I congratulate Leicester City on a quite remarkable achievement—

Noble Lords: Hear, hear.

Lord Triesman: —not entirely through gritted teeth. I mean it. Every sports fan wants to know that the fight is not fixed; that the athletes are competing with one another and not with some chemistry lab; and that when you bid for international tournaments the decision will be taken not on the basis of bribery but on merit. Governing bodies have promised ethical codes, action and transparency for decades and the truth is that they have never delivered. They always say they will do it and in fact they never do. They have probably drunk in the last chance saloon more times than any of the rest of us. Will the Government draw the only realistic conclusion in the forthcoming proposed legislation and set out the ground rules for acceptable conduct in law? Will the sports governing bodies have their legitimacy affirmed only if they agree to follow these rules, which the rest of us are expected to?

The Earl of Courtown: My Lords, the noble Lord, Lord Triesman, is correct in so much of what he says. The level playing field is so important for all sports and competing at all levels—not just elite level but grass-roots level. The noble Lord refers to the review, which will take all these matters into account with regard to criminalisation before it reports. It will report only once it is ready and the job is done properly. The governance code is part of the sport strategy, which will look at match-fixing and anti-doping, for example, and will cover a wide range of matters.

Lord Higgins (Con): My Lords, does my noble friend agree that muscles built up by taking drugs enhance performance for an indefinite period, and short-term bans on cheats are therefore not effective? We must move towards bans for life, which ought not to be inhibited by considerations of human rights law, employment law or whatever.

The Earl of Courtown: My Lords, my noble friend is right that cheating in sport is desperately unfair on everybody else who takes part. Under the existing legislation—the Misuse of Drugs Act and the Medicines Act—the maximum sentence is 14 years, including for those who supply the drugs. The new code, consistent with WADA, which came into force in January 2015, gives an automatic ban of four years to cheats and support staff. Of course, once somebody is found guilty, all funding stops.

Lord Addington (LD): My Lords, will the Government ensure that gambling cheating is brought up to the same level of intensity as doping and everything else? Will they also make sure that the athlete is made aware that if they take a bribe, they could be controlled for life and lose their livelihood?

The Earl of Courtown: Match-fixing is a problem that should be taken in the same context as athletes gaining an unfair advantage through performance-enhancing drugs. The sport strategy is looking at match-fixing as well as doping. We must also remember that my right honourable friend the Prime Minister is holding the Anti-Corruption Summit next week and sport will be on the agenda.

Baroness Grey-Thompson (CB): My Lords, I declare an interest as I am currently doing some work for the Minister for Sport on duty of care for sports participants. Recent cases of the use of performance-enhancing drugs have come to light because the athletes have disclosed what they are using, or there has been a fallout among the manufacturers. The testing seems to fall far behind the prohibited list. What support or protection can Her Majesty's Government give to those who have vital information who want to blow the whistle and expose drugs cheats?

The Earl of Courtown: My Lords, the noble Baroness is quite right. Particularly given her experience of sports administration, one should listen very carefully to what she has to say. Sports governing bodies are taking all these aspects into account, and they must establish methods and systems so that whistleblowers can carry out their role.

Lord Anderson of Swansea (Lab): Does the noble Earl agree that my noble friend Lord Triesman deserves an apology from the relevant authorities, because he was right when it was not politic to be right about corruption? What efforts will the Government make to ensure greater transparency when there are major decisions to be taken on the location of events?

The Earl of Courtown: My Lords, I think the noble Lord is referring to matters that happened just over a year ago, particularly in relation to FIFA. At that point, I said in this place that accountability and clarity in these sports bodies were of absolutely paramount importance.

Baroness Heyhoe Flint (Con): My Lords, is it not possible to divorce the testers of this corruption entirely from the governing bodies, whether they are national governing bodies or bodies such as FIFA? Can the Government also suggest a way in which they could add resources to the governing bodies, which are extremely stretched at the moment in self-policing this major problem, in order to drive out this corruption and cheating?

The Earl of Courtown: My noble friend Lady Heyhoe Flint makes important points. Testing has to keep up with the activity of cheats in sport. Testing will be down to UKAD working in conjunction with the sporting bodies.

Lord Stevenson of Balmacara (Lab): My Lords, may I come back to the question just asked, because is that not the root of the problem? We are absolutely clear that the casualties here are clean sportspeople, but the only people who can investigate the problem are funded by the sports governing bodies, which have a responsibility for rooting out the malfeasance in the first place. The Minister must come up with a better answer than that.

The Earl of Courtown: I am not 100% sure where the noble Lord is going, but the testing is carried out by UKAD, which has one of the best names in international sport. I know there have been questions as far as the *Sunday Times* is concerned, but we will have to wait for the review put forward by my right honourable friend the Secretary of State. UKAD has a very good name and performs a very good job but as far as testing is concerned, it also has to keep up with the different drugs these cheats take.

Baroness Goldie (Con): My Lords, sports men and women come from all parts of the United Kingdom; many of them proudly represent the United Kingdom. Would my noble friend the Minister think it helpful, within the proposed changes, to discuss with the devolved legislatures what contribution they might make to the process of improving regulation?

The Earl of Courtown: My Lords, I thank my noble friend for that question. I might need to write to her with a little more information but, as far as I am aware, UKAD will be in touch with all devolved bodies concerning its work.

The Duke of Montrose (Con): My Lords, is the Minister aware that Andy Murray has suggested that sportspeople should consider publishing all the results of their tests? Can the Government offer any support on this?

The Earl of Courtown: My noble friend makes a very good point on publishing the results of drug tests. As he can probably guess, I do not have an answer in my folder so I will write to him.

Prison Safety

Question

2.58 pm

Asked by ***Lord Marks of Henley-on-Thames***

To ask Her Majesty's Government, in the light of the latest figures on deaths in custody and prison violence, what plans they have to improve prison safety in the short term.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, the Government recognise that our prisons need reform. There is much more to do to ensure that prisons are places of decency, hope and rehabilitation, and improving safety is fundamental. There is no single, simple solution to the increases in deaths and violence in prison, but we are taking action. This includes implementing the recommendations from the review of the process to support prisoners at risk of suicide and self-harm, and trialling the use of body-worn video cameras.

Lord Marks of Henley-on-Thames (LD): My Lords, my Question was quite specific. We commend the Government's commitment to long-term prison reform, but last week's figures demand immediate action to reduce prison violence. Homicides, assaults on prisoners and staff, suicide and self-harm are all up, by roughly a quarter overall—and that is over the previous dreadful year's figures. We urgently need more staff, fewer prisoners, less of prisoners' time spent locked in cells and an end to cell cramming. What action will the Government take now?

Lord Faulks: The noble Lord will know, because his party was in government for five of the last six years, that what happens in prisons represents a real challenge for any Government. However, I can tell him that prison officers have increased in number by 440 this year. Further to that increase, we are continuing our drive for more prison officers; the training is improving—going from six to 10 weeks; we are cracking down on psychoactive substances and their importation into prison; and we are acting through a number of different initiatives to identify particular risk points for violence. We are doing everything we can to tackle these very real problems.

Lord Beecham (Lab): My Lords, given the shocking revelations about the use of synthetic cannabis by prisoners, which the Chief Inspector of Prisons described as having a "devastating impact" on prisons, including 19 deaths between 2012 and 2014, when will the Government recognise the need to reduce the prison population substantially and to increase prison staffing substantially?

Lord Faulks: The prison population is of course a feature of the sentences passed by judges. We are as anxious as anyone else to reduce that prison population in a way that is consistent with the safety of the population and that respects the sentences that have been passed. I have already answered the question about increasing prison staff. As to psychoactive substances, we are world leaders in what we are doing

to track the ingestion of these substances. We are trying a test to detect them in 34 different prisons. We hope, when that is proved successful, to roll it out through the prison estate, so that we have an offence and a test which should get this under control.

Baroness Finlay of Llandaff (CB): My Lords, what is the Government's policy in relation to terminally-ill prisoners and the delegated authority of the governor, particularly for remand prisoners, who are innocent until proven guilty? If they are terminally ill, they risk dying in the prison sick bay rather than spending their last days and weeks at home prior to a trial.

Lord Faulks: All prisons, whether remand prisons or others, should have in place appropriate procedures for supporting prisoners in that condition. There should be appropriate arrangements for palliative care. Prisoners should have contact with their families and they should be advised, where necessary, of the possibility of compassionate release—either permanent release or release for particular events. This is a matter of importance and I will be sure to convey the noble Baroness's concern.

Lord Mackay of Clashfern (Con): My Lords, would it not be a suitable idea to ensure that any young person coming into custody has a single officer in the Prison Service responsible for his or her welfare? This was a very important and useful proposal, and I gather the Government have not yet accepted it.

Lord Faulks: I think my noble and learned friend refers to one of the recommendations from the Harris review, which concerned suicide and self-harm by those aged between 18 and 24. The Government have not rejected this as a proposal. They understand the necessity of continuity of accountability, but are not yet convinced that that can be best represented by a single person. However, what lies behind the recommendation is of course important and should be reflected in the Government's policy.

The Lord Bishop of Peterborough: My Lords, given the shocking 27% rise in suicides in prisons in the last year, what can the Minister tell us about the provision of psychiatric and psychotherapeutic care for vulnerable prisoners?

Lord Faulks: The Government are well aware of the profound difficulties for prisoners with various forms of mental illness. I think NICE has estimated that 90% of prisoners have some form of mental illness. It is a matter for NHS England to provide the appropriate facilities, but all prisons should make sure that these are available so far as possible. As to the question of assessment when prisoners arrive, NOMS has reviewed its assessment process to ensure that those at risk are properly assessed and appropriate steps are taken to try to deal with the risks that they represent.

Lord Harris of Haringey (Lab): My Lords, I am grateful to the Minister for his reference to the review that I led, although I must say as the review's author that the Government's response read like a rejection of its central recommendation. The Minister talked about the welcome increase of 440, I think, prison officers. What are the projections for numbers, because 440 means that at any one time there may be one extra prison officer supervising 600 or more prisoners? Given that at the moment prisoners cannot be guaranteed an escort to take them to their psychiatric appointments within the prison and there is no guarantee that planned activities will take place because of staff shortages, surely the Government need to do better than 440.

Lord Faulks: As to the noble Lord's first point, the Government accepted 62 of the 108 recommendations, and a further 12 are being considered alongside the reforms. Those that they did not accept were very useful and are part of the Government's forward thinking. As to the question of staff, we are continuing our drive to attract more prison officers. We accepted in full the Prison Service Pay Review Body recommendation, which we hope will be an encouragement, although attracting prison officers to work in the south-east is difficult because of the challenges of accommodation. There is real commitment by a number of people to join the Prison Service; they have our admiration, and we hope that we can attract more to do this important work.

Viscount Hailsham (Con): My Lords, does my noble friend accept that out-of-cell activity is one of the most important ways to enhance morale among prisoners and reduce stress, which itself leads to violence?

Lord Faulks: My noble friend is quite right about that. He may well have read the observations of the Secretary of State and the Prime Minister about the importance of out-of-cell activity. We hope that that will increase; it is very much part of our long-term plan to enable prisoners to have purposeful activities, which will help in the rehabilitation process.

Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016

Motion to Approve

3.06 pm

Moved by ***The Earl of Courtown***

That the draft Regulations laid before the House on 7 March be approved. *Considered in Grand Committee on 27 April.*

Motion agreed.

Education (Repeal of Arrangements for Vocational Qualifications Awarded or Authenticated in Northern Ireland) Order 2016

Motion to Approve

3.07 pm

Moved by ***Baroness Chisholm of Owlpen***

That the draft Order laid before the House on 11 March be approved. *Considered in Grand Committee on 27 April.*

Motion agreed.

Bank of England and Financial Services Bill [HL]

Commons Amendments

3.07 pm

Motion on Amendments 1 to 6

Moved by ***Lord Ashton of Hyde***

That this House do agree with the Commons in their Amendments 1 to 6.

1: Clause 11, page 9, line 11, at end insert—

"(b) the economy, efficiency and effectiveness with which a Bank company has used its resources in discharging its functions."

2: Clause 11, page 9, line 12, leave out "of the Bank (however described)" and insert "(however described) of the Bank or the Bank company"

3: Clause 11, page 10, line 3, at end insert—

""Bank company" means—

(a) a company which is a subsidiary undertaking of the Bank, within the meaning of section 1162 of the Companies Act 2006;

(b) a company not within paragraph (a) in respect of which a direction under section 7C(2) has effect;"

4: Clause 11, page 10, line 16, at end insert "or a Bank company"

5: Clause 11, page 11, line 20, leave out "only"

6: Clause 11, page 11, line 24, at end insert—

"( ) In the case of an examination under section 7D(1)(b), subsection (1) also applies to documents in the custody or under the control of—

(a) the company to which the examination relates;

(b) the auditor or auditors of that company."

Lord Ashton of Hyde (Con): My Lords, I beg to move that this House do agree with the Commons in their Amendments 1 to 6. In moving them, I shall speak also to Amendment 12.

In the other place, the Government made small changes to the provisions relating to the National Audit Office's powers to carry out value-for-money studies of the Bank. As we have discussed in previous debates, these clauses deliver an important increase in the accountability of the Bank and its operations.

The NAO's new powers are subject to a bespoke policy carve-out, designed to protect the independence of the Bank's policy decisions. The Government have made two small but important technical changes to ensure that the NAO's new powers are applied consistently across all areas of the Bank. These changes have been agreed by both the NAO and the Bank.

The original drafting of the Bill did not give the NAO the power to carry out value-for-money reviews of Bank subsidiaries unless they were indemnified by the Government. This was not the Government's policy intention.

The first change ensures that the NAO is able to carry out value-for-money studies, not only of the Bank itself, but also of all the Bank's subsidiaries, whether or not they are indemnified by the Government. The amended clauses will also allow the NAO to carry out value-for-money studies of any other company in which the Bank has an interest, but only if that company is indemnified by the Government.

The second change ensures that the policy carve-out applies consistently across all areas of the Bank. Under the previous drafting, the NAO's powers to review the Bank's indemnified subsidiaries and other companies came from the National Audit Act 1983. That means that its review of these companies would not be covered by the policy carve-out. The Government have amended the Bill to address this inconsistency.

On Amendment 12, the Government also made a small amendment to the clauses in the Bill relating to the Monetary Policy Committee. The Bill reduces the minimum frequency of MPC meetings from monthly meetings to "at least 8" meetings in every calendar year. The Warsh review assessed that this new timetable,

"strikes the balance between timeliness and probity",

and brings the MPC into line with other leading central banks, including the US Federal Reserve and the European Central Bank. The amendment made in the other place adjusts the reporting requirements of the MPC to match the new meeting timetable. At the moment, it is required to submit a monthly report and so, without this change, the committee would be obliged to produce reports even when it has not had meetings.

I hope that noble Lords will agree that these are sensible changes, and I commend the amendments to the House.

Lord Higgins (Con): My Lords, I had not realised until now that I am a wild enthusiast for a bespoke policy carve-out. The amendments reflect the considerable extended debates that we have had previously in your Lordships' House, and I am very glad that they are now effectively implemented by the amendments that we have in front of us. There was a real problem with the relationship between the National Audit Office and the Bank of England. It is very fortunate that that seems to have been resolved now in a way that is satisfactory to both sides.

In a former incarnation, I was much involved in extending powers of the National Audit Office so that it did not merely act as an auditor but could look into the economy, efficiency and effectiveness of the bodies that it was investigating. I certainly think that there is a strong case for it including the Bank of England in its remit. To clarify one point on this, there are some aspects of the Bank's operation that really need to be looked at. The present Governor of the Bank of England has taken to issuing forward guidance on interest rates, which I must say has not been an enormous success. Anyone who has followed that advice will almost certainly have lost money, depending on the precise timing. I think that he should consider very carefully whether it is an appropriate approach for the Bank to take—and perhaps the National Audit Office should do so, too.

I am not entirely clear what is covered by the expression "Bank company". In particular, does it include the body—I have forgotten its name for a second—responsible for managing the enormous quantity of gilts purchased as a result of the quantitative easing operation? Will the National Audit Office have the power to inquire into how that very substantive—indeed, enormous—quantity of gilts is managed?

Overall, however, this is a very welcome change—and I am particularly glad that the Treasury is proposing

to finance the operation. As it pointed out in the notes that come with the Bill, it should increase the likelihood of a value-for-money study being undertaken relative to the Bank of England. This change reflects the work that your Lordships did at earlier stages, and is very much to be welcomed.

3.15 pm

Lord Davies of Oldham (Lab): My Lords, we have come a considerable distance from what was in the original draft of the Bill that came before us on the role of the National Audit Office. Quite rightly, the Government have responded to the very strong opinion of this House that the proposals in the Bill were far from satisfactory, and we are grateful to them for the extent to which they have moved on these issues. This House played a significant role in identifying the real difficulties in their original Bill for the National Audit Office being remotely able to carry out its proper duty in assessing whether on all occasions the Bank of England was providing value for money.

The noble Lord, Lord Higgins, has moved across an important boundary in indicating that the NAO ought also to look at issues of policy regarding the Bank, which we know the Bank is resistant to. The Government still maintain that position, although we sought to press that here and my colleagues in the Commons were interested in the issue as well, not least if issues cropped up under freedom of information queries, where the role of the NAO in relation to the Bank would inevitably be limited under the proposal.

Nevertheless, the Government have moved a considerable distance on this matter. We are pleased to say that although not all our proposals, here and in the other place, were accepted by the Government, we nevertheless feel that significant progress has been made in that the NAO has been able to draw up with the Bank of England a memorandum of understanding on how these issues are to be tackled in future. We appreciate the fact that the Government have moved a considerable way from their original proposals to a much more satisfactory position, although I will listen with great interest to the Minister's response to the noble Lord, Lord Higgins.

Lord Ashton of Hyde: My Lords, I am grateful to my noble friend Lord Higgins and the noble Lord, Lord Davies, for their comments and for their support for these amendments. My noble friend's views on the governor's role in giving forward views are well known; he has expressed them before in debate on the Bill. We have listened to his views but they are not specifically a part of this Bill. On the question of whether "Bank company" includes the asset purchase facility and therefore allows the NAO to make value-for-money reviews, the answer is yes. Amendment 3 is the amendment that deals with that.

I am glad that the noble Lord, Lord Davies, has acknowledged that we have been in listening mode and that we have moved. We are always happy to listen to sensible suggestions, and I am grateful for his acknowledgement of that.

Motion on Amendments 1 to 6 agreed.

Motion on Amendment 7

Moved by ***Lord Bridges of Headley***

That this House do agree with the Commons in their Amendment 7.

7: Before Clause 18, insert the following new Clause—

"Appointment of Financial Conduct Authority chief executive

In Schedule 1ZA to the Financial Services and Markets Act 2000 (the Financial Conduct Authority), after paragraph 2 insert—

"2A(1) The term of office of a person appointed as chief executive under paragraph 2(2)(b) must not begin before—

(a) the person has, in connection with the appointment, appeared before the Treasury Committee of the House of Commons, or

(b) (if earlier) the end of the period of 3 months beginning with the day on which the appointment is made.

(2) Sub-paragraph (1) does not apply if the person is appointed as chief executive on an acting basis, pending a further appointment being made.

(3) The reference to the Treasury Committee of the House of Commons—

(a) if the name of that Committee is changed, is a reference to that Committee by its new name, and

(b) if the functions of that Committee (or substantially corresponding functions) become functions of a different Committee of the House of Commons, is to be treated as a reference to the Committee by which the functions are exercisable.

(4) Any question arising under sub-paragraph (3) is to be determined by the Speaker of the House of Commons.""

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): My Lords, I beg to move that this House do agree with the Commons in their Amendment 7—and on this, too, we have been in listening mode.

This amendment recognises the important role played by the Treasury Select Committee in its scrutiny of the Financial Conduct Authority and appointments to its top job. Through the committee's programme of pre-commencement hearings it questions appointees to several posts before they start work. After appointees have started, as your Lordships will know, they appear regularly before the committee. The Government welcome this scrutiny of appointees.

Our amendment therefore ensures that the committee always has the chance to scrutinise a newly appointed chief executive of the Financial Conduct Authority before they start work. It provides that no one who is appointed as CEO of the FCA can start work until they have appeared before the TSC or three months have passed. This gives the TSC time to call them in, and once it has questioned the appointee in relation to the appointment, he or she can get to work. There is an exception to this if the appointment of a chief executive is made on an acting basis pending a further appointment; for example, where an appointment must be made urgently in response to a sudden vacancy. However, to appoint a permanent CEO, the Government must give the TSC the chance to hold a hearing.

As your Lordships will be aware, my right honourable friend the Chancellor and the chair of the Treasury Select Committee have reached an agreement that further reinforces the committee's scrutiny role. This is set out in a letter from the Chancellor to the chair of

[Lord Bridges of Headley]

the TSC, which has been published on the TSC's website. It reads as follows:

"During the passage of the Bank of England and Financial Services Bill, we have considered the role of the Treasury Select Committee … in scrutinising the appointment of the Chief Executive of the Financial Conduct Authority … This scrutiny is important and welcome. I will therefore ensure that appointments to the Chief Executive of the FCA are made in such a way to ensure the TSC is able to hold a hearing, after the appointment is announced but before it is formalised. Should the TSC recommend in its report that the appointment be put as a motion to the whole House, the government will make time for this motion and respect the decision of the House. Additionally, I will seek, in a future Bill, to make a change to the legislation governing appointments to the FCA CEO to make the appointee subject to a fixed, renewable 5-year term. This would not apply to Andrew Bailey, who I recently announced as the new head of the FCA, but would first apply to his successor. I believe that these changes will reinforce the Treasury Committee's important scrutiny role".

This commitment, combined with this amendment, which ensures that the Treasury Committee always has the opportunity to hold a hearing with an appointee, serves as a strong recognition of the committee's vital role in scrutinising the FCA and its CEO. I beg to move.

Lord Sharkey (LD): My Lords, we support this amendment, but more precisely, we support this amendment with the commitments made in the Chancellor's letter to the chair of the Treasury Select Committee. We are glad to see moves to buttress the independence of the FCA, and we think the amendment and the commitments will help do that. It is true that the FCA does need some help. In particular, it needs help in ending what is, or appears to be, interference by the Executive.

Recent times have not been happy. There was the early announcement of the non-renewal of Martin Wheatley's contract; the Chancellor's public announcement that Tracey McDermott was withdrawing her CEO application, before she had had a chance to tell her own people; and, then, the appointment of Andrew Bailey as CEO without benefit of a proper interview panel. I will not even mention that the search for the hard-to-find Mr Bailey cost £280,000.

To restore belief in its independence and its self-confidence and morale, the FCA needs to have a robustly and operationally independent CEO. We hope that this amendment and the Chancellor's commitments will make that happen. This amendment and those commitments are of course the result—as the Minister has explained—of negotiations with Mr Tyrie, the chair of the Commons Treasury Select Committee. We would have preferred Mr Tyrie's original amendment, which simply gave the Treasury Select Committee the power to approve, or not to approve, the appointment of the CEO of the FCA.

The government amendment, of course, does not go nearly that far. It simply says that the already appointed—although, I hope, not contractually bound—CEO must appear before the TSC before taking up his office. By itself, this is pretty feeble stuff. In fact, the important changes are not in this Bill at all; they are contained in the letter from the Chancellor to the chair of the TSC. The letter makes two commitments, as the Minister has explained. The first is that the Chancellor will,

"ensure that appointments to the Chief Executive of the FCA are made in such a way to ensure the TSC is able to hold a hearing, after the appointment is announced but before it is formalised. Should the TSC",

as the Minister has said,

"recommend in its report that the appointment be put as a motion to the whole House, the government will make time for this motion and respect the decision of the House".

Secondly, the Chancellor,

"will seek, in a future Bill, to make a change to the legislation governing appointments to the FCA CEO to make the appointee subject to a fixed, renewable 5-year term".

This is all very cumbersome, and one must hope that the prospect of having your merits gently and tactfully debated in the Commons will not put applicants off. However, it is an improvement on the current situation.

There are some questions, though, and I would be grateful if the Minister could respond. Why are these two commitments not on the face of the Bill? Can the Minister confirm that the Chancellor's commitment to ensure government time for a Treasury Select Committee Motion in the Commons is not binding on him or, more importantly, on his successors? Can the Minister say why the Chancellor will put the fixed term for the CEO into a future Bill but not the Commons vote on a Treasury Select Committee Motion? Will the Minister agree to consider incorporating both these elements into a future Bill? Finally, can the Minister assure us that any future selection process for the CEO of the FCA will involve the proper panel interviews, or at least something more closely resembling due process?

We believe that we need the protections and safeguards in this amendment and in the Chancellor's letter. We believe that Andrew Bailey is a good choice as CEO and we wish him every success. We believe that both Mr Bailey and the FCA will benefit from less interference from the Executive and we support the amendment.

Lord Higgins: My Lords, as a former chair of the Liaison Committee in the House of Commons, which co-ordinates the work of the Select Committee system, as well as having been chairman of the Treasury and Civil Service Select Committee, I very much welcome the proposals put forward by the Government. Of course, there are various qualifications, which have just been mentioned, but I believe that this is a significant step forward and that it will improve the way in which the appointments system works within overall government. Therefore, I think that this is an excellent amendment and I heartily support it.

Lord Flight (Con): My Lords, as I understand it, the proposed arrangements effectively give the Treasury Select Committee a sort of negative veto after the event. Why could this not be more straightforward, with senior appointments such as the head of the FCA requiring the approval of the Treasury Select Committee up front?

Baroness Kramer (LD): My Lords, perhaps I may pick up on the point made by the noble Lord, Lord Flight. The FCA is one regulator. We understand that there is great pressure to move on this issue now because the FCA had lost so much confidence and so many people have questioned whether it is

genuinely an independent regulator. However, the PRA, turning into the PRC, is an equal, if not more critical, regulator of our banking system, and of course appointments to the Bank of England—particularly that of governor—are also crucial. Therefore, can the Government tell us why they have not broadened out this change in approach, which is surely just a modernisation and a recognition of the significant interest that Parliament and the country have in these appointments?

Lord Davies of Oldham: My Lords, after those contributions I can keep my own fairly short. However, like the noble Baroness, Lady Kramer, I would have thought that this change would have applied in the whole approach of this Government and would have been taken into account when the Bill was drafted. Not only have the Government had strong representations from the Official Opposition and the Liberal party—we debated this matter very vigorously in this House—but it is clear that the Treasury Select Committee had very strong views on this. Ministers are all too well aware of the fact that the Treasury Select Committee contains members of all parties, several of whom enjoy very high reputations indeed—not just the chairman, although he too deserves his high reputation. How is it, then, that the Government should have thought that they could ignore the proper position of the Select Committee in relation to this appointment?

Of course we welcome the sinner who repenteth, and the Minister, I have no doubt, will indicate in a moment how carefully he has considered all issues. But it does somewhat surprise me that it needed such a weight of parliamentary opinion, to say nothing of opinion from outside too, before the Government recognised that they could not possibly put forward this appointment without there being a substantial degree of parliamentary scrutiny.

3.30 pm

Lord Bridges of Headley: My Lords, I am delighted to hear the overall approval and support for the principles and thrust behind this amendment. Let me begin with the points that the noble Lord, Lord Sharkey, made. He spoke of interference by the Executive, a point he has made before. I will not rehearse the arguments again that the Government made in response to that, but we refuted many of those at the time. In response to the point that this should be made statutory, I simply point out that the commitments we have made have been affirmed by the Chancellor in writing, as I said, and by Ministers in both Houses. As the chair of the Treasury Select Committee himself points out in his letter to the Chancellor, there are several different means, both statutory and, crucially, non-statutory, for bolstering Select Committee scrutiny of appointments. Indeed, non-statutory provisions are the norm. The Cabinet Office and the Liaison Committee keep a list of some 50 appointments subject to pre-appointment hearings with varying arrangements, and the vast majority of those are by agreement.

Moving on, the noble Lord asked when we will bring forward the changes to length of term to make it fixed for five years. We are seeking the earliest opportunity, and the House authorities confirmed that it was not in scope for this stage of the Bill. That is why it is not in this Bill.

My noble friend Lord Flight and the noble Baroness, Lady Kramer, also made a point that I know others have made and which has rumbled around for a long time: whether or not an arrangement such as this should be made for other appointments in government. I know that there is a divergence of views on whether this should be done. The Government have previously set out their concerns about appointments to these posts, such as the ones that have been cited, and will address these in fuller detail in their response to the Treasury Select Committee's report, which will be published in due course.

As well as looking forward to that response, it is worth reminding your Lordships just how we got here—this picks up on the point that the noble Lord, Lord Davies, just made. We are indeed responding to points raised during the passage of this Bill specifically concerning the appointment of the chief executive of the FCA. That is why the Government's amendment and the agreement reached between the Chancellor and the chair of the Treasury Select Committee are focused on this particular appointment. I would further argue that this amendment and this agreement sit within the context of a Bill that significantly strengthens the governance, transparency and accountability of the Bank of England. This includes enhancing the accountability of the Bank to Parliament by making the whole Bank subject, for the first time, to NAO value-for-money reviews. I fully understand that the points made by the noble Baroness, Lady Kramer, and my noble friend Lord Flight will continue to rumble on. I commend the amendment to the House.

Motion on Amendment 7 agreed.

Motion on Amendment 8

Moved by ***Lord Bridges of Headley***

That this House do agree with the Commons in their Amendment 8.

8: After Clause 27, insert the following new Clause—

"**Illegal money lending**

(1) The Financial Services and Markets Act 2000 is amended as follows.

(2) After Part 20A insert—

"PART 20B

ILLEGAL MONEY LENDING

333S Financial assistance for action against illegal money lending

(1) The Treasury may make grants or loans, or give any other form of financial assistance, to any person for the purpose of taking action against illegal money lending.

(2) Taking action against illegal money lending includes—

(a) investigating illegal money lending and offences connected with illegal money lending;

(b) prosecuting, or taking other enforcement action in respect of, illegal money lending and offences connected with illegal money lending;

(c) providing education, information and advice about illegal money lending, and providing support to victims of illegal money lending;

(d) undertaking or commissioning research into the effectiveness of activities of the kind described in paragraphs (a) to (c);

(e) providing advice, assistance and support (including financial support) to, and oversight of, persons engaged in activities of the kind described in paragraphs (a) to (c).

(3) A grant, loan or other form of financial assistance under subsection (1) may be made or given on such terms as the Treasury consider appropriate.

(4) "Illegal money lending" means carrying on a regulated activity

within Article 60B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (regulated credit agreements) in circumstances which constitute an authorisation offence.

333T Funding of action against illegal money lending

(1) The Treasury must, from time to time, notify the FCA of the amount of the Treasury's illegal money lending costs.

(2) The FCA must make rules requiring authorised persons, or any specified class of authorised person, to pay to the FCA specified amounts, or amounts calculated in a specified way, with a view to recovering the amount notified under subsection (1).

(3) The amounts to be paid under the rules may include a component to recover the expenses of the FCA in collecting the payments ("collection costs").

(4) Before the FCA publishes a draft of the rules it must consult the Treasury.

(5) The rules may be made only with the consent of the Treasury.

(6) The Treasury may notify the FCA of matters that they will take into account when deciding whether or not to give consent for the purposes of subsection (5).

(7) The FCA must have regard to any matters notified under subsection (6) before publishing a draft of rules to be made under this section.

(8) The FCA must pay to the Treasury the amounts that it receives under rules made under this section apart from amounts in respect of its collection costs (which it may keep).

(9) The Treasury must pay into the Consolidated Fund the amounts received by them under subsection (8).

(10) In this section the "Treasury's illegal money lending costs" means the expenses incurred, or expected to be incurred, by the Treasury—

(a) in connection with providing grants, loans, or other financial assistance to any person (under section 333S or otherwise) for the purpose of taking action against illegal money lending;

(b) in undertaking or commissioning research relating to taking action against illegal money lending.

(11) The Treasury may by regulations amend the definition of the "Treasury's illegal money lending costs".

(12) In this section "illegal money lending" and "taking action against illegal money lending" have the same meaning as in section 333S."

(3) In section 138F (notification of rules), for "or 333R" substitute ", 333R or 333T".

(4) In section 138I (consultation by FCA)—

(a) in subsection (6), after paragraph (cb) insert—

"(cc) section 333T;";

(b) in subsection (10)(a), for "or 333R" substitute ", 333R or 333T".

(5) In section 429(2) (regulations subject to affirmative procedure), for "or 333R" substitute ", 333R or 333T".

(6) In paragraph 23 of Schedule 1ZA (FCA fees rules)—

(a) in sub-paragraph (1) for "and 333R" substitute ", 333R and 333T";

(b) in sub-paragraph (2ZA)(b) for "section 333R" substitute "sections

333R and 333T"."

Lord Bridges of Headley: My Lords, this amendment gives the Treasury a power to provide financial assistance to bodies for the purpose of taking action against illegal money lending. It also gives the FCA an obligation to raise a levy, which will apply to consumer credit firms, in order to fund this financial assistance.

Loan sharks prey on some of the most vulnerable people in society, cause untold misery to their victims and have a damaging impact on the communities in which they operate. As well as lending money illegally at high levels of interest without FCA authorisation, loan sharks frequently use blackmail, as well as violence, to intimidate their victims into repaying legally unenforceable debts.

Loan sharks are currently investigated and prosecuted by the England and Wales illegal money lending teams and the Scottish Illegal Money Lending Unit. The cost of the teams is around £4.7 million. While the FCA will consult on precisely how the levy will be apportioned and collected in its annual fees consultation, the cost of the new levy to individual firms in the £200 billion consumer credit market is anticipated to be small.

It is absolutely right that industry meets the modest costs of funding the teams—all participants in the consumer credit market benefit from their enforcement work. The teams ensure that the consumer credit market remains legitimate and credible by keeping illegal money lenders out of it. The amendment will ensure that the funding that the illegal money lending teams need to continue their crucial work is put on a sustainable, long-term footing. I beg to move.

Lord Harris of Haringey (Lab): My Lords, I declare my interest as chair of the National Trading Standards board and welcome this government amendment to put the funding of the illegal money lending teams on a stable footing. As the Minister said, the teams do an enormous amount of extremely important and valuable work. A recent prosecution dealt with an individual who was charging those unfortunates whom he was offering allegedly to help interest rates of 400,000% per annum. Figures I have for England and Wales show that the work of the illegal money lending teams has led to the writing-off of debts in excess of £55 million. So the work is value for money and extremely important. It is quite right that the funding of these teams should now be put on a long-term, sustainable footing and it is entirely proper that the legitimate part of the lending industry should make sure that those who operate illegally and prey on people who are in a state of considerable distress are dealt with appropriately.

Lord Sharkey: My Lords, this is a very good amendment and we support it. Until now, funding for action against illegal money lending has come mostly from BIS with occasional help from the Treasury reserve. As Harriet Baldwin noted in the Commons committee, this funding was constantly being questioned in spending reviews and she rightly saw the need to protect it from the depredations of Chief Secretaries. This amendment does that by changing the funding mechanism to a levy on consumer credit firms. These firms benefit from being within a robustly enforced perimeter and we welcome this change. We welcome the move to provide sustainable and stable funding for the fight against illegal money lending.

Lord Davies of Oldham: My Lords, while we support the amendment, my colleagues in the other place made a strong argument which I want to rehearse now. Of course, we agree that it is right that there should be stable funding for operations against money lenders who take advantage of their position, but, as my noble friend Lord Harris indicated, loan sharks at their worst can levy the most extortionate charges on the people who come within their purview. We would have preferred a levy not on the industry but from general taxation, because our anxiety is that those at the bottom end of the market, who have the most ruthless operational relationship with the public, will pass on these costs by taking even more money from those who are vulnerable to them. We accept the amendment and of course will not contest it, but we would rather the levy came out of general taxation than being an impost, which we know some in the industry will pass on to others.

Lord Bridges of Headley: My Lords, I again thank noble Lords for their support in principle for much of this amendment; in particular, I thank the noble Lord, Lord Harris, for his comments given his experience in this area.

Clearly, we disagree with what the noble Lord, Lord Davies, said about why this is not being funded by taxation. As I said in my opening remarks, the current cost of the enforcement regime is around £4.7 million. Consequently, the costs to individual firms in the £200 billion consumer credit market is anticipated to be small. Therefore, it is unlikely that they will be passed on down the chain. With that in mind, I hope the amendment will be agreed.

Motion on Amendment 8 agreed.

Motion on Amendment 9

Moved by ***Lord Ashton of Hyde***

That this House do agree with the Commons in their Amendment 9.

9: After Clause 27, insert the following new Clause—

"**Money laundering**

(1) In any regulations or orders transposing money laundering measures contained within Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 (or in relation to any subsequent EU amending or successor measure) the Secretary of State shall have a duty to ensure, insofar as such regulations relate to institutions regulated by the Financial Conduct Authority—

(a) reasonable regard and due prominence is given to—

(i) Preambular (33),

(ii) Article 13(2),

(iii) Article 15, and

(iv) Article 16 and Annex II;

(b) clarity is achieved with respect to the meaning and interpretation of "prominent public function" in the context of money laundering;

(c) reasonable regard and due prominence is given to Article 22 which recognises that a PEP may have no prominent public function; and

(d) any interpretation of "adequate" in Article 20(b)(ii), and "enhanced" in Article 20(b)(iii) takes account of, and gives due prominence to, the provisions in Article 13 on risk sensitivity.

(2) The Financial Services and Markets Act 2000 is amended as follows.

(3) After Part 20B insert—

"PART 20C

MONEY LAUNDERING

333U Anti-money laundering: guidance

(1) The FCA must, prior to relevant regulations coming into force, issue guidance to regulated entities on the definition of one or more categories of "politically exposed persons" ("PEPs").

(2) Guidance under subsection (1) must include, but need not be limited to—

(a) a requirement to take a proportional, risk-based and differentiated approach to conducting transactions or business relationships with each category of PEP that may be defined; and

(b) specified categories of persons to be—

(i) included and

(ii) excluded

from any definitions of PEPs.

(3) The Secretary of State may, by regulation, make provision about—

(a) the guidance issued, amended and/or reissued under subsection (1);

(b) arrangements for complaints about the treatment of individuals by regulated entities to be received, assessed and adjudicated by the FCA, where—

(i) a person was treated as though he or she was a PEP (and he or she was not),

(ii) a person who is a PEP was treated unreasonably in disregard of guidance under subsection (1), particularly in regard to specific elements required under subsection (2)(a), or

(iii) a person was refused a business relationship solely on the basis of that he or she is a PEP,

(c) circumstances in which—

(i) compensation payments are to be required from, or

(ii) financial penalties are to be imposed on regulated entities where complaints under paragraph (b) are upheld.

(4) For the purposes of subsection (1), "relevant regulations" means regulations transposing into UK law measures that EU Member States are required to implement to combat money-laundering (or subsequent regulations amending those regulations) that contain references to PEPs.

(5) The power to make regulations under subsection (3) is exercisable by statutory instrument which may only be made after a draft of any such instrument has been laid before, and approved by a resolution of, each House of Parliament.""

Lord Ashton of Hyde: My Lords, the amendment addresses the important question of how the banks are treating politically exposed persons, or PEPs, in the light of new global standards for anti-money-laundering and counterterrorist financing. I know that this issue has interested many noble Lords, directly and in respect of their families and close associates. I can tell the House that the Government share those concerns, which is why we have accepted this amendment to the Bill.

The Government intend to implement new money-laundering regulations by June 2017 at the latest. We will consult on the new regulations later this year. Organised crime, international corruption and terrorism cross national borders, so co-ordinating with our neighbours and Governments around the world is vital. We do this through the Financial Action Task Force, which revised its global minimum standards in 2012. At the same time as being robust, the UK's anti-money-laundering and counterterrorist financing regime must be proportionate if it is to be effective and command public support. Resources must be focused on higher-risk areas and individuals, in line with accepted practice.

[Lord Ashton of Hyde]

The Government have always encouraged banks to take a sensible and proportionate approach to this issue. They should apply appropriate "know your customer" measures that are tailored to reflect the risk posed by individual customers. I believe that several Members of this House and the other place have experienced difficulties with their bank accounts. No one should have their banking facilities refused simply because they have been identified as a PEP.

In addition to its focus on proportionality, the amendment addresses guidance on PEPs and the handling of certain PEP complaints. The Government will consult later this year on new money-laundering regulations and we will ask specific questions about the provision of guidance and the adjudication process. We will fully consider the letters that noble Lords have already sent to us on this topic when preparing our response to the consultation.

The Government's anti-money laundering and counterterrorist financing regime is making the UK a more hostile environment for illicit finance. The amendment will ensure that a strong message is sent out about applying the rules in a proportionate and sensible manner and I commend it to the House. I beg to move.

Lord Sharkey: My Lords, as the Minister said, this House has frequently discussed the problems with the banks' treatment of customers under their interpretation of the EU PEP rules. Each time we have done so, it has been quite clear that there are plenty of examples of banks frequently acting aggressively and disproportionately. It is quite clear that by unreasonably closing accounts, or threatening to, they cause real distress and the Government agree, as the Minister said, that the banks are ultimately at fault. In response to an Oral Question from my noble friend Lord Clement-Jones on 14 October 2014, the Minister, the noble Lord, Lord Deighton, said:

"I absolutely accept the criticisms that are made where banks behave disproportionately. It happens too often and we should work with them to fix that".—[*Official Report*, 14/10/14; col. 115.]

It clearly has not been fixed and is probably getting worse as the banks anticipate the new EU directive.

Discussing this amendment on Report in the Commons on 19 April, Harriet Baldwin said that,

"if the transposition of the EU directive into domestic legislation is mishandled, a wide range of other people could be affected. It could adversely affect tens of thousands of people, including civil servants, city workers and even, as has been described, the families of armed forces officers serving our country abroad".—[*Official Report*, Commons, 19/4/16; col. 853.]

The Minister was right to warn of this possibility.

On Sunday, the *Sunday Times* ran a large and prominent article on the case of Alan Charlton. Mr Charlton retired from the FCO three years ago after 35 years' service. He is our former ambassador to Brazil. His bank threatened to shut down his account as part of what the paper describes as the bank's "crack-down" on PEPs. It is a little ironic that the bank in question is HSBC, so recently fined $1.9 billion for being what the US Senate described as,

"a conduit for drug kingpins and rogue nations".

It is a case of closing the wrong stable door.

3.45 pm

The amendment, originally from Charles Walker—and greatly to his credit—is designed to stop abusive and disproportionate behaviour by the banks, and we very much support it. Our only concern is that it may not go far enough. The amendment calls for clarifying guidance and definitions. It calls for guidance requiring a proportionate and risk-based approach to conducting transactions or business relationships with each category of PEP. As the Minister has said, it makes provision for complaints about the banks in relation to their treatment of PEPs to be adjudicated by the FCA. The problem is that such guidance already exists: it is contained explicitly in the Financial Action Task Force guidance note of June 2013. Paragraph 16 of this document, on page 6, says that to determine whether a domestic customer is, in fact, a PEP:

"Recommendation 12 requires taking reasonable measures, based on the … level of risk, to determine whether the customer or beneficial owner is a … PEP".

This is guidance, but it is not working. Exactly what the new guidance says will have to be even clearer and tougher than that. Definitions will need to be clearer and free of hedging. Does the Minister agree that the FCA must consult widely in drawing up the new guidance proposed in the amendment, and that both Houses of Parliament should have an opportunity to discuss the draft?

The notion of the FCA as an adjudicator is very good, but only if its rulings have real teeth. Banks will take no operating notice of small penalties. Will this amendment leave the size of any penalty entirely to the FCA? Can the minimum size of any such penalty be part of guidance? Adjudication also needs to be swift and have regard to the inequality of arms between banks and their customers. Will the guidance also include provisions for a timetable for resolution and a stay on bank action—closing an account, for example—pending such resolution?

These are important considerations and are intended to help a very good amendment. I congratulate Mr Walker on bringing it forward and the Government on accepting it. I look forward to seeing draft guidance very soon.

Lord Flight: My Lords, I welcome the amendment but the issue of PEPs is by no means solved and there is still a lot of nonsense happening. The last ruling by the noble Lord, Lord Deighton, was, interestingly, that PEPs were politicians in countries outside the UK and not within it; that came as a great shock to all of us. The EU rules make it clear that that is not the case and that PEPs are to be treated as domestic. In theory, that includes all Members of this House and the House of Commons and many others. That is completely ridiculous. The bottom line is whether people have the power to engage in corruption. I suggest that Members of this House, or in the Commons, do not have the power to engage in corruption unless they are a Minister.

Banks are criticised, but operating a bank account for a PEP is a complete loss leader, because banks are obliged to always check the source of funds and question any payment into the account. This is completely ridiculous unless you are dealing with people who are potentially corrupt. Where is all this coming from? It

is the FCA that is giving out very strict guidelines to banks on how the PEP rules should be implemented. As I understand it, those guidelines are, at the moment, contrary to the Government's own arrangements and I fear they may remain too demanding in future.

Baroness Kramer: My Lords, the kind of language the Government may use in dealing with this in legislation may be limited, but I am very glad that they are taking action. Will they take on board, when talking with allies in other countries, the importance of how the concept of the PEP is handled? I am in the appalling situation of finding that my husband's relatives in the United States have been challenged on opening accounts because they are related to me. How that relationship was disclosed, I find extraordinary. There must have been an awful lot of trawling through genealogical tables, or else someone is reading my emails. There is a serious issue about how this spreads to the families of Members of this House, of Members of the other place and of others who may rightly be regarded as politically exposed. Their relatives at many distances removed surely cannot be caught in that trap.

Lord Tunnicliffe (Lab): My Lords, I, too, have some sympathy with the concern about PEPs. My bank managed to be very surprised that my son had repaid a debt. There is no question that banks have overreacted in this area. In general, banks seem to overreact to regulation. They do not seem properly to understand proportionality at individual level. It reminds one that one does not have a right to a bank account, and suddenly one realises that one would be a non-person without one. So it is right that we look for some protection for politically exposed persons—who could be in a very widespread group.

However, one must not lose sight of the fact that the Panama papers revealed just how widespread money laundering is and how much of it happens among politically exposed persons. As far as I know, no politically exposed person has been revealed in the UK, but in the wider world money laundering is a fact and it feeds terrorism and corruption.

We welcome this amendment as an effort to produce proper proportionality on this subject, but the balance must be maintained—and, just as we must be concerned about PEPs, we must be concerned about potential crime and the maintenance of public confidence in officials.

Lord Ashton of Hyde: My Lords, I am grateful to noble Lords who have replied. There seems to be unanimity that this is a serious issue that needs addressing and at least a partial acknowledgement that this is a start. We have accepted this amendment because we acknowledge that there needs to be a sensible approach to this problem.

The noble Lord, Lord Sharkey, mentioned that guidance exists already. In many of my replies to noble Lords, I am going to fall back on the fact that, having begun the process with this amendment, a lot will depend on the consultation about the regulations that we will bring in before 2017. I urge noble Lords to take part in that consultation so that all the points that have been made today and the concerns that people have heard about can be brought into that consultation so that we can get a sensible set of regulations, which this House will be able to look at, in place before 2017.

The noble Lord, Lord Sharkey, mentioned penalties. Again, the degree of penalties will obviously be part of the consultation and will be included in the regulations when they come in due course.

Baroness Browning (Con): Can my noble friend confirm to the House that the consultation will not be a three-week consultation issued in the middle of the long Summer Recess?

Lord Ashton of Hyde: The consultation will be conducted under the Cabinet Office rules for consultations—so it will be more than three weeks. I cannot today tell noble Lords when it is going to start. The Treasury accepts that this is an important issue and has accepted the amendment. It wants people to contribute to the consultation—so, although I cannot give an exact date for when it will start, it will be a proper consultation.

Lord Naseby (Con): My noble friend says that he is not in a position to indicate when the consultation shall start—but we are in May 2016, nearly half way through the year. That suggests that, if we are not very careful, it will be the back end of 2017 before anything happens. The noble Baroness, Lady Kramer, raised a particular family issue; and the noble Lord, Lord Wright, who is not in his place, raised one last year, if not the year before, relating to one son in Singapore and another in the USA. This is not a matter that we can just put into the long grass. I know that my noble friend is not doing that, but it is getting very near the outfield. I suggest that he should come back to the House and tell us exactly when the consultation will start and when we will get some substantive recommendations out of it.

Lord Ashton of Hyde: I can reassure my noble friend, because the date that the regulations have to be brought in is June 2017, so the consultation will take place in the second half of this year. It will be implemented before June 2017. I think that that is pretty clear and there is no question of it being put into the long grass. I have subsequently learned that the consultation will be 12 weeks and it will be after July—so I hope that my noble friend will be reassured by that.

My noble friend Lord Flight basically implied that any enhanced due diligence for all Peers, MPs and MEPs would be ridiculous. The directive and the Financial Action Task Force do not agree. They think that anyone who is an MP should have some form of enhanced due diligence. Of course, there is a huge range that can take place within enhanced due diligence. The point of the amendment and the regulations will be to make sure that there is a true difference. A Back-Bench Peer who may not have the position to influence corrupt acts—although every Peer and MP has access to people, so they are not exactly like every citizen—will have some form of enhanced due diligence, but it should be proportionate. The way that this will be done will ensure that.

[Lord Ashton of Hyde]

The banks are in absolutely no doubt about the Government's view on this. The Chancellor has personally written to the heads of the large banks, and the Economic Secretary to the Treasury has written to colleagues. Every bank now has a contact person with whom Peers, MPs and MEPs can get in touch if they feel that the enhanced due diligence is too great.

Lord Higgins: Before my noble friend comes to his peroration, perhaps I could ask this. All this consultation is taking place against the background of an impending referendum on whether we remain a member of the European Union. Am I wrong in thinking that all this depends on European directives, and that if the vote were to go in favour of our leaving the European Union we would have to look at the whole thing again?

Lord Ashton of Hyde: Even if that took place, we would be a member of the European Union for at least two years under the arrangements. But this is based on our staying in; if we did not, we would have to look at a great many things in addition to anti-money laundering procedures—and I am not sure that this would even be top of the list.

I am sorry to hear about the problems that the noble Baroness, Lady Kramer, has had with her family—but, as I said, the proportional nature of the enhanced due diligence for politically exposed people will be taken account of. The amendment is a good start and I commend it to the House.

Motion on Amendment 9 agreed.

Motion on Amendment 10

Moved by ***Lord Bridges of Headley***

That this House do agree with the Commons in their Amendment 10.

10: After Clause 31, insert the following new Clause—

"Early exit pension charges

(1) The Financial Services and Markets Act 2000 is amended as follows.

(2) After section 137FBA (as inserted by section 30) insert—

"137FBB FCA general rules: early exit pension charges

(1) The FCA must make general rules prohibiting authorised persons from—

(a) imposing specified early exit charges on members of relevant pension schemes, and

(b) including in relevant pension schemes provision for the imposition of specified early exit charges on members of such schemes.

(2) The rules must be made with a view to securing, so far as is reasonably possible, an appropriate degree of protection for members of relevant pension schemes against early exit charges being a deterrent on taking, converting or transferring benefits under the schemes.

(3) The rules may specify early exit charges by reference to charges of a specified class or description, or by reference to charges which exceed a specified amount.

(4) The rules made by virtue of subsection (1)(a) must prohibit the imposition of the charges after those rules come into force, whether the relevant pension scheme was established before or after those rules (or this section) came into force.

(5) In relation to a charge which is imposed, or provision for the imposition of a charge which is included in a pension scheme, in contravention of the rules, the rules may (amongst other things)—

(a) provide for the obligation to pay the charge to be unenforceable or unenforceable to a specified extent;

(b) provide for the recovery of amounts paid in respect of the charge;

(c) provide for the payment of compensation for any losses incurred as a result of paying amounts in respect of the charge.

(6) Subject to subsection (8) an early exit charge, in relation to a member of a pension scheme, is a charge which—

(a) is imposed under the scheme when a member who has reached normal minimum pension age takes the action mentioned in subsection (7), but

(b) is only imposed, or only imposed to that extent, if the member takes that action before the member's expected retirement date.

(7) The action is the member taking benefits under the scheme, converting benefits under the scheme into different benefits or transferring benefits under the scheme to another pension scheme.

(8) The Treasury may by regulations specify matters that are not to be treated as early exit charges for the purposes of this section.

(9) For the purposes of this section—

"charge", in relation to a member of a pension scheme, includes a reduction in the value of the member's benefits under the scheme;

"expected retirement date", in relation to a member of a pension scheme, means the date determined by, or in accordance with, the scheme as the date on which the member's benefits under the scheme are expected to be taken;

"normal minimum pension age" has the same meaning as in section 279(1) of the Finance Act 2004;

"relevant pension scheme" has the same meaning as in section 137FB;

and a reference to benefits includes all or any part of those benefits."

(3) In section 138E(3) (contravention of rules which may make transaction void or unenforceable)—

(a) omit the "or" at the end of paragraph (a);

(b) at the end of paragraph (b) insert "or

(c) rules made by the FCA under section 137FBB.""

4 pm

Lord Bridges of Headley: My Lords, Commons Amendment 10 places a duty on the Financial Conduct Authority to cap early exit charges that act as a deterrent to people accessing their pensions early under the new pension freedoms. The Government took the step of introducing this amendment in Committee in the Commons following detailed evidence-gathering exercises that showed the extent of consumer detriment caused by early exit charges and the imperative to act quickly in order to limit this.

Evidence from the FCA found that there is a small but significant cohort of people in contract-based pension schemes for whom early exit charges were posing a real barrier to accessing the freedoms. The FCA found that some 670,000 people over 55 in such schemes face an early exit charge, and for 66,000—almost one in 10—this charge would exceed 10% of the value of their pension pot. In some cases these charges would be high enough to make it uneconomic for an individual to access their pension flexibly, while in others, the presence of an early exit charge may have acted to discourage individuals from accessing their pension when it could have been the best thing to do in their circumstances.

It is therefore clear that the Government's objective of ensuring that everyone who is eligible can access their pension savings flexibly is not being met and that action is needed to ensure that all consumers are able to make use of the freedoms. In order to ensure that the cap benefits current consumers who are eligible to use the freedoms now, subsection (4) of this clause provides that any cap will apply equally in relation to existing arrangements, as well as those entered into in the future. The decision to introduce a measure which will have retrospective effect in this way is not one that the Government have taken lightly; we recognise industry concerns about the way this cap will affect existing contractual agreements.

However, the Government's view is that this action is warranted to ensure that individuals are not deterred from accessing their pension flexibly because of contractual terms they entered into long before the freedoms were introduced. These people would not have been in a position to make an informed decision about potential early exit charges when they signed up. Even some pension providers have conceded that industry practices have moved on and that the introduction of the pension freedoms means that these charges pose a much more significant barrier now than when they were agreed.

To be clear, this measure is about ensuring that consumers are adequately protected against early exit charges being imposed at a level so high as to deter them from accessing their pension early under the pension freedoms. This clause is not about determining the fairness of these, or other existing contractual terms and conditions more generally. That is a separate, wider issue which this Government have recently addressed in the Consumer Rights Act 2015, legislation which the FCA has the power to enforce against the firms it regulates.

It is important to consider the nature of the contractual terms affected through this measure. The Economic Secretary made it clear when introducing this clause in the other place that terms providing for market value reductions should not be subject to the cap on early exit charges. Subsection (8) of this clause gives the Treasury a power to introduce secondary legislation to provide for this exclusion to the FCA's duty. FCA rules already place rules on how firms may apply a market value reduction, and the cap on early exit charges will not add to or modify these rules. Furthermore, in order to ensure that the level of any cap is fairly set, the FCA will determine the precise level of the cap, following further public consultation and cost-benefit analysis. The FCA will be setting out its next steps in this process shortly, with a view to implementing this cap before the end of March 2017.

This clause gives the FCA the flexibility to apply different rules to different classes or descriptions of charges if it finds that the evidence demands this, but the Government's expectation is that any FCA cap or prohibition will apply equally for all those consumers accessing their pension aged 55 and above, up to their expected retirement date, rather than being set at different levels for different age groups. Although data collected by the Pensions Regulator suggest that early exit charges are less prevalent in trust-based pension schemes, we will also act to ensure that all members, regardless of scheme, are protected from excessive early exit charges, and the DWP and the Pensions Regulator will work alongside the FCA as they develop the design and level of the cap for contract-based pension schemes to ensure that this is possible.

The pension freedoms have given consumers much greater freedom of choice in the financial decisions they make at retirement. Commons Amendment 10 will provide important protections to consumers in contract-based pension schemes, ensuring that they are not deterred from using the pensions freedoms by excessive early exit charges. I beg to move.

Baroness Drake (Lab): My Lords, I take this opportunity to thank the Minister for meeting my noble friend Lord McKenzie and me to discuss this amendment in detail. I am most grateful for that. As has been said, the amendment places a new duty on the FCA to make rules to prohibit or cap early exit charges that act as a deterrent to people accessing their savings under the new freedoms. This amendment is particularly interesting for two reasons. Unusually, it introduces legislation with retrospective effect on existing contracts and a new deterrent regime in addition to the existing fairness regime in financial conduct regulation—in effect, charges must not be at a level that deters people from accessing their savings.

The Government believe the legislation needs retrospective effect because of the need to protect existing and future consumers, and—more interestingly, when one reads the detail of their proposals—that fairness should not be determined solely by reference to whether or not it was fair to include a term in a pension contract a decade or decades ago, but that it has to be looked at against how unfair contracts legislation has evolved since those contracts were entered into, and through the new lens of the recent pension freedom reforms, all of which arguments I agree with. But given that the Government have taken the decision through this amendment to enable retrospective changes to existing pension contracts and recovery of amounts paid or payment of compensation for charges made in contravention of the new FCA rules coming into force in March 2017, and that the pension freedoms, which provide the new lens for looking at fairness, were introduced in April 2015, I cannot understand why the consumer protection in the new FCA duty does not apply with effect from April 2015. Why is it necessary to wait until March 2017 when the FCA rules are implemented—a full two years after the pension freedoms were introduced—before consumers are protected by the provisions on fair access to savings?

The Minister advised in his letter of 16 March that the Government are introducing this amendment,

"in light of detailed evidence gathering, and an imperative to act quickly in order to limit the extent of consumer detriment caused by early exit charges".

The Government's main defence for this two-year gap from April 2015 to March 2017 in protecting consumers is that savers who access savings between these two dates from a scheme whose early exit charges are considered excessive under FCA rules to be implemented in March 2017 cannot have been deterred by those charges and presumably are therefore not in need of retrospective protection. That argument simply does not sit comfortably with the Government's view that

[Baroness Drake]
some people are being denied fair access to their savings. It suggests that the new deterrent regime trumps fairness—in effect, if a person accessed their savings they have not been deterred, ergo the early access terms are fair.

There are many reasons why people may access their pension savings during that two-year gap, even though the charges may be excessive. There may be ill health or other compelling personal circumstances that override the deterrent effect. People may not be aware of, or understand, the excessive early exit charges, so do not make their decision on an informed basis. The FCA data reveal that 78% of affected consumers rated their pension provider's explanation of the exit charge and its level as poor.

In his letter of 16 March, the Minister comments:

"In order to ensure that the provision benefits current consumers who are eligible to use the pension freedoms now … this clause provides that any prohibition or cap imposed by FCA rules applies equally in relation to existing pension contracts, as well as those entered into in future".

In the light of that statement, it is most unfortunate that the amendment excludes from the protection consumers accessing their savings between April 2015 and March 2017, even though in other circumstances it allows for a retrospective effect.

Baroness Kramer: My Lords, I echo the objections just raised by the noble Baroness, Lady Drake. It is quite inexplicable that "retrospective" does not mean that the new regime will be recalculated from the date that people were able to access their pension pots. It seems equally unfair for people to have paid an inappropriate exit fee a year ago as it is for them to pay an inappropriate exit fee a year from now. Has the Minister considered how this will tend to inhibit decision-making by families until the new regulations are revealed? Instead of making the best decision for the family, there will be great pressure to delay that decision until the rules are clearer and, presumably, the exit fees are removed.

The amount of money involved in this process cannot be substantial but to the individual family that has been impacted, it is certainly significant. I really do not understand the Government's thinking on this issue.

Lord McKenzie of Luton (Lab): My Lords, I thank the Minister for his early warning of this amendment, for facilitating the meeting with officials and for addressing at that meeting some of the incisive and expert questions posed by my noble friend Lady Drake. As we have heard, the new clause places a requirement on the FCA to make rules to prohibit or cap certain early exit charges in regulated schemes which act as a deterrent to people accessing their pensions under the new pension freedoms. So far as it goes, this should be supported.

As the Minister's letter of 16 March sets out,

"after the reforms took effect last April, it has become increasingly clear that early exit charges were preventing some people from accessing their pension flexibly under the freedoms".

This was substantiated by the government consultation and evidence-gathering by the FCA and the Pensions Regulator. This process identified a number of weaknesses in the application of the freedoms policy: not just the early exit charges but a lack of clarity in the process for transferring pension savings and uncertainty around the need for financial advice when making transfers involving safeguarded benefits.

Although early exit charges are not an issue for the majority of those eligible to access freedoms, the Government have concluded that significant numbers of eligible individuals face charges which in absolute or relative terms present a "real barrier" to early access. This begs the obvious question of why this matter was not addressed as a fundamental component of the design of pensions flexibility in the first place. Why has it seemingly come as such a surprise to the Government that these early exit charges exist and could act as a deterrent? This is symptomatic of the rushed nature of the introduction of this policy more generally, which lacked the consultation and consensus-building that have typically characterised good pensions policy development.

It might be argued that before the introduction of the FCA cap—to be in place before the end of March 2017, as we have heard—there has been no detriment because by definition exit fees could not have been a deterrent to the 400,000 times that pension pots have been accessed to date. But it seems that exit fees could be a deterrent, making it less likely, weighed against other factors, that someone would access their pension pot, without these fees being an absolute bar. That is why, as my noble friend has argued, we consider that any capping should be applied not only to existing as well as new contracts but to pensions accessed from the start of the pension freedoms regime in 2015, a point supported by the noble Baroness, Lady Kramer.

4.15 pm

The Government's consultation response asserts a determination to protect members of trust-based schemes, as well as contract-based schemes, from excessive early access fees. That response makes reference to using existing powers to limit pension charges so that a comparable arrangement between trust-based and contract-based arrangements can be put in place. It is difficult to probe this in depth at this stage of our deliberations, but perhaps the Minister will write further to unpick that assertion for us.

The obligation on the FCA to introduce rules concerning early exit charges is a necessary if belated step and this clause, as I have said, should be supported. As the Government acknowledge in their consultation, there is yet more to do in helping to expedite scheme transfers for trust-based schemes and around the advice requirement. I note that had we seen this amendment at an earlier stage of the Bill, we might have had a better opportunity to explore its ramifications and, in particular, to have a wider debate around the forensic issues raised by my noble friend Lady Drake.

Lord Bridges of Headley: My Lords, I thank noble Lords who have spoken in this debate. Let me pick up on the final point which was just made by the noble Lord, Lord McKenzie. I heed what he says about getting access to this amendment sooner but I would somewhat refute what he says about the rushed nature

of the entire policy. When this problem was first identified the Government took immediate action to address it by embarking, as I have mentioned, on the FCA evidence-gathering exercise. However, I thank in particular the noble Lord and the noble Baroness, Lady Drake, for the time that they have spent discussing this clause and amendment with me. I have already committed to write to them shortly to address a number of the very forensic and detailed points that were made to me last week. I will do that as soon as I possibly can.

A number of your Lordships including the noble Baroness, Lady Kramer, raised a valid question about why we are not backdating this measure to 2015, when the pension freedoms came into effect, and not requiring providers to pay back the early exit charges which they received from customers in the period between April 2015 and when the cap comes into effect. I would make two points on this, as already outlined in my remarks. First, the purpose of this measure is not to require the FCA to assess the fairness of the contractual terms of historic pensions. The intent of the measure is to ensure that early exit charges are not imposed at an inappropriate level which deters consumers from accessing their pension early under the pension freedoms. Clearly, those who have decided, or will decide, to access their pension despite an early exit charge have not, or will not, have been deterred by the existence of such a charge.

Secondly, I accept the observation that, once in effect, this cap will obviously benefit some consumers who would not have been deterred by the early exit charge in their contract. However, the Government believe that it is an ordinary consequence of introducing a new measure of this sort that those—in this case, consumers—who take an action before the law comes into force do not benefit from the new law. Moreover, it is right that the Government do not rush to make legislation which has any sort of retrospective effect but that they do so only when there is clear and compelling evidence that it is in the public interest, and then make that retrospection as minimal as possible to ensure that the action is proportionate. That is what I and the Government believe that this clause achieves. It is proportionate and focused on those who greatly need it, and that is why I commend it to the House.

Baroness Drake: Before the Minister finishes, if I may, the defence is given that this is not a fairness regime but a deterrent regime and that there is therefore no evidence of deterrence and no need to make it retrospective. But on the FCA's own evidence, the knowledge and understanding of these charges is quite poor. It is difficult to be deterred if you do not know that you are being exposed to excessive exit charges. People will not know that they are being exposed to them until the FCA has done its business, which will be by March 2017. It seems a little unfair. At the very least, perhaps the Government should be taking steps to ensure that companies and other agencies make consumers aware that if they wait until March next year, they may get a better deal.

Lord Bridges of Headley: The noble Baroness, as so often, makes a very valid point. This is precisely what the consultation sets out to address. It aims to ensure not just that consumers are properly protected but that they make informed and proper decisions. I will write to the noble Baroness to make these points in more detail.

Motion on Amendment 10 agreed.

Motion on Amendment 11

Moved by ***Lord Ashton of Hyde***

That this House do agree with the Commons in their Amendment 11.

11: Clause 38, page 33, line 25, leave out subsection (2)

Motion on Amendment 11 agreed.

Motion on Amendment 12

Moved by ***Lord Bridges of Headley***

That this House do agree with the Commons in their Amendment 12.

12: Schedule 2, page 45, line 6, at end insert—

"( ) In paragraph 14 for "submit a monthly" substitute ", at least 8 times in each calendar year, submit a"."

Motion on Amendment 12 agreed.

Syria: Aleppo

Statement

4.21 pm

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, with the leave of the House, I shall repeat a Statement made a short while ago in another place by my honourable friend Tobias Ellwood.

"The Syrian conflict has entered its sixth year. As a result of Assad's brutality and the terror of Daesh, half the population have been displaced and more than 13 million people are in need of humanitarian aid. The UN special envoy, Staffan de Mistura, estimates that as many as 400,000 people may have been killed as a direct result of the conflict.

Our long-term goal is for Syria to become a stable, peaceful state with an inclusive Government capable of protecting their people from Daesh and other extremists. Only when that happens can stability be returned to the region, which is necessary to stem the flow of people fleeing Syria and seeking refuge in Europe.

We have been working hard to find a political solution to the conflict. There have been three rounds of UN-facilitated peace negotiations in Geneva this year: in February, March and April. The latest round concluded on 27 April without significant progress on the vital issue of political transition. We have always been clear that negotiations will make progress only if the cessation of hostilities is respected, full humanitarian access is granted and both sides are prepared to discuss political transition.

The escalating violence over the last two weeks, especially around Aleppo, has been an appalling breach of the cessation of hostilities agreement. On 27 April, Al Quds Hospital in Aleppo city was bombed, killing civilians, including two doctors, and destroying vital equipment. More than a dozen hospitals in Aleppo

[Baroness Anelay of St Johns]
city had already been closed because of air strikes, leaving only a few operating. The humanitarian situation there is desperate. According to human rights monitors, at least 253 civilians—including 49 children—have been killed in the city in the last fortnight alone.

At midnight on Friday, following international diplomatic efforts between the US and Russia, a renewed cessation came into effect in Latakia and eastern Ghouta in Damascus. We understand that this has reduced some of the violence in Latakia but remains shaky in eastern Ghouta. The situation in Aleppo remains very fluid. The Assad regime continues to threaten a major offensive on the city. There were some reports of a cessation of attacks overnight, but we have received reports indicating that violence has continued this morning. We need swift action to stop the fighting. My right honourable friend the Foreign Secretary is speaking to Secretary Kerry today to discuss how we can preserve the cessation.

We look to Russia, with its unique influence over the regime, to ensure that the cessation of hostilities does not break down. It has set itself up as the protector of the Assad regime and it must now put real pressure on it to end these attacks. This is crucial if peace negotiations are to be resumed in Geneva. Those negotiations must deliver a political transition away from Assad to a legitimate Government who can support the needs and aspirations of all Syrians and put an end to the suffering of the Syrian people.

We also need to inject further momentum into political talks. We therefore support the UN envoy's call for a ministerial meeting of the International Syria Support Group to facilitate a return to a process leading to a political transition in Syria. We hope that this can take place in the coming weeks. The UK is working strenuously to make that happen and we will continue to do so".

4.25 pm

Lord Collins of Highbury (Lab): My Lords, I thank the Minister for repeating the Statement. The dreadful and appalling attacks and the scenes that we have seen in Aleppo appear to be a deliberate attempt to jeopardise the ceasefire and undermine the peace talks. As recognised by the Geneva Conventions, there is never any justification for attacking hospitals. I hope that the noble Baroness will assure the House that the UK is taking all steps, including gathering evidence, to ensure that those responsible will be held to account in future. As a member of the Syria support group, as she highlighted, Britain has a crucial role to play in the peace talks. US Secretary John Kerry yesterday met the Foreign Minister of Saudi Arabia, along with the UN special envoy, who agreed to make maximum efforts with the opposition to make certain that they are ready and prepared to go back to the table the minute a cessation is in place.

What steps are the UK Government taking to work with Saudi Arabia and other allies to encourage the Syrian opposition to recommit to the peace process and to ensure that all component groups of the coalition recognise the ceasefire agreements when they are in force? Finally, what progress is being made to ensure that humanitarian access is at the heart of any new ceasefire agreement?

Baroness Anelay of St Johns: My Lords, I give full assurance that we see it as our duty and that of our allies to ensure that evidence is gathered to ensure that perpetrators of breaches of international law and international humanitarian law are held to account. The UK is doing that specifically through projects which we support where very brave people are collecting and preserving information, and I applaud their personal courage in so doing.

The noble Lord is right: it is critical that we ensure that we work with our allies across the International Syria Support Group and generally to recommit to the political process, to ensure that it is taken forward. In particular, he mentions work to persuade the opposition to the regime in Syria to recommit to that process. We shall continue to do that, but I note that it is very difficult for them to recommit to that political process while the Assad regime—and, it appears from reports, the Russians—are showing that they have no care for the process of cessation of hostilities in Aleppo. If reports are correct that Russia itself is involved in bombing hospitals, the noble Lord is right to say that in no circumstances is there justification for the bombing of civilians.

Finally, with regard to humanitarian access, we give our full support to regaining it. For example, the regime is blocking access to humanitarian aid even to places such as Darayya, a few kilometres from Damascus and the UN. Road access is easy there; the UN could make it happen; the regime stops it.

Lord Campbell of Pittenweem (LD): My Lords, it is difficult to imagine the effect of the kind of barbarity that the noble Baroness just described on a civilian population. It must be recognised that John Kerry, the Secretary of State, has strained every sinew to try to reach, if not an amicable, at least a temporarily stable solution. Does not all this give the lie to any suggestion—which apparently continues to be Russian policy—that somehow Mr Assad could be part of any kind of continuing Government in Syria?

Baroness Anelay of St Johns: My Lords, the Russians clearly have some influence on Assad; I want them to use it in a way that can ensure that the Syrian people have the hope of having a transitional process to peace. Assad continues to attack the very people for whom he should have a care. It is the case that brutality occurs at every turn, every day. I met those doctors and nurses who are treating people in hospitals in Syria, who have come out of Assad's detention centre, having suffered the most appalling and barbaric torture, and I recall their words. They trained to be doctors, but they are faced with seeing every day the horrific results of what Assad commits on his own people.

Lord Howell of Guildford (Con): My Lords, in seeking to persuade the Russians to change their attitude, has anyone confronted the Russian Ministers with the bald fact that their actions and Russian airstrikes have slaughtered a paediatrician and children in a children's hospital in the latest attack in Aleppo? Have those facts been put to them at the level of trying to make the Russian people and Government understand that they are tarnishing themselves by pursuing these actions? Could the Minister say anything about reports that

President Bashar al-Assad is actually colluding with Daesh in various ways, over oil supplies and other arrangements, in attacking Aleppo with Russian support? Finally, could she convey somehow to the Russian people that they are a very great people—that they have understandable problems and have suffered greatly in the past—but that their leadership now is taking on powers such that many people are coming to question whether Russia is a serious contributor to the society of nations or whether the leadership has gone completely mad?

Baroness Anelay of St Johns: My Lords, I understand, with regard to presenting to Russia the facts of the impact of its support and direct action in Syria, that that information has been transmitted. Staffan de Mistura is travelling, or has travelled today, to Russia to speak to Foreign Minister Lavrov, and I have no doubt that he will lay out those facts. We are concerned by patterns of co-ordination between the Syrian regime, Russian air forces, and indeed by some of the Syrian Kurdish forces, in their direct conflicts with elements of the moderate armed opposition. My noble friend is right to raise those concerns. It is important that the regime and Russia recognise that, in playing a part on the international stage to bring peace to Syria, it does not then kill the peace off at the start.

Lord Alton of Liverpool (CB): My Lords, has the Minister had the chance to consider not just the appalling and shocking attacks on the hospitals and the killing of the last paediatrician in Aleppo but the specific targeting and revenge attacks on minority communities in Aleppo—particularly the attack on 26 April, which I mentioned in a Parliamentary Question that I tabled to her last week, where again several children were killed in an attack on the Syrian Christian quarter there? Has she had a chance to consider also the resolution of the Australian House of Representatives at the end of last week, joining the American House of Representatives, the British House of Commons, the European Parliament and the Parliamentary Assembly of the Council of Europe, in declaring these events to be a genocide, joining her ministerial colleague, Tobias Ellwood, who has said precisely the same thing? Would she consider arranging a meeting with the Foreign Secretary, Members of your Lordships' House and Members in another place, who would like to see the judicial review of these events brought right up the agenda in the way that the noble Lord, Lord Collins, indicated in his intervention, so that those responsible for these events will be brought to justice?

Baroness Anelay of St Johns: My Lords, wanting to bring people to justice is, of course, a long-term commitment, not achieved by short-term statements. It is important that the noble Lord has raised today the issue of the targeting of groups within Syria and, particularly, Aleppo. I have looked at that. Indeed, in the past I have discussed with groups collecting information about the atrocities exactly what it means to individuals who are under attack—particularly the White Helmets, who make such a valuable effort in retrieving people from the rubble and who, while they do so, find themselves barrel bombed by Assad for trying to save lives.

This Government share the House of Commons' condemnation of Daesh atrocities against minorities and the majority Muslim population in Iraq and Syria. That is why we mandated the UN Human Rights Council to investigate Daesh in 2014, and why we are doing everything we can to gather evidence for use by judicial bodies.

The noble Lord referred to the personal view put forward by my honourable friend Tobias Ellwood. Some people are announcing that there has been genocide but, while the Government agree that there may be a strong case, our view remains that the courts are best placed to judge criminal matters. That is why we are committed to working with our partners in the international community to gather that evidence in order to get that judicial decision as a possibility—to provide an opportunity for the judiciary to make the decision that is rightfully theirs to make.

Trade Union Bill

Commons Amendments

4.35 pm

Motion A

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

That this House do agree with the Commons in their Amendments 2A and 2B.

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

"Electronic balloting

Provision for electronic balloting: review and piloting scheme

(1) The Secretary of State shall commission an independent review, the report of which shall be laid before each House of Parliament, on the delivery of secure methods of electronic balloting for the purpose of ballots held under section 226 of the 1992 Act (requirement of ballot before action by trade union).

(2) The use of pilot schemes shall be permitted to inform the design and implementation of electronic balloting before it is rolled out across union strike ballots.

(3) The Secretary of State must consider the report and publish and lay before each House of Parliament a strategy for the rollout of secure electronic balloting.

(4) For the purpose of preparing the strategy under subsection (3), the Secretary of State must consult relevant organisations including professionals from expert associations to seek their advice and recommendations.

(5) The review under subsection (1) shall be commissioned within 6 months of the passing of this Act."

Commons Agreement and Amendments to the Lords Amendment

The Commons agree with Lords Amendment No. 2 and do propose Amendments 2A and 2B thereto—

2A: Line 13, leave out from "Parliament" to end of line 14 and insert "his or her response to it"

2B: Line 15, leave out "strategy" and insert "response"

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, it is a pleasure to return to the Trade Union Bill, which I believe was much improved as a result of the expertise and attention to detail shown in this House. We have three groups before us today, on electronic balloting, trade union political fund opt-in and facility time, following changes made in the other place to the amendments made after votes here in the Lords.

[Baroness Neville-Rolfe]

We all agree that trade unions have an important role to play in the workplace. That includes helping to resolve workplace disputes without strikes, improving health and safety and encouraging skills development. We have already secured agreement in both Houses to the key aspects of this legislation, including ballot thresholds and mandates, reform of picketing and the Certification Officer. Following further discussions and debate in the other place, we are here today to consider the final elements of the Bill.

I turn first to electronic balloting. We have always been open to the principle but we have reservations, which I described in detail on Report, about its safety and security. I appreciate that some do not share my concerns and are satisfied that these issues can be easily resolved. That is why the noble Lord, Lord Kerslake, with widespread support across the House, proposed that an independent review be commissioned, after which e-balloting would be introduced. There have of course already been a number of reviews such as those by Electoral Reform Services, Webroots Democracy and the Speaker's Commission on Digital Democracy. These have made encouraging comments about a move to electronic ballots but none has provided assurance on managing the risks. That is why we can see the merit in looking at the issues further and will be commissioning an independent review to do so.

The review will enable us to take a properly informed decision based on an assessment of the latest technology, made specifically in the context of electronic voting for industrial action ballots. It will take us closer to resolving the question of how both security and confidentiality can be preserved. This is important because it should enable us to get to the very heart of the matter. I am pleased that the Government have now agreed to accept your Lordships' amendment for an independent review of e-balloting, with one important change: to replace the requirement to,

"consider the report and publish and lay before each House … a strategy for the rollout of secure electronic balloting",

following the review, with a requirement for the Government to publish our response to the review. There is a simple and important reason for that change. We believe that the wording voted on in this House would prejudge the outcome of the review and irrevocably commit the Secretary of State to press ahead irrespective of the review's findings. However, we have listened carefully to the strength of feeling in both Houses. We can see the merits of electronic voting being made available for industrial action ballots once the problems are addressed, and this review will enable us to make crucial progress. We already have the powers to introduce such ballots in Section 54 of the Employment Relations Act 2004.

The amendment before your Lordships today, supported by the other place, reflects the Government's acceptance of the principle of electronic balloting while ensuring that we proceed prudently and on the basis of evidence. I beg to move.

Lord Collins of Highbury (Lab): My Lords, I thank the Minister; I appreciate that the Government have moved substantially on this issue since we last debated it. I will try to encourage her to be a little more positive, because the fact is that the Government have publicly declared in favour of a review, which is important. It is important that she reassure the House that all interested parties will be publicly consulted in that review and will have the opportunity to put their case and the evidence in an open and transparent way. I hope this will include not only balloting agencies but the trade unions themselves and the TUC, which obviously have a wealth of experience. It may even be an opportunity for the Conservative Party to explain how well it gets on with electronic balloting, which it has used in the past. I therefore hope that the Minister will be able to give that commitment that evidence will be taken across the board.

I also noted the comments by Nick Boles in the other place about the pilots running as part of the review. I hope the Minister will be able to give the independent review a freer hand that will enable it to say, "Well, yes, we have evidence, but we want to test it". That is important, because whatever the review's conclusions, it matters that people have confidence in it. That is why all noble Lords were committed to the idea of a trial or pilots—to ensure that the review could assess its effectiveness.

Of course, no balloting process is completely secure, as we know from our own parliamentary system. However, I am fairly confident that the balloting agencies will be able to ensure that there is a strong case. We must not forget the reasons for this. It is about ensuring democracy, and if the Government are genuinely concerned about the rate of participation in elections—or, primarily, in industrial action ballots, where the thresholds have been put in place—it is their duty to ensure that all measures are taken to maximise this. Views were expressed across the House that this independent review should take place as speedily as possible and that the Government should consider fully its conclusions. I note what the Minister says but I hope that once that review is published, the Government will give proper consideration to its conclusions.

Lord Kerslake (CB): My Lords—

The Earl of Courtown (Con): My Lords, the noble Lord, Lord Kerslake, was not in the Chamber until well after the Minister had started speaking. I do not know whether the House feels that he should be allowed to speak.

Lord King of Bridgwater (Con): My Lords, can my noble friend say whether I am right in thinking that there has been some change in the order of business? I was under the impression that there would now be an Urgent Question on health. I myself arrived late in the Chamber, and that ought to be taken into account.

Baroness Neville-Rolfe: In the circumstances, it would be right to hear the noble Lord, Lord Kerslake.

Lord Kerslake: I am very grateful to the House for giving me the opportunity to speak. I was going to convey my apologies for lateness for the exact reason given by the noble Lord, Lord King—I had a different understanding of the timetable. All I can say is that I am learning fast.

I wholeheartedly welcome the movement on electronic balloting, and the Minister will know how passionately I feel about this. The fact is that it is both a secure and effective system for testing the opinion of different groups. It has been used on many occasions by many organisations for very important votes, and I believe passionately that it should be made available to the unions, particularly where we have set thresholds that must be met before they can take industrial action.

4.45 pm

I am concerned that we should go into this not only with the appropriate level of prudence but with an open mind, being willing to engage in a constructive review, looking at the issues in the round, testing the security issues and, crucially, testing whether the electronic balloting system is as secure as or more secure than postal balloting. There is no such thing as an entirely secure system. This is about relative security, and that is what needs to be tested here.

I believe strongly that we should not need to wait 20 years for the review to be implemented, and I hope the Minister will assure me that that is not the mindset of those who will be asked to undertake it. I hope they will undertake it constructively and positively, with a genuine desire to advance the agenda of electronic balloting.

Lord Pannick (CB): My Lords, I agree with what the noble Lord, Lord Kerslake, has just said. The Minister has repeated today that the Government are not opposed to electronic balloting in principle; they are concerned about the technicalities. I therefore hope that the Minister can tell the House that, if the independent review produces a positive response on the technicalities and the detail, the Government will be eager to implement the findings.

Lord Cormack (Con): My Lords, I thank the Minister, as I do Mr Nick Boles for the very constructive part he played in another place. I just ask my noble friend to say something about the timescale.

Lord King of Bridgwater: My Lords, perhaps I may add to the comments of the noble Lord, Lord Kerslake, but, first, I also add my apologies for not being here when the Minister made her contribution. However, I think that some of us are entitled to an apology from whoever set out the business for today, as it has been taken in an order different from what we were previously advised.

I obviously apologise if my noble friend has already covered this matter clearly but I was very struck by the statement from the Minister, Mr Nick Boles, in response to a contribution from Mr David Davis, who has taken a keen interest in this matter. Mr Davis asked what assurance could be given about the outcome of a positive review. The Minister replied:

"I have made it clear that we have no objection in principle to e-balloting. If the research suggests that it is safe to embrace, we will proceed with it".—[*Official Report*, Commons, 27/4/16; col. 1476.]

Interestingly, there was then considerable discussion about the Minister's career prospects—whether it meant anything or whether it was merely the reflection of a Minister who was here today and gone tomorrow. He made it quite clear that he had made that statement on behalf of the Government and, regardless of who succeeded him, it was the Government's position. It is to the Government's credit that they recognise the validity of this argument. It is sensible to have a review and if it is positive, obviously there will be benefits in introducing it.

Lord Stoneham of Droxford (LD): My Lords, I, too, must apologise for being a little late. I was brought up on the good trade union tradition that an agreement on procedure is an agreement, although clearly it was not this afternoon.

I want to add a couple of comments to the important speeches that we have already heard—particularly those from the Cross Benches—and to what the noble Lord, Lord King, said. We are seeking three things. The first is that the unions should be consulted as part of this review. Secondly, we would like to see some form of pilot as part of the review, bearing in mind that the Electoral Reform Services has conducted in the past year 2,000 polls and covered 1 million votes. There is a lot of experience out there, so this review does not actually need a lot of time. Therefore, our third requirement is that there should be some form of deadline. We are concerned that this will be heading for the long grass otherwise. The whole concept of electronic balloting is very important to the future of trade union democracy, not only for ballots for industrial action, but ballots for union leadership. Postal ballots were seen 20 or 30 years ago as essential reform, but now that turnouts in postal ballots are disappointingly low, we have to look at alternative methods of making such ballots more representative. Electronic balloting, as we have discussed in this Chamber, is now the next important reform. I hope the Government will exercise this review quickly and expediently and get a positive response.

Baroness Neville-Rolfe: My Lords, I believe that we have made significant progress today, despite the confusion over the timing of the Statement. The review will help to assess the rigour of the latest technology and address concerns about security, confidentiality and intimidation. It will allow us to consider again the case for e-balloting and ensure that we are making the right decision about whether to allow this method for conducting trade union ballots. I note what the noble Lord, Lord Collins, said about the value of increasing participation through e-balloting and the points made by the noble Lords, Lord Kerslake and Lord Pannick, about its value.

Let me first address the point raised by the noble Lord, Lord Stoneham, about pilot schemes. Pilots are always a good thing, and it is a pity they are not deployed more generally in public policy. How and when you use them in this area is not something that can be decided today. However, we have specifically mentioned them in the Bill and I appreciate from exchanges that we have had, including with the noble Lord, Lord Mendelsohn, that they are important.

I note the point made by the noble Lord, Lord Collins, about involving interested parties in the review, and in particular trade unions and the Trades Union Congress. This will of course be an independent review,

[Baroness Neville-Rolfe]
and it will be for the chair to determine how best to conduct it. However, to my mind, it would make sense to involve trade unions, and indeed other relevant experts, and I am sure that he or she will come to the same view. Union input is very important, and in deciding how to set up the review we obviously need to avoid conflicts of interest.

My noble friend Lord King rightly quoted my honourable friend Nick Boles, who has done so much to progress this legislation, and the Government's intentions, as set out recently. I cannot really add to that, but a number of noble Lords have asked about timing. I am pleased to provide reassurance that the review will be acted upon in due course and without delay.

Lord Forsyth of Drumlean (Con): My Lords, I am most grateful to my noble friend the Minister. We did of course have extensive debates about the merits of this at an earlier stage of the Bill. Could she tell the House when and why the Government changed their mind on this matter?

Baroness Neville-Rolfe: My Lords, we discussed e-balloting in this House in Committee and at Report. There was a very widespread view that we should try to find a way forward on e-balloting. It is fair to say that we have been working since then to try to do just that. The Bill went back to the other place with amendments made by this House, most of which were accepted, and it was decided by the Government that we should bring forward a review of e-balloting in exactly the form that I have described today. I welcome that and welcome the progress that that has meant we are able to make on this Bill.

I shall not delay your Lordships long on this issue. I am very interested in all aspects of the advance of digitalisation—my friends know that—so I look forward to seeing the results of the review of e-balloting that we are agreeing today.

Lord Cormack: Could my noble friend please answer the question that I asked about timescale? She used the expression "in due course" et cetera, but it would be helpful to know when this review will commence, how long it will last and when we will therefore be in a position to draw conclusions from it.

Baroness Neville-Rolfe: I can repeat that we will act in due course and without delay. Those words were advised. Of course, I am not able to answer in detail on the exact timetable today, but I hope that noble Lords will feel that the direction of travel is right and that this amendment, which builds largely on the amendment passed in this House, is what we need and will agree that we should proceed with it.

Motion A agreed.

Motion B

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

That this House do not insist on its Amendments 7 and 8 and do agree with the Commons in their Amendments 7A, 7B, 7C, 7D, 7E and 7F.

7: Clause 10, page 5, line 40, leave out from beginning to end of line 36 on page 6 and insert—

"(1) A person who, after the transition period, joins a trade union that has a political fund at the time the person joins shall, on the trade union membership form (whether paper or electronic), be asked whether or not the person wishes to contribute to the political fund, and informed that the decision shall not affect any other aspects of the person's membership.

(2) It shall be unlawful to require a person who joins a trade union after the transition period to make a contribution to any political fund of that trade union if the person has not given to the trade union notice—

(a) on the membership form (whether paper or electronic), or

(b) in accordance with subsection (6),

of the person's willingness to contribute to that fund.

(3) It shall be unlawful for any trade union which does not have in force a political resolution under section 73 (political resolution) at the end of the transition period, but which subsequently passes a political resolution under that section, to require a member of the trade union to make a contribution to the political fund if the member has not given notice to the trade union in accordance with subsection (6) of the member's willingness to contribute to that fund.

(4) A member of a trade union who contributes to a political fund but wishes to cease contributing to that political fund shall give notice to that effect to the trade union in accordance with subsection (6).

(5) A member of a trade union who gives notice under subsection (4) shall, after the end of the period of one month beginning with the day on which it is given, no longer be required to contribute to the political fund.

(6) Notice under subsection (2), (3) or (4) may be given to a trade union by being delivered—

(a) to the head office of the trade union, or

(b) to a branch office of the trade union,

in person, by any authorised agent, by post, or by electronic means.

(7) The Certification Officer shall, within six months of section 10 of the Trade Union Act 2016 coming into force, issue a code of practice which must set out the minimum level of communications which trade unions with political funds must have every year with political fund contributors about their right to cease contributing to the political fund.

(8) The Certification Officer must monitor the compliance of trade unions with political funds with the code of practice issued under subsection (7), and shall in their annual report under section 258 (annual report and accounts) set out their findings.

(9) In this Act "contributor", in relation to the political fund of a trade union, means a member who makes a contribution to the political fund and has not given notice to the trade union under subsection (4).

(10) In this section "the transition period" means the period to be specified by the Secretary of State in regulations made by statutory instrument following consultation with the Certification Officer and all trade unions which have a political fund.

(11) The period to be specified by the Secretary of State under subsection (10) shall be no less than 12 months, and shall start on the day on which section 10 of the Trade Union Act 2016 comes into force.

(12) A statutory instrument containing regulations under subsection (10) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

8: Page 7, line 7, leave out subsections (3) to (5)

Commons Disagreement and Amendments in lieu

The Commons disagree with Lords Amendments No. 7 and 8, but do propose Amendments 7A, 7B, 7C, 7D, 7E and 7F in lieu—

7A: Page 5, line 40, leave out from beginning to end of line 36 on page 6 and insert— "(1) It is unlawful to require a member of a trade union to make a contribution to the political fund of a trade union if—

(a) the member has not given to the union notice of the member's willingness to contribute to that fund (an "opt-in notice"); or

(b) an opt-in notice given by the member has been withdrawn in accordance with subsection (2).

(2) A member of a trade union who has given an opt-in notice may withdraw that notice by giving notice to the union (a "withdrawal notice").

(3) A withdrawal notice takes effect at the end of the period of one month beginning with the day on which it is given.

(4) A member of a trade union may give an opt-in notice or a withdrawal notice—

(a) by delivering it (either personally or by an authorised agent or by post) at the head office or a branch office of the union;

(b) by sending it by e-mail to an address that the union has told its members can be used for sending such notices;

(c) by completing an electronic form provided by the union which sets out the notice, and sending it to the union by electronic means in accordance with instructions given by the union; or

(d) by such other electronic means as may be prescribed.

(5) In this Act "contributor", in relation to the political fund of a trade union, means a member who has given to the union an opt-in notice that has not been withdrawn.""

7B: Page 6, line 36, at end insert—

"(1A) After that section insert—

"84A Information to members about contributing to political fund

(1) A trade union shall take all reasonable steps to secure that, not later than the end of the period of eight weeks beginning with the day on which the annual return of the union is sent to the Certification Officer, all the members of the union are notified of their right to give a withdrawal notice under section 84(2).

(2) The notification may be given —

(a) by sending individual copies of it to members; or

(b) by any other means (whether by including the notification in a publication of the union or otherwise) which it is the practice of the union to use when information of general interest to all its members needs to be provided to them;

and, in particular, the notification may be included with the statement required to be given by section 32A.

(3) A trade union shall send to the Certification Officer a copy of the notification which is provided to its members in pursuance of this section as soon as is reasonably practicable after it is so provided.

(4) Where the same form of notification is not provided to all the members of a trade union, the union shall send to the Certification Officer in accordance with subsection (3) a copy of each form of notification provided to any of them.

(5) Where the Certification Officer is satisfied that a trade union has failed to comply with a requirement of this section, the Officer may make such order for remedying the failure as he thinks just under the circumstances.

(6) Before deciding the matter the Certification Officer—

(a) may make such enquiries as the Officer thinks fit;

(b) must give the union, and any member of the union who made a complaint to the Officer regarding the matter, an opportunity to make written representations; and

(c) may give the union, and any such member as is mentioned in paragraph (b), an opportunity to make oral representations."

7C: Page 7, line 6, at end insert—

"(2A) In section 82 of the 1992 Act (rules as to political fund), in subsection (1), for the word "and" at the end of paragraph (c) substitute—

"(ca) that, if the union has a political fund, any form (including an electronic form) that a person has to complete in order to become a member of the union shall include—

(i) a statement to the effect that the person may opt to be a contributor to the fund, and

(ii) a statement setting out the effect of paragraph (c); and"

7D: Page 7, line 7, leave out subsections (3) to (5) and insert—

"(3) The amendments made by subsections (1) to (2A) apply only after the end of the transition period, and only to a person—

(a) who after the end of that period joins a trade union that has a political fund, or

(b) who is a member of a trade union that has a political fund but did not have one immediately before the end of that period.

(4) In subsection (3) "the transition period" means a period of not less than 12 months, starting on the day on which this section comes into force, specified by the Secretary of State in regulations made by statutory instrument.

(5) Before making regulations under subsection (4) the Secretary of State must consult—

(a) the Certification Officer, and

(b) all trade unions that have a political fund.

(6) A statutory instrument containing regulations under subsection (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

7E: Page 26, line 27, at end insert—

"( ) section 84A(5) (order on failure by union to provide required information to members about contributing to political fund);"

7F: Page 30, line 12, leave out paragraph 7

Baroness Neville-Rolfe: My Lords, we have debated at length the principle of how union members exercise their choice to opt either in or out of a political fund. I am particularly grateful to the noble Lord, Lord Burns, and the wider Select Committee for their deliberations on this complex issue. They were both careful and wise, and extraordinarily rapid because of what looked like an impossible five-week deadline.

I extend thanks in particular to my noble friends Lord Sherbourne, Lord De Mauley, Lord Robathan and Lord Callanan, who gave up their time to help the committee find a way forward on these very important matters and ensure that the principle of union members having a transparent and active choice to opt in was supported.

The Government have given careful consideration to the recommendations of the Select Committee and to the amendment tabled by the noble Lord, Lord Burns, which followed the majority view that opt-in should apply only to new members. We tabled an amendment in the other place, but concerns were expressed by a number of colleagues from both Benches in both Houses.

It was important to progress matters and get this Bill through the House and on to the statute book, and the Government subsequently tabled a new amendment, now before your Lordships following its acceptance by the other place, which like the original amendment of the noble Lord, Lord Burns, reflects the recommendations of the Select Committee on opting in.

The amendment corrects some legally defective drafting and, instead of the Certification Officer being required to issue a code of practice, places a statutory obligation directly on unions to provide an annual reminder to those new members who have opted in to the political

[Baroness Neville-Rolfe]
fund. It is not usual for the Certification Officer to be involved with communications between unions and their members, and it provides more certainty to have this requirement in the Bill.

In the interests of finalising this important Bill for Royal Assent, I hope that noble Lords will support the amendment. I beg to move.

Lord Burns (CB): My Lords, I am delighted to be able to thank the Minister for her statement and the amendments, and I hope that this will be the end of what has been the controversial issue of trade union political funds. As the Minister said, today's proposals leave intact the substance of the amendment which was passed so comprehensively by your Lordships' House. Noble Lords will recall that the amendment was designed to put into legislation the majority recommendations of the Select Committee on Trade Union Political Funds and Political Party Funding, which I had the honour to chair. I remind noble Lords that most of the recommendations reflected the unanimous view of the committee, although there was a difference of opinion about the treatment of existing members of unions with political funds.

In essence, after a transitional period of at least 12 months, all new members will be required to pay into political funds only if they have actively opted in. They will be reminded annually of their right to opt out. Opting in or out will be allowed electronically, there will be no renewal requirement every five years, and the requirement to opt in will not apply to existing members.

5 pm

Personally, I regard this as a very satisfactory conclusion. In my view, it is consistent with the Government's manifesto commitment by establishing the principle of opt-in, which I believe to be the correct approach. Over time, an increasing proportion of union members will have opted into paying political funds. It avoids the punitive and expensive requirement of asking those members who have opted in to renew their decision every five years, for which I cannot find a precedent. It avoids the dangerous path of counting as opt-outs existing members who do not answer the request to make an active choice between opting in and opting out, and it of course avoids the potentially significant reduction in the funds available to the Labour Party. So far, so good.

However, in the spirit of this compromise, I urge trade unions with political funds to go further than the measures in the Bill and ensure that all members of political funds, both new and existing, are reminded each year of their right to opt out if they wish. In addition, I would like to see the unions routinely ask existing members who have not made an active choice between opt-in and opt-out to do so, with the aim of increasing over time the number of members who have exercised an explicit choice. The figures that we have suggest a turnover rate in unions with political funds of about 15% a year. If that turnover is spread evenly across the membership, that could mean that after five years around half the members of political funds will have exercised a choice to opt in or opt out. In addition, if each year 10% of existing members who had not made an explicit choice were persuaded to make a choice, the figure could be significantly higher.

It would be helpful from my perspective if, in the future, unions publish annual statistics of the proportion of members who have opted in. That need not be unduly burdensome, and in the long run it would put the trade unions into a much stronger position if this issue were to arise again.

The other issue that the committee dealt with was that of political funding. During the short life of the Select Committee, I learned a great deal about the problems of party funding and along with many noble Lords hope that there will be progress on this front in line with the manifesto commitments. But that will have to wait for another day. As I have said, I am enormously grateful to the Minister, who has shown great patience on this issue, and am content with the outcome.

Lord Forsyth of Drumlean: In the noble Lord's discussions with the Government about his amendment, at what stage was he told that the Government had changed their position? Was there a stage before that?

Lord Burns: Mr Nick Boles explained to the other place one day last week that he and I met last Monday evening and had a discussion. He put a proposal to me that I thought was rather unsatisfactory and fell somewhat short not only of the majority recommendation of the Select Committee but of the minority view. I explained that from my perspective it did not go far enough and that there would have to be further stages between the two Houses. Then I was subsequently told on Tuesday evening, the following day, that the revised proposal was being set down.

Lord Robathan (Con): My Lords, I rise with some disappointment to speak on these amendments, but I start by paying tribute to my noble friend Lady Neville-Rolfe because throughout she has been exemplary in her courtesy and assistance. I know from past experience that sometimes as a Minister you hold to a line and then suddenly a hole appears in front of you into which you drop. I fear that she may be feeling slightly like that, and our honourable friend Mr Boles may feel the same.

I am disappointed not because this is a grand old Duke of York moment, although in the committee we were indeed marched up to the top of the hill, but because this is the wrong decision. The Bill that came to the House of Lords was frankly not a good Bill. There were three issues that I particularly seized on. One was electronic balloting and the unnecessary bureaucracy involved in the Bill—the need to write to people and people only being able to communicate by writing, which was nonsensical. The second was that there was just not enough time to do it in a matter of months. Any large organisation needs time to contact all its members. I am glad to see that, as a result of our deliberations, there will now be a 12-month window for transition. The third reason was that having to review the decision every five years was punitive, as the noble Lord, Lord Burns, who ably chaired the committee, has described it. Others in this Chamber will know

better than me, but I wonder whether the Bill was stitched together by some special adviser who was being paid too much; some teenage scribbler who should, perhaps, have been given greater and wiser direction.

There were two reasons for my disappointment. First, this was a commitment in our manifesto, which specifically said that we would,

"ensure trade unions use a transparent opt-in process for union subscriptions",

and not just for new members. The second reason is the very important issue of principle. If the principle is that people should opt in, rather than out, then that principle is right—would any noble Lord like to disagree with that? As we heard in our committee, presumed consent is no longer acceptable in financial services. In our earlier discussions on the Bank of England and Financial Services Bill, the Opposition were speaking ably and rightly about consumer protection. Why should trade unionists not have the same consumer protection as anybody else and not have to opt in rather than out?

These two reasons leave me gravely disappointed. I am sure it is not the case, but there is a hint that a deal may have been cut behind closed doors, which does not reflect well on this Government. They should have stuck by their principles and by the principle which I have mentioned. Politicians are much criticised for not keeping their promises and for inconsistency. By allowing these amendments to go forward, the Government have not kept their manifesto promise and have been inconsistent, and it pains me to say that.

Lord Tyler (LD): My Lords, I too served on the Select Committee so ably led by the noble Lord, Lord Burns, and I am delighted to follow on from—and endorse—what he has said this afternoon. As one of the co-signatories, from every part of the House, for his amendment on Report, I warmly welcome what the Government have now decided to do. They have, albeit at the very last minute, recognised the validity of what the Select Committee recommended and the very strong support for it in all parts of this House. I note again that the Minister herself has referred to the committee as "careful" and "wise". I take comfort from that description. I am not sure that she would have said it earlier on, but she has said it now.

It is also very gratifying that, when its work was being examined in the other place last Wednesday, there were also very considerable tributes to the noble Lord, Lord Burns, and the rest of the Select Committee. There was unanimous praise and support from Members on all sides. Not only the Minister, Nick Boles, but representatives of the opposition parties paid tribute to the work that was done at—as has been acknowledged—considerable speed and were united in expressing agreement with our broad conclusions. As the original proposer of this way to achieve some non-partisan, cross-party, independent scrutiny of this highly controversial part of the Bill, I took particular pleasure from that endorsement as I listened to the Commons debate. MPs on all sides made reference to the Select Committee's wider recommendations, to which the noble Lord, Lord Burns, has referred, on the question of party funding reform. In paragraph 131, the committee quoted the double promise in the 2015 Conservative manifesto:

"In the next Parliament, we will legislate to ensure trade unions use a transparent opt-in process for subscriptions to political parties".

And, it goes on, immediately:

"We will continue to seek agreement on a comprehensive package of party funding reform".

I note what the noble Lord, Lord Robathan, said about manifesto promises, and I hope he endorses that promise with equal sincerity and strength.

In paragraph 138 of the report, the committee recommended to the House and the Government that:

"Whether or not clause 10 is enacted, in whatever form, the political parties should live up to their manifesto commitments and make a renewed and urgent effort to seek a comprehensive agreement on party funding reform. We urge the Government to take a decisive lead and convene talks itself, rather than waiting for them to emerge".

This is where this business is now unfinished and where we must expect further explicit announcements from Ministers. Ministers simply cannot pretend that this issue is unimportant. That firm recommendation was supported unanimously in the Select Committee with forthright endorsement by all four Conservative members.

Members on all sides of your Lordships' House have joined the Select Committee in highlighting public concern about the dominance of big money in British politics. The Select Committee took a lot of evidence on that point. Who can say that the public are wrong to be suspicious of favoured access, favoured influence and favoured patronage? It is often said, "He who pays the piper calls the tune". Only this weekend, we have had a vivid reminder of how damaging to public confidence in our democracy this can be. The Conservative Party's determination to inflame people's fear, hatred and greed in the London mayoral election has been all too obvious. Powerful financial interests are clearly scared. I noticed in particular the comment of the noble Baroness, Lady Warsi, who rightly asked whether this disgraceful campaign really represents the true motives of the candidate. Whether or not it does, she was brave and right to call her party out on this deplorable campaign.

If our politics are to become more palatable to her and to the public, removing big money is an essential prerequisite. The changes we are making to the Bill this afternoon provide an opportunity to do just that if the Government will, as the committee unanimously recommended, once again institute serious cross-party talks and bring a Bill back to Parliament. There is a huge body of work on this essential element of reform, and it is now for the parties to live up to their promises about implementing a fair package. If Ministers today cannot give a complete and authoritative response to this crucial part of the Select Committee's report, the House will surely expect to be told who will respond and when.

Lord Callanan (Con): My Lords, I join my noble friend Lord Robathan in expressing my disappointment at the Government's concessions on this amendment because the principle of opt-in was at the core of the Bill. We had robust discussions in the committee chaired by the noble Lord, Lord Burns, and I am grateful to the Minister for mentioning that in her opening speech, but all four of the Conservative members of that

[Lord Callanan]
committee were very keen to make sure that existing members were included as part of the opt-in process, not least because this is a manifesto commitment. It was a badly worded manifesto commitment but, as Ministers in this House and in the other place have made clear, it was a firm manifesto commitment on which they were not going to compromise, right up until last week.

I served in the European Parliament for 15 years, and I expected Ministers to compromise to a certain degree on this. In the European Parliament, compromise is the spirit of the day as there are many parties from many different countries. I have spent many a happy, and sometimes not so happy, hour negotiating until the small hours of the morning on various Bills and other legislation. Of course you have to give ground, and I was perfectly prepared to see the Government give ground on the transition period and the length of the transitional measures. That was to be expected, but to see the whole thing junked completely is extremely disappointing because it still leaves millions of workers in this country contributing to political parties and political causes about which they have never been asked or consulted. That is the principle that we should be upholding.

My concern is not so much that the Government have climbed down on this. I am disappointed, but I could have accepted that as part of the normal parliamentary discourse. My bigger concern is the reason for the Government's climb-down. I do not necessarily believe everything that I read in the media, but if media reports are to be believed the reason for this climb-down is part of a deal with the trade unions for financial and political support for the remain campaign in the EU referendum. I do not know whether that is true, but if it is it is disappointing and regrettable. We are well used to the party opposite doing deals with the trade unions on legislative changes in return for political donations. I really hope that the Government are not doing the same in this instance. It is another demonstration, if one were needed, of the hideous power of the EU to subvert our democratic process.

5.15 pm

Lord Whitty (Lab): My Lords, I had not intended to participate in the debate. I thought that it was going to go through smoothly and that a rather unfortunate period of legislation would have passed relatively quietly before the end of this parliamentary session. However, my former colleagues on the Select Committee have provoked me to intervene.

As the Minister pointed out, this is a compromise. All compromises are, by their nature, difficult for the parties. It is clear from the contributions of the noble Lords, Lord Robathan and Lord Callanan, that it is difficult for the hawks in the Conservative Party, who landed us with this proposition in the first place—but it is also difficult for the trade unions. There is more administration and considerable cost involved in this, and it is a difficult situation in the long run. But it is also a difficult compromise for the body politic because of the issue that the noble Lord, Lord Tyler—one of my other colleagues on the Select Committee—put forward.

I remind the House that we have spent hours on the issue of how trade unions deal with political contributions, but other organisations and extremely rich individuals make contributions. None of those organisations is required, like the Bill still requires trade unions, to have a separate political fund in the first place; to report precisely on how it uses and expends its political money; to give each of its members the possibility of an opt-out; and now to require future members to opt in rather than to opt out. In no other organisation in this land are those restraints put on political expenditure or involvement.

As was revealed in the Select Committee report, on the basis of figures given to us by the Electoral Commission, in the five years to 2015 the trade unions gave £64 million, the vast majority of it to the Labour Party. However, other organisations in this land gave £80 million—to, admittedly, a variety of parties, but predominantly and overwhelmingly to the Conservative Party. Yet none of those organisations was affected by previous legislation requiring separate political funds or opting out, or by new legislation requiring more detailed controls and more detailed reporting.

This relates to the points that the noble Lord, Lord Tyler, raised. If we are to come up with a democratic balance that is acceptable for a long-running constitutional settlement of this issue, we have to look at political funding in the round. As he said, the drafters of the Conservative Party manifesto recognised that and made a commitment that way. That has conveniently been dropped. Whatever the motivation for the compromise here—I do not particularly wish to go into that; it is possibly a matter for private grief within the Conservative Party—there is no reason now for the Conservative Government not to open those talks on political funding in the long run by organisations, individuals and the political parties themselves. That way we may get a balance in political funding that accords with democratic principles and is acceptable to the majority of the people. Without that, and despite this compromise, which I support, we will still have a seriously unbalanced situation once the Bill passes.

Lord Cormack: My Lords, I think we have to reflect, briefly, upon what has happened. We had a Motion, carried by a large majority, that the Select Committee should be established. I did not support it. I explained during the debate that I felt that the Bill was seriously impaired and that there was much unfairness in it, but I questioned whether a committee could, in the very short timescale that my noble friend Lady Neville-Rolfe has referred to today, produce a really good, definitive report. Thanks to the hard work of colleagues from all parts of the House and expert chairmanship, to which they all testified, by the noble Lord, Lord Burns, the deadline was met and a report was produced. It was signed up to by all the members of the committee—although, in the final, conclusive paragraph, there was, it was explained, a divergence of opinion.

The noble Lord, Lord Burns, decided to encapsulate that recommendation in the amendment which he moved on Report in your Lordships' House. He moved the amendment with great skill and was supported by Members from other political parties as well as Members on the Cross Benches. My noble friend Lord Balfe and

I voted enthusiastically for him. The names of a number of leading members of the Conservative Party will not be found in the Division list—I went through it carefully—because they felt that they could not oppose the amendment of the noble Lord, Lord Burns. It was carried by a large majority. The noble Lord, Lord Burns, explained that when he came to the negotiations at the beginning of last week, what was on offer not only did not meet his amendment but did not even meet the amendment to which my Conservative friends had signed up—in paragraph B, I think it was—so further negotiations were held.

What happened was very simply this. The parliamentary Session is coming to an end. The State Opening of Parliament has already been designated for 18 May—a fortnight tomorrow. So what was to happen? My noble friend Lady Neville-Rolfe and Mr Boles in another place decided that half a loaf was indeed better than no bread: that it would be far better to have a Bill that had widespread support—albeit that some of it is reluctant support. I myself do not think that this is the greatest Bill that the Government have placed before this House. Nevertheless, it is now, as far as one-nation Conservatives are concerned, a fairer, more decent and more equitable Bill, and one that has within it some recognition of the underlying dichotomy of party funding, because the Bill in its original state—and I used the words "unfairness" and "choice" many times in contributing to earlier debates—whether by accident or design, was penalising one of the great parties of state and not the others.

I believe that it is important that the second recommendation in the manifesto, which has already been alluded to two or three times in this debate, should be followed up. I hope that there will be something in the Queen's Speech about it, because I do not like the way in which party politics is funded in this country—and I know that that view is widely shared in all parts of your Lordships' House and in all parts of the country. But what we now have is a Bill that can go on to the statute book and which honours a number of the important pledges in last year's manifesto. I accept that a manifesto Bill is different from another sort of Bill. Therefore, we have something in which the Government can take a degree of quiet satisfaction—and those of us who were concerned about the underlying unfairness of the original Bill can also feel that it has been improved.

I was only too glad to put my name—alongside that of my noble friend Lord Balfe—to the amendment of the noble Lord, Lord Burns. The noble Lord, Lord Tyler, also signed it. Your Lordships' House gave that a very large majority, as I said. So the Government's choice was a very simple one: should they go along with the will of your Lordships' House as expressed in the Division Lobbies or should they invite further defeat, which could have jeopardised every particular of the Bill?

I think that the Government have made a wise, moderate and sensible decision. I pay unreserved tribute to the unfailing courtesy and diligence of my noble friend Lady Neville-Rolfe and to Mr Boles in another place. I hope that we can now move on. Last week, when we had the Third Reading, I said I hoped that the spirit of euphoria was not premature. I hope that it will not prove to have been premature and that we can now accept what is before us and get something on the statute book that is much more acceptable to those who have genuine concerns.

Lord Pannick: My Lords, we in this House often complain that the other place has ignored our views. It is unusual, and perhaps regrettable, that some noble Lords complained today that the other place listened attentively to the views of the committee of the noble Lord, Lord Burns, and to the vote in this House, which was supported all around the House, as the noble Lord, Lord Cormack, said, including on the government Benches. I do not know whether there was a deal, but whether or not there was, an act of political wisdom has occurred and we should welcome it.

Lord Forsyth of Drumlean: My Lords, I thank my noble friend not just for tabling this Motion, which I very much support, but for the way in which she has patiently conducted proceedings on the Bill and dealt with sometimes unhelpful contributions from people such as myself.

My concerns about the Bill were in relation to check-off and the proposals to change to an opting-in arrangement, which were coupled with an announcement by the Chancellor to cut Short money. It seemed to me that the Government were abusing their power in order to damage the funding of the Official Opposition. That is why I was opposed to these particular provisions of the Bill. I had a difficulty because there was a manifesto commitment in respect of the opt-in, opt-out proposals. However, as the noble Lord, Lord Tyler, and others have pointed out, that manifesto commitment was to look at the question of opting in and opting out in the context of overall party funding. I think it is wrong for a Government to use their power to dis their opponents or in a way which leaves open to question whether or not they are acting in the interests of the country as a whole or in the interests of a party. For years and years, I have made speeches attacking the Labour Party and suggesting that its dependence on trade union funds meant that policy could potentially be up for sale. Having listened patiently to the very persuasive arguments put forward by my noble friend to indicate why a change of policy should not be agreed, it was with some dismay that I heard suddenly—I believe I am not the only person who heard suddenly; I think some Front Bench people heard suddenly—that the Government's position had changed completely.

5.30 pm

In the debate in the other place, Mrs Cheryl Gillan, a former Cabinet Minister—not someone who is prone to conspiracy theories or anything other than considered judgment—asked the Minister, Nick Boles, what he made of what had been written by a senior political journalist in the *Telegraph*, who reported:

> "Last night a union source said bosses had always been clear that it would be 'difficult' to spend significant amounts on the campaign to keep Britain in the union"—

that means the European Union, by the way—

> "while fighting against the Trade Union Bill. But they revealed that unions will now step up their campaigning and funding efforts in light of the concessions".—[*Official Report*, Commons, 28/4/16; col. 1549.]

[Lord Forsyth of Drumlean]
These last-minute concessions also produced a report on "Channel 4 News" by Michael Crick which indicated that the remain campaigns on the Labour side, which had previously had funds of only £75,000, now as a result of this extraordinary change of policy had £1.7 million available to them.

It may be that the Government suddenly had a Damascene conversion. It may be that these journalists are correct. If these journalists are correct, the Government have changed their policy in return for funding from an outside body to support their position on the European Union. This is a Government who have already committed £9.6 million of taxpayers' money, against the advice of the Electoral Commission, in order to advance their cause.

If we really are serious about changing people's perception of our politics, we should not be conducting our affairs in this manner. There was a perfectly good case for making these changes to the Bill in that they were unfair to the Labour Party and the trade union movement. There is an even stronger case for looking at political funding as a whole and having a sensible system. So I find myself in the most extraordinary position of not wanting to take yes for an answer.

Of course, I understand the practical nature of politics and that compromise—

Lord Robathan: My noble friend was a distinguished Cabinet Minister back in the 1990s. Is he not being unduly cynical? Surely he cannot believe that the Government would come up with a shoddy deal such as this.

Lord Forsyth of Drumlean: I am tempted to be sanctimonious about this. What I found most risible about the Government's explanation for their somersault was when Nick Boles, when asked why he had changed his mind, said:

"I urge my hon. Friend to look at the people who spoke in the debate and voted, or very assertively chose not to vote, in support of the Government's position. They included not just Lord Cormack and Lord Balfe but Lord Forsyth, who supports the same campaign on the European Union that my hon. Friend has supported".—[*Official Report*, Commons, 28/4/16; col. 1545.]

I really do resent being cited in support of a very shoddy deal. Later he said—contrary to what my noble friend has been saying—that he did not want to listen to the arguments at all. He said:

"I did not want to listen at all. I am afraid I simply acknowledged that, faced by an array of forces—it is not just led by the noble Lord Burns, but includes most of the Cross Benchers, all the Liberal Democrats, all the members of Labour party and very influential Conservative peers, such as Lord Forsyth, Lord Deben, Lord Balfe and Lord Cormack—neophytes in this game like me perhaps need to concede defeat".—[*Official Report*, Commons, 28/4/16; col. 1549.]

This is something I shall quote on many future occasions.

Lord Sherbourne of Didsbury (Con): My Lords, I think my noble friend Lord Forsyth has unravelled a puzzle. I, too, am disappointed by what has happened. I assumed that when the Conservative Party put in its manifesto the commitment to move from opt-out to opt-in, it thought it was the right thing to do. When it appeared in the Bill, I thought it was the right thing to do. I thought the party thought it was the right policy, and I think it was the right policy.

I have heard the word "compromise" used today. The noble Lord, Lord Whitty, used it several times. I understand that we are at the end of the Session. I understand the need for compromise, concession and deals. But this is none of these things. This is the abandonment of a Conservative manifesto pledge, and we should say that. I notice that my honourable friend in the other place, Mr Nick Boles, turned what was a manifesto commitment into what he called a suggestion in the manifesto. It was not a suggestion; it was a promise. When we debated this last time, my noble friend the Minister said it was right for Governments to honour their commitments.

Of course I accept the decision of the other place. My noble friend Lord Forsyth has given his explanation of why this manifesto commitment was abandoned. I say only that junior Ministers in this Government, who are extremely able and good, often have a very hard task.

Lord Leigh of Hurley (Con): My Lords, I will not speak for long because we have discussed this at length. I think we have all reached agreement as to why, as my noble friend Lord Sherbourne said, we are going from opt-out to opt-in. We have been through some people's perception that there has been legislation in the past that has affected political disclosure, if not donations, and have discussed PPERA. But we have now reached a point where we have something before us. This time, unlike on previous occasions, I find myself agreeing with the noble Lord, Lord Cormack, on where we are.

I am grateful to the noble Lord, Lord Forsyth, for crystallising my mind: clearly I am not an influential Conservative Peer because my suggestions have not been adopted.

Lord Forsyth of Drumlean: My noble friend is extremely influential. It was Mr Boles who did not think to include him.

Lord Leigh of Hurley: I am grateful for that clarification. The noble Lord, Lord Robathan, has explained how Ministers approach these problems. Sadly, again, I have never had the honour of being a Minister. That is most unlikely. I come from more of a business background and in business when one wants to get things done invariably there has to be an element of compromise. Like the rest of the House, I congratulate the noble Lord, Lord Burns, on achieving a compromise. How and why it was achieved we will perhaps never know but it has been achieved. We will end up with an opt-in. It will take longer than other people thought appropriate but it will happen. The suggestion of the noble Lord, Lord Burns, of the publication of the opt-in levels achieved is excellent and to be welcomed. On all those grounds, I welcome these amendments.

Lord King of Bridgwater: My Lords, I think we are in for a pretty bad couple of months, in which conspiracy theories will abound and suspicions of motives will arise in every possible circumstance as we approach an interesting referendum. I notice the good humour in the Chamber today. I think that if these amendments

had not been tabled, there might be a very different atmosphere indeed. I agree very much with what my noble friend Lord Forsyth and the noble Lord, Lord Cormack, have said.

Democratic power has to be used with discretion and responsibility. The noble Lord, Lord Whitty, referred to this, and I agree with aspects of what he said. I was worried about the way that the Bill, as originally drafted, was going to go. Whatever discussions there were in government and in another place when the amendments came forward and were considered, I hope that there was a bit of historical memory in them—I think that there was—because we have been here before.

I was there in 1984, when it was proposed that we would do something about opting-in. I do not think that I am breaking a great confidence if I tell the House that the noble Lord, Lord Jopling, who was then the Chief Whip, had an interesting discussion with the Labour Chief Whip of that time, Michael Cox, who some may remember. They were arranging the business, as Chief Whips do, in those awful usual channels. There was agreement and compromise at that time in the Session. Then the issue came up about opting in—and the message was delivered quite simply and clearly: "If you do that, there will be war". That was because it is an essential problem of political funding, with which all parties have problems, that the trade union contribution is massively important to the Labour Party. A sudden change in that would have significantly affected the balance and would have seemed, to many eyes, to have been a pretty unfair action and maybe an abuse of majority political power at that time.

It was against that background that such a proposal was put forward. When we considered it in the Bill that became the Trade Union Act 1984, Mr Len Murray came to see me for the trade unions and we discussed the issue. He had previously had discussions with my predecessor and noble friend Lord Tebbit, who one could not call a soft touch on these matters. But my noble friend made it clear that if the Trades Union Congress wished to put forward alternative proposals, he would be prepared to consider them. It fell to my lot to consider those proposals. We agreed that we would not proceed with the opting-in proposals, on the strict understanding that actions would be taken by the TUC and all affiliated unions at that time. That is why I agree very much with the last comment of the noble Lord, Lord Burns, because we are where we are now. I support the actions in respect of new members coming in. That is an important step forward which did not exist before. We were not able to arrange it or go forward on it in my time; maybe we should have done.

I would like to read part of the statement that Len Murray—Lord Murray, as he was subsequently—gave when he came to see me and exchanged correspondence. He gave me a copy of the statement of guidance to the trade unions. It said:

> "Following discussions between the TUC and the Secretary of State for Employment, the General Council have prepared the following Statement of Guidance on good trade union practice in respect of political fund arrangements and related matters for use by affiliated unions. Unions are asked to review their existing procedures as soon as possible to ensure that this guidance is acted upon".

That guidance was satisfactory to me and to the Government because it made it clear that every affiliated union had given an undertaking that it would make sure that all its members were properly informed of what their rights were in these matters. The guidance ended with the statement:

> "It is particularly important that unions' procedures avoid the possibility of members being unaware of their rights in relation to the political fund or being unable to exercise them freely".

On that understanding and on behalf of the Government, I agreed not to proceed with introducing changes to the situation on opting-out or opting-in.

The disappointment for me in the discussions on this Bill is to discover that only a very small number of the unions which were affiliated to the TUC ensured that the undertaking given to me on behalf of them all was actually carried out.

Lord Lea of Crondall (Lab): My Lords—

Lord King of Bridgwater: If I may just finish this point, I will then give way to the noble Lord. What I want to know is: has the TUC now repudiated that understanding or is it agreeing that it stands? In the light of the amendment which the Government have agreed to, which deals with new members, will the position of existing members be exactly as encouraged by the noble Lord, Lord Burns? Will it ensure that the undertakings given to me are honoured and that people are aware of that undertaking?

5.45 pm

Lord Lea of Crondall: My former noble friend Lord Murray of Epping Forest was a man of great integrity. One of his straplines or catchphrases was, "We always deliver what we say we will deliver". That was true of prices and incomes policy through the 1960s and 1970s. I challenge anybody to contest that point. It was not that there were no difficulties but, when we said that we had agreed something, we delivered. That was the first thing which Len Murray always said.

On this matter, my noble friend Lord Monks pointed out something that has never been refuted. He drew attention to this matter and the fact that there had been no complaint on it until it was suddenly dragged up in this House in relation to the Bill. If the Government had had evidence of this matter along these lines, the first thing that they should have done was to get in touch with the TUC and say that they were concerned about it. Did they get in touch with the TUC? No, they did not. I think that there are some crocodile tears here from the noble Lord, Lord King, who does not normally go in for such point-scoring. I ask him to be a bit more careful about the implications of what he says about the TUC's actions on this matter.

Lord King of Bridgwater: I make it clear straightaway that I had the greatest respect for Lord Murray—Len Murray, as he was—and had extremely good relations with him. But I am grateful to the noble Lord, Lord Lea, for making the point that this should be honoured. If there is evidence that it has not been honoured, it will obviously be a concern for responsible people in

[LORD KING OF BRIDGWATER]
the TUC to see that it is. As I understand it, the noble Lord is saying that in no sense has it been repudiated or has the TUC withdrawn that undertaking. My point today is simply about the giving of that undertaking. I agree with the noble Lord that the observance of it and the checking as to whether it was being followed seem to have been pretty slack. It is helpful this has been brought to the attention of us all and I hope that it can now be followed through.

Lord Richard (Lab): My Lords, I am grateful to the noble Lord, Lord King, for his history lesson but, with great respect to him, I do not think it very relevant or apposite in considering this amendment. I really do not know where the House is going to on this. The noble Lord, Lord Forsyth, says that he agrees with it but then complains about the way in which it was done. I think that the noble Lord, Lord King, agrees with it but because of something that happened in 1984 he is not very happy with it. The Conservative Members who were actually on the committee disagreed with it—understandably, perhaps—because their view, which they expressed vigorously on the committee, was not upheld by this House and has not been upheld by the House of Commons. There is a certain amount of dispute on both sides but this really is a sensible compromise.

As an old Fabian, when I looked at this amendment and the difficulties that it is designed to deal with, the phrase which came to my mind was that of Beatrice Webb. She talked about the inevitability of gradualness. It seems to me that once you have established the principle that opting in is right for new members, the "inevitability of gradualness" principle will take over and, in due course, you will have a comprehensive opt-in. I suspect that it will be much sooner than a lot of people think. This is a sensible compromise and, for heaven's sake, let us accept it.

Lord King of Bridgwater: The point that has been left out is the second half of what the noble Lord, Lord Burns, said, which was about opting in for new members but attention to right and proper communication with existing members.

Lord Richard: That is in the amendment. Of course there should be proper respect. Trade unions are being placed under an obligation to tell their members once a year. What more does the noble Lord want?

Noble Lords: Come on, get on with it.

Lord Mendelsohn (Lab): My Lords, never has my appearance been so welcome. Government Amendments 7A to 7F mark significant movement from the original provisions in the Bill. I associate myself with the masterly summary, as presented by the noble Lord, Lord Burns, of how these amendments meet the requirements of the amendments passed in this House, and are consistent with the requirements of the manifesto but with the removal of the most egregious and deficient elements. These changes are a result of hard work carried out by the members of the Select Committee, led ably by the noble Lord, Lord Burns. The committee's recommendations on opting in received cross-party support and support from the Benches of no party. I thank the Select Committee members and the noble Lord, Lord Burns, again for their efforts, which have contributed to the progress we see today.

The debates that we have had in this House on Second Reading, in Committee and on Report, as well as the establishment of the Select Committee and the debate on that committee, demonstrated the very wide agreement that these provisions needed some change. The Select Committee has achieved that job very capably. Indeed, both the debate today and its tone demonstrate how this House has done a great service to everyone in ensuring that these measures were brought forward.

I also note that a great majority in the House was in favour of such a provision. That is an important distinction in many debates that take place, but this one had such a broad consensus that it really was a full expression of the whole House. I thank the Ministers—the noble Baroness, Lady Neville-Rolfe, the noble Lord, Lord Bridges, the noble Earl, Lord Courtown, and Mr Boles in another place—for the way that they considered, engaged with and were very open to the discussion and debates that we had.

I have one particular observation in relation to the process. The Select Committee report was extremely impressive, and introduced elements which added to the debates of this House and another place. Indeed, it identified some of the deficiencies in the original impact assessment. In particular, the use of behavioural economics and behavioural psychology to try to understand what the likely consequences of such a provision would be was extremely useful. I hope that the Minister will consider using that sort of insight much more widely in impact assessments, so that we can properly judge what the consequences of measures are likely to be.

It will come as no surprise that we on these Benches thought the Bill should not have contained any of these measures in the first place. However, we recognise that the Government's new proposals are a substantial improvement from where we were just a few weeks ago. We hope that the other issues raised by the Select Committee, including the issue around cross-party talks and party funding reform, are not ignored and are taken up swiftly, and that we can move beyond using democratic power for narrow party advantage, which usually comes with terrible unintended consequences, and build a stronger political system with greater participation and confidence.

Baroness Neville-Rolfe: My Lords, I recognise the emotions that this Motion has elicited, and that opinions are divided, but take the opportunity to thank noble Lords from all sides of the House for the support that they have given me personally. It is a pleasure, sitting on the Front Bench, that occasionally you get support from all sides, including today from disappointed friends such as my noble friend Lord Robathan. I hope we have found a balance that allows us to move forward, as we have managed elsewhere on this contentious Bill. In particular, I am glad that when an individual joins a union they will have to be made aware of any political fund and give their consent to paying into it.

When we did our research, which we shared with the committee, we were shocked, as my noble friend Lord King said, at how untransparent some unions were on the possibility of opt-out.

The Bill has been amended to reflect the Select Committee's recommendations on opting in. The amendment in this place was, as has been said, carried by a majority. My noble friend Lord Cormack mentioned this, but the majority against the Government was 148—320 to 172—so I would say in response to my noble friend Lord Forsyth that I was not very persuasive. Our manifesto undertook to ensure that trade unions use a transparent opt-in process for union subscriptions. My honourable friend Nick Boles made it clear in the other place last week that the revised provision meets that commitment. I have nothing to add to what he said about the suggestion that these final changes reflect wider considerations. As far as I am concerned, we are adopting the proposals of the Select Committee. We have listened to common sense, including the comments made by my noble friend Lord Forsyth in January about how the opt-out would be unfair to the Labour Party, and the current clause meets our manifesto commitment.

My noble friend Lord Leigh and, on the other Benches, the noble Lord, Lord Richard, emphasised the point about compromise. In future, all new trade union members will have to make a transparent and active choice to contribute to the political fund through an opt-in. Over time, with membership churn and evolution, opt-in will become the norm. On a point of detail, I acknowledge that the spirit of the Select Committee's recommendation was to extend annual reminders to all members, and we have not gone as far as we might have done in that respect. The statutory requirement in the Bill extends to new members only, but I expect and hope that unions will communicate with all their members at the same time. I agree with the noble Lord, Lord Burns, that the best way forward is to provide guidance on best practice and to encourage unions to ensure that their annual communications on rights to opt in and opt out are sent to all members.

I am always glad to hear from my noble friend Lord King. He has helped me through some very difficult moments on the Bill. Of course, the King-Murray agreement is still in place for existing contributors to political funds, and the TUC has issued guidance to all unions. This should mean that all unions will remind those currently contributing to political funds that they have a choice about contributing to the union's political fund. I do not know what the TUC reply would be, but the guidance about good practice proposed by the noble Lord, Lord Burns, should obviously help to address the issue.

I hope that noble Lords will recognise the co-operation we have had on the Bill across the House and how accommodating the Government have been in responding to the Select Committee's recommendations on opt-in. I hope this will be remembered should future Governments turn their minds to matters of party-political funding.

The noble Lords, Lord Tyler and Lord Whitty, raised the wider issue of party-political funding. The Government have a separate manifesto commitment relating to such funding, and we remain open to constructive debate and dialogue on how we can further strengthen confidence in our democratic process and increase transparency and accountability. However, this Bill is about trade union reform, and party funding is not in scope. I must therefore return the debate to the issues of this Bill.

Wherever noble Lords stand on trade union reform, I hope that they will recognise that the principle of the Select Committee's recommendations has been taken on board. We are nearly at the end of the Bill process and approaching the end of the parliamentary Session with a number of Bills still outstanding, and I hope the House will feel able to bring this particular issue to a conclusion today.

Motion B agreed.

Motion C

Moved by ***Lord Bridges of Headley***

That this House do not insist on its Amendment 17, to which the Commons have disagreed, and do agree with the Commons in their Amendments 17A, 17B and 17C to the words restored to the Bill by that disagreement.

17: Clause 13, leave out Clause 13

Commons Disagreement and Amendments to the words so restored to the Bill

The Commons disagree with Lords Amendment No. 17, but do propose Amendments 17A, 17B and 17C to the words so restored to the Bill—

17A: Page 9 leave out lines 30 to 32 and insert—

"(1) After the end of the period of three years beginning with the day on which the first regulations under section 172A come into force, a Minister of the Crown may exercise the reserve powers (see subsection (2)) if the Minister considers it appropriate to do so having regard to—

(a) information published by employers in accordance with publication requirements;

(b) the cost to public funds of facility time in relation to each of those employers;

(c) the nature of the various undertakings carried on by those employers;

(d) any particular features of those undertakings that are relevant to the reasonableness of the amount of facility time;

(e) any other matters that the Minister thinks relevant.

(1A) The reserve powers may not be exercised so as to apply to any particular employer unless—

(a) a Minister of the Crown has given notice in writing to the employer—

(i) setting out the Minister's concerns about the amount of facility time in the employer's case, and

(ii) informing the employer that the Minister is considering exercising the reserve powers in relation to that employer;

(b) the employer has had a reasonable opportunity to respond to the notice under paragraph (a) and to take any action that may be appropriate in view of the concerns set out in it;

and the powers may not be exercised until after the end of the period of 12 months beginning with the day on which the notice under paragraph (a) was given."

17B: Page 9, line 37, leave out from "for" to "that" in line 43 and insert "the purpose of ensuring"

17C: Page 10, line 25, at end insert—

"( ) The regulations may confer power on a Minister of the Crown, by notice in writing to a particular employer, to suspend the application of the regulations to that employer for such period and to such extent as the Minister may specify in the notice."

6 pm

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): My Lords, there has been much debate over the Government's wish to have a reserve power to place a cap on facility time. The Government have listened to that debate and, as I said last week, the amendments before your Lordships today reflect a number of points made in this House.

First, the amendments set out that the cap will not be exercised until three years have elapsed after transparency regulations come into force. Secondly, they ensure that, where there is cause for concern about levels of facility time, public sector employers will be put on notice and given at least a year from the date of such notice to make progress before a cap can be applied. Thirdly, they guarantee that the employer will have the opportunity to set out the reasons for their levels of facility time. Fourthly, they set out clear criteria that the Minister must have regard to when considering the exercise of the power. Fifthly, they provide employers with an opportunity to take action to meet the Minister's concerns and to evidence it via their data. If there is insufficient progress, the Minister will then be at liberty to exercise the reserve power and make regulations to cap facility time for that employer or those employers.

These safeguards provide a high degree of comfort about the circumstances that must arise before the reserve power could be contemplated. They underline that this is very much a reserve power to be used in exceptional circumstances—only where valid concerns have been raised and inadequately addressed over a long period. I remind your Lordships that this measure would be exercised under the affirmative procedure.

I urge your Lordships to see these amendments as a reasonable, practical and balanced means of addressing concerns while enabling the Government to meet their objective. I beg to move.

Lord Kerslake: My Lords, I first declare my interest as president of the Local Government Association. Your Lordships will be aware that I moved an amendment to delete Clause 13 from the Bill. I did so because I was concerned about the extensive powers it gave to the Secretary of State for what, as far as I could see, was little justification. That is why I argued that this provision is necessary: so that the transparency provisions of Clause 12 will control expenditure and make visible the amount that public bodies spend.

My sense is still that there is no convincing case for why the clause is needed, but I acknowledge the considerable distance the Government have gone by introducing safeguards that will protect public bodies from arbitrary power in this situation. I absolutely welcome that movement, which reflects well on the Government and Ministers.

I hope that this is a reserve power that we never see used. I hope that the rational decisions of public bodies and the process that will now be put in place will ensure that we never need to impose this reserve power. I recognise that there are now proper safeguards, and I welcome that change.

Lord Stoneham of Droxford: I want to make just one brief point. We, too, welcome the amendment and the compromise which the Government are showing. However, having got rid of quite a lot of the powers, we are still left with a hell of a lot of bureaucracy—for no good purpose, as the noble Lord, Lord Kerslake, was suggesting. It is now a very complicated procedure and one wonders whether this will disappear into the long grass and be quietly forgotten. It would have been much better to have a one-off review to see what the problem is and deal with it through the management of the public sector, rather than setting up this ridiculous bureaucracy for no good purpose.

Baroness Hayter of Kentish Town (Lab): My Lords, I thank the Minister for his clarity and brevity—after the previous debate—in introducing the amendment. I also thank him for taking the time to meet me and colleagues to discuss the possible introduction of a cap on facility time. He knows that we have serious concerns, which we retain, about the principle, and that we have even greater concerns about how it might work. How and when would a Minister decide that the amount of time taken needed to be restricted, and on what grounds? Would it be contrary to the desire of the relevant employer?

We raised the example of organisations going through contraction, restructuring, relocation or even growth, where more negotiating time with union reps is always needed. There is also the example of industries with particular safety issues or health issues—we discussed the health service—where safety reps might be needed more than average, thereby pushing up the overall amount of facility time recorded.

On the phrase,

"any other matters that the Minister thinks relevant",

it would be helpful to hear from the Minister what sort of things he deems might be relevant. However, that is the only remaining issue, because the others we raised have been met by the safeguards he has just listed. They will spell out that particular instances can be given and that the employer will have time to give reasons.

The remaining issue is therefore one we discussed under the previous clause: whether charities might be caught by this provision. I acknowledge the discussions we have had and those that will now take place with the organisations likely to be affected, including with representatives of charities. We also recognise that we will be able to debate this further when the relevant regulations are brought forward.

These amendments show that the Government have clearly heard our original concerns. They have produced a schema which allows the relevant comparative data to be used and judged alongside similar industries and organisations, and which allows time for consultation with the employer, giving them the opportunity to explain the management practice that requires so much union reps' time to do their work. We still concur with the view of the noble Lord, Lord Kerslake, that this is an unnecessary measure and would prefer the cap to be dead and buried. However, having recognised that we were not going to win that one, we acknowledge the change that the amendments have made and are happy to support them.

Lord Bridges of Headley: I thank the noble Baroness, the noble Lord, Lord Kerslake, and the noble Lord, Lord Stoneham, for their comments. Where there was

discord, we have brought a bit more harmony, at least, on this point. There is clearly disagreement on the need for such a measure, but I would argue that that is precisely why we need the data. What the data will show will determine whether the reserve power needs to be exercised in exceptional circumstances. I very much hope that the assurances I have given today address a number of the concerns expressed by the noble Lord, Lord Kerslake, and others.

On the point made by the noble Lord, Lord Stoneham, about bureaucracy, I simply repeat that a considerable section of the public sector already considers publishing information on facility time to be best practice. I highlighted what is published in the local government transparency code and what the Department for Education recommends that all schools publish. His point about bureaucracy—ensuring that it is kept to a minimum—is of course one that every Government wish to heed.

The noble Baroness, Lady Hayter, raised the question of other issues that are deemed to be relevant. In essence, they must be relevant without being capable of being specified now, because that will be set out in the evidence given when the Government bring in regulations—which, as I said, would be debated by both Houses of Parliament.

With that, I am once again grateful to the noble Baroness, Lady Hayter, and the noble Lord, Lord Mendelsohn, for their constructive comments and the conversations we have had. I beg to move.

Lord Dykes (Non-Afl): Before the Minister sits down, I intervene briefly to repeat the thanks already expressed by other Peers in the debate on these amendments today and on the previous occasion when the Bill was being considered. We give our thanks to the Government, to the noble Baroness, Lady Neville-Rolfe, and the noble Lord, Lord Bridges, particularly for their very helpful adjustments and changes in response to the earlier debates. It was an outstanding example of how the House of Lords can be genuinely useful to the British public in improving controversial legislation. We are grateful for that progress.

Baroness Neville-Rolfe: My Lords, last week at Third Reading I thanked at some length all those who have worked so hard and debated so eloquently throughout the passage of this Bill. I am glad to be able to thank today my noble friend Lord Bridges, and the noble Lords, Lord Mendelsohn and Lord Burns, as they are actually in the Chamber. It has been a small marathon of a Bill and I am delighted that it can now go forward for Royal Assent.

Motion C agreed.

Southern Health NHS Foundation Trust

Statement

6.11 pm

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, with permission I shall repeat as a Statement the Answer given to an Urgent Question in another place by my right honourable friend the Minister of State for Community and Social Care on Southern Health NHS Foundation Trust. The Statement is as follows:

"The whole House was profoundly shocked by the Mazars report into the failings at Southern Health NHS Foundation Trust following the tragic death of Connor Sparrowhawk in July 2013. The first duty to patients and their loved ones is to keep them safe. This applies to all of us with a role to play in the NHS, from the front line to this House; and the Government are therefore clear that we must learn the lessons of this report for the NHS as a whole. We must ensure that the trust itself continues to be scrutinised and supported to make rapid improvements in care. If that means intervention from the regulators, they will not hesitate to take the necessary action, and we will not hesitate to back them.

Last week's CQC report followed a focused inspection announced by the Secretary of State in December 2015. The report from the CQC set out a number of concerns, including: a lack of robust governance arrangements to investigate incidents; a lack of effective arrangements to identify, record or respond to concerns about patient safety; and a need for immediate action to address safety issues in the trust environment. The report also found that the senior management and board agendas were not driven by the need to address these issues.

I would like to set out for the House the action that NHS Improvement has taken in recent months to address the issues at the trust. NHS Improvement has been working closely with the CQC and the trust over recent months. On 24 March, NHS Improvement, which was operating as Monitor at the time, appointed an improvement director to the trust. On 14 April, following a CQC warning notice on 6 April, NHSI placed an additional condition on the trust's licence, asking it to make urgent patient safety improvements to address the issues found by the CQC. This condition gave NHS Improvement the power to make management changes at the trust if it does not make progress on fixing the concerns raised.

On 29 April, following the resignation of the trust chair, Mike Petter, NHS Improvement announced its intention to appoint Tim Smart as the chair of the trust. As chair, Mr Smart will have responsibility for looking at the adequacy of the trust's leadership. Given the centrality of issues of governance to the CQC's report, I welcome the action taken by NHS Improvement. The direct appointment of a new chair by a regulator is a relatively rare step, and reflects the seriousness of the issues at the trust.

NHS Improvement will continue to monitor the situation closely in the coming weeks and months. I understand that the CQC is considering the trust's response to its warning notice and the risks it highlighted before deciding whether to take any further enforcement action. The notice required significant improvements by 27 April. NHS Improvement is working closely with CQC and the trust, and there are monthly progress meetings between NHS Improvement and the trust.

In addition to the action we are taking on Southern Health, it is vital that we learn the wider lessons for the NHS as a whole. First, I hope the whole House can agree that it is right that we have robust, expert-led

[Lord Prior of Brampton]
inspection from an independent CQC that provides an objective view about issues of safety and leadership, and that this is backed with action from NHS Improvement when that is required. Only by facing problems in care can we hope to solve them.

Secondly, it is vital that we ensure that we take the issue of avoidable mortality as seriously for people with learning disabilities and mental health problems as we do for other members of our society. To that end, the learning disability mortality review programme has been put in place by NHS England to ensure there is a continual cycle of learning about the causes of premature mortality in people with learning disability. In addition, the CQC will be leading a review of how all deaths are investigated, including those of people with learning disabilities or mental health needs. There can be no question that the CQC report makes for disturbing reading, and that it demands action at local and national levels. We owe our most vulnerable people care that is safe and secure, and I am determined that we do all we can to learn the lessons and make the necessary improvements in the weeks and months to come".

My Lords, that concludes the Statement.

6.15 pm

Baroness Wheeler (Lab): My Lords, I thank the Minister for reading the response to the UQ on the CQC's serious concerns about the safety of mental health and learning disability patients at Southern Health Trust. The whole House is deeply shocked by the inadequate and completely ineffective response to the Mazars review's findings, following the tragic death of Connor Sparrowhawk over two years ago. The CQC's stark assessment that serious risk to patients in ensuring their safety was still not driving the senior management or board agenda beggars belief in the light of the Mazars review and the CQC's repeated concerns and warning notices. There are still no robust governance arrangements in place to investigate incidents and there is still a lack of effective arrangements to identify, record or respond to concerns about patient safety raised by patients, their carers, staff and the CQC. A particular concern is the continuing failure to act over important specific safety concerns about ligature risks in acute inpatient mental health and learning disabilities services and, given the terrible cause of Connor's death, the board's failure to give urgency to approval of the specific protocol for safe bathing and showering of people with epilepsy. Can the Minister assure the House that these will receive urgent attention by the new chair in his task of building new leadership and direction for the board and in an urgent programme of action for the trust?

Patients and their families need to see robust, urgent action and real accountability. When the Secretary of State responded to December's UQ on Southern Health, he rightly said that, more than anything, people will,

"want to know that the NHS learns from … tragedies",—[*Official Report*, Commons, 10/12/15; col. 1141.]

such as these. That clearly has not happened, so I ask the Minister what guarantees he can give to current patients and their families in the care of Southern Health that they are safe. Where is the accountability, culpability and responsibility? Can the Minister tell the House about the content and timescale of the review of the adequacies of the trust's leadership that the new chair has been tasked with undertaking? Finally, will he listen to the heartfelt pleas of victims' families, campaigners and all those who are demanding a full public inquiry into Southern Health and into the broader failure in adequately investigating preventable deaths?

Baroness Tyler of Enfield (LD): My Lords, I, too, thank the Minister for repeating the Statement. The original Mazars report highlighted two profoundly shocking issues: the tragic and preventable death of Connor Sparrowhawk and the fact that too many unexpected deaths among those of learning disabilities and older people with mental health problems were even being investigated. Why did a full three months elapse after the Mazars report was published—and, indeed, only after a BBC investigation covered it—before Monitor finally appointed an improvement director to go in to work with the trust on urgently needed improvement? Why the delay?

Secondly, despite a series of national reports—we have just heard about the CQC report—warning notices, monitoring and progress meetings, all referred to in the Statement, nothing has been said about the precise changes that have happened or improvements that have taken place in Southern Health Trust. When can we hope to hear about specific and tangible improvements to the care provided by Southern Health Trust to some very vulnerable people?

Thirdly, it is crystal clear that new leadership needs to be in place if the trust is to retain any credibility, particularly among the people and families who use its services. Why have there been different responses to Mid Staffs and Southern Health? Both are about the neglect and death of vulnerable people in NHS care. There have been serious consequences for those in leadership positions in Mid Staffs, but not so at Southern Health. What does that say about the value placed on the lives of people with learning disabilities and older people with mental health problems?

Lord Prior of Brampton: My Lords, a number of serious questions have been asked. I shall make a personal observation. This trust is the result of the merger of three trusts: a mental health care trust, a community trust and a learning disabilities trust, three very complex businesses being brought together as one. They have 250 separate locations with over 1 million patient contacts every year. The risk inherent in that kind of business at this time is huge. In putting in a governance structure, we have to be very careful that we do not just draw up such structures in a boardroom or come up with strategies that cannot be implemented.

In the report, I was very struck by the fact that now there is almost a tick-box approach to the duty of candour; you tick the box to say that you have done it. Culture is usually important in this. What is the culture in the trust? That is one of the big issues that the CQC report is trying to get at. In response to the question of whether we can give guarantees about patient safety:

this is inherently a very risky activity. Putting in strong governance structures is very important, but much will depend on the culture within the trust.

I turn to some of the particular points. I, too, was struck by the fact that there were still problems with ligature points in some of the facilities, as had been pointed out by the CQC some time ago. I was struck by the fact that the epilepsy protocol for those being bathed or showered had not yet been approved two and half years after Connor Sparrowhawk's death. Clearly, there were very significant problems at the trust. On the question of where accountability and responsibility lie, the chairman has resigned. The principal job over the next three or so months will be assessing the capability of the executive management. That seems the right way to approach this.

It is always tempting to call for a public inquiry; I understand that temptation. We have an independent regulator, the CQC. The inspection team was led by mental health professionals and is fully transparent. We now have to give the trust the chance to respond to the CQC's report and watch for serious improvements.

The noble Baroness asks if there have been any improvements. There are some illustrations and examples in the CQC report of where there have been some improvements, but putting in a new governance structure, changing the whole culture about raising concerns about those kinds of issues, will not happen overnight. Of course, I appreciate that for Connor Sparrowhawk's family this happened two and a half years ago, and one must never lose sight of that.

A question was asked about NHS Improvement. It put in an improvement director. These people do not grow on trees. If we are honest about the NHS, we are very short of highly qualified and highly skilled senior management, and it sometimes takes time to find the right people.

Baroness Bottomley of Nettlestone (Con): My Lords, the history of people with learning disabilities and mental health problems and the institutions in which they live goes back a long way. Many appalling situations have taken place, and I do not want to belittle this deplorable situation. However, did the report also identify areas of very good-quality care and professional standards? The danger is that vilifying an institution—and even going on to a public inquiry, which prolongs the agony even further—does not give it the opportunity to build on its strengths and provide the quality of care that the hundreds of people working there wish to provide and wish to be proud of doing.

Lord Prior of Brampton: I am grateful to my noble friend for those comments. There are many examples in the CQC report of good care. In one of the domains that the CQC inspects, which is caring, it is clear that the vast majority of people who work for Southern Health are deeply caring, committed people. We have to be careful. I am afraid it is a question of the curate's egg; the report is good in parts. I go back to what I said originally: an organisation this big is incredibly difficult to manage. That is one of the learnings that we need to take from this. The temptation to merge organisations to get centralised cost reduction, or whatever, is very tempting but leads to serious issues around governance.

Baroness Masham of Ilton (CB): My Lords, where does Healthwatch come in? Should there not be far more openness and participation by the public to stop such things from happening? It is all very well having management, but one wants caring people from the community who will speak out on behalf of these people.

Lord Prior of Brampton: My Lords, this goes back to the culture of the trust. It is important that members of the public or Healthwatch have a right to go in and visit facilities, and that they are welcomed there, but that they do not go native at the same time—that they are truly independent, looking at it from the patients' perspective. Healthwatch has an important part to play, and the relationship that it has locally with the CQC inspection team is very important.

Lord Foulkes of Cumnock (Lab): My Lords, I am slightly perplexed. Why is it that, once again, it is only because an Urgent Question was tabled and agreed by the Speaker that Parliament knows all the details and is able to hold the Government to account? If, as the Minister says, the Government are so concerned about it, why did they not volunteer a Statement?

Lord Prior of Brampton: My Lords, the CQC report is in the public domain, as are all the CQC reports. To be honest with your Lordships, I am not technically sufficiently aware of the procedures of the House to know why it did not automatically come to the House but, as I say, I am here today.

Black and Minority Ethnic People: Workplace Issues

Motion to Take Note

6.26 pm

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

That this House takes note of the issues faced by black and minority ethnic people in the workplace in Britain.

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, the driver for this debate is that earlier this year the Secretary of State asked my noble friend Lady McGregor-Smith to lead a review into the issues faced by business in developing black and minority talent from recruitment through to the executive level. We will be hearing from my noble friend shortly, and I know how much she will value noble Lords' input into her review.

We need to move towards a world where ethnicity and indeed gender are not issues and only skills and experience count when it comes to assessing suitability for appointments. We are not there yet and there is much to do, but I believe that we have made progress. Consider my Secretary of State: the son of a bus driver in Rochdale and then living in a deprived part of Bristol, he rose through hard work to become a vice-president at Chase Manhattan at the age of 25 and the first BME Cabinet Minister at the age of 44.

My noble friend Lady McGregor-Smith herself is another extraordinary role model, the only Asian and female CEO of a £2 billion FTSE 250 company.

[Baroness Neville-Rolfe]

She has championed change in the workplace by making the best use of female and ethnic minority talent. She has done that through her generous public contribution as a role model, first as chair to the Women's Business Council and now as chair of the new BME talent review. Having a debate to gain insights into the issues she is addressing in this review, with secretarial support from BIS, at this early stage in her work is an excellent one. The review is looking at the business and economic case for employers to harness the potential from the widest pool of talent. I believe that we need to reach a situation where the prospects for BME individuals who want to progress at work are as good as those for their white counterparts in the same situation—neither better nor worse.

My noble friend's review will look at obstacles to progress, including cultural and unconscious factors. I would like to make a small diversion to tell a story about how culture and attitudes can change for the better over time.

Richard Stokes MC was a brave and talented engineer who became a managing director of Ransomes & Rapier, the Ipswich engineering firm, at the age of 30. He tried to join the Conservative Party to fulfil his political aspirations, but it would not consider him as a candidate because he was a Roman Catholic. Wounded but not bowed, he joined the Labour Party instead and became MP for Ipswich, where the votes of his 2,500 employees were very useful in keeping his seat. He had a successful career, running the firm part-time and campaigning on important issues such as the inadequacy of Allied tank design; the justification—or lack of it—for the bombing of Dresden; and the ghastly forced repatriation of Yugoslavs after Yalta. He even served briefly in the Cabinet as Lord Privy Seal, before an early death. That man was my great-uncle, Uncle Dick. But the important point of the story for today's purposes is that discrimination against Catholics, which he suffered from so acutely—in his case in the Conservative Party—has totally gone. A similar change in attitudes to BME is taking place, and that will continue.

There is evidence to that effect. I quote from the House of Lords Library Note of 29 April, produced for this very debate. It notes that the employment rate gap between the overall population and ethnic minorities is still at 11.1 percentage points. It goes on to add, significantly, that the gap has been decreasing, albeit gradually, since the series began in 1993. I believe that that accurately summarises where we are—moving in the right direction but still with a way to go.

Looking at our own House, it is a great pleasure to see my noble friends Lord Popat, Lord Sheikh and Lord Polak in their places today, each with a long history of serving business and their communities—they are role models for us all. The noble Lord, Lord Taylor, has also had a career full of challenging and high-profile roles. I am also delighted to see the noble Lord, Lord Adebowale, in his place today—he has campaigned tirelessly to improve the life chances of the homeless and unemployed—as well as the noble Baroness, Lady Hussein-Ece, who is a role model in community health. Moreover, no debate on the subject would be complete without the noble Lord, Lord Morris of Handsworth, whose passion for cricket I share. I also see the noble Lord, Lord Bilimoria, in his place; he and I used to work together on the UK India Business Council. Our debate today shows that ethnic minority talent is there for all to see on all sides of this House.

The review will also look at data and their role. I am opposed to quotas but I know that when the industry-led review by the noble Lord, Lord Davies, started to collect data and articulate good practice, it changed attitudes in companies. At Tesco, where I sat on the plc board as an executive, we used to monitor our top female talent and look out for opportunities to advance them. We also identified top talent of non-British origin. For us as an international company, it was important that we reflected, and were seen to reflect, the diversity of our operations. In an international company, a diverse board inspires a greater degree of solidarity within the company and a sense of fair play. One of my sons works for a French bank in the City of London, and I can tell noble Lords that that illustrates globalisation in action.

Another strand to the review's work is promoting best practice. Sharing ideas is a great way to secure results and promote innovation, as we have seen with the Business in the Community Race Equality Awards. This year is the 10th round of annual awards, and some of the previous winners have truly inspiring stories.

Another important feature of best practice is understanding what does not work, which certainly leads to improvement. I know that my noble friend will be interested to hear of any examples that have not had the desired effect or, even worse, have hampered opportunities for ethnic minorities. As we know, the key to understanding what works and what does not is to monitor the impact of that activity and ensure buy-in from all levels of the business—something I know my noble friend is driving in her own company.

BME entrepreneurs can be rich sources of growth and of British success. In a recent debate in the other place, the Culture Minister Ed Vaizey spoke with great passion about the changes taking place in broadcasting and the opportunities it brings. This will no doubt be reflected in the BBC charter White Paper, which is due later this month.

However, for success we need better education and better training outcomes in this country. That is the best way of achieving opportunities for all. Quality apprenticeship schemes are an absolute priority for the Government. They will give us an opportunity for employer-led development and a route to success for people who do not want to go to university or who have not done well enough at school.

Improving our schools by a relentless focus especially on English and Maths means that all pupils, regardless of their background, are engaged and challenged to make the best use of their abilities. I was therefore glad to read that, for example, 81% of black African pupils achieved the expected level of attainment in reading, writing and maths at key stage 2, which is slightly above the national average of 80%.

Another important strand of the Government's work is to encourage integration so that communities are brought together, celebrating our shared British

values rather than focusing on what divides us. Work led by DCLG on cohesive communities is important. Louise Casey was asked to carry out a review of how to boost opportunity and integration in these communities, and that includes how we can ensure that people learn English. This is vital. In England and Wales, over 750,000 people have only poor or even no English. Unsurprisingly, migrants with fluent English are much more likely to be in employment and earn 20% more than those without such skills. Poor English appears to be a particular problem in Muslim communities. In 2011, 22% of Muslim women in England spoke poor or no English, compared with 2% of the overall female population.

Finally, fair recruitment matters, so that people do not feel discriminated against when they apply for a job. The announcement by the Prime Minister last October regarding the adoption of name-blind recruitment by a number of public and private sector employers is an important step in ensuring that this fairness exists and is seen to exist. Organisations such as HSBC, Deloitte, Virgin Money and KPMG, which are responsible for employing a combined 1.8 million people in the UK, joined public sector employers to show their commitment to fair recruitment.

This is an important debate and I look forward to learning a great deal from the experience and expertise of those assembled here this evening.

6.36 pm

Baroness Howells of St Davids (Lab): My Lords, I put on record my thanks to the Minister for raising this debate and for the eloquent way in which she set out her arguments. It affords me the opportunity to quote the words of Edmund Burke, who said:

"It is necessary only for the good man to do nothing for evil to triumph".

There remain alive in this country today a number of African-Caribbean persons who can still recall a time in this nation when the Aryan myth of white superiority was displayed on the streets of Britain and when those whose skins are black, who were invited to this country to repair the ravages of the last two World Wars, were abused, insulted and treated less favourably by the bigots of this nation. Such bigotry was alien to these who endured it, even when the home of a well-known GP, David Pitt—who later became a Member of your Lordships' House as Lord Pitt of Hampstead—was burned down. Lord Constantine was also abused by some, even though he was admired for his cricketing prowess.

Most of those people were willing to keep their heads down but others saw that the insults could not be tolerated when English men and women took to the streets to show how passionately they felt, feeding fears that this country would be taken over by immigrants. However, the mighty words of Edmund Burke came to the fore and steps were taken to counter the sad state of affairs that we were living through. I arrived in Britain in 1951 as a student and I saw immigration. Good men and women such as Lord Brockway took charge and lobbied against those voices, including even that of an MP, Enoch Powell, who talked of "rivers of blood". Black people did something: they stood up and confronted the intolerance of this nation.

Progress has been made. Under Harold Wilson came the first Race Relations Act in 1965. Further Acts were introduced in 1968, 1976 and 2000. These Acts of Parliament had a major impact on overt racism. The Commission for Racial Equality was there to advise people on how best to take advantage of the legislation when they were confronted by such racism. It was surprising for many of us working in the field to find later that we had to deal with covert racism in a country which considered itself Christian and civilised.

The Equality and Human Rights Commission was set up, bringing together women, the disabled, people of different races, and gays and lesbians. The Commission for Racial Equality was wiped out completely and all the other institutions which were of help to those seeking justice quickly disappeared. It was felt that there was no need for such organisations. In some ways it is true that racial bigotry had been unlearned by some but, where it persists in the workplace, black employees talk among friends about their scars. According to an article in the *Independent*, engagement and progression by black people in the workforce have deteriorated over the last decade, despite evidence showing that black young people born in this country outperform white students.

The noble Baroness mentioned the awards that have been made. Omar Khan, director of the Runnymede Trust, says that it is time we stopped telling young people from different ethnic backgrounds that all they need to do is get better qualifications and integrate more and all will be fine Sadly, that is not true. The evidence shows that this generation does not have a problem with attitude or with bad grades, but it does have to deal with discrimination on grounds of race. I ask the Minister: what else explains the poor deals that these people get in the workplace?

I will refrain from relating stories that I hear daily and list a few things that happen in the workplace: bullying, which appears to be all about egos; lack of promotion, even though people from ethnic backgrounds are expected to train others who then overtake them because of the colour of their skin; and victimisation, where people are told, "You only got the job because you are black".

I end by asking the Minister to consider very carefully what she hears today and to play her part, working with the black community to end the bigotry of the Aryan myth of white superiority, known as racism, in the world. All men are equal in the sight of the Creator and deserve better.

6.43 pm

Baroness McGregor-Smith (Con): My Lords, I thank my noble friend Lady Neville-Rolfe for introducing this important debate and for providing me with the opportunity to speak today.

When I was appointed chief executive of Mitie nine years ago, and thus became the first Asian FTSE chief executive, I did not really want to talk about gender or race. I had not even realised that there was anything special about my position. I had not realised that there was anything special about being female, being Asian, being from a Muslim family and looking quite different. More than anything, I just wanted to fit in and to be

[Baroness McGregor-Smith]
recognised for my talents. Having started with those intentions, I then began to think about how much these issues really mattered.

Since then, I have chaired the Women's Business Council and am now hugely honoured to lead an independent review of the obstacles faced by BME individuals in progressing through the labour market. That is quite a departure from how I felt a few years ago, and the reason is that I was mistaken. I imagined a world where it was not news that I was Asian and leading a FTSE 350 company, but, sadly and unfortunately, it is. I imagined a world where only skills and experience were discussed, not ethnicity, gender or any challenges regarding diversity. I guess that I imagined a world that is still a long way off. But at least I think that we now know what success can really look like. I am thinking of a world that moves far beyond identities, with no more talk about quotas and targets, to a position where we start to talk about what people do with their talents. I hope that everyone—male or female, black or white—will one day have access to some of the same schools, the same professions and, more importantly, the same opportunities as everybody else. We are not anywhere near that place yet, but I am honoured to chair this review and to draw on my own experience to help bring about the changes that we need. The challenges that we face are significant.

The latest ONS statistics show that, at 62.7%, the BME employment rate is 13 points below the white employment rate. It is lower still when you look specifically at the Pakistani or Bangladeshi populations. Worse still, the biggest discrepancies exist in youth unemployment. White unemployment among 16 to 24 years-olds is 13%. Asian youth unemployment is 24% and black youth unemployment is higher still, at 27.5%.

As my experience has taught me, getting people into the workplace is not enough. We have to make sure that anyone of any background with the right skills can get into top management positions in business in the public sector. Currently, one in 10 employed people comes from a BME background but only one in 16 fills a top management position. We need to find out why these numbers do not match. We need to find out what the barriers are and break them down. There is very little BME representation at a senior level in business or in any public sector organisation today, and I do not think that that is acceptable.

For me, this is not just about opportunity for individuals; it is about a productivity dividend that will pay out for the whole UK economy. Ethnically diverse companies are higher performing. A 2015 McKinsey study found that firms in the top quartile for diversity were 35% more likely to outperform those in the bottom quartile. More diverse companies are able to win top talent, improve understanding of customers and increase employee satisfaction, all of which lead to increased returns. So whether any of us are interested in social justice and equality of opportunity, economic growth in the UK or just plain old profitability, this debate is seminal. The review that I am leading will look specifically at what employers can do to help and what issues they currently face in developing BME talent.

First, we need to build further the business case for change, asking what benefits the public and private sectors get from accessing the widest pool of talent available. Secondly, we need to be really clear about the obstacles that BME groups can face as they progress through the labour market. Thirdly, we need to ask what impact these obstacles have—why educational attainment does not always match up to executive positions. Fourthly, we need to bring together existing data to illustrate the scale of the issue, and to look at them in more depth. Are things different for different ethnicities, and how much is about economic circumstance as well as where you are from?

Fifthly, we need to look at best practice. Certainly I plan to draw on some of my own experience and that of others to highlight what works—there are some great examples of what can work—and encourage others to do the same. Here, we also need to consider how to replicate the success that many large, well-resourced companies have had in this area and spread this success to our SMEs. At Mitie, for example, we are starting to introduce aspirational, five-year diversity targets for all our businesses across the group. Personally I have been a fan of aspirational targets, as I think that they help to drive change. I am not a fan of quotas. I think that resorting to quotas says that we have failed. Instead, we have to take the actions that we need to take before getting to the challenge of quotas. Lastly, and most importantly, we need to make cost-effective recommendations to advance BME progression in the labour market.

I reassure noble Lords that the talent is out there—this is not just affirmative action—but we just need to go out and meet that talent in the middle. We need careers advisers to open doors to all the professions, and we need mentors to show BME employees that they can climb as high as they want. We need role models who look and feel like BME individuals to help inspire our young people, and we need to deal with the challenges of unconscious bias, which is a huge issue for all organisations.

The individuals whom I have worked for in organisations have always supported and mentored me. They believed in me and encouraged me to get to the top, telling me that I could do so. More and more, people at the top of their organisations need to do the same and understand that that is their role. They have to find the next generation of leaders and take this on as a real personal responsibility. I think that we are moving in the right direction. BME employment is the highest since records began 15 years ago, and we can narrow and close the gap on the challenges that we have. We can reach a world where we talk about our leaders not as black or white but with regard to what they are actually qualified in.

I will finish by referencing what Idris Elba said when he came recently to Parliament. He talked about diversity, specifically diversity of thought, and a casting director called Nina Gold who discovered John Boyega, a British African from Peckham. He said:

"Since when did the lead character in Star Wars come from Peckham? Since a woman with imagination became the casting director".

I hope that in this place, in this debate, and indeed through my recommendations which will be published later this year, we can inspire everyone to show similar imagination and help Britain reap the benefits of all of its people.

6.50 pm

Lord Adebowale (CB): My Lords, it is a great pleasure to speak in this debate. I congratulate the Minister on calling the debate, and indeed the noble Baroness, Lady McGregor-Smith, on leading the review. I do not think that I have had the chance to welcome her to the House, so I say hello and welcome.

I want to say a few things. As we all know, the UK is a diverse and multicultural society, despite the grumblings of my good friend Trevor Phillips, who imagines that multiculturalism is a bit like putting milk in coffee and that you can un-mix it. It is what it is, and we need to start there. I am a non-executive at NHS England and the chief executive of a care organisation—one of very few of reasonable size. The great noble Baroness, Lady McGregor-Smith, is a notable business woman with a stellar track record, and there are many Members of this House whose track record is admirable by any standard. But one must consider that these are the exceptions that prove the rule.

It is important that we understand something. In the Minister's opening address, she made the point that hard work and ambition should be the ticket to success. That needs to be corrected, in my view. I know many, many talented, hard-working BME community members whose dreams and careers have been thwarted by nothing less than racism. We have to face that head on. Given the statistics quoted by both the noble Baroness, Lady McGregor-Smith, and the noble Baroness, Lady Neville-Rolfe, I do not think that we can simply say to a number of our communities that hard work and ambition will get you there. It will not. The exceptions that prove the rule make that point admirably. We have to address the unfairness in the system.

Let us start with the title of this debate: to take note of the issues faced by black and minority ethnic people in the workplace. As has been pointed out, there are many members of black and minority ethnic communities who would love to experience the workplace but who have been discriminated against, which has led them to not be in the workplace. I must add that they are then victims of, in my view, a pretty cruel welfare system which considers that poverty in itself is an incentive. They are disproportionately represented in virtually every misery statistic that I have worked with over a 30-year career in public services: in homelessness, among children in care and in the criminal justice system. They are not overrepresented in the senior echelons of public, private or not-for-profit service delivery. That is unacceptable.

The Prime Minister's pledge to increase the BME employment rate by 20% as part of the Government's BME vision is welcome—but I have to say right now that that is going to be a challenge. Mr Cameron stated:

"For too many people, even a good education isn't enough. There are other barriers that stand in their way".

I wish he had just said "racism". He said:

"Do you know that in our country today, even if they have exactly the same qualifications, people with white-sounding names are nearly twice as likely to get callbacks for jobs than people with ethnic-sounding names?".

There can be only silence at that, because where I come from, the response to the speech was, "No ****, Sherlock". The fact is that we have known about this challenge for many years. Successive Governments have known about this challenge for many years, as they have known about the disproportionality in employment rates between young BME people and their white counterparts.

This debate has a sense of urgency underpinning it because the demographics are not in our favour. If you look at the fastest-growing population in most of our major conurbations, you will see that they are people who look like me, the noble Baroness, Lady McGregor-Smith, and others in this House. This is not a challenge for BME groups. It is not a matter of morality, even—you do not have to care about any of this. This is a matter of economic survival and the sustainability of the country. We need to break barriers. The barrier to getting a job is challenge enough: 40% of jobs are not advertised. It is about "the network"; it is about who you know and how you know them; it is about access to the choice experiences that might get you into our media, our judiciary and our politics. It is all word of mouth. If you are in the network, you are in; if you are not, you are not. And although there are exceptions that prove the rule when these networks have worked for BME groups, the generality is that the opposite is the case. That is why we are having the debate.

I want to move to an age where there is no debate; where I can say that I am a black leader and it will be seen not as a political statement but a fact. We need to break down significant barriers. The recruitment process itself, where staff hire in their own image, limits people from BME communities entering the workforce in the first place. While there have been improvements, the statistics speak for themselves and they are not good enough. Sir Lenny Henry has commented on this in relation to the arts, both in administration behind the cameras and in front of the cameras. Look at the administrators and performers in the classical arts. The lack of BME representation is shameful. The work being done around women on boards is laudable. But the question I often ask myself is: which women? Where public money is concerned, there are questions that need to be asked of leaders, whether they be black or white, as to how they are managing the use of my tax money in making decisions as to who should lead the public services that we pay for.

The second barrier is lack of progression. After getting a job, being promoted within it is a major challenge. My experience as a board member of NHS England led me to help set up the workforce race equality strategy. As a result of information brought to the attention of the NHS by Yvonne Coghill, we now know that there is a direct correlation between BME leadership of hospitals and care organisations and the quality of care on the ground. Much work needs to be done. It was a real struggle setting up the workforce race equality strategy, because there was a

[Lord Adebowale]
lot of resistance. It was seen as a political intervention rather than one of good management and leadership.

I will end by making three requests. Although I welcome the review—it is long overdue and I hope that it receives cross-party support and engagement—there are three things that we need to do if we are to take this seriously. The first is that we should set up a structured way of observing government expenditure and intervention across departments and their influence. We must ask whether we are spending government money and using government leadership appropriately to lead the way. We should look at some of the initiatives that are currently out there and ask them to support such a cross-government observatory.

Secondly, the Government in setting up and holding inspectorates to account should require those inspectorates to ask simple questions. This is not about quotas and it is not about setting targets—although the notion of targets within businesses is to be welcomed. This is about asking leaders of public, private and not-for-profit organisations, particularly where they receive government funding, "What are you doing in this area?". Where there are departments—and there are departments and institutions funded by government or receiving large amounts of money through tenders to government departments—which have never had a BME leader, the question should be asked as to why. There have been black people in this country since Roman times. We need a good answer.

So the future of this country lies in the things that we have not discussed. We have not discussed race enough and we have not been serious enough about the things that we need to do to provide a truly equitable society, a truly prosperous country and true economic prosperity for us all.

7 pm

Baroness Bottomley of Nettlestone (Con): My Lords, I applaud my noble friend for introducing this debate and, even more greatly perhaps, my other noble friend for agreeing to chair this vital taskforce. This is such an important subject and I am delighted to be able to make a contribution in the debate. I need first to declare all my interests, personal, political and professional, in the register. Many will know that this topic has been close to my heart for coming on 50 years.

I am pleased that our workplace is a lot better than it used to be. When I was first a Member of Parliament, there were 22 women out of 600 MPs—and women, after all, were the majority of the population. There are now darn near twice that number of minority ethnic Members of Parliament in the House of Commons. I am pleased about that because I do not know all their names; if there are so few of you that one knows all your names, you really are an endangered species. In this House, we have made good progress. It is not enough, but we should give the credit that is due. It is interesting to see the degree to which the police, fire and rescue and many other groups are realising that this matters.

The noble Lord, Lord Morris—I would like to say my noble friend—will speak after me. When he became General Secretary of the Transport and General Workers' Union, I well recall that it was a time when many trade unions had an appalling attitude to race and to black and ethnic minorities.

We have learned a lot from the debate about women. I was against quotas, targets and all the rest of it, but there is no doubt that we now have a toolbox, and it has gone well. I am even more resentful of the fact, but recognise, that one had to have white men to really make this happen. My other noble friend, although on another Bench, the noble Baroness, Lady Howe, was an early campaigner for the role of women and their contribution. I spent a lot of time when I was Health Secretary saying, "This is the biggest employer of women in the country. We should do much more in terms of women's development". Our colleagues, the noble Baroness, Lady Fritchie, and my noble friend Lady Cumberlege, were my great allies. Then I realised that, of all the employers where the black and minority ethnic people are not on the shop floor but in the professions—in the NHS you had doctors, pharmacists, psychologists and nurses—how much more deplorable it was that those people were not being developed on an equal basis. I think it was the noble Baroness, Lady Fritchie, who coined the expression "stale, pale and male". Neither the women nor the black and ethnic minorities were getting through.

My advice to anybody who does an intolerable job is to decide on two things that they really care about. I decided when I became Secretary of State that the BME issue really worried me. I convened a working group; we had lunch together every two months—people throughout the NHS from black and minority ethnic backgrounds. I was shocked by the experience. It seemed that the Patient's Charter enabled patients to say exactly what they thought to people from black and minority ethnic groups—we know that black doctors get at least four times as much harassment and difficulty as other groups.

We then turned that into an action plan. I was pleased to hear the noble Lord, Lord Adebowale, say that he is involved in the important NHS programme that is under way, but I would not mind referring him to my 1993 statement, when I said:

> "The programme I am … launching aims to address the barriers which face … ethnic minority staff … I want to stress that taking action to promote equality in employment is not just a matter of moral justice or of fairness to people from minority ethnic groups. It is good, sound common sense, and it makes business sense too … A workforce which is multi-racial at all levels is best placed to deliver the best possible health care to all sections of the community".

I always took the view that, as a taxpayer-funded service, the NHS should reflect all taxpayers, particularly when it is available to all. The key issues were training, racial harassment, appointments to NHS boards, service delivery—and a particular programme relating to doctors. The noble Lord mentioned name-blind recruitment. The now Sir Sam Everington—then a rabid leader of the junior doctors—talked me through a programme in which junior doctors called Patel had eliminated their names and had received much better priority in the rotation. It was really shocking evidence that could not be avoided.

I remember in about 1992 asking all the presidents of the royal colleges to come up to the very grand room in which the Secretary of State lives at the

Department of Health. I said, "There's something I want to talk to you all about. Not once has there been a black or minority ethnic president of a medical royal college in this country". It was not causal, but I am very pleased that our colleague, the noble Lord, Lord Patel, then became a president, along with my noble friend Lord Ribeiro and others. They were all first-generation, and these are all issues that matter. There is no job that a woman cannot do, and there should be no job that someone from a black or ethnic minority cannot do. I used to have great battles with the overseas doctors association. I said, "Well, you may be black doctors, but you're not overseas doctors". Eventually, they changed their name to the British International Doctors' Association.

Why has more not happened? I want to endorse the importance of the Workforce Race Equality Standard—Simon Stevens chairs the diversity council within the NHS—and the work being done to a high professional standard building on the lessons that we know but must be repeated and reinforced.

Perhaps an area closer to the Minister's responsibilities is the situation in universities. How good it is that we read that, now, a black student is more likely to go to university than the equivalent white student or pupil from school. Progress is being made, but I am not talking about access to services, whether it is the NHS or education. What I feel very strongly about is the career development of black and minority ethnic academics within the system. The noble Baroness, Lady Amos, has just been made the head of SOAS. She would be the first to say that she did not come up through an academic route, but at last we have one black—and female—head of an academic institution.

My first love is my role as Chancellor of the University of Hull—we are very privileged to have the noble Lord, Lord Parekh, as one of our most distinguished professors; he has been there a long time and may be able to add more about this. Work is under way to try to understand why there has been such a lack of progress in academic staff. It is not a monolithic picture; it is a heterogeneous picture of the highest people on the pay spine. Twenty-two per cent are Chinese—19% are white—15% are mixed race and 8% are black. All the relevant groups are put together in "black and minority ethnic", but the high proportions of black and minority ethnic academics are in chemical engineering, clinical dentistry and electrical and computer engineering. There are very low rates in archaeology, marine and environmental sciences, agriculture, forestry and food sciences.

I ask my noble friend to give all the support she can to the Equality Challenge Unit, a charity funded by the UK higher education funding bodies, because of the work it is taking forward. Again, it is developing its own charter to recognise those institutions that meet the standard, just as we have seen with women. I am very pleased for the noble Lord that Staffordshire University meets that standard, as does UCL, King's College London and Kingston. Eight universities in all now have the bronze standard, but we need the Athena SWAN programme to deliver this in practice. Why are we not seeing the advancement of more black and minority ethnic staff?

In her opening remarks, my noble friend referred to some of the work done by McKinsey. The McKinsey team in London, led by Vivian Hunt, herself a magnificent, formidable, deeply impressive black woman, has done a lot to throw light on some of the issues. My noble friend referred to this encouraging people to be customer-centric and to create a better workplace, but diverse teams also lead to diverse solutions. Monoclonal teams create monoclonal solutions. If the problems of the world today are the pace of change and the interconnectedness of the world, it is essential to have teams of people from different backgrounds, all of whom feel they can be themselves at work. Whether they are female, LGBT, black or ethnic minority, individuals need to feel at work that they can be free and liberated to be themselves, in order to give their employment and their tasks all that they can.

Mention was also made of Business in the Community. I hope noble Lords will read about that work, which has been undertaken in conjunction with YouGov. There are many familiar themes, but the most interesting thing was that 42% of the white people and 34% of the black and minority ethnic people interviewed felt that people were not comfortable talking about race in the workplace. That differentiates the debate from that around women. When I am trying to explain to a limited male about the issues around women, I simply say, "Don't talk about girls and don't talk about ladies. On the whole, if you stick to "female" or "woman", you are fine". But when it comes to black, Asian, minority ethnic, ethnic minority or BAME, people are nervous about the terms. I was talking to a leader in industry who was tremendously committed, but started to talk about coloured people. I said, "You cannot talk about coloured people. You mean people of colour". Many people are nervous about how to even begin to get into the conversation.

Then there is the difference between different ethnic groups. There are huge differences of history and culture, attitude to work and attitude to families. In my humble view, the more you can create a debate and discussion, the better. On the female side, a lot of men became mentors to women—terribly patronising, in my view. But whatever the men taught the women, the women taught the men a huge amount. I am in favour now of mentoring and having leaders to develop people from black and minority ethnic groups, so that they can explain and help to highlight the issues that matter—unconscious bias, employee network groups and so forth.

Sandra Kerr at the Race for Opportunity team said:

> "The terminology is part of the barrier, but not starting the conversation in the first place is the biggest barrier of all".

The Nationwide has done a great deal—I do not work for the Nationwide and have no interest to declare. It has been a great role model. It says:

> "We all own and shape organisational culture, but it's led from the top. It therefore has to be us as leaders who set the tone. Any culture change programme, including work to advance race equality and wider diversity and inclusion, must be championed and delivered from the top. Having an active race champion is a powerful signal in any organisation and having one who also provides thought leadership and speaks publicly about race equality issues, even more so".

[Baroness Bottomley of Nettlestone]

I welcome this debate. We have reached a time when there is a critical mass of both achievement and dissatisfaction. It is imperative to ensure that we increase our productivity as a nation, drawing on the talents of all the citizens of the country, and I wish my noble friend well in her critically important taskforce.

7.15 pm

Lord Morris of Handsworth (Lab): My Lords, it is often said that in politics it takes courage to champion a minority cause. Why? Because there are no votes in it. So on this occasion I pay due tribute to the Minister for providing time and indeed support for this important and timely debate. From her experience outside the Westminster village, she will have concluded that people are the greatest assets of any organisation. Therefore, it is a debate that is long overdue and relevant to the current economic climate. One could say that it is a debate whose time has come.

It saddens me that in 2016, 15 years after the Race Relations Act and six years after the Equality Act, we are still taking note. Surely, by any standards of progress, it is time to take action, not just note. The good news is that the employment rate gap between the overall population and ethnic minorities has been decreasing gradually, but the slow improvement might not be seen as good news for those still unemployed—those from ethnic-minority communities join a longer and longer queue to wait for a job.

The evidence is clear that for many from the ethnic-minority communities, the problem starts not at the workplace necessarily, but with the CV submission. A senior manager of a leading recruitment agency reported that 90% of applicants with an unusual or foreign name were ignored by his clients. But that is not news to applicants from that group. Their school, birthplace or addresses can prevent the application going further. I do not have to tell noble Lords why. If they are lucky to land a job, what then? They will invariably earn less than their white counterparts and that is a repetitive and recurring example.

TUC research earlier this year showed that black workers with a degree earned 23% less on average than their white counterparts. Black workers with A-levels earned 14% less on average than their white counterparts, and black people who leave school with good GCSEs are typically paid 11% less than their white peers. Frances O'Grady, the general secretary of the TUC, said of the findings:

> "This is not about education, but about the systemic disadvantages ethnic minority workers face in the UK … Even today race still plays a huge role in determining pay".

In management, black employees also lose out. One in 10 people in the workplace is from a black or Asian background but only 13 hold a management position in the public or private sector. Black managers are mostly to be found in the middle tier of management where they are most vulnerable to reorganisation and outsourcing.

This debate invites the House to take note of the issues faced by black and minority people in the workplace. I have probably reminded this House before that when Bill Clinton became President he took a very long time to form his Administration, so much so that his chief of staff wanted a discussion about the delay. Having listened, Clinton sent a note back saying: "I want my Government to look like America". That statement is also a test for our country. We have also failed. Neither our Parliament, our Government, nor our workplaces look remotely like the United Kingdom. As I speak, I can hear an imaginary conversation between the Cabinet Secretary and the Prime Minister. I can just about hear the Prime Minister saying: "I want my Government to look like Eton".

Sadly, despite the good will of the Minister, some of us see this debate as the long journey continuing from the past: lots of words, but very little action. As members of the ethnic-minority community, all we ask is fairness, never favours. However, we also ask the question: how do we remove the barriers to progress of ethnic minorities in the workplace? Although the reviews led by the noble Baroness, Lady McGregor-Smith, and Sir John Parker are to be welcomed, the immediate challenge in the Motion before the House is not merely to take note but to take action. To deliver a tangible and practical agenda for progress, I strongly support the steps set out by the TUC on page 8 of the briefing notes supporting this debate. They reference some of the issues I have raised, as do the two reviews and the Government's BME 2020 policy. I support the targets, the promises and the challenges wholeheartedly, but if Martin Luther King had a dream, I have a nightmare with the fear that I have been here before: lots of words; no action.

I began this speech by referring to the Race Relations Act which outlawed discrimination on the grounds of colour, race, ethnic or national origin, and the Equality Act which legally protected people from discrimination in the workplace and wider society. Yet we still we have discrimination as an impediment to human dignity, when all we ask is the right to be equal. We are at something of a crossroads. We can engage practical equality or we can engage discrimination to the point where the effect on our nation, our children and our future will be sad, dangerous and disturbing. All we want is an opportunity to serve and the right to be like the rest of the United Kingdom.

7.24 pm

Lord Bilimoria (CB): My Lords, one of the top two issues in the forthcoming EU referendum is immigration. Sadly, it is immigration in a negative way. Four years ago, I was proud to lead a debate in this House entitled Minority Ethnic and Religious Communities: Cultural and Economic Contribution. There were 26 speakers in that debate.

I am proud to be the first Zoroastrian Parsee to sit in your Lordships' House. Before I made my maiden speech, the first thing I did was read the maiden speech of the first Member of Parliament from an ethnic minority. Dadabhai Naoroji, a Liberal, entered the House of Commons in 1892, against all odds. In fact, the then Prime Minister, Lord Salisbury, said that no British person would ever accept a black man as an MP. Just three years later, in 1895, the second Indian, Sir Mancherjee Bhownagree, a Conservative, was elected. The third—and the only one of the three Indians elected to the House of Commons before India's

independence—was Shapurji Saklatvala, or Comrade Sak, who was elected as a Communist with Labour support. All three were Zoroastrian Parsees—one a Liberal, one a Conservative and one Labour. I now sit, as a Zoroastrian Parsee, as an independent Cross-Bench Peer, squaring the circle. There was one ethnic minority Peer before India's independence, and that was Lord Sinha.

When I came to this country for my higher education, as a 19 year-old in the early 1980s, I was told by my family and friends in India, "If you decide to stay on and work after your studies you will never get to the top. You will not be allowed to because, as a foreigner, there will be a glass ceiling". I am sorry to say that, 35 years ago, they were absolutely right. In spite of what my noble friend Lord Adebowale said, I think that glass ceiling has been well and truly shattered. Minority ethnic and religious communities are now reaching the top in every field: sport, academia, the Civil Service and politics. Just look around this Chamber.

The day before I led that debate four years ago, we had a photograph taken on the steps of Westminster Hall to celebrate 25 years since the first four ethnic minority MPs were elected to the House of Commons in 1987. I was at Cambridge University at the time when one of them, Keith Vaz, was elected. Four years ago, there were 69 of us on those steps. Today, there are 92 ethnic minority MPs and Peers. We are making progress and I would go so far as to say that immigrants from all ethnic minorities and religions have been the making of the "Great" in Great Britain. They have been crucial to Britain's success, contributing enormously to the economic and cultural life of Britain and enriching it in every way, often punching well above their weight.

The Asian community makes up 4% of the population of Britain yet contributes more than double that percentage to the economy, but the Government's immigration policy has been affecting this country and our businesses. My own business, Cobra Beer, supplies over 98% of the curry restaurants—the so-called Indian restaurants—in this country. Well over two-thirds of them are actually owned and run by Bangladeshis, and the Bangladesh Caterers Association does tremendous work supporting them. Yet the Government do not listen and there is a skills shortage. We cannot bring in the chefs the industry needs because of the Immigration Rules, yet it is the nation's favourite food. This industry has been an inspiration to me. It is made up of pioneering entrepreneurs who have come to this country as complete strangers, gone to every corner of Great Britain, to every high street, made friends, won customers and—most importantly—put back into their local communities.

I am often asked to express what Asian values are and I summarise them as the importance of hard work, family and education. Britain prides itself on being an open country and an open economy; a country that is secular, multicultural and plural, where all religions are allowed to be practised and where all races, communities and cultures exist side by side.

There is one word I do not like. We are not a "tolerant" nation. This diversity should not be tolerated but celebrated. We are renowned as a country with a sense of fairness where there is opportunity for all. That has allowed ethnic minorities to succeed and allowed this little country, with 1% of the world's population, to be one of the five largest economies in the world.

I thank the Minister very much for initiating this debate. She spoke about integration. The Nobel laureate, and my friend, Professor Amartya Sen speaks about identity. He says that most of us have several identities, whether religious, ethnic, professional or national.

When I came to study here, my father, the late Lieutenant-General Bilimoria, said, "Son, you're going to study abroad. You may stay in Britain, you may live in another part of the world, but wherever you live, integrate with the community you are in to the best of your ability, but never, ever, forget your roots". I am proud to be a Zoroastrian Parsee. I am proud to be an Indian, I am proud to be an Asian in Britain and, most importantly, I am very, very proud to be British.

The noble Lord, Lord Dholakia, speaking in this debate four years ago, said:

"We should be proud of Britain's record in race and community relations".

He mentioned the Race Relations Act 1965 and said:

"We have been at the forefront of legislative and other machinery to establish equality of opportunity for all our citizens with a strong emphasis on disability, gender, age, faith and sexual orientation",

but he said:

"We now need to move to the next stage. We need to examine changing patterns within all our communities. True multiculturalism is proactive and means that equality and diversity is at the core of everything we do, from government to individual responsibility. We need to take a much more pro-active stance towards combating racism and discrimination, really tackling inequality in all aspects of our society in social and economic matters and in civic participation, positively valuing—not merely tolerating—the contribution of different cultures and perspectives, and treating them with respect".—[*Official Report,* 24/5/12; col. 873.]

Those are very wise words.

The noble Lord, Lord Kakkar, pointed out in that debate:

"We should not forget that some 44,000 out of 240,000 registered doctors in the United Kingdom declare themselves Asian or British Asian".—[*Official Report,* 24/5/12; col. 879.]

That is nearly 20%. Where would we be without them? The noble Lord, Lord Ahmad of Wimbledon, said that,

"if you glance at the list of speakers, you will see that there are speakers not just from some defined minority communities but from all communities. That is what Britain represents today".—[*Official Report,* 24/5/12; col. 880.]

He said that the strength of our diversity is visible and relevant. The noble Lord, Lord Alton, said it was a time,

"for celebrating our nation's diversity—the whole world in one country. It is an important moment to insist that along with respect for difference and minorities must come a commitment by us all to do all we can, using all our energy, to promote the unity, democracy, freedom and justice that we treasure in this nation".—[*Official Report,* 24/5/12; col. 889.]

One in seven companies are started by ethnic minority immigrant entrepreneurs, yet I faced prejudice 26 years ago when I started Cobra Beer. I would go to see buyers for big supermarket chains and big customers and they would say, "Indian beer?", and turn their noses up at it. Well, I have got my own back. Cobra Beer has won 83 gold medals in the Monde Selection

[LORD BILIMORIA]
world quality awards. It is one of the beers with the most awards in the world and is a top 20 brand over here—so much for their prejudice.

The Minister and I served together when I was the founding chairman of the UK India Business Council. She spoke about the new report which Sajid Javid—I can call him my friend as he is my neighbour—the Secretary of State for Business, Innovation and Skills has commissioned. I wish the noble Baroness, Lady McGregor-Smith, all the best with it and welcome her to our House. There are lots of objectives in the report. One is to increase the number of BME students going to university by 20%. I am proud to be the first Indian chancellor of a Russell Group university, the University of Birmingham. However, I am the first; how many other ethnic minority chancellors are there? How many ethnic minority vice-chancellors are there in this country?

We talk about getting more ethnic minority students. Is the Minister aware of a programme called GEEMA? It is the Group to Encourage Ethnic Minority Applications and is for year 11 schoolchildren. It has a summer school at the University of Cambridge, and I addressed the opening course. I was inspired because it turned out that they were ethnic minority children whose families had never been to university. Many of them ended up getting into the University of Cambridge and other universities.

As the Minister said, there is an employment gap. It is a gap of more than 11% between BME people and the rest of the population. Two-thirds of FTSE 100 companies still have an all-white executive leadership. This is appalling. The research found that 10 people from ethnic and cultural minorities hold the top posts of chairman, chief executive or finance director, which is equivalent to 3.5% of the 289 jobs at that level, and 98% of FTSE 100 chairs, 96% of FTSE 100 chief executives and 95% of FTSE 100 CFOs are white. We have made progress, but there is so much more to be done. Thirteen per cent of the UK population is from an ethnic minority background, yet in Parliament we have almost 100 BME Members, which is still nowhere near 13% of the 650 Members of the House of Commons and more than 800 Members of this House. There is only one BME Cabinet Minister, my friend Sajid Javid. The first minority ethnic Minister was Lord Sinha, whom I mentioned earlier.

We talk about international comparisons. The noble Lord, Lord Morris, mentioned them. The US House of Representatives has 435 Members, of whom 20% are non-white, but only 6% of the 100 Senators are minority ethnic, so we are doing much better than the Americans, let alone on diversity because more than 50% of them are lawyers.

In the public sector, only 7% of the UK's Armed Forces are ethnic minority, and less than 3% of officers, yet without the contribution of nearly 5 million people from India, south Asia, the Caribbean and Africa in First World War and the Second World War, we would not be here in the free world we have today. Of Premier League footballers, 25% are ethnic minority. That is the one area where we are ahead of the average.

Before I conclude, we have to talk about boards. I founded the Zoroastrian All-Party Parliamentary Group, which had an event called Faith-based Ethics in Business—the Cadbury and Tata Way. Tata Steel is now in the spotlight, but people forget the net employment that Tata has created through the success of Jaguar Land Rover and the enormous charitable work that it does. David Landsman, head of Tata Ltd in the UK, said that there is a clause in the Tata code of conduct about equality and non-discrimination on any grounds.

In 2003, I was a member of the Tyson task force on the recruitment and development of non-executive directors. The noble Baroness, Lady Bottomley, spoke about diverse teams. That task force, 13 years ago, very clearly said in its summary:

> "Diversity in the backgrounds, skills, and experiences of NEDS enhances board effectiveness by bringing a wider range of perspectives and knowledge to bear on issues of company performance, strategy and risk".

It is indisputable that broader, more rigorous and more transparent searching is needed to get there, yet this amazing lack of diversity exists at the moment. I have been the only ethnic minority member of the board of Booker, a FTSE 250 company—it is around number 125 at the moment—and the senior independent director for the past eight and half years. We have had two women on our board.

Success is not a destination, it is a journey. I have shown the huge lack of diversity that exists and the reason this report needs to be commissioned. Yet I have also shown how far we have come in the 35 years since I came here as a student. I am proud to say that London is the most diverse, vibrant, multicultural and cosmopolitan city in the world, but we need to continue to aspire and to achieve. As the Prime Minister said, and as I have said many times, there will be an Asian Prime Minister of this country soon.

7.38 pm

Lord Polak (Con): My Lords, I congratulate the Minister on this timely debate. I also congratulate my noble friend Lady McGregor-Smith and wish her well in her important review. I am no expert in this field, but I have some knowledge of issues faced in the workplace by some practising members of the Jewish community. In her opening remarks the Minister spoke about English being spoken, or perhaps not being spoken, by far too many people. It reminded me of visits to absorption centres—they sound like difficult places, but they are exactly the opposite—in Israel. When people immigrate to Israel, the first six to nine months are spent at an absorption centre where they are taught how to queue at a bank and how to go to the post office but, most importantly, they learn to speak Hebrew and are immersed in speaking Hebrew. That is something that we in this country have lost. When immigrants come into this country we should immerse them in speaking English.

I recall being on a candidates weekend to go on a list of prospective candidates for the party back in 1993. My sponsors suggested that I should not have to do a weekend. Let me explain. I am an Orthodox Jew; I do not travel on the Sabbath. In February, in the winter, the Sabbath comes in very early. I arrived with 48 other people and was told that we had a 1,000-word

piece of writing to do. I looked at my watch and I realised that I had 23 minutes before the Sabbath came in to do my 1,000 words. I remember, too, that there was a mock debate on the Saturday morning. Everyone was taking notes except me; I was not allowed to take notes because it was my Sabbath. I got through the weekend, but this debate reminded me of the difficulties that one can sometimes have.

The British Jewish community, via the Board of Deputies of British Jews, has produced *The Employer's Guide to Judaism*. It was produced in the belief that education is the best way to combat prejudice. The introduction talks of that problem that, for the "fully observant Jew", Jewish law provides a "central model" for how to lead life. The guide states:

"This means that it is not possible for the observant Jew simply to waive, for example, observance of the Sabbath",

as I described in my experience from 1993. It continues:

"However, in most cases reasonable adjustments",

can be made and there can be,

"no conflict between being a fully observant Jew and a fully contributing member of the workforce … Many jobs require set working hours and this can cause a clash with the Sabbath",

or the Jewish festivals.

The pamphlet has a headline "Jewish practices" and it goes on to explain them. It then has a section on the distribution of Jewish festivals around the calendar year. In my previous work in the 1980s, when I was education director of the Board of Deputies, I spent most of my time working with examination boards. In the May/June time there is a Jewish festival called Shavuot; it is two days for Orthodox Jews. Again, it is a time when people cannot write or travel. I spent time with all the examination boards talking about the problem of Jewish students doing GCSEs or A-levels when they fell on Shavuot. By the time I had finished my work, three examination boards—I think there were five at the time—did not have any exams on Shavuot at all. That is because we talked to them well in advance—years in advance.

The pamphlet carries on with "clothing and modesty", "food", "prayer", "bereavement" and "UK law". It ends with "additional human resources guidance" and it talks about the recruitment process. It says:

"It is imperative that discrimination does not occur at any point during the employment process, including during the interview before employment, or during the notice period at the end of employment. Employers must not discriminate against a Jewish candidate on the basis of their religion or religious requirements".

One can insert any religious grouping instead of "Jewish" at this point. It continues:

"Employers should not ask personal questions, including those relating to religious affiliation, unless they are directly relevant".

It goes on to talk about the "employee already in employment" and "conflict resolution". This I found most interesting. It states:

"Managing time off for religious observance, in particular the festivals, can cause a problem in professions where it is expected that annual leave will be taken at certain periods of the year, most notably in schools and universities. There are practical solutions that can be used in solving this, including running extracurricular activities or trips to compensate for the time lost, scheduling lessons".

But the key is that the information is given early.

The last point is on anti-Semitic discrimination in the workplace. This is a rather topical issue. The Community Security Trust reported that, in 2015, 26 anti-Semitic incidents took place in the workplace. That is 26 too many. The pamphlet says:

"Antisemitic discrimination can occur in the workplace in several contexts, including in the recruitment or promotion processes, in interactions between colleagues and from external sources, especially in roles involving interaction with customers. Whilst these instances cannot always be avoided completely, it is good practice for employers to supply adequate training to their staff on Judaism".

I could add here "adequate training to their staff on Hinduism", or on Islam.

Through education and information, some of the issues that I have raised can be dealt with. I recommend that my noble friends the Minister and Lady McGregor-Smith take a look at this guide. It may be helpful for other communities in Britain. Widespread distribution to the public and private sectors could be an extra piece of ammunition in ensuring diversity in the workplace.

7.46 pm

Lord Parekh (Lab): My Lords, I begin by congratulating the Minister on introducing the debate. I remember sponsoring a similar debate in this House about 12 to 13 years ago. I was struck by the fact that almost all the speakers came from the Lib Dem and Labour Benches, with hardly anyone from the Conservative side. The shadow Minister was the only one. In his sovereign loneliness he struck us as rather a strange figure. Today the Minister has not only spoken about the subject but initiated it. That says something about the kind of progress that we have made in this country. I compliment her in particular on speaking with such eloquence on some of the issues relating to the subject.

While we have made some progress, we still have a long way to go, as many noble Lords said. I will talk about those issues. I have been used to using the words "ethnic minorities" rather than the words "black and minority ethnic", which are strange. I will continue to talk about ethnic minorities. According to the census of 2011, ethnic minorities constitute 19.5% of the population. However, they disproportionately bear the impact of unemployment. The rate of unemployment among them is not only higher; they are also most vulnerable to losing their jobs. The unemployment rate among the ethnic minorities is not evenly spread. Among the Indians it tends to be roughly the same as within the white population, but among the Afro-Caribbeans and others it is as high as 14% to 15%—three times the national average.

Degrees or higher qualifications do not seem to help. In fact, those with higher qualifications are two-and-a-half times more likely to be unemployed than their white counterparts. It is also striking that, for the same job, a black person applying would need higher qualifications than his white counterpart. This is what social scientists call the "ethnic penalty": the same qualification does not take you to the same destination. In the case of ethnic minorities, a higher qualification is required.

If one looks at the FTSE index, the picture is even more disturbing. If one takes 100 companies, 98% of the chairs, 96% of the CEOs and 95% of the chief

[LORD PAREKH]
financial officers are white. If one looks at the Civil Service, again, the situation is not terribly good. Ethnic Dimension, a research consultancy, pointed out in 2014 what is wrong and at what stages ethnic minorities are to be found. It is quite striking, for example, that if one looks at the Civil Service and the various stages at which ethnic minorities operate, they are disproportionately represented on the lower rungs of the Civil Service hierarchy and very poorly represented among the Permanent Secretaries and others. If one looks at representation among the higher echelons of the diplomatic service, it is striking that the proportion is even smaller. If one looks at health trusts or the royal colleges, as many have pointed out, ethnic minority representation is extremely poor.

All this needs no elaboration except to show how much work remains to be done. It is this that I want to concentrate on during the five or six more minutes I have at my disposal. The Runnymede Trust's Commission on the Future of Multi-Ethnic Britain, which I was privileged to chair and whose report was wrongly named after me, proposed a number of initiatives and I want to reiterate some of them and to elaborate on a few others which have come up since. I hope that the noble Baroness, Lady McGregor-Smith, when she undertakes her review, will look at the positive side of what can be done, what obstacles stand in the way of ethnic minorities and what we need to do to remove those obstacles. So, at the risk of sounding rather schematic, let me run through six or seven recommendations that we made and that I would like to make again.

First, it is very important that every organisation, every company and every business should be required to have a race equality strategy with specific targets but not quotas, aspirational goals but not a legal requirement of jobs to fill. Secondly, there is the old idea of contract compliance. It is very important that public sector contracts should be used to improve a company's race equality practice. Thirdly, application forms should be anonymised. This should be standard practice in all areas of life, so that people are not singled out as representing a particular ethnic group by virtue of their name. Fourthly, recruitment procedures in organisations and various companies should be clearly monitored, so that there is no room for self-selection or only choosing people of one's own colour.

It is also important that companies should be asked to submit, in their annual reports, staff ethnicity figures—what percentages belong to ethnic minorities, at what stage of the company hierarchy and in what forms. It is also very important that more ethnic minorities should be recruited in the field of higher education. Here, I certainly appreciate the Prime Minister's desire to increase by 20% the proportion of ethnic minority students by 2020—but, as one of the Peers said, this is a big challenge and I do not think that it is likely to happen. Also, if we do bring them into higher education, the question is what areas of higher education and what kinds of jobs will be available to them.

It is also important that racial stereotyping should be avoided. It is very striking, in the briefing material given to us, that Afro-Caribbeans, for example, are singled out as sportsmen or entertainers but you can hardly see a black face as a senior professor, a researcher or a poet. One can easily begin to see what kind of images and impressions this creates in the minds of those who read such things. Finally, race has in some ways shifted its locus, so that we no longer talk simply about colour or culture, we also talk about religion. Muslims have, in many cases, become the target for this kind of discrimination and disadvantage. A recent survey, for example, showed that a Muslim name can invite discrimination, but that if the person was not wearing Muslim dress, such as a headscarf or whatever, he tended to escape any kind of disadvantage—dress becomes a site of contestation, a sign by which we recognise and identify people and discriminate against them. For all these reasons, I suggest not only that applications should be anonymised but as far as possible that discrimination and disadvantage of this kind should be eliminated.

These are some of the points also made by the noble Baroness, Lady Bottomley, and I commend them all yet again.

7.55 pm

Lord Taylor of Warwick (Non-Afl): My Lords, I thank the noble Baroness, Lady Neville-Rolfe, and the Government for making time for this important debate today. This issue is not a minority one. It concerns who we all are today in modern Britain. Whatever one's view on immigration or Europe might be, Britain has changed and will continue to do so. If this change is embraced and not just endured, Britain will be all the stronger. Of the UK's population of 63 million, 14% are black and ethnic minority. Over half of the BME communities live in three main cities—London, Manchester and Birmingham. Leicester is seen as one of the most diverse cities in Europe, and what a magnificent example of diversity in the workplace is Leicester City Football Club. Its first team squad has 12 different nationalities and an Afro-Caribbean captain and last night became Premier League champions. Mind you, since I support Aston Villa, recently relegated from the Premier League, I wish to move swiftly on from that observation.

We are all products of our experiences and I was just reflecting on some of mine. Back in 1990 I was a special adviser to the Home Secretary, and the Cheltenham Conservative Association was advertising for a parliamentary candidate to fight the next general election: this was an application for a job to be an MP in the political workplace. I submitted my CV along with 300 others. In those days, you did not have to submit a photograph with your application. My surname is Taylor. Taylor is, in fact, the name of the Bristolian sugar trader who owned the slave plantation that my ancestors worked on, so the name does not sound foreign. When I was shortlisted a few weeks later, I travelled to Cheltenham for the interview.

I was greeted at the front door by one of the committee members. The elderly gentleman looked rather startled to see me. When I introduced myself, he said, "Oh, you're John Taylor—I didn't realise you were b-b-based in Birmingham. Welcome". I must admit I rather admired the nifty way he side-stepped a potentially embarrassing situation. I was eventually chosen as the candidate and the association treated me

well, but I have often wondered whether, in those days, had the fact that I am Afro-Caribbean been known to the committee at the application stage, or had I a foreign-sounding name, I would even have been interviewed.

It is not only good for minorities to achieve in the workplace, it is good for the nation as a whole. Historically, there has been a negative perception issue acting as a bar to the workplace becoming more diverse. Some years ago I was invited to be a speaker at the Institute of Directors on the subject of diversity. I walked into the entrance hall in Pall Mall and said to the concierge doorman, "Lord Taylor of Warwick". He said, "Ah, yes, we are expecting Lord Taylor. You timed it well. You the driver, mate? You'll be okay on a single yellow line. Anything after 6.30 pm is fine". I replied, "No, I'm Lord Taylor". There was a famous hit song called "A Whiter Shade of Pale" by Procol Harum. Maybe they had this gentleman in mind when they wrote it, because he turned from white to very, very pale. I would like to think that nowadays that misunderstanding would not occur.

Unemployment in the black and ethnic minority community is going down, I accept that, but there is still so much untapped potential there. I have a particular interest in the black majority churches. Take, for example, the Nigerian Redeemed Christian Church of God, based here in the UK. In the five years to 2013, it started 296 new churches in the UK. Last year, the Prime Minister addressed an event of black Christians from that church, which thousands attended. I was a guest speaker at the equivalent event in Lagos, Nigeria, where a quarter of a million people attended the national stadium. The event started in Lagos at 8 pm and finished at 6 am the next morning, so it is vivid in my memory. But these people, like many, are transnational in their activities and contacts, and there are similar groups, of course, among the Muslim and Chinese communities in Britain. The point I wish to make here is that surely our local enterprise partnerships need to develop stronger working links with such diaspora groups, their religious leaders and business concerns. We need to harness that potential, which I think is being wasted.

The media and creative industries are very influential sectors of society, perhaps even more so than politicians. It is a pity that black actors such as Idris Elba and David Harewood had to go to America to establish themselves in the industry. Frankly, that is a disgrace. While television is using more black and Asian presenters, Directors UK claims that the number of BME directors working in UK TV is "critically low". A sample of 55,000 programmes found that only 1.29% were made by black, Asian and minority ethnic directors. In some areas such as period dramas, talk shows, panel shows and sketch shows, not a single episode had been made by a BME director. That, frankly, is a disgrace. In the mid-1990s, I was a television producer at BBC White City. It got to the stage when I asked whether it was called White City because everyone else above kitchen level was white.

I recall making a TV consumer affairs series for BBC Two called "The Street". I had the pleasure of working with Kirsty Young, who went on to much fame and fortune. We went up to the highlands of Scotland to make one episode. I did not think that there were any black people at all there. But while we were doing some outside filming, a young white lady came out with a mixed race boy of about 10 holding her hand. She came straight over to me and said, "My son was watching you from inside. He wanted to come and see you. His dad is African, but he left before the boy was even born. My boy's had a rough time at school because of his colour. He is shy, but it would mean a lot to him if you would just talk to him for a few minutes". The boy proceeded to ask me if I was his father. I quickly assured him that although I was not his father, I would be proud to have a son like him. I explained that I was at the BBC and we were filming in his street. He then said, "But I thought you had to be white to work on the telly". Although inaccurate, that was his perception, and it was a very sad comment that I will never forget.

As for newspapers, Amol Rajan is the only ethnic minority editor of a national newspaper, the *Independent*. I note recently that even that paper has now gone online. City University's survey in March this year found that British journalism as a whole is 94% white. Is that acceptable?

Our corporate boards are making progress in terms of gender diversity, but there is a lack of racial diversity on company boards. In fact over the last two years, the growth of BMEs on boards of FTSE 100 companies has slowed and gone backwards, going from a 0.7% growth rate to a meagre 0.1% from 2015 to 2016.

For 10 years, I was vice-president and on the board of the British Board of Film Classification. Although it treated me very well, it was a very white organisation when I first joined. If I achieved anything there, at least I encouraged it to place job opportunities at the BBFC in not only the mainstream papers but also the ethnic minority newspapers such as the *Voice* and the *New Nation*.

The sporting world has great success stories such as Mo Farah, Jessica Ennis-Hill and a very diverse professional soccer league. However, let us not kid ourselves—in soccer the diversity is only on the pitch. Around 30% of players in the Football League are from BME backgrounds, mostly black, but there are hardly any people of colour in the football boardrooms. Of the 92 managers in the Premier and Football League divisions, just six are non-white. This is not acceptable. In America, there is the Rooney Rule. This was led by Dan Rooney, a football club owner, who helped create a rule in the US whereby at least one non-white candidate must be interviewed when a manager's job is vacant. Maybe it is time to look at this here.

We are celebrating the 400th anniversary of William Shakespeare's life. A couple of years ago, I had the awesome privilege of playing the role of Hamlet, the Prince of Denmark, at London's delightful Tudor Rose playhouse theatre. It was refreshing to me that no one questioned that such a role could be depicted by a black actor. When my parents came to Britain in the 1950s, there were signs in the windows, stating, "No blacks, no Irish, no dogs". We have clearly come a long way since then. But for BME minorities in the

[LORD TAYLOR OF WARWICK]
workplace, there are still many barriers to break. Will Britain ever achieve real racial equality in the workplace? To quote Hamlet,

"To be, or not to be: that is the question".

8.06 pm

Lord Sheikh (Con): My Lords, we are very lucky to live in such a diverse, multiracial and multicultural society. The variety of ethnicities, cultures and religions that comprise the British people make our country richer, more interesting and ultimately more successful. They benefit us socially, culturally and economically. The Office for National Statistics estimated last year that around 13% of our population are now from an ethnic minority background. This is a significant minority and as such it is important to consider the challenges they may face.

Since coming here from Uganda, I have generally found the United Kingdom to be an open, warm and welcoming country. This country is a land of opportunity and if one is prepared to use one's initiative and work hard, one will do well and the sky is the limit in regard to advancement.

I would now like to talk briefly about myself. I was originally trained by a leading insurance company and obtained my qualifications in insurance and financial services. After my fellowship, I was involved in academic work and subsequently joined an organisation as a manager. I then became the chief executive and majority shareholder of this organisation. This company won 13 major insurance awards over a period of three years, an achievement which has not been equalled by any other organisation. Today, I am chairman of three companies. I have been a president of the Chartered Insurance Institute and chairman of the British Insurance Brokers' Association. I was the first foreigner to hold these positions.

Ultimately, I had the honour of being made a Member of your Lordships' House, as the first Muslim Peer from my party. I say this for a certain reason—to emphasise that I have personally not been subjected to any racial or religious prejudice. However, I am not at all complacent and emphasise that there are various challenges and issues facing people from BME backgrounds. I am actively involved in mentoring the BME community to achieve success in business. I have long encouraged members of the BME community to become involved in politics as well as in professional institutions. Furthermore, I encourage the community to enter the Armed Forces as well as the police. Unfortunately, ethnic minorities are underrepresented in most professions. This is particularly true at senior management levels. There are in fact only four non-white executives of FTSE 100 companies. One in 10 employed people comes from a BME background, yet only one in 16 top management positions and one in 13 management positions are held by people from ethnic backgrounds. According to analysis by the TUC, BME workers with degrees are two and a half times more likely to be unemployed than white graduates. The unemployment rate for white workers with degrees is 2.3% but this rises to 5.9% for BME workers.

Discrimination in the workplace occurs in many different sectors and professions. A 2014 report found that while the NHS in England is the largest employer of BME staff, with one in six NHS staff being from the community, BME staff in the NHS are discriminated against in several ways. For example, BME staff are grossly underrepresented at senior levels in the NHS, and their presence in these roles has declined despite the increasing number of BME nurses and doctors.

A report published last year by the Equality and Human Rights Commission found that unemployment in the United Kingdom in 2013 displayed a significant disparity by ethnicity: while nearly 75% of white people were employed, only 59% from ethnic minorities were. The employment rate in the Pakistani and Bangladeshi communities is particularly low. In 2015 the employment rate was 55%. That is, however, an increase since 2005, when it stood at 42%. For those in work, ethnic minority employees can still face workplace bias. In one year alone, 30% of BME workers witnessed or experienced racial harassment in the workplace. It should be noted that there is another issue: gender. Pakistani and Bangladeshi women are less than half as likely to be employed as other women. This is partly cultural but it can be improved by better education and by improving economic conditions in deprived areas.

We also need to consider the ethnicity pay gap. Recent analysis by the ONS Labour Force Survey found that ethnic minority employees educated to degree level face a 10% deficit in pay. This rises to 17% for those who leave education at 18. I applaud the Government's drive to close the gender pay gap—perhaps a similar initiative could be considered to address ethnic differences.

I am an office holder of the All-Party Parliamentary Group for the Armed Forces and regularly meet senior officers from all three services, including those from ethnic minorities. I have been assured at very senior level that service men and women are appointed and promoted purely on merit, which is very encouraging. However, we need to make every effort to recruit, retain and promote officers from the BME communities.

It occurs to me that part of the challenge may be to promote greater awareness of these cultures and the values to which they adhere. If others are more knowledgeable, perhaps there will be less ignorance and misunderstanding. Of course, it is also imperative that we take positive steps to attain integration of the various communities. We must all work together to achieve better integration, which will result in better employment prospects for the BME communities.

Indeed, research has shown that companies with diverse workforces perform significantly better. The global consultancy firm McKinsey & Company reported last year that companies in the top quartile for racial and ethnic diversity are 35% more likely to produce above-average financial returns. It is also suggested that more diverse companies are better able to secure top talent, improve their customer orientation and increase levels of employee satisfaction and morale. I believe that companies gain through learning from each other's experiences. People from different backgrounds see things from different perspectives and therefore can bring new and fresh ideas with them.

I am disturbed by the high number of Muslims convicted of criminal offences other than terrorist

activity. They are in prison and not working. I used to be the chairman of the Conservative Muslim Forum and am now its president. We briefly looked at this issue but I feel we need to undertake an in-depth study of the patterns of offending and reoffending relating to Muslims. We can then perhaps look at the remedies. I ask my noble friend the Minister to comment on this issue and perhaps say whether the Government would support such a study.

It is important to note that legislation already exists to protect people from discrimination in the workplace. The Equality Act 2010 contains provisions on treatment with regard to race and ethnicity, as well as religion and other characteristics. Therefore, protection already exists with regard to these issues. However, we need to look more closely at how to address some of the wider, more implicit, often unintended forms of prejudice.

Thankfully, the Government are taking some action. I pay tribute to the Business Secretary Sajid Javid for asking my noble friend Lady McGregor-Smith to lead a review looking at the issues faced by businesses in developing BME talent. This forms part of the Government's BME 2020 plan, which is aimed at improving labour market conditions for those from ethnic minority backgrounds. We have already heard about this review in detail from my noble friends the Minister and Lady McGregor-Smith. I wish my noble friend Lady McGregor-Smith success in her review and hope that, through the BME 2020 plan, the Government will be able to tackle the issue of workplace discrimination once and for all.

We enjoy great peace and harmony between cultures and religions in the United Kingdom. This country has successfully assimilated many people from abroad who have contributed to the advancement and well-being of this nation. I hope we can continue to identify issues relating to the BME population and ensure fair treatment for those from ethnic minority groups. We must encourage people from those cultures who have come to the United Kingdom to stay here, to make it their home and to help grow our economy further.

8.17 pm

Baroness Warwick of Undercliffe (Lab): My Lords, I thank the Minister for providing us with an opportunity to consider such an important subject ahead of the forthcoming review by the noble Baroness, Lady McGregor-Smith. The announcement of the review into the progression of black and minority ethnic people in the labour market, and the noble Baroness's leadership of it, has been widely welcomed, and I found her insights today both fascinating and challenging.

As the noble Baroness, Lady Neville-Rolfe, has highlighted, we have some idea of the scale of the problem facing those from black and minority ethnic backgrounds when looking for work. One in eight of our working age population is from a black, Asian and minority ethnic background, yet only one in 10 is in the workplace. While the ONS figures released in April show that more people from ethnic minority backgrounds are in work since records began 15 years ago, their annual employment rate of 62.7% is almost 13 percentage points lower than the white employment rate of 75.4%.

Analysis of the ONS figures by the TUC gives us a fuller picture. The TUC says that at every level of education, jobless rates are much higher for black, Asian and minority ethnic workers. BAME workers with degrees are two and a half times more likely to be unemployed than white graduates. Those with A-level equivalents, including trade apprenticeships and vocational work, are more than three times more likely to be unemployed than their white counterparts, while BAME workers with GCSE equivalents and basic-level qualifications are more than twice as likely to be out of work. This is the harsh reality we face. As the TUC's General Secretary, Frances O'Grady, has said, this is not only wrong, it is a huge waste of talent. Companies that recruit from only a narrow base are missing out on the wide range of experiences on offer from Britain's many different communities.

Once in the workplace, there are data showing that people with a BME background face systemic disadvantages including lack of promotion, lack of role models and lower levels of pay. The TUC's figures show that black workers with degrees are paid nearly a quarter less than their white peers—the equivalent of £4.33 an hour. Those with A-levels earn 14.3% less on average than their white counterparts, and black people who leave school with GCSEs typically get paid 11.4% less than their white peers. The pay gap between white graduates and all black, Asian and minority ethnic workers with degrees is 10.3%, the equivalent of £1.93 an hour. The pay gap with white workers for all groups, regardless of their educational attainment, is 5.6% for BAME workers and 12.8% for black workers.

Then there is the lack of promotion and lack of role models. The thought-provoking Race for Opportunity report, *Race at Work 2015*, published last November, tells us that while one in 10 employed people comes from a BME background, only one in 13 management positions and one in 16 top management positions are held by an ethnic minority person. As the noble Baroness, Lady McGregor-Smith, said, the media interest in her appointment as a CEO of a FTSE 200 company spoke volumes about its novelty.

The same report showed that BAME employees are less satisfied with their experiences of management and progression than white employees. Interest in taking part in a fast-track programme was significantly higher among BAME groups, jumping from 18% of white employees who would take part to 40% of BAME employees. Yet only 8% of BAME employees have been on fast-track programmes. The survey also revealed that 30% of BAME employees feel they have been overlooked for promotion, compared with 23% of white employees, and that British people with a BAME background are less likely to be rated as top performers compared with their white counterparts.

In the Civil Service, barriers to the progression of talented BME staff are seen as: a demoralising lack of BME role models; a lack of diversity in leadership; and unconscious bias and discrimination, leading to a lack of equal access to projects, promotions and secondments. One outcome has been Permanent Secretaries having specific responsibility for delivering measurable diversity outcomes.

[Baroness Warwick of Undercliffe]

I know we can all agree that employers need to reach the widest possible talent pool, and that companies can only benefit from creating a diverse workforce who reflect the clients, customers and communities they serve. It is entirely obvious that we must capitalise on the skills and talents of every individual in the workplace, regardless of their background. The question is, of course, how best to do that. As other noble Lords have noted, the Government's ambitious 2020 plan is aimed at improving labour market outcomes for those from BME backgrounds. Its targets include increasing apprenticeship take-ups and university student numbers by 20% by 2020, awarding 20,000 start-up loans by 2020 and increasing BME employment by 20% by 2020.

I support those aims and believe in the power of targets to focus minds and provide impetus. Where the pace of change is slow, target setting can increase its speed, but I cannot help but feel that this 2020 vision has a headline-grabbing neatness which invites charges of tokenism. Targets can only be milestones on a longer journey. When we come to tackling issues facing BME people in the workplace, I hope we will be able to consider the wide range of options offered so powerfully by speakers in this debate, including my noble friends Lady Howells, Lord Morris and Lord Parekh.

Data are a powerful agent for change. Will the Minister take on board the recommendations by the TUC, Race for Opportunity and others that the Government should encourage employers to monitor the progress of BME candidates in recruitment and progression processes and should work with employers to improve the transparency of career progression? Does the Minister agree that to help make this happen, what is needed are "diversity champions"—senior roles within companies responsible for all aspects of diversity and inclusion? There is a strong view that every chief executive officer should be a diversity champion, because real culture change comes from the top. Yet according to a Business in the Community survey, one-third of all employees say their organisation does not have a senior leader who actively promotes equality and diversity in their workplace.

Leadership is of course key to tackling unfairness and discrimination in the workplace. It is vital that the leadership pipeline has sufficient BME talent to ensure that the senior management of the future reflects an increasingly diverse working population. In this respect, I am encouraged by the success of Women on Boards, the business-led initiative steered by the noble Lord, Lord Davies of Abersoch, to tackle the issue of low representation of women on FTSE boards. As the noble Baroness, Lady Neville-Rolfe, mentioned, in five years the representation of women has more than doubled: it now stands at 26.1% on FTSE 100 boards and 19.6% on FTSE 200 boards. There are no longer any all-male boards among FTSE 100 companies. The noble Lord rightly called this a,

"profound culture change at the heart of British business".

When the Women on Boards report was published last October, the vice-chairman of KPMG, Melanie Richards, said:

"In order to remain relevant to our clients and communities, we need leaders who come from a wide range of backgrounds, each bringing different skills and views to the table, creating boardrooms that truly mirror our society. Without these different outlooks and diversity of skills and experiences, our businesses will simply not thrive in this fast-paced changing competitive world".

I agree with her. What is true for the boardroom in this respect is surely also true for the workplace. The noble Baroness, Lady McGregor-Smith, has taken on a formidable challenge that is hugely important to the social and economic success of our country. I wish her well and look forward to the outcomes of her review.

8.27 pm

Baroness Hussein-Ece (LD): My Lords, I, too, thank the Minister for introducing this very timely debate. I also commend the Government for instigating the review which is to be led by the noble Baroness, Lady McGregor-Smith, who spoke very eloquently about her own background and experience.

I come to the debate feeling somewhat as if we have been here before. I did not put this in my report, but I have just remembered while sitting here that back in the late 1980s and early 1990s, in another life, I was a race equality officer. I could not have imagined, all these years later, that we would still be debating some of the issues that were very apparent at the time. The noble Lord, Lord Parekh, may remember Section 11 of the Race Relations Act—I think he might have referred to it. This demonstrates how we need to return to the principle of what we mean by race equality and that we must prioritise it, as it has somewhat slipped over the years. We thought we were probably doing quite well but we took our eye off the ball, so we have slipped right back. As other noble Lords have mentioned, great progress has been made on gender equality and in other areas, but we have very much taken our eye off the ball on this issue.

I, too, am a supporter of targets. I know many people are not and that there are many in my party and other parties who generally think targets are discriminatory in some way. However, they focus the mind and measure progress. Eventually, as in other areas, they can be set aside once progress has been made and equality has been achieved.

I want first to address BAME staff, management and board representation in the NHS. It is the largest employer in the country and the largest employer of people from black and minority-ethnic communities. It employs 1.4 million people, a very large number of whom are from BAME backgrounds. On 24 February, I asked the noble Lord, Lord Prior, why we have not been doing very well with BAME staff, management and board representation in the NHS. I commend him, because he was very honest and frank. He said:

"My Lords, it is outrageous that we have so few people from BME backgrounds in senior management and on NHS boards. We need to take action to improve the experiences of BME staff and their representation".

He went on to give the House a few figures: some 22% of all staff in the NHS are from a BME or minority ethnic background, 28% of doctors and 40% of hospital doctors. Yet only 3% of medical directors are from BME backgrounds and 7% are in senior

management roles. We have two chief executives and six chairmen from BME backgrounds out of 250 trusts. He said:

"So the performance across the NHS is … absolutely terrible and we have to take some serious action to change it". —[*Official Report*, 24/2/16; 263-4.]

I was shocked by that: I knew it was bad, but I had not realised how bad, and how we have slipped back. Although the Minister should be commended for his approach and frankness on the issue, a 2015 survey of national bodies such as NHS Executive Search, Monitor and the NHS Trust Development Authority, whose boards are all subject to ministerial appointment, showed that none of their boards—at the time; I do not know if it has changed since—had any BME representation. The Minister was asked, as those appointments are in the gift of the Government, could they not take more action and lead by example? The Minister may not have the answer today, and I will be quite happy if she comes back to me on it, but is that still the case and what is being done to address that appalling deficit?

The NHS Equality and Diversity Council announced in 2014 that it had agreed to take action to ensure that employees from black and minority ethnic backgrounds have equal access to career opportunities and receive fair treatment in the workplace, so there has been an enormous amount of work in the interim. The extensive evidence of the benefits of diversity for innovation in leadership teams, which has been mentioned across the House today, is overwhelming. The case has been made. For the first time, the NHS has been required to demonstrate progress against a number of indicators of workforce equality, including a specific indicator to address the low levels of BME board representation. Despite this, as I mentioned, little progress has been made.

In *The Snowy White Peaks of the NHS Executive Search Agencies*, Roger Kline, a research fellow at Middlesex University, states that one of the known, visible aspects of conscious bias is the processes and practices used to recruit, develop and retain talent. In recruitment in particular, he points out, the lack of ethnic minority specialists operating in the executive search field, in the agencies who work with the NHS, has resulted in the "same sort of people" recruiting in their own image,

"with recruitment heavily influenced by candidate confidence as much as competence and by networks".

The noble Lord, Lord Adebowale, mentioned that networks are far more important in securing senior management and board positions than knowledge and experience. If you are from a BME background and do not have extensive networks, you will not necessarily be successful when you apply to those boards. I say that with the caveat that there are of course some notable exceptions in the recruitment field—companies and organisations that are making great strides and trying very hard to address this issue.

In other words, there is continual fishing in the same, increasingly small pool. All the recruitment consultants seem to be fishing from a very narrow pool of candidates. I do not know whether the figures are available, but when we see an increase in women's representation, I wonder how many of the same women are sitting on different boards. That is an issue as well. There is a lot of duplication—these are not unique numbers. You see board members on websites, and they seem to have an awful lot of other roles as well. That is another issue—that people go to the same people again.

Roger Kline mentions how change would,

"require trust and national level succession planning for executives—and the use of NHS Executive Search to provide candidate shortlists before trusts are allowed to consider",

somebody outside over headhunters, who may not always look for diversity. So for the NHS as a whole, it seems much less likely that BME staff will be appointed from shortlisting than white staff will be. The absence or exclusion appears largely to be caused by discrimination in career support and the appointment process. The evidence is overwhelming that it takes much longer for BME staff to get promoted. I have heard of many instances of competent and long-serving BME staff leaving altogether after losing confidence and feeling completely demoralised over having any chance of career progression. What a waste of talent that is—all that experience going to waste.

Roger Kline also highlights in *The Snowy White Peaks of the NHS Executive* how:

"Large parts of the NHS still pay lip service to challenging discrimination in leadership and unlocking talent of women, BME and disabled people".

Racism and discrimination against staff is a big factor—we have to talk about it. I hear what the noble Baroness, Lady Bottomley, said: that there is a fear of talking about it. But we have to talk about it, because we have to tackle it. It is a reality. According to the figures I have seen in one study, there has been a 65% increase in reported racist verbal and physical attacks against staff by patients in the five years up to 2013. According to recent figures, disappointingly, some hospital management actually collude and acquiesce. For example, in a case where a family said that they did not want their child treated by a black doctor, they gave in; these things are taking place. They may be going on beneath the radar, but they are happening—they are the reality.

The proportion of staff receiving well-structured appraisal support is also related to patient satisfaction, patient mortality, staff absenteeism and turnover, and a better performance on the annual health check. Working in well-structured teams helps to address staff absenteeism and turnover, as well as the annual health check performance, which is very important. Crucially, it is a factor in overall satisfaction in a hospital trust. Training and development is also a very important predictor. The more that employees receive training, learning and development that is relevant for the job and career progression, the better the outcomes. By giving staff clear direction and good support, treating them fairly and supportively, leaders create positive cultures of engagement, whereby dedicated NHS staff in turn can give their best in caring for patients.

Addressing the problems that many BME staff face will require a number of initiatives, but we need a multi-faceted approach and a complete rethink of

[Baroness Hussein-Ece]
senior leadership recruitment in terms of period of office and talent management. Much research points to what is required—dramatically widening the pool of talent and reminding these organisations that they are not a law unto themselves but public servants appointed to carry out a specific role for the benefit of patients, and funded by the taxpayer, as we were reminded earlier. I hope that the review to be carried out by the noble Baroness, Lady McGregor-Smith, will look closely at this area, as the NHS is such a large employer and a lot of lessons can be learned. However, as we have heard, the problem is not unique to the NHS.

I have a couple of other, wider points to make. As we know, BME communities have played a huge role in the NHS since its inception and throughout its history, socially and historically. We must ensure that they are not kept unfairly from proper career progression but are supported to play a full leadership role, as with all areas of public and private employment—as we have heard.

I also welcome what the Prime Minister said recently about the need to investigate why black people are more likely to be in prison than in top universities; he has appointed David Lammy MP to look into that. Nick Clegg, the former Deputy Prime Minister, talked about this issue a lot in the context of social mobility. It has not really bottomed out; it is a real scandal that it still exists in this country.

We need to take a long hard look at the realities of modern Britain. Why is it that 14% of the overall population are BME yet they make up one-quarter of the prison population? We must do better for all sections of our society and raise aspirations, not least through mentoring. All the aspects that have been discussed today are extremely positive and I welcome all of them. However, the whole issue of race equality now needs to be right at the top of the agenda, and I welcome the review.

8.40 pm

Baroness Hayter of Kentish Town (Lab): My Lords, I thank the Minister for introducing this today, and indeed for the story of her great-uncle who escaped from the problems that he had in being a Catholic by finding a home in the Labour Party. I am sorry that his great-niece managed to escape our clutches. She also paid tribute to her Secretary of State but of course we have the wonderful Sadiq Khan, for whom we have great hopes later this week. I am sure he will be a grand role model in future.

I pay tribute to the expertise, experience and, for some, the long record of those who have contributed today. The difficulties faced by BME people are at every level and in every sector. Those difficulties are in the public sector and in industry, from board level down to apprenticeships and the unskilled. The difficulties are perhaps more marked for women, but they are there all the time.

So when we champion and celebrate those who have broken perhaps not a glass ceiling but a brass ceiling, we should acknowledge the hurdles that they have overcome. The causes are wide, of course, and therefore the solutions will be too. They are societal, educational, attitudinal and legal, and we must start in all those fields. We need to raise aspirations as well as the educational and network support to equip all our citizens for a fair chance at work, but we also need to educate and train those who recruit to look out for—indeed, to search for—those who do not automatically come knocking at their door.

We need to support those in work by encouraging trade union membership, by training and mentoring or, yes, by a bit of positive discrimination in assisting them to apply for promotion and in developing their talents and opportunities within the workplace. We need to outlaw unfair employment practices and the systems that somehow always manage to pay BME employees less than their white colleagues, whether by bonuses, by pay grades, by access to special payments or access to overtime, by training opportunities or by proper recognition for their contribution.

As the noble Baroness, Lady McGregor-Smith, said, we need to ensure that there are role models at every level—among supervisors, union officials, managers, directors, Permanent Secretaries, safety reps, chairs of boards or any other elevated role, so it is clear that those positions are open to all. Those role models must start at the top, as others have said. Indeed, a target of no all-white FTSE boards by 2020 would be a worthwhile start. Today, as cited by the noble Lord, Lord Bilimoria, and others, 98% of FTSE 100 chairs being white is simply no reflection of the customers or the workforce of any of those companies. Just as the Companies Act now requires a breakdown of female employees on the board or in senior positions as well as in the wider company, we need to do that for ethnicity as well. Until businesses are confronted by their own poor record, they are unlikely to champion change.

As with any problem, we must start with ourselves. That means the public sector, funded by 100% of taxpayers, who come in all shapes, sizes, and colours, and in two genders. Yet the senior people they fund do not look or sound like them, as my noble friend Lord Morris said. The executive body of the Civil Service is completely white—and 85% male—while Whitehall's corporate management board and ministerial team are similarly wholly white: and that team is responsible for diversity in the Civil Service.

This is not a matter of the skills and expertise not being available or a problem that can be sorted by education and training. As the 2014 research undertaken in the Civil Service, quoted by my noble friend Lady Warwick, showed,

"cultural and leadership climates are the main barriers to the progression of talented BAME staff",

and:

"Unconscious bias and discrimination … means there is not always equal access to promotions … and secondments".

Therefore, while we warmly welcome the noble Baroness's review—no pressure there, of course—on increasing progression in the labour market by people from minority backgrounds, we must also look to our own workforce, within the Civil Service and the wider public sector. As the noble Baroness, Lady McGregor-Smith, said on her appointment:

"It has never been more important to … capitalise on the … talents of every individual in the workplace, regardless of their background".

That applies to the public sector, with its myriad demands. As the TUC said, any loss of fair BME representation,

"is a huge waste of talent. Companies that only recruit from a narrow base are missing out on the wide range of experiences on offer from Britain's many different communities. The government's taskforce on racism must make it harder for discriminating employers to get away with their prejudices".

As my noble friend Lady Howell said, it is time we stopped telling young people from different ethnic backgrounds that all they need to do is to get better qualified and all will be fine. No; we must get better at recruiting, promoting and paying these youngsters. As the noble Lord, Lord Adebowale, said, it is not their effort alone—it is effort on the part of the rest of us.

As regards the focus of the noble Baroness's review, its objectives are worthy: increasing by 20% the proportion of apprenticeships taken by people from BME backgrounds; increasing by 20% the number of BME students at university; ensuring that 20,000 start-up loans are awarded to BME applicants by 2020; increasing by 20% BME employment; and increasing the diversity of the Armed Forces, which has been mentioned, and the diversity of police recruitment. In that list there is no mention of discriminatory employment practices, yet just last month, as the noble Lord, Lord Sheikh, and other noble Lords have said, the TUC showed that BAME workers with degrees are two and a half times more likely to be unemployed than white graduates. Indeed, at every level of education, jobless rates are much higher for BAME workers. Even those with A-level equivalents are three times more likely to be unemployed than their white counterparts, and those with GCSE equivalents and basic-level qualifications are twice as likely to be out of work. Across the workforce, the employment gap between the overall population and ethnic minorities is 11 percentage points, which we should all be ashamed of.

I am therefore delighted that the Prime Minister has set the goal of increasing by 20% the number of BME students in higher education and that the Government will require universities to publish admission and retention rate by gender, ethnic background and disadvantage. However, while I welcome action to get more BAME people into apprenticeships and universities, we must make sure that that does not just delay the discrimination until after graduation, when they then find it harder than their white contemporaries to find jobs.

The review also does not appear to cover remuneration where—to take just graduates, which other noble Lords have mentioned—black workers with degrees are paid nearly a quarter less than their white peers. More widely, not only are ethnic minorities more likely to be unemployed but those in work are more likely to be in accommodation and food services, retail, transport, health and social work—the low-paid sectors—and less likely to be in manufacturing and construction.

There is much work—and a lot of knowledge—in this area, and there are many activists making a difference, but, as with the Ethnic Minority Employment Stakeholder Group, to whose work I pay tribute, the time simply for their advice has gone. We need to take action, not just take note, as my noble friend Lord Morris said, on the recommendations that are already there.

My questions to the Minister are as follows. Will the Government develop a race equality strategy, not just with targets but with adequate resourcing? Will they use public sector contracts to improve companies' race-equality practices, as suggested by my noble friend Lord Parekh and others? Will they ensure that anonymised or name-blind application forms are used across the public sector, as UCAS is now considering, and will they encourage private sector employers to do the same? Finally, will the Government require employers to include staff ethnicity figures in annual reports, alongside pay analysis across equality strands?

In the debate earlier today, as we finished the Trade Union Bill, we noticed that the Bill would require any publicly funded organisation to document the amounts of facility time, safety work and learning reps activity, so we think that asking for an annual breakdown of workforce numbers should not be too much to ask.

I thank the Minister for bringing forward this debate, and I congratulate the noble Baroness, Lady McGregor-Smith, on her appointment and wish her well. I think that she must already feel a lot of expectations on her shoulders.

8.51 pm

Baroness Neville-Rolfe: My Lords, I am glad that this debate has been so widely welcomed. Today, we have heard some extraordinary insights into the important business of developing BME talent and those will feed into our review, which will be a great opportunity for us all. It was particularly good to hear from my noble friend Lady McGregor-Smith, who has taken on the new burden of leading the review. In response to the point raised by the noble Baroness, Lady Hayter, she will have good resourcing to assist with that process. My noble friend Lady McGregor-Smith said that success would come when the world had moved beyond talk of quotas and targets. I agree. The talent is out there. We need to reach out to it in many different ways and we need to use this review to find ways through.

This evening there have been a number of themes, which I thought I would pick up in summarising the debate. First, there was the theme of role models, which, as the noble Baroness, Lady Hayter, said, apply at every level. I have been very struck by how everyone, including the noble Baroness, Lady Howells, and my noble friend Lady Bottomley, has had different stories to tell and has made different suggestions about how to promote role models in this area.

A second theme was personal contribution by individuals. My noble friend Lady Bottomley talked about the two things that she had really cared about when she was a Minister in the health area. It seemed to me that the kinds of things that she was talking about, dating back to the 1990s, would lead to a good conversation with the noble Lord, Lord Adebowale, on what could be done in that area. I will of course write to the noble Baroness, Lady Hussein-Ece, about appointments in the NHS, because I do not have the information available to respond to her various questions.

[Baroness Neville-Rolfe]

Another important strand was diverse teams and their value in terms of success, growth and productivity. London is a vibrant example of their success. I should also add my congratulations to those of my noble friend Lord Taylor on the brilliant success of Leicester City. It is another example of diversity in teams.

The fourth theme was the importance of avoiding discrimination at interview and more generally in recruitment. My noble friend Lord Polak gave us examples from a Jewish perspective, which I found very interesting. Many spoke of the value of the use of blind recruitment, which I mentioned in my opening speech, and the noble Baroness, Lady Hayter, made some other suggestions in the area of recruitment. My fifth theme was unintended prejudice, which will be part of the McGregor-Smith review. The same was true of data, a sixth theme. Data as an agent of change was mentioned by the noble Baroness, Lady Warwick, who rightly mentioned the example of women on boards. I agree with her that that business-led initiative has achieved a lot.

I was particularly struck by the words of the noble Baroness, Lady Howells, who has had such an amazing career—in Grenada, in Washington and in Paris—and who contributed to work on equality to such an extent.

Perhaps I could add some wider context. The labour market is thriving and we have record levels of employment. The employment rate for October to December 2015 was 74%, the highest on record. The number of people in employment is the highest on record at 31.4 million and it has increased by over half a million compared to a year earlier. Both the number of men and the number of women in work have hit record levels, and unemployment is at 5%, which is the lowest rate since 2005. That is a positive context. But what about the future demographics? The proportion of people in the labour market from BME backgrounds is steadily increasing—indeed, at a record rate, according to my noble friend Lady McGregor-Smith. This reflects long-running and deep-seated changes that will lead, of course, to a more diverse society. The potential of these individuals must be harnessed as they make their way through the education system and into the labour market. It is the right thing for the individuals concerned, the right thing for business and, more importantly, the right thing for the country. It is partly to look ahead to this changing Britain that the Government have set up a new inter-ministerial group under my BIS colleague Sajid Javid, Secretary of State. The group met for the first time on 8 March.

Over the course of the last Parliament we created 2 million more jobs: that is 2 million more opportunities for people to go out and earn a living. This included a 20% increase in the number of people in work from black and minority ethnic backgrounds. The Prime Minister is therefore right to expect more progress in this Parliament and announced his ambition to further increase the number of ethnic minorities in employment by 2020. That is a challenge accepted by the Department for Work and Pensions. The noble Lord, Lord Adebowale, mentioned that 20%, and he feels that our record is not good enough.

Lord Adebowale: I hesitate to interrupt the Minister in full flow, but Adebowale is a good old Yorkshire name, and pronounced differently from how the Minister said it.

Baroness Neville-Rolfe: I am so grateful for that. People will know that I have a bit of a problem with pronunciation. That had foxed me, but now the noble Lord has taught me the way forward, for which I thank him. The noble Lord said that our record is not good enough. That is, of course, why we have set up our review.

As the noble Lord, Lord Morris of Handsworth, said, people are key to our success in this country. I know this from my experience as a huge employer working in lots of local communities. Our values included treating people equally and with respect. Frankly, that is what leads to success and, indeed, to productivity improvement. We are lucky in this country to have had race equality legislation for 50 years. But of course racism is unacceptable, and this Government are determined to ensure that everyone has the opportunity to get on in life, free from harassment and fear.

It is good news that 237,000 people with a BME background started one of the 2.4 million apprenticeships that began over the last Parliament. In this Parliament, we will go further, committing to 3 million starts. Of these, we aim to ensure that a greater proportion comes from black and ethnic minority backgrounds. This is a challenge that my colleague the Skills Minister has accepted.

For those who want to be their own boss, the introduction of start-up loans has made a huge difference, with more than 20% of loans in the last Parliament going to those with a BME background. We have set ourselves an ambitious target of 75,000 new loans over this Parliament, of which a greater proportion should go to ethnic minorities.

But it is not just getting a job that matters; it is ensuring that young people have the education they need to fulfil their potential. On this, there is a good story to tell on the progress of BME students into higher education, but we can do more. We will take action to increase the proportion of BME students progressing to higher education by 20% by 2020.

My noble friend Lady Bottomley rightly drew attention to the opportunities in universities among academics and in university appointments more generally. I join her in congratulating the noble Baroness, Lady Amos, on her appointment as head of SOAS. I was interested to hear about the Equity Challenge Unit. The noble Lord, Lord Bilimoria, mentioned GEEMA. I will pass on these thoughts to the Higher Education Minister, Jo Johnson, who is engaged on this issue.

I do not have the figures for Parliament, but I think that we agree that there has been a change here and that that is reflected in this House. I am grateful to the noble Lord, Lord Parekh—forgive my pronunciation again—both for his kind words and for pointing out how the situation has improved on the Conservative Benches. I was glad to hear from my noble friend Lord Sheikh that he has encouraged this trend, as I know have other noble friends.

The public sector is working hard, from efforts to increase diversity among the police and Armed Forces

to initiatives to improve diversity in the Civil Service. Following research published in March last year, the Talent Action Plan has been launched, focused on building inclusion across the Civil Service and ensuring that groups that historically have been underrepresented are fully supported in the workplace and given support to progress. This includes an expansion of the Summer Diversity Internship Programme and widening the Positive Action Pathway. The senior leaders race network, launched earlier this year, will also make a difference, with role models—again that theme—inspiring the leaders of the future.

My noble friend Lord Sheikh asked about minorities in prisons. He will now be aware from what has been said that David Lammy MP's inquiry into criminal justice issues has recently launched and put out a call for evidence. Perhaps my noble friend would be kind enough to feed in his concerns to that inquiry.

Many of us have touched on board-level work, which is closer to my own ministerial responsibilities. Sir John Parker's group on BME representation on corporate boards, mentioned in the excellent and varied Library Note for this debate, has been looking at this issue. Sir John chairs Anglo American. His group includes David Tyler, who chairs Sainsbury's, Trevor Phillips, president of John Lewis—both huge employers—and Ken Olisa, a non-executive director of the IoD who is also the first black Lord-Lieutenant of Greater London and another role model. The group's aim is to end mono-cultural boards in the FTSE 100 by 2020, which may please the noble Baroness, Lady Hayter. The group will report in the autumn. Currently, 5% of CEOs and chairs in the FTSE 100 are from ethnic and minority backgrounds. The successes of these individuals reflect the entrepreneurial skills that we heard about from the noble Lord, Lord Bilimoria—again, a role-model point.

Only last week, as it happens, following a meeting with Sir John, I met members of his group and others including leading headhunters to look into the issue of data protection. Noble Lords will know that I have a taste for the practical. I say to the noble Lord, Lord Morris, that I tend to like action as much as words, which can be a problem when you are a government Minister. However, I discovered from Sir John and Trevor Phillips that recruiters were saying that they could not keep databases which allowed them to present lists of candidates without running into data restrictions. We met and agreed that in the short term the ICO—the Information Commissioner's Office—in consultation with search firms and others should produce a practical guide on what to do that can be used by interested parties.

In closing, I add a few words about fundamentals—the philosophy of the subject if you like. What underlies everything that I have said is the desire that merit and accomplishment should be the only criterion for all appointments in public and commercial life. In other words, everyone's attributes will be judged against the same criteria whatever their background. Sex, skin colour, social background, disability, religion and other irrelevant differentials should have nothing to do with it. In the reasonably near future—I hope not in the long run—that is the society we hope and expect to achieve. In such a society, there would be no need for special investigations to look at appointments against this or that social criterion nor to consider special measures to counteract barriers to labour market changes. One measure of our success as a society will be how quickly we can reach that position.

Motion agreed.

City of London Corporation (Open Spaces) Bill

Message from the Commons

A message was brought from the Commons that they have made the following order to which they desire the concurrence of this House:

That the promoters of the City of London Corporation (Open Spaces) Bill, which was originally introduced in the House of Commons in Session 2015-16 on 22 January 2016, should have leave to suspend any further proceedings on the bill in order to proceed with it, if they think fit, in the next session of Parliament according to the provisions of Private Business Standing Order 188A (Suspension of bills).

House adjourned at 9.06 pm.

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