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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Tuesday 15 November 2016

2.30 pm

Prayers—read by the Lord Bishop of Winchester.

Adult Social Care

Question

2.36 pm

Asked by ***Baroness Pitkeathley***

To ask Her Majesty's Government what is their response to the warning by the Care Quality Commission in their *State of Care* report, published in October, that adult social care is approaching "tipping point".

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, we welcome the *State of Care* report. We know there are serious pressures on the care system. That is why we are giving local authorities access to up to £3.5 billion in new support for social care by 2019-20 so they can increase social care spending in real terms by the end of this Parliament.

Baroness Pitkeathley (Lab): I thank the Minister for his usual courteous reply, but I think he knows that the funding he has announced there for the better care fund is both too little and too late. Does he agree that there have never been so many challenges for the social care system? There is terrible pressure on the NHS and on caring families, and many people have no care at all at home, however great their needs. Does he further agree that there has never been so much consensus about what needs to be done? Across all professions and political divides, we hear that what is needed is more money, and more money now. I am well aware that asking for commitments in the Autumn Statement is above the Minister's pay grade, but could he please assure the House that he and his colleagues are stressing the urgency of this matter to the Chancellor of the Exchequer and asking him to make more funding for social care an urgent priority?

Lord Prior of Brampton: My Lords, I think most people in the health and care system, whether it is Simon Stevens, the chief executive of the NHS, or the Secretary of State, realise how serious pressures are in social care. There is no question about that. The *State of Care* report from the CQC supports that view. That is why we are putting in more money towards the end of this Parliament. It is back-end loaded—I accept that—but on the other hand the £3.8 billion that went into the NHS this year is front-end loaded. I think everyone agrees that the only way out of the difficulties we are in is for health and social care to work much more closely together.

Baroness Brinton (LD): My Lords, it is good that extra money is coming into the NHS, even if it is loaded in the wrong direction at the moment. However, this Question is much more about care. The real problem at the moment is that social care is significantly starved of funding. What will the Government be doing to ensure that real cash goes into social care to help to alleviate the problems that the NHS is facing due to people remaining in hospital because there just are not the places for them to go nor the assessments for them in social care at the moment?

Lord Prior of Brampton: My Lords, the squeeze in social care started in 2010. Between 2010 and 2015, spending on social care declined in real terms by 12.8%. That was a significant reduction in spending when the noble Baroness's party was in power in the coalition Government. Since then, it remains very tight in social care. As I said, we are putting more money into the NHS at the front end of this Parliament. We have introduced the 2% precept for local authorities to raise money for social care and we have put £1.5 billion into the better care fund, starting from 2017-18, which will provide more money for social care at the end of this Parliament.

Lord Patel (CB): My Lords, everybody agrees that there is enormous pressure on social care which, as has already been mentioned, is impacting adversely on the NHS. Is it not time for an independent commission with cross-party support to look at the whole area of health and social care, including something like the Japanese model, which funds social care so successfully?

Lord Prior of Brampton: My Lords, I know that the noble Lord is very keen on an independent commission, and he knows my views on that. I do not think we need an independent commission to tell us that social care and health care must be more joined up and integrated; we all know that. We can do that through a major reorganisation from the centre—but we know what big reorganisations do to the health service: they stymie it for years—or we can work locally in the STP and local authority areas to try to drive this at local level, which I think is the right way forward.

Baroness Lister of Burtersett (Lab): My Lords, an independent commission on care reported recently. It called for a national care service and for adequate investment in the social infrastructure of care now, not at the end of the Parliament, to give care equal status with the NHS and to prevent us going over the tipping point. The tipping point is here; we cannot wait until the end of the Parliament. Will the Minister and his colleagues take those recommendations seriously and urgently?

Lord Prior of Brampton: There is no question but that we all recognise the enormous pressures on social care. I cannot comment on what may or may not be in the autumn Statement, but I entirely recognise the pressures to which the noble Baroness draws our attention. As I said, the Government did not have resources available to put money into the NHS and social care at the same time at the beginning of this Parliament because we have to live in the real world, which is very

[Lord Prior of Brampton]
financially constrained. As I said, an extra £1.5 billion is going into the better care fund and an extra £2 billion will be raised by the local authority precept by the end of this Parliament.

The Lord Bishop of Winchester: My Lords, given the well-established engagement of faith groups in the area of social care, such as the Good Neighbours support service in Hampshire, what progress have Her Majesty's Government made in reducing barriers to engagement by faith and belief groups, as recommended by the Local Government Association in its 2012 report, *Faith and Belief in Partnership*?

Lord Prior of Brampton: I cannot answer specifically the question raised by the right reverend Prelate, but I would say that voluntary and support groups of the kind that he mentions have a hugely important role to play in delivering social care. I visited Crossroads in Gloucester with the noble Baroness, Lady Royall, last Thursday and was struck by the extraordinary work that voluntary groups do—and what carers do, of course. If we relied purely on statutory services, the whole health and social care system would collapse tomorrow.

Lord Lansley (Con): My Lords, my noble friend will recall that in the coalition Government, Andrew Dilnot and his team produced a report on how to give longer-term sustainability to social care and enable people not to suffer catastrophic losses when they are long-term care recipients. Will the Government commit not only to introducing the Dilnot recommendations but, perhaps earlier, to funding it, and to do so by bringing the domiciliary care means test in line with the residential means care test, which would raise £1.3 billion a year?

Lord Prior of Brampton: My Lords, the Government are committed to introducing the proposals of the Dilnot commission by the end of this Parliament in 2020, and I understand that during 2017-18, we will bring back those proposals to refresh them, but with a view to phasing in implementation in 2020.

Baroness Wheeler (Lab): My Lords, the CQC report particularly highlights the crisis in residential care, showing that at a time of growing need the number of care homes in England has fallen by 8% in the past six years. Age UK's report, published a couple of days earlier, warmed to the plight of self-funder residents in private care homes, who are having to pay higher fees because local authorities cannot afford to pay the actual care costs of the residents whom they support. Is not that the problem that the Dilnot proposals under the Care Act were designed to address, and does not it underline the fact that self-funders are ultimately paying the price for a care system under severe pressure and in desperate need of extra funding and investment?

Lord Prior of Brampton: My Lords, it is interesting with regard to the CQC's *State of Care* report that there has been a decline in the number of residential care beds—that is absolutely true. However—and this is an extraordinary statistic—from 2010 to date, the number of domiciliary care agencies has increased from 5,700 to 8,500. The other interesting trend that came out of the CQC report was that, on balance, smaller care homes, nursing homes and domiciliary care agencies tend to perform better than the big ones. That is because they can deliver a degree of personalised care—a sort of home-from-home care—that the bigger concerns cannot. But I totally understand the point that the noble Baroness makes. This sector is under tremendous pressure; we recognise that.

Royal Bank of Scotland: Small Businesses

Question

2.46 pm

Asked by ***Viscount Hanworth***

To ask Her Majesty's Government whether they intend to press the Financial Conduct Authority to publish the report, commissioned by the then Secretary of State for Business, Innovation and Skills at the end of 2013, concerning the treatment by the Royal Bank of Scotland of small businesses supposedly in financial distress.

Lord Young of Cookham (Con): My Lords, the Financial Conduct Authority is an independent body. On 8 November it published a summary of the main findings from the *Skilled Persons Review* into the Royal Bank of Scotland's treatment of customers in financial difficulty. The FCA announced that it is carefully considering the report and other additional materials. It is currently assessing what further work may be needed and will publish a full account of its findings when practicable.

Viscount Hanworth (Lab): I thank the Minister for that Answer. At long last there has been a partial admission by RBS of its wrongdoing, for which the evidence is well documented and incontrovertible. The bank has been endeavouring to improve its financial situation by withdrawing its loans from small businesses that have consequently been driven into bankruptcy. Thereafter, the property department of the bank has been able to acquire the assets of the companies at fire sale prices and sell them on at a profit. The compensation that has been mooted by the bank falls far short of the damage that has been inflicted. Only a small minority of the companies that have survived this treatment can claim compensation. How can a Government who profess to be working in the interests of small businesses tolerate such an abuse on the part of a bank that is in public ownership?

Lord Young of Cookham: The report to which the noble Viscount refers is indeed a worrying one for RBS. While the review did not find evidence to support the most serious allegations made against the bank, it is critical of some of its actions—for example, the failure to support SMEs in a manner consistent with good turnaround practice and, to pick up on a point made by the noble Viscount, the failure to handle conflicts of interest inherent in the West Register model and operation.

As for the compensation scheme, small businesses that came within the global restructuring group between 2008 and 2013 are eligible for compensation under the scheme. Complex fees will be repaid automatically and then, if people make complaints and are not happy with RBS's response, they can appeal to the independent third party announced yesterday.

The FCA has a responsibility towards customers and businesses. It has been involved in the construction of the complaints system and has taken into account representations made on behalf of customers. However, it is continuing to consider whether further action is needed, and I know that it will take on board the points that the noble Viscount has just made.

Baroness Kramer (LD): My Lords, surely the Government could join with others in this House, including the noble Viscount, Lord Hanworth, in saying that those who were abused by this scheme should be fully compensated and that there should be a repayment not just of fees but for the damage done in businesses lost and far beyond that. That is a much bigger figure, which the FCA does not seem to have recognised in its report at this stage.

Would the Minister also back the whistleblowers? A number of RBS staff blew the whistle on the practices taking place. Virtually every one of them has found that their careers have ended; they have suffered extensively as individuals but, as far as I can tell from looking at the FCA report, not a word is said. We need whistleblowers and we need to treasure them.

Lord Young of Cookham: I endorse what the noble Baroness has just said about whistleblowers who put their careers at risk in order to bring malpractice into the public domain. It is not just the fees that are going to be compensated; direct losses will also be eligible for compensation, as will consequential losses where these are directly attributable to the actions of RBS. Established legal principles will be used to determine whether a consequential loss is factually and legally attributable to it. So it is not just the fees; it is direct losses as a result.

Lord Davies of Oldham (Lab): My Lords, the Minister will recognise that the bank was bailed out by the taxpayer. Its malfeasances over the last few years—which have led to a very significant drop in its share price—mean that taxpayers are facing a very raw deal if they have to restore the bank fully at some stage in the future. The Minister must appreciate that, even in this latest examination of the issues which he has identified today, there are anxieties that market-sensitive information was leaked. Has the nation not had enough of really poor behaviour by this bank which necessitates more forthright action?

Lord Young of Cookham: The review covers the period 2008 to 2013, so I am not sure whether the point about malfeasances by the bank is particularly for one of the parties in this House. It is the Government's intention, in due course, to return RBS to the private sector. That is not immediately practicable at the moment —the issue of Williams & Glyn has not been resolved and there are outstanding legal issues in the United States—but we hope to return the bank to the private sector in due course.

I am not sure to what the noble Lord is referring in his point about leaks. In a letter to the Treasury Select Committee, Tom Scholar has firmly refuted any evidence of inappropriate behaviour by the Treasury. If the noble Lord is referring to action by RBS, that is a matter for RBS.

United Kingdom: Single Market

Question

2.52 pm

Asked by ***Lord Taverne***

To ask Her Majesty's Government whether they intend to publish a green paper on the cases for and against the United Kingdom remaining a member of the Single Market.

The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con): My Lords, the Government will seek the right deal to give UK businesses the maximum access to, and freedom to trade with and operate in, the single market. We have committed to keep Parliament and the public informed of our thinking and we will uphold that commitment. However, we will not risk compromising our ability to negotiate in the national interest, so as to protect the long-term prosperity of the UK.

Lord Taverne (LD): My Lords, with respect, that answer is not more informative than the oft-repeated statement that "Brexit means Brexit", which is about as revealing as a statement that breakfast means breakfast —except that the recently leaked memo to the Cabinet Office suggests, and indeed confirms, that the Government's approach to Brexit so far is something of a dog's breakfast. The Conservative manifesto said, emphatically:

"We say: yes to the Single Market".

If Parliament is now to take a role, and I am sure that the Government could benefit in these negotiations from some of the expertise in this Chamber, is it not time for the Government to at least allow us to debate how they see the pros and cons of our relationships with the single market, which is perhaps the most important issue at stake? This is highly relevant to the assurances given to Nissan.

Lord Bridges of Headley: My Lords, we are absolutely determined to have as much debate as we can on these issues; the Government are committed to this. I have had extremely informative conversations with a number of noble Lords on all sides of the House. We have also listened to and read with interest the debates that have taken place. I say again that we are going to seek the maximum access to, and freedom to trade with and operate in, the single market. There is clearly a range of ways in which that might be achieved. Noble Lords will know of the relationships that Turkey, Switzerland and Norway all have with the single market. However, as the Government have said, we are looking at these options but intend to take a bespoke approach.

Lord Forsyth of Drumlean (Con): Does my noble friend recall the Japanese soldiers who were found in the 1950s still fighting the Second World War long

[Lord Forsyth of Drumlean]
after it had finished? Will he gently point out to the noble Lord, Lord Taverne, and the Liberal Democrat Benches that we have already had a government paper setting out the arguments for the UK remaining a member of the single market? It was published during the referendum campaign, and that view was overwhelmingly rejected by the British people.

Lord Bridges of Headley: My noble friend is absolutely right: 17.4 million people voted to leave and we are determined to deliver on that. We are now assessing the options open to us in a methodical and measured way, and we intend to continue to do so. I hope the Liberal Democrats will note that those 17.4 million people expect us to deliver on this. Clearly, they expect the unelected Chamber to contribute to that debate but, obviously, they would look pretty dimly on us if we were to block the measures that we need to take.

Lord Hannay of Chiswick (CB): When the Minister has the answer to the Question on the Order Paper, will the Government first tell the press, our partners in the EU or the two Houses of Parliament?

Lord Bridges of Headley: My Lords, as we have said all along, we are absolutely determined to keep this House and the other place as informed as possible about our decisions. We stick by that.

Lord Grocott (Lab): My Lords, while many people might agree with the noble Lord, Lord Taverne, that there is ambiguity about the meaning of the word "Brexit", assuming it is a word, there is no ambiguity whatever about the word that appeared on the ballot paper—namely, "leave". As far as I can discover, leave means inexorably three things in relation to any organisation: first, that you no longer sit on the executive committee; secondly, that you no longer pay the subs; and, thirdly, that you are no longer obliged to abide by the rules. Will the Minister confirm that those three essential aspects of leave remain the central position of the Government's negotiations?

Lord Bridges of Headley: The noble Lord makes a very good point. As he and the whole House will know, the Prime Minister has made it clear that we wish to take control of our laws, borders and money, while achieving the best possible access to the single market, and ensuring that we have the means to continue to co-operate and collaborate with our European partners on issues where it remains in our national interest to do so.

Baroness Hayter of Kentish Town (Lab): Is it not the truth that the Government were so ill prepared for Brexit that the reason they are not revealing their hand is that they do not know what their hand is? They seem to have three hands, with three different Ministers not in agreement and one of them even failing to meet the 27 fellow members of the European Union, whose support we will need in our negotiations. Therefore my question to the Minister is: rather than playing politics, could he—

Noble Lords: Oh!

Baroness Hayter of Kentish Town: Listen to the punchline. Could he not treat us all as adults and say that this House and all parties should be involved in this for the sake of the national interest, and that we should have a discussion which incorporates what we want to say rather than saying, "It is all secret and we cannot tell you"? Will the Minister take that approach in the discussions?

Lord Bridges of Headley: My Lords, I certainly treat everyone in your Lordships' House as adults and listen to, and respect, the views of those on all sides of the House, whatever their views might be. As I have said all along, the Government's view on this is to continue to engage as far as possible with this House, the other place and, indeed, groups right across society, including businesses and NGOs, and listen to their views. We are doing so in a measured, calm and reasoned way. We will continue to do so and assess the options open to us.

Lord Naseby (Con): My Lords—

Baroness Jones of Moulsecoomb (GP): My Lords—

Baroness Ludford (LD): My Lords—

Lord Pearson of Rannoch (UKIP): My Lords—

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, it is the turn of the Liberal Democrats.

Baroness Ludford: My Lords, clearly, when the Conservative Party offered the emphatic pledge of saying yes to the single market in its manifesto last year, as cited by my noble friend, it had in mind the national interest. Equally clearly, now the Conservative Government are focusing purely on their internal party interest. When will they get back to prioritising the interests and needs of the United Kingdom people and businesses, which means avoiding a destructive hard Brexit?

Lord Bridges of Headley: I am very sorry to say that I totally refute what the noble Baroness says. We are putting the national interest absolutely first and are doing so in a calm and measured way. Quite frankly, if I had turned up at this Dispatch Box four or so weeks after the referendum result and had come out with answers to the very complex challenges that this Government face—among the most serious challenges that any Government have faced since 1945—I think she would have asked us, "Where is all the planning? How has it all been carried out?".

Noble Lords: Oh!

Lord Bridges of Headley: Let me make this point to the noble Baroness. We are doing this in a reasoned and controlled way. I repeat to her and her party that I hope they stand by the document I see in front of her—the Liberal Democrat plan for Europe—which says that,

"we should not keep rerunning the last referendum in order to get the result we wanted".

I very much hope that that is the case and that they are not looking to overturn or block the result in this House.

Lord Naseby: My Lords, the Question refers to a Green Paper. Following that, it is normal to have a White Paper. Is this not just a naked delaying tactic? The British people want Her Majesty's Government to get on with it.

Lord Bridges of Headley: My Lords, I am absolutely determined to make sure that we deliver on the view of the 17.4 million who in June voted to leave the European Union. As I said to the noble Baroness, Lady Ludford, we are doing so in a reasoned and thoughtful way. We will come up with a plan that delivers on the national interest and ensure that we deliver a smooth and orderly Brexit.

Judiciary: Independence

Question

3.01 pm

Asked by ***Lord Lexden***

To ask Her Majesty's Government what steps they are taking to ensure that the Lord Chancellor fulfils her duty to uphold the independence of the judiciary.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, the Lord Chancellor has fulfilled her duty and will continue to do so. Statements from the Lord Chancellor and wider government show that she considers the independence of the judiciary to be a foundation of the rule of law. She has emphasised that our judiciary is, rightly, respected the world over for its independence and impartiality.

Lord Lexden (Con): Have the Government taken full account of the wide public disquiet that arose because the lurid and irresponsible attacks on some of our High Court judges were not answered immediately and emphatically? Have the Government taken note of a report issued by the Constitution Committee two years ago, which recommended:

"Given the importance of the Lord Chancellor's duty to uphold the rule of law, the Lord Chancellor should have a high rank in Cabinet and sufficient authority … amongst his or her ministerial colleagues to carry out this duty effectively and impartially"?

Lord Keen of Elie: My Lords, it is not the job of government or the Lord Chancellor to police the press headlines. Having considered the headlines and, more importantly, public reaction to them, the Lord Chancellor made a clear and timely statement that an independent judiciary was the cornerstone of the rule of law and that she would defend that independence to the hilt.

Lord Beecham (Lab): My Lords, I congratulate the noble and learned Lord on his forthright criticism of media and other attacks on the judiciary. Will he convey to the Prime Minister the disappointment of many across this House at the Lord Chancellor's failure to be anywhere nearly as explicit in condemning those attacks, and will he offer her a short course on the proper discharge of her responsibilities in relation to this and other matters?

Lord Keen of Elie: The Lord Chancellor is well aware of her rights and obligations in respect of this matter. Many people were shocked by some of the headlines that we saw last week. I have yet to speak to anyone who actually believed them.

Lord Marks of Henley-on-Thames (LD): My Lords, the Question of the noble Lord, Lord Lexden, refers to the duty to uphold the independence of the judiciary, but the Lord Chancellor also has a duty, under the Constitutional Reform Act, to have regard to the need to defend that independence. I am afraid that many believe that she singularly failed in both those duties following the decision of the High Court on 3 November. Will the noble and learned Lord convey to the Lord Chancellor how seriously this House takes both those duties and ensure that she is fully briefed on what is required of her should the Supreme Court come under an attack similar to that levelled at the judges of the High Court after the decision earlier this month?

Lord Keen of Elie: The Lord Chancellor takes her duties towards the judiciary every bit as seriously as this House.

Lord Lang of Monkton (Con): My Lords—

Lord Morris of Aberavon (Lab): My Lords—

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, it is the turn of the Conservative Benches.

Lord Lang of Monkton: My Lords, does my noble and learned friend recall that in the report referred to by my noble friend Lord Lexden the Constitution Committee recognised that every member of the Government has a duty to uphold the law but that the Lord Chancellor has a special position, in that he or she has a duty to ensure that the Government as a whole uphold respect for the law, and that included in that is the independence of the judiciary? Would my noble and learned friend be willing to revisit the committee's recommendation that the oath of the Lord Chancellor, as enshrined in the 2005 Act, should be revisited and strengthened?

Lord Keen of Elie: It is not considered necessary that the oath should be revisited. The oath of the Lord Chancellor is to respect the rule of law, defend the independence of the judiciary and discharge her duty to ensure the provision of resources for the efficient and effective support of the courts. That is the duty that she has addressed and discharged.

Lord Morris of Aberavon: My Lords, we all value the freedom of press comment, but when judges are attacked in inflammatory terms and cannot answer back there is machinery in the Constitutional Reform Act for the judiciary to be defended without delay. Here, there was intolerable delay before the Minister spoke. Will the noble and learned Lord invite her to read Sections 3(1) and 3(6) of the Constitutional Reform Act, which spell out her duty in clear and unambiguous terms?

Lord Keen of Elie: The Lord Chancellor is well aware of her obligations in terms of Section 3 of the Act and has addressed those obligations. It was not appropriate that she should give a knee-jerk reaction to sensationalist headlines. What she did was to consider a series of press reports and the public reaction to those, and then respond in a coherent and timely manner.

Lord Cormack (Con): Does my noble and learned friend accept that his response in this House last week was exemplary?

Noble Lords: Oh!

Lord Keen of Elie: I see no distinction between my response and that of my right honourable friend.

Baroness McIntosh of Hudnall (Lab): My Lords, I think the whole House would want to echo the sentiments of the noble Lord, Lord Cormack. However, the issue here is timeliness. The noble and learned Lord has told the House that he believes that the Lord Chancellor's response was timely. Would he like to reconsider that view?

Lord Keen of Elie: I see no reason to reconsider that view. It is important to remember that neither the Lord Chancellor nor any other member of the Government is here to police a free press. It is necessary for the Lord Chancellor to have regard to not only what the press have reported but the public reaction to that, and then take a considered position on that matter. I reiterate a point I made earlier: I have met many people who were shocked by some of these headlines; I have met no one who believed them.

Prison Officers' Association: Protest Action

Statement

3.07 pm

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, with the leave of the House I will now repeat a Statement made in the other place by my right honourable friend the Secretary of State for Justice. The Statement is as follows:

"I am grateful to the honourable Member for the chance to update the House on this important issue. Prison officers do a tough and difficult job and I have been clear that we need to make prisons safer and more secure. I have announced that an extra 2,500 officers will be recruited to strengthen the front line. We are already putting in place new measures to tackle the use of dangerous psychoactive drugs and improve security across the estate.

I met the Prison Officers' Association on 2 November, and over the past two weeks my team has been holding talks with the POA on a range of measures to improve safety. These talks were due to continue this morning. Instead, the POA failed to respond to our proposals and called this unlawful action without giving any notice. The chief executive of NOMS, Michael Spurr, spoke to POA chairman Mike Rolfe this morning, reiterating our desire to continue talks today. The union's position is unnecessary and unlawful and it will make the situation in our prisons more dangerous. We are taking the necessary legal steps to end this unlawful industrial action.

The Government are committed to giving prison officers and governors the support that they need to do their job and to keep them safe from harm. In addition to recruiting an extra 2,500 prison officers, we are rolling out body-worn cameras across the prison estate; we have launched a £3 million major crimes task force to crack down on gangs and organised crime; in September we rolled out new tests for dangerous psychoactive substances; and we have trained 300 dogs to detect these new drugs. We have set up a daily rapid response unit led by the Prime Minister to make sure that governors and staff have all the support that they need. Taken together, these measures will have a real and swift impact on the security and stability of prisons while we recruit additional front-line staff. I urge the Opposition Front Bench to join me in condemning this unlawful action and calling on the POA to withdraw this action and to get back to the negotiating table".

3.10 pm

Lord Beecham (Lab): My Lords, last week in his valiant if unavailing defence of the Government's prisons policy the Minister justified its failure, even in the light of recent events, to restore staffing levels to where they were four years ago by citing the fact that a number of prisons had closed. But it is not the ratio of prison officers to prisons that is the issue; it is the ratio of properly trained and supported staff to the number of prisoners which is relevant. Given that there is no sign of any policy calculated to reduce that number, how can the reduction in the number of officers—last week's announcement that some 2,500 will be recruited over the next few years will still leave a shortage of 4,500—be expected to transform the situation?

Will the Secretary of State sit down now with the representatives of this dedicated workforce to discuss ways in which the present crisis can be urgently alleviated? Will she initiate a comprehensive review of the whole service as thorough as the Woolf review following the Strangeways riots as long ago as 1991? Is the issue of an injunction likely to lead to the kind of discussion that will resolve this matter?

Lord Keen of Elie: My right honourable friend the Secretary of State for Justice has made it clear that she will sit down with the Prison Officers' Association to discuss this matter as soon as it withdraws this unlawful action. She would be anxious to take forward such discussions.

The noble Lord referred to prison officer numbers. That is an issue, but it is an issue that is part of a wider problem. It is not just a question of prison officer numbers; it is a matter of training, retention, the prison estate itself having to be improved, attempts to bring down the number of prisoners using psychoactive substances, the question of safety and in particular of violence in prisons, and the need to develop suitable means of education and reform within our prisons. In other words, we have to accept that this is a complex algorithm that cannot be reduced to a simple binary issue about prison numbers.

Lord Marks of Henley-on-Thames (LD): Of course we do not support the prison officers' unlawful industrial action, but that does not mean that we do not sympathise with them over what has got us here: too many people sent to prison, particularly for short sentences, overcrowding, too few staff, too much time for prisoners in their cells and inadequate education and purposeful activity. Consequently we have what we have spoken of many times in this House: a crisis of increasing violence and deaths among staff and prisoners. It is no wonder that prison officers often feel extremely unsafe. Frankly, 2,100 extra officers by 2018 is too little, too late. We need twice that number and we need them much more quickly. When talks with the Prison Officers' Association resume, will the Government reconsider the number of new officers to be recruited, the timing of their recruitment and those other issues that, in answer to the noble Lord, Lord Beecham, the noble and learned Lord just mentioned —issues about training, about retention and about conditions for prison officers in relation to violence?

Lord Keen of Elie: I am obliged to the noble Lord. I would point out that these issues have now been addressed by the White Paper announcement and will be taken forward in the context of that White Paper in order that they can be debated and, hopefully, resolved.

Lord Deben (Con): My Lords, while condemning the unlawful action taken by prison officers, perhaps I may remind my noble and learned friend that we appear to be twice as wicked as the French and the Germans when we work out how many people are put in prison. I cannot believe that. Do we not have to address the fundamental issue that Britain locks up lots of people that no one else does and that our record has therefore not improved? Until we face that, I do not see how we will deal with a whole range of other issues, and prison officers are only making it worse.

Lord Keen of Elie: My Lords, I quite understand the concern that we might be perceived to be twice as wicked as the French. Nevertheless, I would point out that all of these statistics are relative across the world and, if we compare ourselves with other jurisdictions, we find that our prison population is much lower per head of population than it is in many other western societies. At the present time, it is not considered that the resolution of this issue lies in sentencing policy; it lies in reform of the prison estate and those who have to work so hard to maintain it.

Baroness Watkins of Tavistock (CB): My Lords, can the Minister tell me how any review will look at the need for registered nurses and medics to get more involved in our prisons in order to help prison officers cope with people with long-term mental health problems, many of whom should not be in prison anyway? I stand here in my 60s, having worked in Brixton prison in my 30s from the Maudsley hospital doing just what I said, and then doing the same work in both Dartmoor and Exeter prisons. However, these kinds of in-reach programmes are actually being reduced, due to shortages in the NHS and academia, rather than increased.

Lord Keen of Elie: I am obliged to the noble Baroness. Of course mental health issues are a major problem within our prison estate. There is no question but that a very large proportion of those in our prisons suffer in one form or another from mental health issues, some of them induced by the use of illegal drugs, in particular psychoactive substances. That breeds difficulty, despair and indeed violence. We are attempting to address this at the present time, and again I would point to the issues raised in the context of the White Paper. We are determined to make progress in this matter.

Baroness Farrington of Ribbleton (Lab): My Lords, the Minister has twice recently referred, in answer to my questions, to the fact that the staffing levels the Government are bringing in will meet their benchmark as a refutation of the need for more officers. Would he care to write to me, and put a copy in the Library, if he can think of any other issues to be addressed beyond violence, escapes, suicides, self-harm, stabbings, attacks, riots, lockdowns—stopping the healthcare work just referred to by the noble Baroness going ahead—and preventing reoffending? How did the Government calculate their benchmark and which of these issues are now being tackled successfully in their prisons?

Lord Keen of Elie: A benchmarking exercise was carried out some time ago to determine prison officer numbers in the context of the prison estate. The benchmarking exercise is being reconsidered going forward, but I am content to write to the noble Baroness outlining what the Government position is with respect to that and where we hope that it will be taken.

Baroness Sharples (Con): Can my noble and learned friend tell us how many prisons have writers in residence? Surely if prisoners were kept occupied, this would put less pressure on prison officers.

Lord Keen of Elie: I cannot say how many prisons have writers in residence, but I would suggest that the problems within our prisons at the present time go rather deeper than occupational therapy in the form of writing. However, I will write to my noble friend with the details she requests.

Lord Lee of Trafford (LD): My Lords, how bad do things have to get in the short term before we call on military support?

Lord Keen of Elie: There is no question or suggestion of such a thing. In this context, I make clear there is a national response team organisation to deal with unrest in our prisons. For example, the recent incident at Bedford was resolved when the national response team moved into the prison.

Baroness Butler-Sloss (CB): My Lords, would the Minister consider a radical approach towards those offenders with mental health issues, with the possibility of probation with a requirement for residential care? That would remove a great many people from the prisons and allow them to be treated, with some ability to be rehabilitated.

Lord Keen of Elie: The Government are of course always open to any suggestion that might improve the situation in our prisons. I take on board the observations of the noble and learned Baroness.

Lord Judd (Lab): My Lords, to follow that question, the Minister has said there is an overwhelming number of mental health problems in our prisons. Is not the reality even worse, in that many of these people should never have been in prison at all? The experience of prison is counterproductive to their ability to build a future and to their well-being. What attention are we giving to providing alternative arrangements for mentally ill or mentally disturbed people? Would he not agree that it is a matter not just of numbers, although of course numbers matter, but of the purpose, dynamic and morale of the Prison Service? It makes nothing but economic and humane sense to have rehabilitation as the priority in safe custody. Can we please reassert the importance of this word "rehabilitation" and make it central to the purpose of the Prison Service?

Lord Keen of Elie: I am obliged to the noble Lord. Clearly, our sentencing policy embraces more than just custodial sentences and has done for some considerable time. Clearly, the morale of those working in a difficult environment in our prisons is an issue. The noble Lord raised in particular rehabilitation. That lies at the very heart of our proposed reforms, not just with rehabilitation taking place in prisons, but with rehabilitation that will take prisoners through the gates of the prison and back into the community so that we avoid the present situation, in which more than half of those sentenced to a period of imprisonment return to prison in a relatively short period of time.

HS2 Update

Statement

3.22 pm

The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con): My Lords, with the leave of the House, I shall repeat a Statement made by my right honourable friend the Secretary of State for Transport in another place. The Statement is as follows:

"With permission, Mr Speaker, I would like to make a statement about HS2. One of my first steps as the new Secretary of State for Transport was to reiterate the Government's backing for HS2. I did so from the conviction that HS2 is essential in delivering a modern, vibrant economy for the UK.

This is a Government who deliver the infrastructure projects that the economy needs. That is core to delivering a country that works for everyone, wherever in the country they live. Just last month we announced support for a new runway at Heathrow, showing that Britain is a dynamic country which is open to the world. Today, I am announcing the Government's preferred route for HS2 lines from Crewe to Manchester and from the West Midlands to Leeds—known as phase 2B—helping to rebalance our economy beyond London and the south-east, ensuring economic prosperity and opportunities are shared throughout the country.

It means that, following on from the 2013 consultation and work we have done since, I am today confirming the majority of the route. There are also a number of cases, including the proposed route through South Yorkshire recommended by Sir David Higgins in a report earlier this year, where I am proposing substantial refinements. I am launching a consultation to seek the views of communities and other interested parties before reaching a decision on those sections next year.

The first phase of HS2, from London to the West Midlands, is just over 100 miles long, but phase 2 is significantly longer at 174 miles. The route I am confirming today represents a huge commitment to the Midlands and to the north. HS2 is not just about a faster connection between the south-east, the Midlands and the north; it represents a bold vision for connecting up the great cities of the north of England and the Midlands, both east and west.

Connectivity is central to HS2. Poor connectivity between the cities and regions of the Midlands and the north has restrained their economic growth. High-quality transport allows businesses to grow, work together and access a wide range of customers, suppliers and skilled labour markets. By improving connections between our great cities, HS2 will generate jobs, skills and economic growth and help us build an economy that works for all.

Today, only 4% of people who travel between Birmingham and Manchester do so by train. That is hardly surprising, when the journey takes around 90 minutes. But on HS2, it will take less than half that time—just 41 minutes. At a stroke, those two regional capitals will be much more closely linked and able to deliver increased economic prosperity. The flow of people, ideas and opportunity will follow those new connections.

Work is also progressing to see how HS2 could help deliver parts of a fast, frequent northern powerhouse rail network for Liverpool, Manchester, Sheffield, Leeds, Hull and Newcastle. Where necessary, we will include passive provision for those services in a phase 2B hybrid Bill, subject to agreement of funding and the supporting business case.

Just as important as connectivity is the uplift that HS2 will deliver to our transport system. HS2 will not be a separate, stand-alone railway but an integral part of our nation's future rail network and overall transport infrastructure. It will add to the overall capacity of our congested railways.

Even if you never travel on HS2, you stand to feel its benefits. By providing new routes for intercity services, HS2 will free up space on our existing railways for new commuter, regional and freight services, while also taking lorries off our roads. It will provide new options for services to towns which currently do not have a direct connection to London.

Tomorrow's HS2, east and west coast main lines could have 48 trains per hour to Birmingham, Manchester and Leeds—up from 29 today. Even if you never travel by rail at all, you stand to benefit from the thousands of local jobs and apprenticeships created by the better connections that HS2 will bring. The project will generate around 25,000 jobs during construction as well as 2,000 apprenticeships. It will also support growth in the wider economy, worth an additional 100,000 jobs.

I recently visited the site of the new National College for High Speed Rail in Birmingham. Together with its sister college in Doncaster, it will open its doors next

year to provide Britain's workforce with specialist training, skills and qualifications to build HS2 and future rail projects. It will deliver highly skilled, highly motivated people who have the opportunity of a great career in a vital industry.

Today's announcement represents an important step forward in delivering HS2 and, with it, the transport infrastructure essential to the economy of 21st-century Britain. However, I am well aware that there are those with the firmly held view that HS2 should not go ahead—those who doubt whether the case has been made satisfactorily. Indeed, I know that many Members of this House have strong convictions on this issue.

I am under no illusions: this is no easy undertaking. But I believe it is the right thing to do. The easy thing to do would have been to keep patching up the existing railways; making do and mending with a railway that the Victorian pioneers would still recognise; hoping to fit ever-increasing passenger and freight growth in the same pint pot. That is not what the people of this country deserve, nor what our economy requires.

In addition to publishing today a Command Paper and accompanying maps setting out full detail of my preferred route for the HS2 phase 2B route, I have also written to those Members whose constituencies are affected. My ministerial colleague the Parliamentary Under-Secretary of State will also make himself available to Members who wish to meet him later today.

To ensure that our case is robust, and in line with the requirements of Her Majesty's Treasury's Green Book, we have of course considered alternatives to the phase 2B scheme. We have found no alternative that would deliver the same level of benefit for the country, stand the test of time and provide the same level of capacity, connectivity and service that phase 2B does. Indeed, over the last few months I have had the chance to visit most places along the HS2 route. I have seen and heard all the issues for myself and remain convinced that we are delivering the right solution to the country's transport needs through this project.

I assure the House that I recognise that building major infrastructure will always be disruptive and disturbing for those living nearby and I am very mindful of the concerns of many of the constituents of many Members of this House. In proposing this route I have listened to the views expressed in the consultation of 2013 as well as those of HS2 Ltd's engineering and environmental specialists. I am issuing safeguarding directions for the whole of the preferred phase 2B route today, which protects it from conflicting development. It also means that those people who are most affected by the plans will now be able to access statutory compensation straightaway.

In addition, I will be consulting on discretionary property schemes. These will go over and above what is required by law and give assistance to those who will be adversely affected by the railway. These schemes are the same as those currently in operation for people living along the phase 1 route and I aim to be able to confirm next year the schemes on which I am consulting today. Two of the schemes that will enter into operation from today are the express purchase scheme and the need to sell scheme. Express purchase allows owner-occupiers to apply to the Government to buy their home sooner than would be possible under statutory schemes. The Government will buy properties at their unblighted open-market value, as if HS2 were not going to be built. We will provide a "home loss" payment of 10% of the property's open-market value up to £58,000 and pay reasonable moving costs. Need to sell is a purchase scheme for people who have a compelling reason to sell their property but cannot do so, other than at a significantly reduced price, because of HS2. There is no geographical boundary for this scheme. The Government will agree to buy a property for 100% of the open-market value if an application is successful.

As I say, I am mindful of the impacts HS2 has on communities. I assure every Member of this House that my department and HS2 Ltd will continue to work with affected communities and local authorities up and down the line of the route. I very clearly expect people to be treated in that process with fairness, compassion and respect. Today marks the end of a long period of uncertainty for communities, councils and businesses along the route of phase 2B. These have been complex and difficult decisions to take, but I make no apology for taking the time to get it right and making sure that the route we are proposing offers the best possible outcomes for passengers, communities, the environment and the economy.

I need also to report that phase 1 of the railway, from Birmingham to London, is progressing well. Construction work is due to start next year, subject to Royal Assent. Phase 1 will open in 2026. In a clear signal of how work is progressing, this morning I have also announced the companies that have been awarded the phase 1 enabling works contracts. These works include archaeology, site clearance and setting up construction compounds ahead of the start of the main engineering work. These contracts are worth up to £900 million and cover the whole of phase 1, from London to Birmingham, and the connection to the west coast main line at Handsacre. Work is due to begin in the spring.

Another aspect of the preparatory work on phase 1 is the considerable engagement with those on the line of the route, some of whom have taken up our express purchase compensation scheme. We are continuing this offer of support and will be writing to those people whose homes or businesses may be directly affected by construction. We have a general obligation to continue to seek further reductions to adverse impacts during the design, construction and operation of the scheme. I am personally watching this closely. In keeping with that obligation, HS2 Ltd has continued to look at possible mitigation measures around Euston station, where existing rail lines converge. This could significantly reduce impacts on rail passengers and the local community. Any decision on the adoption of these possible mitigations would be taken closer to the letting of the main contracts next year, and I will update the House at that time. This is part of a wider design process which will continue to add detail to our proposals for phase 1 well into next year and beyond. I would expect that similar mitigations might come forward elsewhere along the route as the detailed design stage starts in earnest after Royal Assent.

[Lord Ahmad of Wimbledon]

HS2 is an ambitious and exciting project and we must seize the opportunity it offers to transform our country for future generations. Local authorities and local enterprise partnerships are gearing up for HS2 and developing growth strategies, supported by United Kingdom government growth strategy funding, to maximise the benefits of HS2 in their areas. I am pleased to announce further funding today for Manchester, the Northern Gateway partnership, Leeds and the east Midlands, and the first tranche of funding for Sheffield, to support this important work.

This Government are planning for the future. We are taking the big decisions and investing in world-class transport infrastructure. We are ensuring that the UK can seize opportunities and compete on the global stage. We are also delivering more capacity on our overcrowded railway, which could see a 65% increase in the number of trains on this part of the network. The route decision I have published today takes us an important step closer to realising the full potential of HS2. It means better transport connections and capacity, and more jobs and training opportunities. Just as importantly, HS2 will link centres of innovation and opportunity in the cities and regions of the Midlands and the north and of our knowledge economy. I commend this Statement to the House".

3.36 pm

Lord Rosser (Lab): I thank the Minister for repeating the Statement made earlier today in the House of Commons. We support HS2 and thus welcome this further announcement of phase 2B on more but not yet all of the route. We welcome the intention that HS2 outside London will have connections to the existing network. We do not welcome the fact that the Government appear determined to see HS2 run in the private rather than the public sector, bearing in mind the amount of taxpayers' money that will be invested, the success of the public sector in running the east coast main line twice following the withdrawal of two different private sector operators, and the continuing success of the public sector in running the London Underground, with its heavy traffic flows.

We will need to look at the details of the proposed route just announced and the extent to which legitimate concerns have or have not been addressed, as well as the compensation and mitigation proposals, but perhaps the Minister can say now how the compensation compares with that for those affected by a new runway at Heathrow. For how long will the further consultation mentioned in the Statement last, and by when do the Government expect to announce their decisions in the light of that consultation? The Government have not yet given a timescale on that. Likewise, when next year do the Government expect to announce the rest of the route of HS2? The National Audit Office stated earlier this year that HS2 had an "unrealistic timetable" and faced major cost pressures. What is now the timetable for the completion of HS2 and what is the latest accurate projected total cost figure, bearing in mind what has happened time-wise and cost-wise to what is presumably the much simpler Great Western electrification?

The Statement says that HS2 links up the cities of the north of England and the east and west Midlands. When do the Government intend to make firm announcements about improved rail links between the cities of the north? The Statement says in the context of a rail network for Liverpool, Manchester, Sheffield, Leeds, Hull and Newcastle that the Government will, where necessary,

"include passive provision for these services in the Phase 2b hybrid Bill, subject to agreement of funding and the supporting business case".

In this context what exactly does passive provision mean—as opposed, presumably, to non-passive provision?

The Statement also says that:

"HS2 will free up space on our existing railways for new commuter, regional and freight services",

and,

"will provide new options for services to towns which currently do not have a direct connection to London".

What new commuter, regional and freight services do the Government have in mind, and what towns do the Government consider would have the option of a direct connection to London—or is that statement one simply of hope and expectation rather than fact?

The Statement refers to tomorrow's HS2, east and west coast main lines being able to have,

"48 trains per hour to Birmingham, Manchester and Leeds",

and that this would be up from 29 today. Perhaps the Minister could give me a breakdown of those two figures. On the face of it, they do not appear to include existing services from Marylebone to Birmingham; neither is it clear whether the existing services are only those to and from London or include those running between Birmingham, Manchester and Leeds.

The Statement also refers to phase 1, from Birmingham to London, and the award of some contracts. What percentage of those contracts, in number and value, are going to British firms? What percentage of any materials used will be imported from elsewhere and what percentage will come from within the United Kingdom? Reference has also been made to Euston station. To what extent has agreement been reached with the London Borough of Camden over the development of HS2 at Euston and its impact on the surrounding area?

Finally, I wish to raise two other points about phase 1 and need to declare an interest, as I have a home within a mile or so of the route of HS2 in the London Borough of Hillingdon. I make these two points in the context of what is stated on page 6 of the Statement:

"We have a general obligation to continue to seek further reductions to adverse impacts during the design, construction and operation of the scheme".

Just prior to the London mayoral election the Government announced, following a meeting with the Secretary of State at which the Conservative candidate in that election was present, that they would ensure another look was taken at the case for extending the tunnelling of the route in the West Ruislip area. Can the Government tell us what the outcome of that further look is and the reason for any decision, now that the mayoral election is safely out of the way? Can the Government also say what has happened in respect of the relocation of the

Hillingdon Outdoor Activities Centre, used by significant numbers of young people in particular? I have visited the site on two occasions in the company of two different Ministers—sympathetic noises were made, particularly on the second occasion. Has a suitable alternative site been found for the outdoor activities centre, since HS2 still appears to be going right across the existing site on a viaduct?

Baroness Randerson (LD): My Lords, I started today in Marseille and travelled here by TGV, which is fast, efficient, very comfortable and has low emissions. I mention this not because I think that your Lordships will be interested in my holiday photos but because France is decades ahead of us in the provision of a network of fast, efficient rail services. On these Benches, we are firm supporters of HS2 and we welcome this announcement and the details provided today, as far as they go. We also welcome the jobs whose potential creation has been outlined but we have concerns, which I wish to raise here.

First, HS1 was opened in 2007 and it will be at least 20 years between its opening and that of the first phase of HS2. I know that the Minister has given us an indication of the timescale for the second phase of HS2 but I wish to push him on whether there is any scope for faster completion, because the great cities of the midlands and the north need this connectivity very much faster than what is outlined. While the Government make the very valid point in their Statement that HS2 will take pressure off existing lines, it is worth pointing out at this stage that those lines are already groaning under the pressure of the number of passengers and the frequency of services that have to be provided. Therefore, when one extrapolates into the future, one finds it very difficult to believe that the system will not have cracked apart by the time HS2 phase 2 is opened. My main concern is that HS2 phase 2 will drain resources, which are so badly needed, from the rest of the network. Investment is urgently required now. Last week, the Government announced that four electrification projects were being put on permanent hold. There is a shadow over some aspects of the Great Western electrification. The east coast main line is desperately in need of investment. The ORR's statistics show how badly that line is suffering. Previous promises of investment on that line have been put on hold. I urge the Government to give us more detail about their plans for investment in existing services to reassure us that HS2 is not just a highly polished priority project being operated at the expense of the rest of the rail network. Stimulating investment in the Midlands and the north depends on very much more than HS2. It has to link into an efficient, integrated public transport service.

Finally, the mitigation measures and the detail on them are very welcome, but I ask for a more open and straightforward approach from HS2 Ltd in future. Residents and local councils report that they have often found it less than easy to deal with. I shall not repeat many of the detailed questions put to the Minister by the noble Lord, Lord Rosser, but I emphasise that I am concerned to have more detailed information, particularly on what "provision" means and on the number of services that currently run and the future expansion of those services.

Lord Ahmad of Wimbledon: My Lords, I thank the noble Lord, Lord Rosser, and the noble Baroness, Lady Randerson, for their comments. I am slightly confused by the comments of the noble Lord, Lord Rosser. I take it that while he has raised certain questions they in no way suggest that Her Majesty's Opposition are going lukewarm on the idea of HS2. Some of the questions are perfectly valid.

The noble Lord and the noble Baroness raised issues relating to the consultation. It starts today and will last for 16 weeks, so it will end around 9 March. The Secretary of State will take a decision on the remaining part of the route next year. The noble Lord asked about specific competition dates. As I said in the Statement, I believe phase 1 will be subject to Royal Assent. We are looking to complete by 2026 and for the second phase of the project to be completed by 2033.

The noble Baroness, Lady Randerson, said we must ensure that we deliver this important project as soon as possible. I assure her and the whole House that that is the Government's intention. As the Secretary of State said in his Statement earlier today and repeated in his answers to questions, it is important that we take a considered view on the alternatives. We reflected on the 2013 consultation and on Sir David Higgins's report on certain aspects of the project, and that has been reflected in the announcement made today.

The noble Lord, Lord Rosser, asked about the statutory compensation. I alluded to mitigation and 10% of the unblighted cost. We have also announced the details of two schemes today, and if the noble Lord has further questions once he has reviewed those schemes, I will of course be pleased to answer those in detail.

Both the noble Lord and the noble Baroness asked about investment in other areas aside from HS2. As I am sure noble Lords are aware, the Government are undertaking one of the biggest infrastructure investment programmes, and rail is no exception. Around £40 billion is being invested elsewhere. In terms of ensuring HS2's connectivity to other routes, the word "passive" was used in the Statement, and both the noble Lord and the noble Baroness asked further questions on that. We are seeking to ensure that the HS2 route and the actual building of it are future-proofed so that, for example, any integration issues which arise within the context of northern powerhouse rail can be fully catered for in the construction of HS2.

The noble Lord, Lord Rosser, also asked about the additional work being done with Camden. We continue to work with all local authorities on the issues around Euston. Indeed, this applies across the whole network. The noble Lord will also be interested to know that, underlining the point about communication, 270,000 letters are going out today specifically to people impacted by the route. The noble Lord, Lord Rosser, also asked about the tunnelling at West Ruislip and the Hillingdon centre, which I know he has raised before. I will seek to get the latest updated situation on those two issues and write to the noble Lord accordingly.

3.51 pm

Lord Framlingham (Con): My Lords, I am sorry to introduce a slightly discordant note, but is it not really a question of priorities? At a time when the National Health Service had a deficit, last year, of £1.8 billion,

[Lord Framlingham]
and we are asking it to save £22 billion by 2020-21, does it not seem a bit ridiculous to be spending £55 billion-plus on what is a non-essential project that is going to be hugely disruptive?

Lord Ahmad of Wimbledon: My noble friend draws a comparison with other areas, but in no way does our investment in HS2 take away from the importance of the National Health Service. I would counter his suggestion by not just looking at the project in terms of the cost. The whole project, once up and running, seeks to deliver over £103 billion of economic benefits to the country as a whole. I alluded to connectivity in my Statement, and the noble Lords who have already asked questions raised important issues about it. This is not just about connecting parts of London to the Midlands or elsewhere but about connecting the whole country. This is an important project. It is one of the biggest rail infrastructure projects, and the first major one outside London, since the Victorian age, and we now need to move forward and get HS2 built.

Lord Scriven (LD): My Lords, I draw the House's attention to my declaration of interest as a member of Sheffield City Council. In light of the fact that putting the Sheffield station in the city centre would save £768 million as compared to putting it at Meadowhall, as well as create 24% more daily passengers, £2.5 billion more GVA and 6,500 more jobs, why is more consultation needed? Why could the Government not make a decision today on where the station should go, to give certainty to both passengers and businesses in the area seeking that certainty?

Lord Ahmad of Wimbledon: As I said in the Statement, we have made certain changes on the actual route, which are based on the feedback we have been getting through different consultations and on the reports that we have had on the previous route in 2013. It is right that we take some time, because there are some major changes to certain elements of the Y route as it is. The consultation on that will not take an indefinite period of time: we are talking about up to March of next year. The noble Lord raises the important issue of the link into the city centre. I am sure he will acknowledge and respect the fact that the Government have listened and have sought to accommodate exactly the amendment that he sought previously.

Lord Smith of Leigh (Lab): My Lords, I welcome the Statement made this afternoon and the Minister's commitment to phase 2B of HS2. The economic benefits are in fact more than he said. He concentrated on the main regional centres but the recent publication from HS2 showed that the benefits will be wider than that and journey times will be improved. In fact the economic benefits will improve health in the north because people in work tend to be healthier. I want to press him on future investments and ask him to ensure that as the HS2 line will hit the west coast main line at Wigan, we will get improvements and an upgrade to that line. We do not want a 21st-century journey up to Wigan followed by a 19th-century journey to Glasgow.

Lord Ahmad of Wimbledon: I think we all want to see a 21st-century experience across the whole network. I appreciate the noble Lord's support for the project. In terms of journey times generally, we should compare the existing current routes. The noble Lord talked about Scotland. Once HS2 is up and running, we will be talking about journey times from London to Glasgow going from four hours and 31 minutes to three hours and 40 minutes, and to Edinburgh from four hours and 22 minutes to three hours and 40 minutes. I appreciate the noble Lord's point about existing lines, but I assure him that the Secretary of State is determined to ensure that where the route connects with other parts of the existing network, as I have alluded to already, we are looking at making major investments in other parts of the rail network as well.

Lord Birt (CB): My Lords, I wholly welcome this long overdue investment in our national infrastructure, while also wishing that we were able to build our infrastructure as quickly as some other countries have demonstrated they can. Can the Minister explain the rationale for connecting HS2 to Leeds and Manchester but not to the city of my birth, Liverpool?

Lord Ahmad of Wimbledon: I suppose that is a question that I as a Liverpool fan should also raise; perhaps my accent does not quite give away the team that I support. The noble Lord talks about the importance of connectivity across regions. The Government are working—I referred earlier to northern powerhouse rail as well—on how to ensure that, with the new body that has been set up, we can look to improve connectivity not just between the cities that I have just mentioned but across various parts of the north-east and the north-west to link up the northern part of the country more effectively. I also assure the noble Lord that, as I mentioned previously, HS2 is being made safe and will accommodate any other changes or accommodations that we will need to make on additional line investment across different parts of the north-east and the north-west.

Lord Grocott (Lab): I warmly welcome the Minister's Statement. Will he at least reflect that it is a question not just of how swiftly other countries manage to do these things in comparison with ourselves but of how we do them these days compared with how we managed to do them in the 1840s? Then we built thousands of miles of railway with picks and shovels but we have been told for some time that this link, which is ultimately maybe 300 miles of railway, cannot be completed until 2033. What did the Victorians have that we do not have today, and is there any possibility of this being speeded up?

Lord Ahmad of Wimbledon: What we probably have now is ensuring that there is proper consultation. I suggest to the noble Lord that planning laws have moved on since the Victorian age. The issue of airports was raised previously. I remember travelling to other parts of the world where they were building six runways, and it was suggested to me that we had had a challenge over the last 40 years in building a single runway. I am acutely aware, as are the Government, of the importance of pressing ahead with these infrastructure projects

while ensuring that we effectively consult and adhere to the planning requirements presented by such large infrastructure projects.

Lord Bradshaw (LD): My Lords, I support my noble friend on the question of Sheffield. On most parts of the continent, high-speed railways go on the conventional railway for the last bit of their journey, often a small bit. By so doing, they reinforce all the connections that that railway has with other railways, and with buses, where people actually want to go. We should take very seriously the point that Sheffield will be infinitely better off with a station in the city centre, even if it means that the journey will be a minute or two slower—after all, that is what we are talking about.

Secondly, having listened to the discussion, I bring to the Minister's attention that the east coast main line is unreliable and it will become more so because of the increased pressure on it. At present the Government are in the process of purchasing a new fleet of trains. These are all electric trains, other than the bits that go to Scotland and places such as Hull. The main artery between Newcastle, Leeds and London is going to have trains that cannot be diverted on to diversionary routes when the inevitable infrastructure failures occur or when repairs have to be done. For the sake of the north of England, I ask him to go back and talk to his officials about the good sense of the decision they have made, and whether the decision can be revised to produce on the east coast main line more bi-mode trains.

Lord Ahmad of Wimbledon: I will certainly come back to the noble Lord on his point about the east coast main line, but on his earlier point about Sheffield, I reiterate that the Government are minded to accept David Higgins's recommendation that HS2 should serve Sheffield city centre. We have also had several meetings about this with the noble Lord, Lord Kerslake, who I do not think is in his place, and we share the noble Lord's opinion about the importance of providing that city link; the Government are certainly minded to do so.

Lord Woolmer of Leeds (Lab): My Lords, does the Minister recognise that in Leeds and West Yorkshire, today's announcements will be very warmly welcomed? I look wryly at the comparison of spending on the NHS in a year with a project that will take 17 years before it is completed. Seventeen years is an awful long time, so while I welcome the strategic decision—many of the underlying details will be very beneficial in Leeds—can the Minister give the House two assurances? First, is funding of HS2 to Leeds robust and clearly thought through, and will it support the delivery of the strategy? Secondly, will the east-west connection, which we called HS3 at one time, not be held up until HS2 is completed, which is in 2033? Heaven forbid that there is no major improvement across the Pennines before 17 years is up.

Lord Ahmad of Wimbledon: First, on the noble Lord's second point, let me assure him that discussions are already under way with Transport for the North and the appropriate councils on HS3. The importance of today's decision is that it accommodates the fact that HS3 will be built. It is not an option, it is a question of ensuring that as HS2 is built, it makes appropriate accommodations. The cost remains at £55 billion for HS2 as a project as a whole, which the Government are keeping under close guard and watch to ensure delivery of the programme according not just to budget but to the timelines that have been established.

Lord Wallace of Tankerness (LD): My Lords, it will be very welcome to reduce journey times from London to both Glasgow and Edinburgh as a result of HS2 linking with the present network. Can the Minister clarify government policy on the extension of HS2 to Scotland and the likely timescale for any such development?

Lord Ahmad of Wimbledon: I cannot give any further detail of plans—I am sure the noble and learned Lord is aware of that fact—but linking up Scotland in the most efficient way possible as part of a united United Kingdom is, I think, an important priority for us all.

Lord Beecham (Lab): My Lords, I declare an interest as a citizen of Newcastle and a member of its city council but, as I am approaching my 72nd birthday, I suspect it will be a posthumous interest in the HS2 programme. As we have heard, it will be 17 years before the network reaches Sheffield—we hope, the city centre. Is there any indication of how long it will take before the gap between Sheffield or Leeds and Newcastle will be met? It seems to me likely to be another 17 years. My children may be facing a posthumous interest in this matter at this rate.

Lord Ahmad of Wimbledon: I shall certainly endeavour to write to the noble Lord before his 72nd birthday, telling him what that timeline is—but in doing so may I also wish him a long and healthy life?

Wales Bill

Committee (3rd Day)

4.05 pm

Relevant Document: 5th Report from the Delegated Powers Committee

Schedule 1: New Schedule 7A to the Government of Wales Act 2006

Amendment 52

Moved by ***Lord Griffiths of Burry Port***

52: Schedule 1, page 54, line 3, at end insert—

"Exception

In the case of a betting premises licence under the Gambling Act 2005, other than one in respect of a track, the number of gaming machines authorised for which the maximum charge for use is more than £10 (or whether such machines are authorised)."

Lord Griffiths of Burry Port (Lab): My Lords, I have listened to so many speeches and suggestions on this Bill. Mine is a tiny contribution to that debate. I make even my tiny contribution with some perplexity; I find it difficult to consider, or to hear being considered, proposals that will have considerable costing elements to them while we are being told that a fiscal framework

[Lord Griffiths of Burry Port]
is being debated somewhere else. That makes the nature of the contributions that we make a little recondite. Nevertheless, we carry on.

I have read a few Bills since I have been a Member of your Lordships' House and this one seems so extraordinary—a bit of a dog's breakfast—with all these reserved powers, enumerated one after the other, 10 after 10 and almost 100 after 100, which makes us wonder whether there is any coherence at all at the heart of this Bill. Others will debate significant and large issues before we exhaust the consideration of these reserved powers. Mine is a very small issue, as I say, yet it will test the good will of the Government and allow us to test whether the Government are prepared to consider these issues at all. If they cannot for the issue that I shall present in a moment, I cannot see how they will begin to deal with some of the bigger things under discussion.

We recognise that gambling is a prevalent aspect of contemporary culture and takes many forms. There is no suggestion in this humble amendment of ours that we should take powers to the devolved Government stretching across all the complex picture that represents the gambling industry in this land of ours. But when I look at the Gambling Act 2005 to identify the major thrust that it seeks to put out by way of policy, I see that there are three points—and they are quickly enumerated. First, it mentions,

"preventing gambling from being a source of crime or disorder".

There is no problem there. Secondly, it talks about,

"ensuring that gambling is conducted in a fair and open way".

Again, surely that is not problematical for any of us. But it is the third,

"protecting children … from being harmed or exploited by gambling",

that concerns me here.

The amendment relates to gaming machines. Of all the gambling opportunities available to people, threatening them and tempting them, gaming machines are the most obviously accessible forms of gambling and might be the most obvious temptation for children. That is where children might be most vulnerable; when they go into a premises either licensed or licensed for a different activity, but having machines within it, there might be a danger that we should seek to mitigate as far as possible.

The amendment does not seek even to control gaming machines of all descriptions. Some noble Lords will remember, from the debate in 2005, that there are four categories of gaming machine, ranging in financial levels at which gambling can take place from A to D. Here, we are referring to those where the maximum charge for use is more than £10, which is perhaps more than most children have as pocket money. However, we are not only concerned about children; we just cite them as being likely to be in the presence of these alluring machines as much as adults are. Why should this aspect of gambling not be controlled by the devolved Government of Wales, since it is so easy to identify where they are, recognising that the application for licensing premises to include and use them is a fairly mechanistic affair? There is nothing complicated here. Nor would this complicate any issues that would imperil a coherent policy across the United Kingdom. Scotland has such powers already; why not Wales?

For this humble part of the gambling industry, some sort of oversight might be devolved to the Welsh Government. In 2012, the Gambling Commission gave a lot of statistics about gambling, including some that one can extract as applying to Wales. It seems that billions of pounds are spent on gambling in Wales every year. I say "it seems" because there is no real, empirical evidence that we can tie down convincingly in a debate such as this. The Welsh Government have felt that there were other priorities than conducting statistical research in this area. However, anecdotally—and in my experience of visiting a number of communities across Wales where I hear people talk—this is a real social problem. Consequently, it seems logical to invoke the principal of subsidiarity so that control of this aspect of gambling should be as near to where the gambling takes place as one can conceive of. It is not rocket science: this is a fairly easy conclusion to reach. The problem is whether Her Majesty's Government will be prepared to single this aspect out from the welter of other gambling activities that take place in order to allow it to be controlled elsewhere than here at Westminster.

I hope that the gentle way in which I have moved this amendment will be heard. Gentle though it is, it may be a test of the Government's readiness to take into consideration activities which are part of the prevailing culture in Wales, where ordinary people involved in ordinary activity are sometimes easily taken out of their depth and run into danger. I beg to move.

Lord Howarth of Newport (Lab): I support the amendment and, indeed, only wish that my noble friends had gone further and tabled an amendment that would have devolved legislative powers and policy-making on gambling in its entirety to Wales. Gambling is a social and moral issue and of its essence should be determined by the local community which is affected. Will the Minister say why it is the Government's view that they must hug gaming machines to their bosom? Why are they not willing to allow the people of Wales their will, as expressed by their own Assembly in Cardiff, to go to perdition or to grace in the way of their own choosing?

4.15 pm

Baroness Finlay of Llandaff (CB): My Lords, I would like to ask the Minister a couple of questions in relation to this amendment because it is a good example of an area which remains a reserved power but may be subject to different types of legislation in the future in either direction. The Government of the day might decide to loosen regulations around gaming to create a Las Vegas-type area somewhere in the UK, or they might find that the evidence on gaming, and the harm it causes society, is so great that they clamp down on it. What is the alert mechanism to update the Bill if any legislation or a statutory instrument is changed in relation to a reserved matter, this issue being an example of that? How will that happen? What will be the mechanism for updating the reserved powers? How will the Assembly be consulted if it feels strongly that it wants to go in a completely different direction, or will this be down just to the powers of persuasion of Ministers, particularly the Secretary of State for Wales?

Baroness Morgan of Ely (Lab): My Lords, I thank my noble friend Lord Griffiths for introducing this very important amendment. As he outlined, fixed-odds betting terminals are devices normally found across the country in betting shops that allow players to bet on the outcome of various games and events with fixed odds. I must admit that I am not much of an expert in this field. In fact, the nearest I have come to some serious betting is the odd game of bingo and the 2p slot machines on Barry Island. While we have to recognise that betting probably goes back to the age of the ark, we should be aware that the scale—the ability to lose serious money very quickly—has changed exponentially in recent years.

I make it quite clear that we are under no circumstances here advocating the wholesale devolution of gambling regulation to Wales. With the advent of internet gambling, it is extremely difficult to regulate gambling even at the UK level, let alone at the Welsh level. However, a particular aspect of gambling is causing social havoc in families and leading to ill health. Fixed-odds betting terminals allow players to stake up to £100 every 20 seconds on touch-screen machines—a significantly higher stake than the £2 maximum bet on a fruit machine. Many, often vulnerable, people are attracted by the prospect of high payouts of up to £500. Evidence suggests that these machines are highly addictive, causing real and lasting damage to gamblers. They have become a huge problem in communities that are often struggling to cope with underinvestment and high unemployment, exacerbating problem gambling more than any other form of betting. There are more than 1,500 fixed-odds betting terminals in Wales today, and more than £1.6 billion is staked annually. That is £1.6 billion in Wales alone.

I am ashamed to say that I believe that deregulating this industry was one of the worst things that Labour did while in government. Betting is creating vast social problems and health problems in our communities, but it is not the UK Government who are having to wipe up the mess; it is the Welsh Government. This amendment would confer legislative competence over fixed-odds betting terminals on the Welsh Assembly—a matter which is already devolved to Scotland. Therefore, once again, I ask the Minister: if it is good enough for Scotland, why is it not good enough for Wales? Devolving the regulations would allow the Welsh Government to introduce appropriate restrictions on content and operation and would shape responsible gambling initiatives.

In 2014, the Assembly adopted a Back-Bench Motion drawing attention to the social problems arising from the growth of gambling in Wales. It is important to note that this was supported by all four political parties then represented in the Assembly. By ensuring that betting shops remain the safest place to gamble and that people enjoy their leisure experience without betting more than they can afford to lose, the Welsh Government could take action to alleviate the negative consequences of gambling addiction, such as insurmountable debt and poor health, which at present have a detrimental knock-on effect on the Welsh budget. I ask the Minister to consider very seriously this extremely grave problem in some of our most deprived communities.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, I thank the noble Lords who have participated in the debate on these amendments. In particular, I thank the noble Lord, Lord Griffiths of Burry Port, and the noble Baroness, Lady Morgan of Ely.

With these amendments, the noble Lord and the noble Baroness are seeking to devolve legislative and executive competence to the Assembly and Welsh Ministers to regulate the number of high-stakes gaming machines authorised by new betting premises licensed in Wales. Betting, gaming and lotteries is currently not devolved in Wales and is reserved under the new reserved powers model provided for by the Bill.

As has just been demonstrated, Westminster, too, is concerned about some of the addiction and social harm issues that the noble Baroness has referred to. Until recently, this matter was also wholly reserved in Scotland, but earlier this year the Scotland Act 2016 devolved certain powers in relation to high-stakes gaming machines in new licensed betting premises. Apart from that, however, the reservation ensures a coherent framework for gambling across Great Britain, as well as a single regulatory environment covered by the Gambling Commission.

The Silk commission made no recommendations on the devolution of betting, gaming and lotteries, so the subject was not considered by the all-party St David's Day process. However, in the St David's Day agreement the Government committed to consider whether non-fiscal Smith commission proposals should be implemented for Wales. One such proposal, which we implemented for Scotland in the Scotland Act, would devolve certain powers in relation to so-called fixed-odds betting terminals. I understand the strength of feeling expressed by noble Lords this afternoon about the proliferation of high-stakes gaming machines in Wales. I also thank the noble Baroness for her candour about the last Labour Government in relation to this issue. It was very candid and courageous to state that.

The noble Lord, Lord Howarth, asked why the Government did not bring this measure forward. The answer is simply that it was not put forward by the all-party Silk commission and therefore was not picked up by the all-party St David's Day process.

The noble Baroness, Lady Finlay, asked about the alert mechanism in the Bill for updating reserved powers. As with all reservations, the list of reservations can be modified by primary legislation made by Parliament or by order under Section 109 of the Government of Wales Act, where the order is subject to affirmative resolution in both Houses of Parliament and the Assembly. With regard to any alteration of reservations, we would of course seek the agreement of the Assembly under the process put forward in the Bill and under the convention that is in place.

Due to the strength of feeling that I have picked up in the House, I should like to look at this matter again, to reflect on the points made by noble Lords and to bring it back on Report. On that basis, I ask the noble Lord to withdraw his amendment.

Lord Griffiths of Burry Port: My Lords, such graciousness! How happy I am that the first amendment that I have tabled has met a response of that kind. Therefore, I am pleased to beg leave to withdraw the amendment in favour of the further discussion that we are now promised.

Amendment 52 withdrawn.

Amendment 52A

Moved by ***Lord Bourne of Aberystwyth***

52A: Schedule 1, page 55, line 11, at end insert—

"Interpretation

"Business association" has the same meaning as in Section C1."

Amendment 52A agreed.

Amendment 53

Moved by ***Baroness Morgan of Ely***

53: Schedule 1, page 56, line 16, at end insert—

"Section C5A

C5A Sea fishing

69A_ Regulation of sea fishing outside the Welsh zone (except in relation to Welsh fishing boats).

Interpretation

"Welsh fishing boat" means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Wales as the port to which the vessel is to be treated as belonging."

Baroness Morgan of Ely: My Lords, this amendment, which concerns sea fishing, is a little bit complicated, so I hope that noble Lords will bear with me.

The Welsh Government already have executive competence for fisheries functions in the Welsh zone. In other words, it is now up to Welsh Ministers to determine what happens in relation to fishing anywhere within the 12-mile zone of Wales. This power is now extended to allow Welsh Government Ministers to have executive powers over Welsh fishing boats, whether they are in Welsh waters or UK waters. Take a Welsh fishing boat that is fishing off the Norfolk coast, which is within British fishery limits and would currently be subject to the licensing rules set out by UK Ministers. In future, when this power is transferred, it will be up to Welsh Ministers, by their rules, to license those Welsh fishing boats, whether they are in Welsh waters or in UK waters—obviously excluding Scottish waters.

That is all very nice and dandy for Welsh Government Ministers. However, there will be no oversight of Welsh Ministers because the Assembly—not the Government but the Assembly Members, like me—would not have any say on or sight of what is happening because the Assembly lacks the legislative competence to regulate fishing activities beyond the area of the Welsh zone. These are currently UK Minister powers, and so we come back to the issue of the alignment between legislative and executive functions.

This will become increasingly more important with Brexit on the horizon, because fishing is, of course, an area of devolved competence. The executive powers that are being transferred are the powers to require Welsh fishing boats to have a licence before they can fish outside the Welsh zone. For example, the licence could specify that you cannot fish for certain types of fish or that you must use approved fishing methods. At the moment, these fall under the EU common fisheries policy. Scotland currently has the legislative competence in relation to both the Scottish zone and Scottish fishing boats outside that area. The proposed amendment seeks simply to bring the Welsh Assembly's legislative competence in line with the Scottish legislative competence and help align the Assembly's legislative competence with Welsh Ministers' executive fisheries functions. I hope that that is clear. I beg to move.

Lord Elis-Thomas (Non-Afl): My Lords, I support this amendment from my noble friend Lady Morgan. It is in line with a more general issue that I raised earlier about the relationship between the executive competence of Welsh Ministers and the parallel competence, where it currently applies, of UK Ministers, and the competence of the Assembly itself and its ability to legislate and scrutinise. This is a fundamental issue and flaw in the Bill that we are now discussing. It is particularly reprehensible in the case of fishing.

I had the proud duty of trying to represent the northern part of Cardigan Bay. This will be well known to the Minister because he was based in the middle of Cardigan Bay for a very long time and, as far as I know, may still have a bolthole somewhere in the region—I will not pursue that in this debate. He also had a role further south-west in Milford Haven and so will know well the nature of the Welsh fishing industry and how it has been denuded over the years as a result of the reduction in the number of vessels and, more recently, the activity undertaken by the Welsh fisheries association with strong support from the Welsh Government in restoring and developing inshore fishing in order to ensure that we have product to promote Welsh fisheries as part of the Welsh food and drink initiative, which is currently the flagship policy of the Welsh Government. Therefore, I ask the Minister to take a further look at this.

It is essential, in my view, that we should be able to have direct oversight of our natural resources and not be in a situation where the oversight of the natural resources of Wales—in this case, the increasingly important marine resources—is located elsewhere.

4.30 pm

Lord Deben (Con): As the longest serving Fisheries Minister—the longest serving in history, I think—and with my Welsh connections, I warn the Minister that it would be a good idea to do as is suggested by the amendment but also to be extremely careful. The fisheries issue is going to be one of the most difficult that we face, because the fishing industry has been misled into believing that if you remove yourself from the common fisheries policy you are somehow perfectly free to do what you like. In fact, almost every fishery that we have is a common fishery with one other European nation, if not more. We are therefore going to have to deal with these things on a common fisheries policy basis anyway. It is thus crucial that our structure internally provides no possibility of any misunderstanding. I rather like this amendment because it removes what would otherwise be a misunderstanding.

I hope that the Minister will understand and perhaps mention to his fellow Ministers that this is a long and hard row to hoe, if you can hoe rows in the sea. We will have to learn that we still have to live with each other even outside the European Union. Whatever you think about the policy, it is going to have to be common because there will be no other way of doing it. Therefore, getting it right internally will be crucial if we are to get it right externally, assuming that we continue with this disastrous policy.

Lord Crickhowell (Con): My Lords, I plead total ignorance of the licensing regime. Are we satisfied that whoever is in charge of it, the fishing boats are actually going to be Welsh? I ask only because I seem to recall that long ago, when I was the Member of Parliament for Pembroke, Spanish fishing boats registered in the port of Milford Haven and somehow avoided the licensing regime. The licensing regime may now have dealt with that effectively but I should like confirmation that that is so.

Lord Elystan-Morgan (CB): I support the amendment for the reasons that have been placed before the House. I raise one question that is common to this and to all the other matters involving the reserved elements of the Bill. I ask the Minister not so much as a Minster of the Crown but also as a distinguished professor of law who understands these issues well. Harken back to the undertaking that was given solemnly, and I have no doubt sincerely, by the then Prime Minister on the day after the Scottish referendum result when he said that Wales was at the very heart of devolution. To my mind, those were not intended to be empty words of adulation but to be an undertaking solemnly given to the people of Wales. I take them in that spirit. My question applies to this and to all the matters reserved that we regard as being trivial and unworthy of reservation. It is this: how does being at the heart of devolution square first with the principle of home rule, secondly with the concept that every decision should be taken at as local a level as possible and thirdly with a healthy interpretation of the concept of devolution? Those are not three different matters at all. At some point they seem to coalesce.

Ships in olden days took their position at noon, but nowadays with sophisticated technology that is no longer necessary. I would like to know what the position is at noon, as it were, in relation to Welsh devolution. I put that to the Minister with very great respect knowing that he will react reasonably to it.

Lord Bourne of Aberystwyth: My Lords, I thank all noble Lords who have participated in the debate on Amendment 53, in particular the noble Baroness, Lady Morgan of Ely, who moved it. It seeks to reserve sea fishing outside the Welsh zone but makes an exception to that reservation for Welsh fishing boats. The notional effect of the amendment would be that the Assembly would have legislative competence for Welsh vessels outside the Welsh zone. However, in practical terms the amendment would have no effect because it seeks to reserve a power which the Assembly could not have. Under the Government of Wales Act 2006 and under this Bill, the Assembly's legislative competence extends to the landmass of Wales and the sea adjacent to Wales out as far as the seaward boundary of the territorial sea; that is, 12 nautical miles, so as drafted it could have no effect. The Assembly has no legislative competence beyond that 12 miles—

Lord Elis-Thomas: The Minister will remember of course that before 2006 Wales did not even have a sea.

Lord Bourne of Aberystwyth: My Lords, I am going on to tackle the point made by the noble Lord. The Assembly has no legislative competence as things stand although Welsh Ministers can exercise executive functions in that part of the Welsh zone beyond 12 nautical miles in so far as these have been conferred by United Kingdom enactments.

I take the points that have been made in relation to fishing, but as drafted we would need to look at the amendment. It proposes something fairly fundamental to the extent that it would vary the geographic extent of the Assembly's competence. I would want to go away and have a look at that to see how it could be refined, if that is possible. This is not something that was considered by Silk or by the St David's Day agreement and, as drafted, the amendment goes well beyond the issue of fishing licences.

My noble friend Lord Deben referred to some of the ramifications in relation to fishing policy as it exists at the moment through Europe and as it will exist in the future outside of Europe, but that is obviously still something to be refined. I want to reflect on that as well.

My noble friend Lord Crickhowell asked about the licensing of fishing vessels and the position in his former constituency of Pembroke—Preseli Pembrokeshire as it now is. I can well remember as an elected representative in the Assembly for that area going at about four o'clock in the morning to the fish market at Milford Haven to speak to electors. All the electors there were Spanish electors, although they did have vehicles that were licensed in Wales as part of the United Kingdom. I think that that remains the position at the moment, but how it will pan out post-Brexit I do not know.

If I may I will take the amendment away and look at it, but based on the fact that there are far more ramifications to this than just fishing, and even in relation to fishing there are of course considerable ramifications—beyond 12 miles it is an economic zone for the state of the United Kingdom and we would exercise powers in relation to that for the whole country. On the points made by the noble Lord, Lord Elystan-Morgan, I thank him for his always gentle and complimentary approach which has me doing things I would probably not normally agree to; I recognise the dangers. I hope that we have looked at things in relation to this legislation on a pragmatic basis because that is the way to approach it. Any general rule is going to have to give way to exceptions because as we can see there are always difficulties in these things. Sometimes they look much more straightforward than they are. My door is always open and we have set up meetings with many noble Lords. I am happy to do that, but as I say our approach to the legislation is a good British pragmatic one. I will look without prejudice at what I think is a much more difficult area than

[Lord Bourne of Aberystwyth]
perhaps it looks on the face of it. With that, I hope that the noble Baroness will feel able to withdraw her amendment.

Baroness Morgan of Ely: I thank the Minister. His reply reminded me of the time when I was an MEP and I went to meet the head of the sea fishermen's association of Wales, Mr Gonzalez. Times have changed; we will see what happens.

I am delighted that the Minister is happy to look at this again. We would be happy to redraft the amendment. I do not quite understand why, if Welsh Government Ministers have this competence, the Welsh Assembly cannot be allowed it. Perhaps I need to go away and think about it. We come back to the issue of aligning legislative and Executive competence. If the noble Lord could look at that, I will of course withdraw my amendment.

Amendment 53 withdrawn.

Amendment 53A

Moved by ***Lord Bourne of Aberystwyth***

53A: Schedule 1, page 56, line 40, at end insert—

"Agricultural and horticultural produce, animals and animal products, seeds, animal feeding stuffs, fertilisers and pesticides (including anything treated as if it were a pesticide by virtue of an enactment)."

Amendment 53A agreed.

Amendment 53B not moved.

Amendment 53C

Moved by ***Lord Bourne of Aberystwyth***

53C: Schedule 1, page 57, line 19, leave out "fish and fish products" and insert "animals and animal products"

Amendment 53C agreed.

Amendment 53D

Moved by ***Lord Bourne of Aberystwyth***

53D: Schedule 1, page 59, line 7, leave out from "The" to end of line 8 and insert "Export Credits Guarantee Department."

Lord Bourne of Aberystwyth: My Lords, in this group there are government amendments and non-government amendments. To try to ensure the proposers of the non-government amendments have an adequate opportunity to present their cases, I will try to extrapolate the two, although I appreciate that for Amendment 65 and government Amendment 65A it might be a little difficult as they are very much in the same territory. That apart, if I stray into non-government amendments, I would be grateful if noble Lords could gently tell me.

Government Amendment 53D modifies Section C14 of new Schedule 7A to set a more accurate devolution boundary relating to the Export Credits Guarantee Department, the ECGD. The department, acting as UK Export Finance, is the United Kingdom's official export credit agency supporting United Kingdom exporters. Amendment 53D makes the ECGD a particular authority, thereby prohibiting the Assembly from legislating about it in any way. It replaces the existing wording, "subject-matter of" reservation, removing any uncertainty about how that reservation relates to the devolved matter of economic development, including providing advice and assistance to Welsh businesses. Its effect, therefore, is to allow the ECGD to continue to offer support, which we would all welcome.

On government Amendment 65A, the Government recognise that the Assembly has legislative competence over council tax reduction schemes. We accept that council tax reduction schemes are an integral part of the local government finance system, which is devolved. To that end, the Government have tabled Amendment 65A to remove the words,

"or liabilities for local taxes",

from sub-paragraph (c) of the "social security schemes" definition under Section F1 of new Schedule 7A. This would remove any reference to local council tax and have the same effect as the amendment proposed by the noble Baroness, Lady Morgan.

We are content to devolve legislative competence to the Assembly as it is now an integral part of local government finance. I trust the amendment will satisfy the noble Baroness, but I look forward to hearing from her on that point.

Lord Howarth of Newport (Lab): It is a good thing that the Government have decided to devolve powers relating to council tax benefit, but are they also proposing to devolve the financial resources necessary to enable the National Assembly and, if the National Assembly chooses to do so, local authorities in Wales to exercise these powers usefully and constructively?

4.45 pm

Lord Bourne of Aberystwyth: My Lords, the noble Lord will know that the financial arrangements are those of the Barnett block, which has existed for some time. That is currently subject to a floor and being considered in terms of fiscal arrangements. Obviously, it would not be an integral part of any devolved system to allow a devolved Government to bring forward laws and then say that the system should be funded by the centre; it has to be funded by the package that exists, whatever that may be.

Government Amendment 67B makes an addition to the list of matters which are treated as exceptions to the reservation for prisons and offender management. As drafted, Section L11 of new Schedule 7A treats the provision of healthcare, social care and education and training as exceptions to the general reservation. On consideration, the Government have come to the view that libraries should also be an exception to the reservation so that the Assembly has legislative competence over libraries in prisons in Wales. Welsh Ministers already have the power to make rules in relation to prison libraries, and libraries more generally are a devolved matter, so that clearly makes sense.

I am pleased to propose Amendment 67D, which seeks to address concerns expressed by the Welsh Government that the present wording in Section L12 of new Schedule 7A would have the effect of reserving some matters which are currently within the Assembly's competence. That present competence is by virtue of the conferral of the protection and well-being of children,

other than in relation to family law and proceedings, within the devolved subject of social welfare. The concern is that the wording of the reservation would arguably include, and so reserve, matters such as local authorities' duty to investigate under Section 47 of the Children Act 1989 and applications for secure accommodation orders made by local authorities. This was not the Government's intention. The amendment therefore modifies the reservation to resolve the concerns and provide a clearer devolution boundary. It does so by focusing on proceedings and orders made under Parts 4 and 5 of the Children Act 1989 rather than "the subject-matter of" that Act.

On Amendments 119B and 119K, the Wales Act 2014 imposed a requirement on the Welsh Government to share land transaction information with HMRC. This information is vital for HMRC's compliance work, for policy work across government departments and for the Valuation Office Agency's work. The Welsh Government have since established the Welsh Revenue Authority, which will administer the taxes devolved to Wales by the Wales Act 2014, including land transaction tax, and will be the body with which HMRC needs to share land transaction information. New legal gateways are therefore required to share information in both directions between HMRC and the WRA. The amendments do not represent any change in policy but enable the existing policy to be implemented, and are fully supported by the Welsh Government. On that basis, I commend the government amendments in this group.

Baroness Randerson (LD): My Lords, I shall speak to Amendments 66A, 67A and 67C in my name. Amendment 66A refers to job searches and careers. Paragraph 141 of the new schedule relates to "job search and support" and,

"arrangements for assisting persons to select, train for, obtain and retain employment, and to obtain suitable employees".

Careers services are an exception to this reservation, which are devolved to the Welsh Assembly.

The Delegated Powers and Regulatory Reform Committee of this House queried what this means and how it would work in practice. It asked:

"Does this mean that the Assembly will have power to legislate as regards the provision of a service to assist persons in choosing a career, but that service could not include helping persons find a job in their chosen career?".

This is clearly nonsensical. The Minister is undoubtedly well aware of this criticism in the committee's report, so I look forward to his clarification, but I point out to everyone that there has been a long-standing issue of lack of connectivity and co-operation between the Welsh Government's services and the UK Government's services on job search and benefits, and a confused situation is not in the interests of people searching for careers or jobs.

Amendment 67A leaves out reservation 161 on the safety of sports grounds. It seems that the safety of sports grounds is currently within the Assembly's competence, so this is the Government reducing the competence of the Assembly in the Bill. Why are the Government doing this? What is the key strategic reason that the Government feel ensures that they have to keep the safety of sports grounds in Wales within their control? After all, sports issues are devolved and have been since 1999. Through the Sports Council, through local authorities and through lottery funding, over which the Welsh Government have considerable influence via the Sports Council for Wales, the Assembly and the Welsh Government can fund sports facilities, right up to the level of the Principality Stadium. However, they are apparently not now considered capable of dealing with safety at those grounds. Once again, there is a lack of thinking through here—after all, who are you co-operating with in dealing with safety issues? Obviously, with the police, but also with the local authority on issues such as road closures and other facilities for crowds at sports grounds.

Finally, Amendment 67C relates to adoption. Reservation 175 relates to parenthood, parental responsibility, child arrangements and adoption. There is a lack of clarity about what this means generally, but I am specifically concerned about adoption. This is clearly a reduction in the Assembly's current legislative competence. Other than intercountry adoption, adoption services are currently entirely devolved. This includes the recruitment of adopters, their training, matching and post-adoption support. As written, the only function that the Assembly would retain on adoption would be in relation to adoption agencies. Why have the Government decided to reduce the Assembly's powers in this field? It is a field where it is essential that the various agencies work really closely together and that there is a seamless service for adopted children and those who are adopting. It is important that those services—social services, local authorities, education and the health service—are overwhelmingly part of the devolved picture. Adoption goes along with that very clearly.

Lord Howarth of Newport: My Lords, this group of amendments gives the Minister the opportunity, if he chooses to take it, to explain to the Committee what consistent principles have animated the choice of reservations that the Government have made in drawing up this legislation. We have a ragbag of reservations—as has been noted in previous debates, some 200 different reservations across an extraordinarily diverse range of policy areas—and in this group of amendments we have dealt with a miscellany of topics, including council tax benefit, careers services, sports grounds, libraries and adoption. It may be difficult to achieve consistency of principle in considering such a range of topics.

As I mentioned in an earlier debate, the Welsh Affairs Select Committee recommended that as the Government came to draw up this legislation providing for further devolution to Wales and introduced the reserved powers model, guidance should be issued to Whitehall departments as to the principles they should adopt in deciding what powers they wished to reserve to the centre—to the Government of the United Kingdom—and what questions they should ask themselves as they were judging these matters. I know that the Minister always seeks to achieve the best devolution settlement that he can for Wales. He cares about good government in Wales. He is a good representative and champion of the people of Wales and he wishes to achieve a devolution settlement that is coherent, commands wide acceptance and will endure. But it is difficult to achieve that if there is, apparently, no basis of principle for the reservation of powers.

[Lord Howarth of Newport]

It would be helpful if the Minister could tell us something about the process that has been adopted by the Government, partly in consultation with the Government of Wales—but I am thinking particularly of the process of consultation within Whitehall—as they came to decide that these 200 or so different powers should be reserved. Why have they chosen them? Is there any consistent principle lying behind that choice? If not, why not? Of course, the pressures of pragmatism are always very strong and one respects and understands that, but it may also be that there has been, as has also been said before in our debates, something of a dog in the manger attitude at work—that departments have not thought through with any thoroughness or care what is appropriate to devolve and what is appropriate to reserve but rather have said, "I think we'll hang on to this"; essentially, "What we have we hold". It would be a shame if we were driven to conclude that that was the basis on which the reservations have been chosen by the Government.

I hope the Minister can tell us about the process and encourage us to think that this has been done on a considered and principled basis and, for that reason, that these are decisions that should be respected and will stand the test of time for good, practical reasons.

Lord Hain (Lab): My Lords, in supporting the persuasive case made by the noble Baroness, Lady Randerson, I want to press the Minister on the question of job searches, which are automatically part of the careers service—careers being devolved, as has been mentioned. Has the Bill been drafted with a view to DWP questions, which of course are reserved? Jobcentres, in managing benefits, are also concerned with getting people into work and therefore job searching and providing skills and so on. Are the Government looking at this matter from a DWP and therefore a reserved perspective, but not taking account of the fact that careers are devolved and job searches are by definition part of a supportive, active, flexible careers service?

Perhaps the Minister could clarify this when he responds. If the DWP dimension is the reason that this is not being devolved in the way that the noble Baroness, Lady Randerson, has argued should be the case, will he look at it again to see whether it is possible to reconfigure this part of the Bill?

Baroness Morgan of Ely: My Lords, I will follow up on my noble friend Lord Howarth's point on the principles that guided the determination of what should be reserved. To be fair to the Minister, we asked this question before but it was past 10.30 pm so I will give him another opportunity to state on what basis those principles were set—why have they been determined in this way? I underline the point made by many other noble Lords: we know the Minister to be a friend of Wales and that he is doing his very best for Wales. However, it would be interesting to understand why and on what grounds the other departments are making their case on the basis of reserving quite so many powers.

5 pm

I express my thanks to the Minister for moving on the important issue of allowing the Welsh Government, if they so choose, to continue to give measures of tax relief to some of the poorest and most vulnerable members of society in Wales. Responsibility for council tax benefits was transferred to the Welsh Government in April 2013. Unfortunately, when the Tory-Lib Dem Government passed that responsibility over to the Welsh Government, they cut the amount they gave to Wales to fund the scheme by £22 million. Thankfully the Welsh Government, in the face of cuts in the welfare reform Bill, decided that the pain would be too much for the poorest in our society in Wales to bear and made up the difference from their own budget, which means that approximately 300,000 households in Wales continue to receive support in meeting their council tax liability and that, of these, around 220,000 will continue to pay no council tax at all. We are grateful that the Minister has conceded on this issue. We hope he will let his colleagues in government know that the need to increase support for some of the poorest members of society may be another area where they could learn lessons from the Welsh Government. I will have pleasure in not moving my Amendment 65 in favour of government Amendment 65A. I thank the Minister for that amendment.

I support Amendment 67C in relation to adoption. As the noble Baroness, Lady Randerson, suggested, the Bill would limit the National Assembly's competence simply to addressing issues relating to adoption agencies and their functions. That would mean that there is a rollback on current competence, which would inhibit a future Welsh Government's ability to bring forward legislation. For example, if the Welsh Government wanted to place the Wales Adoption Register on a statutory footing, they could not do so under the Bill. This amendment, relating to adoption, proposes an exception to the reservation which is wide enough to ensure that the National Assembly continues to retain its current level of competence in the field, specifically in respect of the changes to adoption delivered by the Social Services and Well-being (Wales) Act 2014. That pioneering legislation has led to the setting up of the National Adoption Service for Wales, a fantastic initiative which has reduced the average waiting time in Wales for adoption and offers more children the opportunity to become a part of a loving and supportive family. We would like those powers to continue.

I will also speak on the issue of sports grounds within this group of amendments. It is difficult to see how the safety of sports grounds must be controlled by London, or else the United Kingdom in some way will be imperilled. Why can we not abide by the principle that anything devolved to Scotland or Northern Ireland should also be devolved to Wales? Do the UK Government have the capacity or ability to monitor the safety of sports grounds from London? Do they have the contacts with the devolved fire service or the ambulance services? Again, this is an example of a rollback in Assembly power. I would also be interested to hear the Minister's response in relation to careers and job search.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords for speaking to the non-government amendments in this group and the noble Baroness, Lady Morgan of Ely, for saying that she will not move her amendment. The three remaining non-government amendments were spoken to by the noble Baroness, Lady Randerson, and I turn first to Amendment 66A.

The reservation at Section H3 of new Schedule 7A covers the provision of advice and support to assist people to select, train for, obtain and retain employment or to assist employers to recruit suitable employees, including by providing assistance for disabled persons. The intention behind this reservation is to reserve legislative competence in relation to all work-related programmes for which the Secretary of State is responsible under the Disabled Persons (Employment) Act 1944 and Section 2 of the Employment and Training Act 1973 —for example, Access to Work and Work Choice. Under the Disabled Persons (Employment) Act 1944, the Secretary of State may make arrangements to facilitate severely disabled people to obtain employment or work on their own account and to train for such employment. Welsh Ministers exercise concurrent executive functions in relation to certain sections of the Employment and Training Act 1973, and these are included in the Bill in the list of concurrent functions in Schedule 4.

The Government accept and recognise that the provision of careers information, advice and guidance is devolved and falls to Careers Wales, whereas employment is a reserved matter. The noble Lord, Lord Hain, is right in relation to that. In practical and operational terms, the DWP works with Careers Wales, which often has a presence in the DWP's jobcentres. I am very happy to look at improving co-operation between the two in the light of what the noble Baroness said so that services run in a smooth, dovetailed way and are not duplicated so there is no friction. I suspect there will inevitably be a degree of overlap, but this is perfectly understood on the ground.

On that basis, we cannot see any reason for the amendment tabled by the noble Baroness, but I will look at the issue of co-operation which she raised. There are two areas, one devolved, one reserved, coming together and inevitably there will be a degree of blurring. I am very keen that where this sort of thing happens we have protocols to ensure that there is co-operation, so I will look at that.

Baroness Randerson: Will the Minister look again at this situation? My amendment was based on the judgment of the Delegated Powers Committee of this House, which looked at it from the outside, being unfamiliar in general with the operation of the devolution settlement in Wales. It found it confusing. It is therefore worth looking at it again and testing it out against the practicalities of what happens in relation to the careers service.

Lord Bourne of Aberystwyth: My Lords, I hope I indicated that I want to be aware of what is happening on the ground. The information I have is that it is working successfully and has been doing so for quite some time. However, I will have a look at it and write to the noble Baroness and other noble Lords who participated in debates on the Bill.

Amendment 67A relates to two areas, one of which is devolved—sport and recreation. The other is not—safety at sports grounds. That is a health and safety issue and is currently reserved. Health and safety is an explicit exception to competence in the current settlement, and it is on that basis that we resist this amendment.

Safety at sports grounds is of paramount importance to the Government, and it is often determined at a European level. It is through the work of the Sports Grounds Safety Authority that we have robust and effective procedures in place across England and Wales to ensure that spectators are as safe and secure as possible when watching sport. The current arrangements, which were brought in following the stadium tragedies at Ibrox, Bradford and Hillsborough, ensure a consistent approach to sports ground safety across England and Wales to ensure the continued safety of spectators. I recently visited Bradford City's stadium, so I can speak of the work that was done there after that tragedy.

The multiagency approach overseen by the Sports Ground Safety Authority brings together all the emergency services—the police, ambulance and fire services—stadium management, local authorities and stewards. There have been no major incidents at sports stadia since the current arrangements were put in place some 27 years ago.

However, we face new threats to spectator safety in the form of terrorism, as seen in the tragic events a year ago at the Stade de France, and from new technology in the form of drones that can infiltrate stadia and expose spectators to danger. The Sports Grounds Safety Authority is providing support and guidance to sports grounds, clubs and other stakeholders and disseminating messages from the United Kingdom Football Policing Unit and National Counter Terrorism Security Office to help meet these new challenges. It is working to ensure that spectator safety remains a priority whatever the threat. It is on that basis that we are resisting this amendment.

Amendment 67C, in the name of the noble Baroness, Lady Randerson, relates to adoption. We cannot accept this amendment as drafted, as it would not only devolve the functions of adoption agencies—which are already within the competence of the Assembly and an exception to the family relationships and children reservation in Section L12 of new Schedule 7A—but have the effect of devolving the substantive law on adoption, which is not of course currently devolved. The reservation does no more than reflect the current competence of the Assembly, which does not include any of the substantive law on adoption. However, I am aware of concerns on the part of the Welsh Government, and the noble Baroness made a powerful case about the extent of this reservation. I would like to reflect on the issue further, although I can say that that will not include reconsideration of the reservation of adoption law as such, which is probably not something that the noble Baroness was seeking.

The noble Lord, Lord Howarth, asked about the basis for reservations. I have tried to cover this by saying that our approach has been pragmatic. It has obviously been influenced heavily by the Silk commission, of which I was part, and by the St David's Day agreement. Both of those were consensual processes, and I applaud all political parties for taking part in them. We then had a draft Bill, which I think by common accord has been improved. We now seek to improve the legislation further as it goes through this House, and I think noble Lords will acknowledge that on some of the issues that have been of concern

[Lord Bourne of Aberystwyth]
around the Chamber—teachers' pay, fixed-odds betting terminals and so on—we have moved to accommodate some of the feelings expressed. On that basis, I ask the noble Baroness, Lady Randerson, not to press her amendment, as I think the noble Baroness, Lady Morgan, has agreed not to do.

Amendment 53D agreed.

Amendment 54

Moved by ***Lord Wigley***

54: Schedule 1, page 59, leave out lines 9 to 27

Lord Wigley (PC): My Lords, Amendment 54 stands in my name and that of the noble Baroness, Lady Morgan of Ely. I will also speak to Amendments 103, 105 and 107A, which also stand in my name and are grouped with my lead amendment. Some of them also stand in the name of my noble friend Lord Elystan-Morgan and the noble Baroness, Lady Randerson. I am grateful to these and other colleagues for their support in this matter.

The Committee today has an opportunity to put right a great historic wrong which has been the subject of much misgiving and dismay for a period of half a century and more. It concerns the drowning of valleys in Wales, usually with the compulsory eviction of farmers from their homes and land, sometimes with the destruction of whole villages and rural communities. I hope that in this matter I am knocking on an open door.

It would be stupid to assert that we should never construct reservoirs to supply water for domestic or industrial purposes, or to control the flow of water in our rivers. Some such projects have of course been built to supply water to our own conurbations in Wales, while some have been to provide water for English cities such as Birmingham. Some have been undertaken with the acquiescence of local people and with reservoirs so located that they do not cause massive disruption. Some projects have been handled with sensitivity and common sense, sometimes the reservoirs have helped to avoid flooding in Wales, as well as down river in England, and adequate compensation has been provided to those affected. But there have been other projects which have, to say the least, been handled in a cack-handed manner and, at worst, have ridden roughshod over local communities and their interests.

The best known of these, with the greatest ill repute, was the Tryweryn valley case, about which I shall say more in a moment—but it was not the first. The drowning of Llanwddyn and the valley in which the village was located to create Llyn Efyrnwy, the Vyrnwy reservoir, in the 1880s was probably the first to generate rancour. The poet Cynan, later Archdruid of Wales, wrote Balaad Dyffryn Ceiriog, which sums up the deep feelings. With noble Lords' permission I shall quote just one verse in the original Welsh:

"Beth waeth fod dychryn dan fy ais?
Beth waeth fod deigryn ar fy ngrudd?
Wrth synfyfyrio ar y trais
A llwytho 'nodrefn? Daeth y dydd
I ffoi o flaen y llid a fydd.
Pwy ydym ni, i gadw stwr?
Ffarmwr neu ddau, a gof a chrydd,
Cleddwch ein cartref dan y dwr".

5.15 pm

That loosely translates—and please forgive the emotion which I still feel in these verses—as:

"What if tears blur my eyes?
What if anguish fills my heart?
Wondering where our future lies,
Loading our chattels in the cart;
To flee before the waters start.
Who are we to make a stand?
We few poor farmers, now depart,
So take our homes and drown our land".

A generation later in the 1950s, the saga moved on to the Tryweryn valley in the former county of Meirionnydd. We all know the story: the Corporation of Liverpool needed a new supply of industrial water. It considered locations in the north-west of England but recoiled in the face of strong local opposition. It identified the Tryweryn valley and determined that it would acquire it, drowning the village of Capel Celyn and numerous farms and homesteads. There was virtually unanimous opposition in Wales. When it came to Liverpool needing an Act of Parliament to facilitate its vandalism, it got its Bill through in another place despite every Welsh MP but one across the political spectrum opposing it. Westminster democracy worked for Liverpool that evening, but it did not work for Wales.

That, along with the strong feelings about language rights and economic marginalisation, led to a large cross-section of my generation resolving that never again would this be allowed to happen. If we could not trust Westminster to safeguard our communities, we had no choice but to seek our own Parliament that would defend our villages, our countryside, our heritage, our land and our way of life. Tryweryn was the catalyst that politicised many young people in Wales in the 1960s; indeed, it had a direct effect on the mobilising of the SNP in Scotland as well. The arrogant way in which Westminster treated the Tryweryn episode still has repercussions along the corridors of Westminster, and there are most assuredly lessons that can and must be learned from this sad episode. Little wonder that another Welsh poet of international renown, RS Thomas, writing in English, said:

"There are places in Wales I don't go;
Reservoirs, that are the subconscious
Of a people, troubled far down
With gravestones, chapels, villages, even".

It is right that the Committee should be aware of this background to my amendments today. Their purpose is twofold. Amendments 54 and 105 would put into the hands of the National Assembly the full power to authorise or reject any proposal for the construction of new reservoirs in Wales. If they are agreed, as I hope they will be, there will be no doubt that another Tryweryn could not occur. The authority over such far-reaching matters should be in the hands of Welsh elected representatives in our own Parliament, on our own soil.

Amendment 103 would bring into the control of the National Assembly all aspects of water management within Wales, and would make the assembly's authority over water resources to be coterminous with the borders of Wales. The Silk commission recommended aligning the boundary for legislative competence for water with

the national boundary. This would effectively end the regulation of the industry in Wales on a "wholly or "mainly" basis.

Clearly those responsible for the various aspects of water management and control will need to work in close co-operation with colleagues in England where there are cross-border flows. There is no earthly reason why such co-operation should not be happily handled. Water flows over the borders between many countries, but never has that been regarded as a fundamental reason why the borders of a country should be compromised in homage to some hydrographic principle that has never appeared in any constitutional handbook.

Amendment 107A is closely linked to the other amendments and is essential to the process of devolving control over our natural resources. It would remove any veto that the Secretary of State has over any Acts or measures of the National Assembly that might have a serious adverse impact on water quality or supply in England. Without this amendment, the others would be ineffective because the Secretary of State could intervene at any point he might choose.

I am glad that there are Members in the National Assembly and at Westminster, of all parties and of none, who have supported the proposals before the House today. I do not bring this forward as a party-political initiative. I am aware that the Secretary of State announced yesterday that he will be amending the Bill at a later stage to address some of the issues that I have outlined today, and to remove the UK Government's historic right to intervene on water-related issues. I very much welcome that announcement and look forward to reading the amendments he is proposing in more detail. If the Government's amendments meet my objectives and those of my noble friends, I am sure that there will be an unmitigated welcome across Wales and in all parties. A historic wrong will be put right, and that is something in which we should all rejoice. I beg to move.

Lord Crickhowell (Con): My Lords, during earlier discussion on the Bill, many criticisms were made of the lack of information available to us, and I am enormously grateful to my noble friend the Minister for the letters that he has sent us that deal with a great many of those issues, give us a lot of information and promise us more when it becomes available—preferably before Report.

I do not intend to speak about Amendment 105, although the noble Lord, Lord Wigley, spoke almost entirely about it—the one about reservoirs. I entirely understand the strength of feeling and his determination that what happened in the past should not happen again, and I am in no way critical of any proposal that he may put forward under that amendment.

However, Amendment 54 goes a good deal further. It talks about water. I speak with a good deal of experience because, for eight years, I was chairman of the National Rivers Authority and had to deal with some of the issues. We took great care about how we dealt with them. We had a Welsh region, but we were extremely careful to ensure that its work was carried out in the closest possible consultation and co-operation with the English regions that faced it across the frontier.

That was because, whatever the noble Lord may say, rivers do not exactly comply with national boundaries in a helpful way. The water that runs down them, the silt that it carries, the pollution that may be involved, and the fisheries and recreation are all affected, one way or another, by decisions taken on both sides of the water. Therefore, the closest co-operation and discussion is essential.

I refer first to the issue of drinking water and start with the river Severn, which, like the Wye, rises on Plynlimon. It does not originate in reservoirs; it is not, therefore, the subject of most of the points made by the noble Lord; but the water flows across the border and happens to provide a great deal of the drinking water for the midland region of England. Indeed, more than that, because the Severn-Trent River catchment area, an integrated system, carries the water on into eastern England and East Anglia, it is equally important for drinking water in those counties. Therefore, it is crucial that the closest possible co-operation happens on both sides of the border.

The other two main rivers with which we were—and I am—concerned are the Rivers Dee and Wye. The noble Lord, Lord Elis-Thomas, referred in an earlier debate as a keen fisherman to the importance of the Dee, which flows in and out of England, as does the Wye. But for quite considerable stretches they form the border. As I say, the management of that border is of crucial significance in terms of pollution control, flood defence, fisheries and recreation—and the way in which it is managed is of equal importance to those who live on either side of the border.

At an earlier stage in our discussions, we were told that a working party was discussing the exact way in which these matters are handled between the Welsh Assembly Government and the Government at Westminster. I am sure that that is the right way in which to proceed. I hope that by the time we get to Report we will know exactly what the outcome is and will be able to form a view as to whether they meet entirely my concerns and those of the noble Lord, Lord Wigley. But until we have those conclusions presented to us, the noble Lord's initial Amendment 54 makes no sense at all.

When I was chairman of the National Rivers Authority, I depended enormously on the wisdom of a great Welshman and a great scientist, Professor Ron Edwards. He chaired our Welsh region. Ron Edwards, whose departure and death many of us deeply lament, would have regarded the proposal in its present form with the powerful criticism of which only he was able, and which I could not match. He would regard it as an absurdity, because he would want to have seen in place the kind of arrangements that I hope are now being discussed and which we will know about by the time we get to Report. For that reason, I am opposed to Amendment 54 but full of sympathy for Amendment 105.

Lord Elystan-Morgan: I wholeheartedly support everything that has been said with such eloquence and conviction by my noble friend Lord Wigley. My feelings on what the Minister's attitude might be are summed up in one sentence by a Welsh poet of many centuries ago, Dafydd Nanmor, "Gobeithiaw a ddaw ydd wyf", "My hopes are for the future". I am confident that the Minister, who I know has shown himself to be extremely

[Lord Elystan-Morgan]
sensitive to the rights and wrongs of situations such as these in Wales, will achieve a solution here that will be just and practicable.

In so far as the past is concerned, I remember very vividly the Tryweryn issue, although it is now more than half a century ago. There was a great deal of humbug involved and less than total honesty in the case put forward by Liverpool, which said, "The people of Tryweryn are deeply religious—they go to church on Sundays but they will not allow their neighbours in England to have a cup of cold water. Fie upon them". Those are the exact words. But it was all bunkum; it was not drinking water but industrial water that Liverpool wanted, run down the River Dee and diverted from Queensferry to its own ends. It was sold to over 21 other authorities fringing Liverpool and they made millions upon millions out of it, because they chose to rape a Welsh valley. There is no other way of putting it. They stole the land of the living and desecrated the graves of the dead. I feel very strongly about this, even after half a century. I hope that I can forgive, but I doubt whether I can ever forget. However, that all now belongs to the past: Tryweryn must never happen again. I am confident that the Minister's decision will be such that Tryweryn will not happen again. This does not mean to say that those privileges—call them what you will—that are entrenched in favour of English cities will be changed at all; they will remain as previously.

5.30 pm

However, some consideration should be given to the fact that, in many a dry summer—and we do have such a phenomenon from time to time—there will be areas in Wales from which water is extracted which suffer drought and will see that invaluable asset running away from them without any compensation whatever. That has to be put right some day. Amendments 103 and 105 in my name make it impossible for another Tryweryn to take place. If it did, I have no doubt that it would be the finest recruiting sergeant Welsh independence ever had, but that is another matter altogether. This is a matter of justice and I am sure that the Minister bears very much in mind the feelings that still remain raw in Wales in relation to it. I am confident that what he does will be just, wise and proper.

Lord Thomas of Gresford (LD): My Lords, in the 1970s, I was engaged in the case made by the Birmingham corporation to drown the Dulas valley, near Llanidloes. I was led by Sir Tasker Watkins VC and by Lord Hooson but unfortunately they could not stay more than a day or two so the full force of the inquiry fell on me for some three weeks. I was, of course, representing the objectors in the local community. I shall never forget the community hall in Llanidloes packed every day by the people from that valley. To the English eye, the valley seemed deserted. Such was our concern about that that we commissioned a report from the University of Aberystwyth. Some noble Lords may remember its great pre-war study of Llanfihangel-yng-Ngwynfa which indicated the strength of the Welsh community in a rural area. The study produced for the Dulas inquiry established the strong community links within that valley: the chapel, the school, the pub—two pubs actually—and how the people there came together far more than you would find in some housing estates in the sort of area that I came from. It was a strong and living community and we put that case to the inspector at the inquiry.

Birmingham corporation was represented by Michael Mann, later Lord Justice Mann, a man of great integrity. He presented the case for the corporation along the lines that Birmingham needs the water, but the ultimate result was that the inspector held against his case and for the community. One memory which I carried away from that was of the service of thanksgiving in the chapel afterwards. The community came together and I was there. The minister gave a prayer and a sermon in which he described the inquiry and the finest moment in it. I hoped he might mention my final speech, but he did not. It was when Michael Mann finished, on behalf of the Birmingham corporation. He had presented his case so fairly—and the result was not known at that stage—that the 400 people in the Llanidloes community centre applauded him. It was a spine-tingling moment.

As a result of the inquiry you can drive through the Dulas valley today, enjoy its scenery and meet its people; it is not the dank lake that I referred to in my closing speech. It is still there and still alive. Also, Lord Cledwyn, who as Cledwyn Hughes was Secretary of State for Wales, made a pronouncement in Parliament that no other Welsh valley would be drowned for the purposes of supplying water to England. That was his commitment. Your Lordships can imagine the sort of emotions that were felt at that time, and to which the noble Lord, Lord Elystan-Morgan, has just referred. It was a wonderful inquiry to be involved in. I support these amendments with all the emotion shown by my noble friend but I bear in mind the commitment given by the Labour Government of the day that no Welsh valley would ever be drowned again. These amendments are essential: it must be for the Welsh Assembly—the Welsh Parliament as I hope it will be—to have the responsibility of determining the water resources in Wales.

The noble Lord, Lord Crickhowell, talked about the River Dee. I am familiar with that river: in July I rowed some 14 miles up it in a quad. On one side was England and on the other was Wales. The only part of England that was ever on the other side of the Dee is the Grosvenor estate. The Grosvenors came in in 1066 and captured that little parcel of Wales. There are very important flooding issues affecting both sides. If the rain falls this winter, very shortly you will not be able to see where the boundary is because the whole of the area around Holt, Farndon and Almere Ferry always floods. There are problems, but the reservoirs have to be in the hands of the Welsh Assembly.

Lord Hunt of Wirral (Con): My Lords, as we turn the pages of history, I share the view of the noble Lord, Lord Wigley. Having been born and brought up in the Ceiriog valley, I went through the controversy which took place, to which he referred most eloquently. As a Liverpudlian as well, I can recall the great debates that took place. We have to learn from the lessons of history, but there is no doubt in my mind that water is by far the most complex aspect of Welsh devolution. In many ways, it is what my great friend and colleague, Wyn Roberts, used to call Welsh water: dagrau o Dduw—

the tears of God. It falls in all the wrong places, and as many noble Lords have already conceded, the devolution boundary follows water catchment areas rather than the England/Wales border and that is the extent of the problem. However, as my noble friend Lord Crickhowell pointed out, we have to confront that problem and find a solution. I strongly support the concept of a reserved powers model. My noble friend Lord Morgan and I had the honour to sit on the Constitution Select Committee. Although we applauded the setting up of a reserved powers settlement determining which powers should be devolved and which should be reserved to the centre, we said that it was a "complicated and challenging process". This debate has demonstrated how complicated and challenging it can be.

I pay tribute to my noble friend Lord Bourne of Aberystwyth, who has adopted the right approach to finding a solution by listening carefully to what has been said. I think the solution is there. We ought to take the opportunity to remind ourselves once again what the Silk commission determined because it outlined the way in which we can solve this problem. I am sure that my noble friend will know it off by heart but I think that it is the common-sense way forward.

I hope that my noble friend will say how far he can go on this issue. We have already had yesterday's announcement, which I believe is a step in the right direction. I hope that we can find a solution by drawing the boundaries in the right place, or at least by making sure that the powers of intervention are limited. The noble Lord, Lord Thomas of Gresford, with his great eloquence, won the day for the communities which he represented. We must make sure that communities are never neglected in the same way ever again. Areas determined as being slums were ignobly swept away and their communities were forgotten about. The communities wanted to be relocated, if they were to be swept away, but they would have preferred to stay where they were and have their homes improved. Those communities in the valleys wanted to see the areas that they had lived in all their lives preserved. I do not know what my noble friend will say but if he follows his normal course, which I warmly applaud, I am sure that we will find a solution.

Lord Morgan (Lab): As a historian, I agree with a great deal of what has been said, including the speech of the noble Lord, Lord Hunt. However, the view of the Bill will be fundamentally prejudiced if a substantial move is not made towards accommodating the amendment of the noble Lord, Lord Wigley. The events at Tryweryn were a monumental injustice and a rural community in my own county of Meirionnydd was treated with contempt, about which I still feel great bitterness. It seems to me that it is, as it were, the Tonypandy of rural north Wales and is fundamental to how Welsh people feel their community has been dealt with. If something so fundamental and endemic to the concept of Wales is not substantially recognised by accepting this amendment in broad terms, the Bill will not receive the acclaim it otherwise deserves.

5.45 pm

Baroness Morgan of Ely: My Lords, we have heard some very passionate speeches and we are all very aware of how emotional the issue of water can become in Wales. The Minister is aware of how sensitive this issue is, especially following the travesty of the development at Tryweryn, which the noble Lord, Lord Wigley, mentioned. In fact, the Secretary of State, who is present —we welcome him to this Chamber—was clear in his public announcement yesterday that a second Tryweryn could never happen. The events at Tryweryn occurred in 1965, before I was born, but the fact that it has left an impression even on my generation says something about the powerful message that was sent at that time. I do not want to be churlish but I was fairly confident about this issue, having sought assurances from Welsh Government officials, who suggested that current planning laws already devolved to Wales could probably have stopped that scandal being repeated. I hope the Minister will confirm whether that is the case. As I say, I do not want to be churlish, so I cautiously welcome the announcement made yesterday by the Secretary of State for Wales in relation to water. However, I will reserve my judgment until we have seen the detail. On the face of it, the announcement should be a positive move but, as always, the devil is in the detail. Until we have had a chance to scrutinise that proposal, I intend to press ahead with our amendments.

The Bill amends Section 114 of the 2006 Act by limiting the grounds on which the Secretary of State can intervene to prevent the Presiding Officer submitting an Assembly Bill for Royal Assent. That section currently allows an intervention, so I look forward to the government amendment to remove it. The Minister should be aware that anything other than a complete deletion of this section will be looked on unfavourably.

Notwithstanding the points made by the noble Lord, Lord Crickhowell, I stand by Amendment 54, which would require the full devolution of water and sewerage to be aligned with the geographical boundary with England, as set out in the Silk report and the St David's Day Command Paper. The work of the joint Governments' water and sewerage devolution programme board, which was established following the St David's Day paper to consider the alignment competence, found that changes can be achieved with minimal impact on consumers of water and sewerage services. I was delighted to see that in the letter to Peers that the Minister sent last week, he suggested that he was looking at this issue. Therefore, we hope that he will look favourably on this amendment.

The third amendment relates to the regulator. Ofwat, the regulator for water and sewerage providers in England and Wales, should be fully accountable to the National Assembly for Wales in respect of the functions it exercises in relation to Wales to better reflect the current devolution settlement on water matters. The amendment would make it a requirement for Ofwat to produce a report to Welsh Ministers and for that report to be laid before the National Assembly in respect of the functions it exercises in relation to Wales. The amendment would require the nomination of a board member as a joint appointment between the Secretary of State and Welsh Ministers to reflect a new arrangement which the Welsh Government consider necessary consequent to full legislative competence for water and sewerage.

[Baroness Morgan of Ely]

Amendment 104 is proposed to amend Section 27 of the Water Industry Act to require the Secretary of State to seek the consent of Welsh Ministers before issuing general directions to Ofwat in respect of matters where functions are exercised by water and sewerage undertakers in Wales, or where licensed activities are carried out using the system of a water or sewerage undertaker wholly or mainly in Wales.

These changes are necessary so that Ofwat is fully accountable to the National Assembly for Wales and Welsh Ministers for those functions to be exercisable in relation to Wales. It is therefore important that we apply appropriate Assembly procedures to regulations which make provision within the Assembly's competence. Scotland has great scope on environmental powers, including the regulation of water. It is only right that Wales is awarded equal authority in this respect.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lords who have participated in the debate on these amendments, which relate to water. I particularly welcome the contribution of the noble Lord, Lord Wigley, who moved his amendment with sensitivity and fairness on an issue which I know is very close to his heart. The Government are determined that never again should there be a Tryweryn. That is at the back of all our thinking on this issue.

I welcome the contributions from around the Committee. My noble friend Lord Hunt of Wirral spoke with passion of his time in north Wales, and the noble Lord, Lord Morgan, talked of his home county of Meirionnydd. I also welcome the contribution of the noble Lord, Lord Elystan-Morgan. I could not agree more with the sentiments that they expressed. I also thank my noble friend Lord Crickhowell—with his background and experience as chairman of the National Rivers Authority—for bringing his authority to this issue: aligning the border is not necessarily straightforward.

Water is of symbolic importance as well as practical significance to Wales. It evokes more passion and debate than probably any other issue relating to Welsh devolution. It is not just about Tryweryn; as the noble Lord, Lord Thomas of Gresford, reminded us, it is about the Dulas Valley as well, and there have been other issues. I thank noble Lords for contributing to the debate from the viewpoint of their own experiences. The strength of feeling has been amply demonstrated in their speeches.

In announcing the Government's intention to devolve pay, my right honourable friend the Secretary of State for Wales signalled that the Government were exploring other aspects of the settlement to ensure that it is as clear and fair as possible. Yesterday, my right honourable friend Alun Cairns announced the Government's intention to remove the Secretary of State's powers to intervene on water and to replace them with a statutory protocol on water between the United Kingdom Government and the Welsh Government. Work will be done on that, and we hope to have the detail ready for Report.

That is a highly significant announcement. Water has been a challenging issue, as anyone familiar with recent Welsh history will know. The replacement of the intervention powers with a formal protocol marks a step change in the history of Welsh devolution—one that resolves past differences and provides clarity for the future. The move also removes any last impediment that there may be—at least in terms of this Bill; I hope the noble Baroness will be able to clarify this—to the Assembly giving its approval to the Wales Bill, subject of course to agreement on the fiscal arrangements.

The existing intervention powers were put in place in the Government of Wales Act 2006, when Peter Hain—now the noble Lord, Lord Hain—was Secretary of State. Since then, there has been a great deal of development in relation to devolution. This Bill marks a move to a new, durable and lasting devolution settlement, underpinned by a recognition of the maturity of the Assembly and the Welsh Government. In keeping with this, it is time to replace the Secretary of State's powers to intervene on the Assembly and Welsh Ministers in relation to water with a statutory protocol between the United Kingdom Government and the Welsh Government which defines how the two Governments will work together on water-related issues—in particular, cross-border issues.

I confirm that the Government intend to bring forward amendments on Report to put in place the requirement for a formal agreement and to remove the intervention powers. In doing so, it will be important to respect the interests of water users in both Wales and England. As my noble friend Lord Crickhowell exemplified, this is not necessarily straightforward in every respect.

Lord Elis-Thomas: I am excited not just by the environmental and political aspects of this but by the constitutional implications. Can the Minister help us by indicating whether establishing a protocol in relation to powers between the Assembly and this Parliament, and indeed between the Welsh Government and the UK Government, is something that he would consider in other areas of policy in the Bill?

Lord Bourne of Aberystwyth: My Lords, as I have indicated, working together between the Government in Cardiff and the Government of the United Kingdom is of interest to all of us who believe in an effective United Kingdom and an effective Wales. So, yes, I am certainly in favour of that, as I have indicated. In so far as we can provide for that, the Government are open to looking at it. With the excitement of that intervention, I have lost my place.

Lord Elis-Thomas: The temptation to intervene was too much.

Lord Bourne of Aberystwyth: I fully understand.

It will be important to put in place a protocol with bite. Both Governments will be subject to a duty to act in accordance with the new agreement and, once it is in place, both will need to agree any changes to it. The agreement will also need to include a process for resolving any disagreements that both Governments will sign up to.

It is as yet too early to say how soon the new arrangements will be agreed, but the Government will repeal the Secretary of State's water intervention powers once an agreement is signed and sealed. This historic

commitment to remove the intervention powers paves the way to conclude the Government's consideration of the wider devolution issues relating to water and sewerage, including the sewerage intervention powers currently in Clause 46 of the Bill and the question of whether powers over water and sewerage should be aligned with the England-Wales border.

The Silk report recognised that water and sewerage devolution was complex and that further work was needed to consider the practical implications of implementing the commission's recommendations. Following the St David's Day agreement, the Government set up the joint Governments' programme board with the Welsh Government to look at these issues and report on the likely effects that implementing the recommendations would have on the efficient delivery of water and sewerage services, on consumers and on the water undertakers.

That work has concluded and the Government have been considering the evidence that has been collected. In doing so, it has been particularly important to consider carefully the interests of customers and businesses on both sides of the border before reaching a decision on the recommendations. It remains the Government's intention to bring forward provisions to implement the recommendations, if such a thing is achievable, and I hope to be able to return to this on Report.

I will now turn to other water-related amendments that are not Silk recommendations. Amendment 104, tabled by the noble Baroness, Lady Morgan of Ely, seeks to amend the Water Industry Act 1991 as it relates to Ofwat. Part of this amendment would require the Secretary of State to seek the consent of Welsh Ministers before making directions to Ofwat, outlining her priorities for keeping the activities of water companies under review. This would occur where these directions apply to Welsh water companies and licensees carrying out activities in the areas of those companies. This requirement for consent would cover all of Ofwat's functions, including those applicable to policy areas reserved to the Secretary of State, such as those relating to competition law, insolvency and mergers. This would give the Welsh Ministers considerable influence over policy areas that are not devolved.

The noble Baroness's amendment would also place a requirement on Ofwat to make its annual report to the Assembly rather than just send it a copy, as is currently the case. At present there is nothing to prevent the Welsh Ministers laying before the Assembly the annual report that Ofwat sends them or publishing it in any manner they see fit.

The amendment requires appointments to Ofwat's board to be made jointly by the Secretary of State and the Welsh Ministers. Other amendments seek to grant Welsh Ministers joint powers with the Secretary of State over board members' terms and conditions. Currently, the Secretary of State makes all appointments following consultation with the Welsh Ministers and consults them on some other aspects. In practice, this means that the Secretary of State writes to the Welsh Ministers to seek their views on an applicant before confirming the appointment. However, the Welsh Government are also invited to sit on the appointment panel, which is chaired by Defra. This, along with the various requirements to consult Welsh Ministers, already provides the Welsh Government with considerable influence over the process and final appointment decisions.

Amendment 105 in the name of the noble Lord, Lord Wigley, concerns the abstraction of water from Welsh reservoirs. As I think I have indicated, I share the views expressed by noble Lords today: the events of some 50 years ago which resulted in the flooding of Tryweryn were some of the darkest and most regrettable days in modern Welsh history. Never again.

In answer to the question raised by the noble Baroness, Lady Morgan—I am delighted to note that she did not wish to be churlish; I welcome that very much—decisions about the construction of new reservoirs and environmental controls are already devolved to the Assembly. However, we are going further—and rightly so. The Assembly exercises legislative competence in relation to both issues: construction and environmental controls. The Welsh Ministers would need to issue a compulsory works order to allow the construction of a new reservoir to take place. It is within the competence of the Assembly to give itself a role in the issue of consent orders.

Natural Resources Wales is the environmental body which regulates abstraction in Wales. Again, the Welsh Minsters and the Assembly can legislate to change or add to its powers. Nevertheless, as announced yesterday by my right honourable friend the Secretary of State, the Government intend to remove the Secretary of State's powers to intervene on water and replace them with a protocol. I think that that is in the spirit of where we need to be in relation to this totemic and practically significant area of water. On that basis—

Lord Wigley: I have listened very carefully to the response that the noble Lord, Lord Bourne, has given us. Quite clearly, there is an intention to make considerable movement in what I and many others would regard as the right direction on this matter—but we cannot come to a judgment on that until we see what comes forward on Report. However, can he confirm one thing? Notwithstanding that there are powers in planning, and the other powers that he has mentioned, will he consider between now and Report to have it written on the face of the Bill, so that there is no doubt whatever, that the construction of the reservoirs in Wales is a function of the National Assembly, in the same way that it is spelled out that the control of fracking is in the control of the National Assembly? Can he give us an assurance that he will be looking for words by which to achieve that between now and Report?

6 pm

Lord Bourne of Aberystwyth: My Lords, I can certainly give the noble Lord the assurance that if it is not on the face of the Bill, a protocol that contains it will be referred to on the face of the Bill—that is important. It is perhaps something that we can return to. I am meeting the noble Lord and I appreciate the sensitivities in this area. I want to ensure, as I think we all do, that there can be no future Tryweryn. If it is helpful to put that on the face of the Bill, we will do so, and I am very happy to discuss that with the noble Lord ahead of Report.

Baroness Morgan of Ely: I am pleased that there will be movement on the intervention powers of the Secretary of State. That is a very positive move. I am also very pleased the Minister has clarified the fact that we could have stopped what happened at Tryweryn with the current powers—that has come across clearly. But he did not say, in relation to Ofwat, whether he is minded to move on that issue. The impression I got was that he was not, but perhaps he will clarify that.

Lord Bourne of Aberystwyth: My Lords, I am happy to clarify that point. I believe that the existing powers in relation to the Welsh Government and Welsh Ministers are sufficient, but I am very happy to look at that issue and cover it in the protocol, which could extend to that if it is something that we should be doing. I will happily discuss that with the noble Baroness.

Lord Elis-Thomas: The Minister will recollect that we worked together in the National Assembly. I looked at this issue at the time and I can reassure him and the House that the way in which he described the current position in planning and environmental law is indeed the position. But of course that does not mean that we cannot strengthen it by making indications about the intervention powers of the Secretary of State. On that, I think we are all agreed.

Lord Bourne of Aberystwyth: I am very grateful to the noble Lord for reminding me of the years of co-operation we had in the National Assembly for Wales and for clarifying that issue in the way that he did. On that basis, I hope that the noble Lord will consider withdrawing his amendment.

Lord Wigley: My Lords, I am very grateful to everyone who has participated in this debate, including two former Secretaries of State for Wales—we had four in the Chamber and one adjacent to it at one point; a remarkable situation—and for the expertise that they have brought to our consideration. I also thank the noble Lords, Lord Elystan-Morgan and Lord Thomas of Gresford, for their passion and background, which added to our understanding, and the noble Lord, Lord Morgan, from Aberdovey, for his historical knowledge and appreciation of the importance of this issue to the people of Wales. I thank also the noble Baroness, Lady Morgan of Ely, for her contribution and her amendments, which I think should be considered along with the others between now and Report—perhaps we can discuss those. I am grateful for the intervention of my noble friend Lord Elis-Thomas, who represents in the National Assembly the area that includes the Tryweryn valley.

I think that we are making progress. We have not got there yet but there is much to be considered and built upon between now and Report. If the Minister can deliver what he seems to want to deliver, and if his colleagues in the Wales Office can do likewise, then quite possibly we can, once and for all, put this issue to bed by making it quite clear that control of these matters is in the hands of the elected National Assembly for Wales. There is a need for co-operation, but there is also a need to appreciate the importance of communities and the significance of this issue to our nation. On that basis, I beg leave to withdraw the amendment.

Amendment 54 withdrawn.

Amendment 55 not moved.

Amendment 55A

Moved by ***Baroness Morgan of Ely***

55A: Schedule 1, page 60, line 4, at end insert —

"Exception

Consent for—

(a) the construction, extension or operation of devolved generating stations, and

(b) the installation of devolved associated lines, or keeping such lines installed.

Interpretation

"Devolved generating station" means an electricity generating station that is or (when constructed or extended) is expected to be—

(a) in Wales and—

(i) generates or is to generate electricity from wind, or

(ii) has or is to have a maximum capacity of 350 megawatts or less; or

(b) in Welsh waters and has or is to have a maximum capacity of 350 megawatts or less.

"Welsh waters" means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Wales, and the Welsh zone.

"Devolved associated line" means an overhead electric line that—

(a) is associated with a devolved generating station, and

(b) has or is (when installed) to have a nominal voltage no greater than 132 kilovolts."

Baroness Morgan of Ely: My Lords, this Bill proposes that the Assembly will gain competence over all renewable energy generating projects of up to 350 megawatts in Wales and in Welsh territorial waters. Amendment 55A suggests that the UK Government have gone too far in their intention to reserve their power to legislate over electricity, including the generation, transmission, distribution and supply of electricity. Although of course we recognise that it is important to have a single market in energy, ideally not just in the UK but across the EU as a whole, we contend that under the system proposed by the UK Government opportunities for the development of energy production in Wales will be stifled.

Here, I should probably declare an interest. It is not a current interest but an interest that I had in the past while I was working for an energy company in Wales. Part of my remit was to help develop a significant wind farm in mid-Wales. Let me tell you that the legislative process was chaos. The Welsh Government had more or less invited wind farm companies to develop wind farms in specific areas in Wales, but the decision as to whether permission could be given to develop a large wind farm was the responsibility not of the Welsh Government but of the UK Government.

On top of that, the wind farm needed to be connected to the grid. A 132 kV line—that is, a small electricity line on a pole—from the wind farm to the main national grid needed to be approved, not by the national Government but by the local authority. This could be

called in by the National Assembly. These little electricity lines then needed to be connected to a large electricity substation—the places where you see the twirly bits in areas where the electricity goes in. That would convert the voltage from 132 kV to 400 kV, which is for the national grid. The responsibility to allow the building of the substation lay with local government, which again could be called in by the Welsh Government. Responsibility for the national grid and the decision as to whether to build the large power lines on pylons rested with the UK Government.

The whole system was chaos. It was no wonder that, in the end, the company threw up its arms in horror and walked away from the project, having already invested a not insignificant amount of money. Unless the associated consents for devolved electricity generation rest in Wales, the chaos is likely to continue.

I will touch briefly now on the limitation of the level at which Welsh Government approval in relation to electricity is set. The Bill proposes that the Assembly will gain competence over all renewable energy generating projects of up to 350 megawatts in Wales and in Welsh territorial waters. Our concern is that this figure is arbitrary. The Silk commission attempted to provide justification for this limit, but the situation in Wales has moved on considerably since those days. Since the Silk commission looked at the issue, we have seen ambitious projects such as the tidal lagoons progress and proposals for huge tidal lagoons introduced. I know that we are still waiting for the green light—and I will be extremely interested to hear what the strike price will be eventually on this project—but, whether you are a supporter or not, these plans are very far advanced.

In this amendment we suggest that the limit should be increased to 2,000 megawatts. I accept that that is just as arbitrary a figure. Therefore, will the Minister confirm why a level of 350 megawatts was suggested and why we cannot increase it? What is the rationale behind that? If we do not change it now, would there be any scope for us to change it in the future? What would the process for that be? I beg to move.

Lord Elis-Thomas: I am grateful to the noble Baroness, Lady Morgan, for moving this amendment. Her description of what happened with the history of substantial onshore wind projects in Wales was absolutely correct. For much of that period I had responsibility as chair of the environment committee of the National Assembly, which produced a substantial report on energy and planning. My difficulty is the difficulty to which she alluded; yet again we are placing a cap on the potential development of natural resources in Wales that does not make sense in terms of energy policy or indeed in terms of the potential for development of natural resources for the future.

There is a separation of generation capacity at different levels. There is the grid, as we have already heard, for the over 400 kilovolt—but there is also the separation of powers in relation to the internal grids provided by the electricity distribution companies. This affects potential smaller generation projects with individuals and small communities whether of hydro power, wind power, turbines, solar power or any other developing form of renewable energy. It means that the potential for development is being stifled because no one is taking a clear view of how these projects could be developed.

Unfortunately for the whole project, the Welsh Government intervention seeking to identify areas for development—mainly on land in public ownership—was not helpful. So for 10 years at least we lost potential capacity for energy generation and also capacity for having a proper grid connection throughout Wales. That is something that we shall have to revisit. I look enviously to Scotland, which has clear guidelines and clear demarcation in terms of the devolution of energy.

I have a particular interest in other forms of low-carbon energy, notably the potential development of small modular nuclear power that could replace the decommissioned nuclear power station at Trawsfynydd in my own part of the world. Currently nuclear power is with the UK Government in totality. But the actual capacity in terms of generation of a single modular power station is probably less than 350 megawatts. Obviously one would look for more than one unit at such a development where you have, as at Trawsfynydd, a full grid connection, land and water availability for coolant and of course a very skilled labour force that has worked in the energy industry. So the Minster needs to look again at the way in which these aspects of the Bill have been set out. In areas of natural resource, it is essential that we look to future capacity and not settle for arbitrary figures on present capacity.

I shall not ask whether the Minister is interested in introducing a protocol for energy policy, but if a protocol for natural resource in relation to water makes sense, it makes even more sense in relation to energy. I have not even mentioned the energy arriving increasingly now in Wales and as part of the Welsh grid from Ireland, where I am assured that the future development of renewable energy both onshore and offshore is likely to continue. That capacity can join the mainland European grid effectively only through Wales. All these aspects need to be considered. I hope that the Minister will be able to give the noble Baroness, Lady Morgan, me and others some optimism as to the potential for future development of this natural resource.

6.15 pm

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, I have spent much of the past five years involved with energy matters both here and abroad, albeit specifically interconnection and the generation of green energy. A nation's energy supply is so important a part of both industrial strategy and national security that in many countries the energy ministry is second in importance only to the Prime Minister's office. It is surely right therefore that central government retains responsibility for determining the strategy that will ensure the security of supply for the whole nation through our common national grid.

The Silk commission recommended an increase in the threshold for devolved energy consenting for new projects from 50 to 350 megawatts—and this level I thought was agreed by all parties. Further, the Energy Act 2016 granted localised decision-making for all onshore wind projects. Surely the two together strike the necessary balance between devolving authority for many renewable energy schemes, for example the Swansea

[Baroness Bloomfield of Hinton Waldrist]
tidal lagoon, and allowing the Government to retain responsibility for larger schemes of more strategic significance to electricity infrastructure stretching beyond the confines of Wales.

Most of you will be aware that this is the first Bill that I have seen coming through this House. What a meaty one it is. I cannot hope to match the eloquence of the noble Lords, Lord Wigley and Lord Elystan-Morgan, but it did bring to mind the final two lines of the poem commissioned from the national poet for the opening of the fifth Assembly in Cardiff this year:

"Sooner may two men meet than two mountains".

Lord Wigley: My Lords, once again it is a delight to follow the noble Baroness, Lady Bloomfield of Hinton Waldrist. I had the pleasure of speaking after her when she made her maiden speech a few weeks ago on an earlier stage of this Bill. On this occasion, I am afraid that we shall not see exactly eye to eye on the question of the limitation, since I shall speak briefly to Amendments 99 and 101, which seek to remove the 350 megawatt limit on the devolution of energy projects to Wales.

Having given Scotland complete control over its natural resources—with no limits, so for those looking for a United Kingdom policy, that has already been given away—the Government are proposing to devolve energy in Wales only up to a limit of 350 megawatts, with anything above that threshold being reserved to Westminster. This arbitrary constraint on the ability of Wales to control its own natural resources has stirred many emotions in Wales. It seems archaic and contrary to the spirit of devolution that Whitehall will still decide how and when Wales can harness many of its most precious natural resources.

I shall outline what this means in practical terms by reiterating an example highlighted by my colleagues in another place. Responsibility for the 320 megawatt Swansea Bay tidal lagoon would be devolved under the current Bill. However, the proposed Cardiff and Colwyn Bay tidal lagoons, which are identical apart from scale, will be reserved to Westminster. This does not stand up to any test in logic.

The Government have chosen to use the cover of the Silk commission's recommendations—which, I recognise, also suggested a possible limit of 350 megawatts. However, if they are going to do so, does the Minister not agree that all of the Silk recommendations must be treated with the same respect? The Government most certainly are not doing this in other instances, so why pick out this one? As the Minister will undoubtedly recall, the 350 megawatt limit was agreed to in a cross-party Silk commission discussion on the understanding that other parties would support the devolution of policing and broadcasting. Does he recall that meeting? I have the references.

I conclude by noting that this is once again an example of how we are asked to accept second best in terms of devolution of energy. We are asking only for the same deal that is afforded to other nations. The 350 megawatt limit that the Bill imposes stops Wales effectively harnessing its world-class renewable resources —its wind, its coastline and sometimes even its sun. As my noble friend Lord Elis-Thomas emphasised, these are important ingredients for the future of the Welsh economy. Our resources belong to the people of Wales and now is the time for the law of the land to recognise that.

Baroness Randerson: My Lords, we on these Benches have felt for a long time that the constraint on the Assembly's current control over energy is ridiculously low and the suggestion that it should rise to 350 megawatts is better, but by no means good enough. The noble Lord, Lord Wigley, has outlined the foolish situation that we are likely to find ourselves in if the 350 megawatt limit is adhered to. We all know it was picked as a limit by the Silk commission because it would encompass the Swansea Bay tidal lagoon. But as the noble Lord pointed out, the problem is that the sister projects in Cardiff and Newport, if they are built, will be larger than 350 megawatts, so by what measure would the Swansea lagoon not be considered to be of strategic importance but one built in Cardiff would be?

It is absolutely essential that the Welsh Government and the Assembly are able to take a stronger position on energy development. They should also be able to take a distinctive and different position on it. We fully accept that nuclear developments would not be appropriate for devolution because of their massive scale, but we do not believe that artificial limits should be put on the ambition of the people of Wales, the Assembly and the Welsh Government to provide a larger share of the energy they consume, and to find new, different, innovative and environmentally sound ways of doing so. I think that this is one of the most important series of amendments which have been put forward to the Bill so far.

Baroness Finn (Con): My Lords, Wales can play a pivotal role in the rewiring of the UK electricity system, which of course means that the rewiring of the UK electricity system can play a pivotal role in the renewal of employment, industry and infrastructure investment in Wales. Larger energy projects by their very nature must be assessed against a complex set of UK-wide system, strategic and security objectives.

Let us take the case of tidal lagoon infrastructure in Wales. Wales is blessed with a phenomenal natural tidal resource and the time has come to tap into it to bring more jobs, investment and industry for Wales. The Hendry review of tidal lagoons is imminent. We had hoped to see it this week and I hope that it will not be long before it sees the light of day. As my noble friend Lady Bloomfield has pointed out, the first project at Swansea Bay would have fallen below the Silk commission threshold, had one been in place at the time. But it was not and the project has already been awarded development consent, thereby paving the way for much larger projects in Wales that can be assessed only in the context of a UK-wide energy strategy.

It is my belief that the 350 megawatt limit, as recommended by the Silk commission, is the right one in devolution terms. It provides more certainty for the developers of energy projects in Wales about who is responsible for consenting to energy generation projects. Rather than wasting time debating arbitrary jurisdictional limits, efforts would surely be better placed in supporting a development that would be hugely beneficial to the Welsh economy. My hope and expectation are that the

Hendry review will challenge officials and nay-sayers to engage with the real value-for-money arguments. It is dismissive and lazy to claim out of hand that the Swansea Bay tidal lagoon is just too expensive. The value-for-money case is compelling: this is a project that asks for less than 0.5% of all the money available each year to low-carbon projects in the UK and which in return will start a new British power and manufacturing industry. What other UK energy project promises to spend 84p in every pound in the UK while simultaneously stimulating the regeneration of coastal communities around Wales? This could include a hugely welcome stimulus to the beleaguered Welsh steel industry. It is of vital importance for Wales and we must accept and encourage the clear role that policymakers at both ends of the M4 need to play in nurturing this new industry through its infancy.

Lord Crickhowell: My Lords, I hesitate to get involved in an argument with the two noble friends on my left about what should be the upper limit, but I am bound to say that my instinct is that it seems to be on the low side, for the reasons set out by the noble Lord, Lord Elis-Thomas. However, I want to raise another issue, and that is the curious situation in which we find ourselves in the management of onshore wind-powered generating stations. The Energy Act 2016 contains provisions for the transfer of onshore wind out of the Planning Act 2008 development consent regime and to return responsibility for decision-making about these projects to local planning authorities in Wales. This would have meant that when the provisions of the 2016 Act come into force, decisions on larger onshore wind developments in Wales above 50 megawatts would have fallen to be determined by local planning authorities, whereas smaller onshore wind developments from 10 megawatts to 50 megawatts would have been determined by Welsh Ministers as developments of national significance. The Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 have now captured the onshore wind projects above 50 megawatts as developments of national significance. That means that onshore wind projects of 10 megawatts to 50 megawatts and those over 50 megawatts will be dealt with by that process. I find this rather extraordinary and very unsatisfactory.

In England, things have been taken the other way. The smaller schemes are essentially being given to local authorities and local planning authorities, and local communities are being given a real say in whether they should go ahead. I suppose it could be argued that the National Assembly for Wales and the Welsh Government are a local authority, but I do not see them in that way, having been rather influenced by events. I am not sure if the noble Baroness, Lady Morgan, was referring to a particular project in mid-Wales, but we did have a big wind farm project which would have decimated one of the most beautiful valleys in Wales and would have spread problems across the border into Shropshire. That was eventually dealt with by planning authorities and local people were able to make their views known, so the situation was substantially saved.

I feel that we should be in a situation in which, where smaller local schemes are concerned, people have the same kind of opportunity to comment on and criticise them as is the case in England. I suspect that my noble friend will say in reply that he shares my view and hopes that that is what the Welsh Government will decide, but that it is entirely a matter for the Welsh Government. I have to say that I am not happy about that. If that is the answer, I should say that I had toyed with the idea of putting down some kind of amendment at Report stage to give local people a say, but I suspect that it would be thrown out on exactly the grounds that I have cited, which is that the whole matter should be decided by the Welsh Government. But if this is to be their responsibility, I hope that the Welsh Government will take the view that the smaller schemes, which really cannot be described as developments of national significance in the same way as the big schemes, should be taken in such a way that local communities are able to form a view about them and can express that view locally.

6.30 pm

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in the debate on devolution of energy to the National Assembly for Wales. I turn first to Amendment 55A, moved by the noble Baroness, Lady Morgan of Ely, which seeks to add an exception to the reservation in new Schedule 7A relating to the,

"Generation, transmission, distribution and supply of electricity".

It is an amendment that needs to be considered in the context of Clauses 37 and 40, and of reservation M4 on "Development and Buildings".

The Silk commission recommended that there should be further devolution to Wales—it is further devolution, as the noble Baroness, Lady Randerson, recognised—of responsibility for consenting electricity generation projects, and that there should be a more streamlined approach to consenting ancillary developments required to sit alongside those projects. Those were points well made in the debate. There was cross-party consensus to implement these recommendations taken forward under the St David's Day agreement. Without looking at the Silk process, although I accept that it is important for the legislation, this is essentially based on the St David's Day agreement.

We achieve the expanded role that Silk envisaged through the combined effects of Clauses 37 and 40, which clearly set out the parameters of the new devolution settlement in this area. The extent of that settlement is further reinforced by the terms of reservation M4, which provides that the very instances referenced at Clauses 37 and 40 are carved out of the range of planning matters that are reserved.

To provide further clarity on this point, the consenting of a generating station or an overhead line is a planning matter. While I accept that the proposed amendment is well intentioned, it would be not only superfluous but, as an addition to reservation D1, misplaced. Section D1 relates to the regulation and licensing of the process of generating electricity and to what subsequently happens to that electricity. This is the regime administered on a GB level by Ofgem, which includes Scotland. It does not concern itself with the planning for, or the construction of, the means of generating electricity.

[Lord Bourne of Aberystwyth]

Further, as drafted, the reservation would add confusion to the particular reservation and potentially the schedule in general. The Assembly's legislative competence is limited to Wales—the counties forming Wales and the territorial waters adjacent to those counties. The amendment talks about planning in the "Welsh zone", which includes seas beyond the territorial waters and outside the legislative competence of the Assembly, as we touched on earlier about the issue beyond the 12 miles of territorial sea. I hope the noble Baroness, Lady Morgan, will take those points on board.

As I said, the Bill already devolves matters relating to the planning for developments of up to 350 megawatts. This is not a point that has been covered, but the Energy Act 2016 has already devolved all onshore wind consents without limit to local authorities in Wales. At the same time, we devolved power to the Assembly to change that to the Welsh Government if it wanted to do so. In response to my noble friend Lord Crickhowell, I recognise his view that this should be a matter for local people, which I share, but at the same time, with this being a devolved issue, it would be for the Welsh Government to alter that if they wanted to do so. We have indicated our intention by giving the power to local authorities. The Welsh Assembly could alter that. There is no limit to the power relating to onshore wind. That might reassure noble Lords who were unaware of that.

The noble Lord, Lord Elis-Thomas, asked about a protocol. I will certainly go this far: it is important that Ministers talk together. Many of these projects are happening at a UK level. We should not consider that there is always malign intent on the part of the UK Government towards Wales. As we know from the Swansea lagoon project and others, important infrastructure projects are being moved forward by the UK Government, who are talking on a regular basis to officials and Ministers in Wales. Those points were covered by my noble friends Lady Bloomfield and Lady Finn. It is right that some of these important decisions are discussed between Wales and the United Kingdom.

I also say to the noble Lord, Lord Elis-Thomas, that I know, because I was a Minister in the Department of Energy and Climate Change, that BEIS is looking at small modular reactors. Trawsfynydd's interest has obviously been noted, but I have to say to him that if it had been in Scotland it would not have got off the ground because of the nuclear element. Sometimes there are unintended consequences to these things. To come back to the issue we are looking at, the amendment as drafted would not achieve what it seeks to do, in any event.

Amendments 99, 100, 101 and 102 seek to reopen a key recommendation of the Silk commission and the St David's Day commitment: that the devolution threshold for future consenting for electricity generation in Wales should be 350 megawatts and below. That threshold gives the Assembly and Welsh Government substantially more autonomy in determining the shape of Wales's future energy structure than was previously the case.

I accept that any level is, in a sense, arbitrary. It has to be a matter of judgment where it is set as to what is appropriate for the UK Parliament and what is appropriate for Wales—hence the importance of the dialogue between the two Governments and the two Parliaments. It respects the fact that Wales and England are, and will remain, intrinsically linked through a common electricity transmission system that depends on inputs from a broad range of generating sources. The Government remain firmly of the view that, the larger the capacity of those sources, the greater their significance beyond the confines of Wales and to the United Kingdom as a whole. Those points have been made by noble Lords as the debate has progressed.

Consensus was reached during the St David's Day process about the cut-off point. The noble Lord, Lord Wigley, said that if the Swansea lagoon is within this process for Wales—as I accept it is—it is simply an issue of scale. I agree that it is an issue of scale; that is where the cut-off comes in, because the cut-off has to be arbitrary. I cannot see that it can be any other way. It is a matter of judgment as to what is strategically significant for the United Kingdom and what is appropriate for Wales.

Lord Wigley: On that point, with regard to Swansea Bay being just below the threshold and Cardiff and Colwyn Bay being just above it, does it not make all sense for this limit to be adjusted at least enough to take those together, so the expertise in handling these matters is all in one place?

Lord Bourne of Aberystwyth: My Lords, I say two things to that. First, I am certainly not going to get into a Dutch auction as to what should come within on that basis. Of course I understand the point he makes, but my second point takes me back to one I have already made: we need a ready and willing dialogue between the Welsh Government and the National Assembly, as I think is happening, and between BEIS and Parliament. There is no reason to suppose that there is a malign intent regarding these projects. I know the noble Lord is not suggesting that.

Government Amendment 119G is a minor and technical change to Schedule 5. Under Clause 37, Welsh Ministers will have the ability to consent to electricity generating stations of up to 350 megawatts in waters adjacent to Wales. The vehicle for doing so will be Section 36 of the Electricity Act 1989, and Schedule 5 to the Bill gives Welsh Ministers the ability, by regulation, to amend the Section 36 application processes to suit their purposes. The Bill currently also extends that regulation-making power to Section 37 of the Electricity Act, which relates to the consenting of overhead power lines. However, as Section 37 consenting powers are not being devolved in the Bill, the power is ineffective and it makes sense to remove it.

Government Amendment 121 amends Clause 55. Further to the one-stop-shop philosophy for energy consenting advocated by the Silk commission, Clause 41 provides the Secretary of State with the ability to consent associated developments along with the principal consent for nationally significant infrastructure projects in the field of electricity generation and transmission. This will deliver significant streamlining improvements to a system which, at present, can require developers to assemble consents from a plethora of different authorities. It is wholly consistent with the Government's policy of encouraging infrastructure development for

these changes to be introduced as soon as it is practical. The amendment will achieve that by commencing the relevant provisions two months after the Bill's Royal Assent.

On that basis, I urge the noble Baroness to withdraw the amendment, and for her and the noble Lord not to press the other amendments in the group. I intend to move the government amendments.

Baroness Morgan of Ely: My Lords, I thank those who have participated in this debate. I recognise that my amendment on electricity generation, distribution and supply was imperfect; it was meant to generate a debate of this kind. I understand that there are no limits in terms of power over onshore wind and certainly do not want to imply any malign intent on the part of the UK Government, but the complexity of the current model means that it is extremely difficult for Wales to compete in a global investment energy market. If it is much easier to go through a planning process in Denmark than in Wales, why would you not go to Denmark? It is a shame that we have not come to any conclusion on this, but it is an issue that we need to look at. We may need to look at how we streamline the process. It may be another issue where we could put a protocol in place, because we like protocols as a way of moving things forward.

On the cap beneath which we should be allowed to determine energy consents in Wales, I am not sure how much further we have gone. Dialogue is good, as the Minister suggested, but I am not sure what kind of commitment that represents. I hope to retain our ability to come back to discuss both amendments on Report, but for now I beg leave to withdraw Amendment 55A.

Amendment 55A withdrawn.

Amendment 56

Moved by ***Baroness Morgan of Ely***

56: Schedule 1, page 61, leave out lines 7 to 21

Baroness Morgan of Ely: My Lords, Amendment 56 relates to the proposal by the Government to reserve provision relating to heating and cooling energy systems at the UK level. I shall speak also to Amendment 57, on retaining energy conservation at a UK level.

The reservation in respect of heating and cooling is broad in its scope and risks impinging on existing legislative competence in the fields of planning, economy, environment and, crucially, energy efficiency, all of which are already devolved and under the control of the Welsh Government. Not devolving heating and cooling has the potential to prevent delivery of climate change targets across a number of devolved sectors. Heating networks are inherently local—there is no national heat network—so it seems clear that this is better delivered at a local or regional level. The case for retaining the power at a UK level has not been made.

Let me give you an example. Cardiff Council has helped to facilitate the development at Trident Park which converts residual waste into renewable energy. The project also has the potential of supporting a city-centre district heating scheme. Why do the UK Government need to be involved in what is essentially a local initiative? The Government of Wales Act is silent on heating and cooling, while the Scotland Act has no such reservation. I hope that the Minister can enlighten us on why this issue has been retained at a UK level.

The current Bill also reserves energy conservation at the UK level but accepts that energy efficiency other than by prohibition and regulation is devolved. The Explanatory Notes refer to the Energy Act 1976, which relates to energy security and the conservation of fuel stocks. That was drafted in a different era when we had little awareness of climate change, an era of miners' strikes—it was just after the three-day week. At that time, energy conservation meant a very different thing.

Furthermore, the Bill refers to both "energy conservation" in a reservation and "energy efficiency" in an exception. Are these synonymous? If not, can the Minister explain the difference? The drafting of the reservation could lead to confusion and disputes between Administrations. Let us remember that the cheapest and most efficient way of tackling climate change and fuel poverty is not to use energy in the first place.

These reservations could place restrictions on the ability of the National Assembly to meet its climate change targets and deliver on its priorities across a number of devolved areas. It makes no sense to have a UK reservation for something that is inherently local in its delivery. I am of course willing to be enlightened by the Minister on the justification for retaining the power at the UK level.

6.45 pm

Baroness Randerson: My Lords, I support the noble Baroness in those comments; the amendment is in my name as well. I should declare an interest as someone who has solar panels on their roof and has therefore benefited from policy on renewable heat incentive schemes. That illustrates how locally we are talking now; we are at the other end of the scale from the previous debate, when we were wondering whether 350 megawatts was the right level for strategic national developments. We are now looking at schemes that are very local indeed.

I am particularly concerned that the reservation on heating and cooling has suddenly popped up. It was not in the draft Bill, so perhaps the Minister will explain why the Government have suddenly become concerned about such developments. My experience of combined heat and cooling networks as defined in the interpretation in Section D5 of the new schedule relates to the Llanedeyrn district heating system in Cardiff, which existed back in the 1960s. It was not terribly effective, being a pioneering system. People were either boiling hot or freezing cold because it was not sensitive to flexibility. It was therefore abandoned and the boiler house in which it was based was turned into a very useful community centre. That system was installed on what was then the council estate of Llanedeyrn at the initiative of the local council, which is where such a power should lie. It is very much a local thing.

On incentive schemes for renewable heat and for energy conservation, the policy has diverged within the UK between Scotland, Wales and England, and will continue to do so even more than now. Renewable heat

[Baroness Randerson]
incentive schemes and the encouragement of energy conservation are appropriate for local action and local schemes, because when they work best they engage the local community. It is difficult for large-scale, national schemes to appeal to and work effectively within local communities. In the USA, such incentives are provided at local council level. However, because in the UK we do not normally do these things at local council level, the Scottish Government have had a different policy. My reading of the outcome of that is that they have made significant progress, particularly in engaging communities to work effectively together on such schemes. I urge the Minister in his usual understanding manner to agree to look again at this aspect of the Bill.

Lord Howarth of Newport: My Lords, the Government's contention that energy policy-making powers, even on such intrinsically local issues as heating and cooling and energy conservation, should be reserved to the Government of the United Kingdom, because they are essential to our country having a national energy strategy, would be the more impressive if our country had a national energy strategy, but the truth of the matter is, notwithstanding the no doubt valiant efforts of the noble Lord, Lord Bourne, when he was a Minister at the Department of Energy and Climate Change, we do not have a national energy policy.

Since 2010, energy policy has consisted of prolonged dithering in the face of major decisions that it was necessary to take, particularly on nuclear power, and on the creation of incentives for renewables, which were then removed as the Government did a complete volte-face in their attitude to green issues and green values. The consequence is that we now have unaffordable energy prices, a dangerous dependence on energy imports from politically unreliable parts of the world and energy insecurity. If the Government of the United Kingdom have proved themselves incapable of developing and maintaining an energy policy for England and Wales together, why will they not at least allow the Government of Wales to develop and maintain an energy policy for Wales?

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who participated in the debates on heat and cooling and on energy conservation. Amendment 56 seeks to remove the reservation that deals with the supply of heat and cooling. It is important to be clear that the reservation is concerned with policy on heat supply, which is analogous to the supply of every other type of energy. Heat is strategically significant and represents almost half of our energy use and around one-third of carbon emissions. I can tell the noble Lord, Lord Howarth, that the Government have a very definitive energy policy—not just when I was Minister, I hasten to add—very much signing up to the climate change targets internationally, along with many other countries, as he will know; a commitment to nuclear, which I do not think is shared, certainly, by his party leader; and a commitment to diverse sources of energy. Let us put that canard to rest: there is a very definitive energy policy.

The policy in relation to heat is significant. Heat represents, as I say, almost half our energy use and around one-third of carbon emissions. The reason that we are seeking to reserve this is because it is a relatively new technology; it is about supplying heat, through policies such as the renewable heat incentive, the heat networks investment project, the combined heat and power quality assurance scheme and innovation support, and through initiatives such as the smart systems and heat programme, all of which are part of the United Kingdom's energy policy. I accept that rollout and delivery will always be at a local authority level, but it is question of how the framework is set. These policies already exist and benefit the people of both Wales and England. It seems clear that devolving this area would increase costs, due to a loss of economies of scale, and would add complexity and confusion for businesses and householders and add to bills. The noble Lord, Lord Howarth, touched on affordability, which is certainly a prime concern of the Government, along with security of supply and ensuring that energy is green.

Heat is not simply a local issue. There are strategic decisions to be taken over the coming years, including options that would require action at a national level, such as decarbonisation, possibly even decommissioning, of the existing gas grid. These emerging national-level heat issues mean that it would be far more effective to maintain consistency between England and Wales, and it is why grid and infrastructure issues relating to oil, gas and electricity are also reserved in Scotland as well as in Wales. I hope I have explained the Government's reasons for this reservation and why I am not able to accept the amendment.

Amendment 57 seeks to remove the reservation that deals with energy-efficiency requirements. The reservation uses the term "energy conservation" to reflect the language in the existing devolution settlement. It is our contention that energy efficiency is a subset of energy conservation. I will write to the noble Baroness, Lady Morgan of Ely, with some of the technical detail on that, if it would be helpful. The settlement provides for the Assembly and Welsh Government to have powers on energy efficiency, except via the use of regulation or prohibition. It is not as if there is no power in relation to energy-efficiency; it is just in relation to regulation or prohibition. For example, it would allow schemes to advertise energy-efficiency measures—I think that is probably something the Welsh Government already do, although I stand to be corrected on this.

The reservation in this amendment, however, covers home and business energy-efficiency measures that are imposed by regulation, and so have been implemented by, or under, legislation or equivalents, such as licence conditions imposed on gas and electricity suppliers. Having separate energy-efficiency obligations for England and Wales would be likely to increase the complexity and costs for organisations involved in delivering the obligations, with an impact on consumer bills. That is something the Government cannot sanction and, on that basis, I urge the noble Baroness to withdraw her amendment.

Baroness Morgan of Ely: I thank the Minister. I find it quite odd when, in one breath, there is a suggestion that we need to meet decarbonisation targets and yet there is an understanding that climate change targets also have to be met at local levels. I think the

Welsh Government have targets on that. I do not think you can have it both ways. On grid and infrastructure, of course there is a recognition that there needs to be a UK grid and infrastructure, but I contend that that does not make sense in terms of local heat networks. I would be very interested to see a little more detail on what the Minister suggests in relation to energy conservation, but the fact that energy efficiency is already largely devolved is perhaps something that has not been recognised in the way we had hoped. With that, I beg leave to withdraw the amendment.

Amendment 56 withdrawn.

Amendment 57 not moved.

Amendment 57A

Moved by ***Baroness Randerson***

57A: Schedule 1, page 61, line 37, leave out "(including training, testing and certification)"

Baroness Randerson: My Lords, Amendment 57A covers a small and detailed issue, in contrast to the big issues also addressed in this group concerning the railway system and rail funding in Wales. I will not pre-empt the speeches of other noble Lords on those amendments, other than to say that it is essential that Wales has clear accountability, funding and control in running the railway system if we are to have an effective one here in Wales.

Amendment 57A would omit training, testing and certification from reservation 104, covering driver licensing. Schedule 7 to the Government of Wales Act 2006 refers only to driver licensing. In other words, the Bill introduces a much tighter wording than that in the current devolution settlement for Wales, as set out in the 2006 Act. The wording in the Bill is narrower. The inclusion of the word "training", in particular, concerns me, because it could discourage or prevent the Assembly from providing training in road safety. If the Government do not encourage the Assembly to do this, why should it provide the funding and the resources? It is essential that it is absolutely clear that the Assembly has control over issues such as road safety training. That is the kind of local issue that is best organised at a Wales level. Very often it is organised via the school system or the training system and therefore it sits appropriately with other devolved issues. I urge the Minister to look again at this reservation and the exceptions. I beg to move.

7 pm

Lord Wigley: My Lords, my Amendments 59, 60 and 70 in this group seek to devolve responsibility for the funding and specification of the rail infrastructure in Wales. I shall not move Amendment 97 relating to the Wales and Borders rail franchise as the Government have, I believe, already accepted the changes in principle on that matter.

Only 1% of Network Rail funding has been spent on the Welsh rail network since 2011, according to the latest Welsh Government estimates. This is despite Wales being home to no less than 11% of the total England and Wales rail network. Deals struck between the Welsh and UK Governments for specific projects, such as the electrification of the Valleys lines, are of course very welcome, but they do not address the fundamental issue that the current arrangement for rail infrastructure planning and development does not work in Wales. There is a simple and widely supported solution to this problem: to devolve the funding and specification of the rail infrastructure to the National Assembly. I say "widely supported": there is a plethora of people and organisations from across the professional and political spectrum who support the devolution of the rail infrastructure.

As is often the case with this Bill, the Silk commission is my first port of call on this issue, which is appropriate since the Minister was relying on Silk in an earlier group of amendments. The commission agreed that devolving the rail network in Wales is both "possible and desirable". This sentiment was echoed by the previous Assembly's cross-party Enterprise and Business Committee, which in one of its final reports before the 2016 election concluded that responsibility for Welsh rail infrastructure was best placed in the hands of AMs in Cardiff Bay. Only last month, the Economy and Infrastructure Cabinet Secretary, Ken Skates AM, told the Welsh Affairs Committee that he would like to see responsibility for the rail infrastructure and Network Rail devolved.

These statements of support from across the political spectrum are bolstered by comments from numerous figures in industry, including the passenger campaign group, Railfuture Wales, and a pre-eminent expert on Welsh transport, Professor Stuart Cole. Both have said that devolving rail services without rail infrastructure is just not logical. Even the UK Government's own review of the structures of Network Rail, conducted by Nicola Shaw, concluded in March this year that a more devolved route structure is necessary for Network Rail to adapt to the challenges of developing a modern rail network. This must be matched in policy terms to allow the National Assembly for Wales to be accountable and to be able to facilitate the development of Welsh rail infrastructure fit for the needs of a modern Wales.

It is indeed anomalous that the Welsh Government will bear the responsibility for rail services but not the infrastructure. The obvious issues that this creates for infrastructure planning are matched by concerns over the apportioning of accountability that this unbalanced devolution settlement will trigger. Passengers—and, ultimately, voters—will lack clarity about where responsibility for meeting transport needs should lie. What they care about is a transport system that works. Devolution of rail infrastructure is a step towards delivering a rail network that works in a fair and accountable way.

The National Assembly for Wales is the last devolved national Parliament that has not been afforded the powers to manage its nation's rail network. These powers have long been held in Scotland and Northern Ireland. It is inconsistent and ineffective for this aspect of transport policy not to be devolved. I therefore urge the Government to support these amendments and to heed the call of AMs and MPs across the party divisions, as well as those from industry who want to see this happen. I ask the Minister whether he would be prepared to look again, between now and Report, at whether it would be possible to get some sensible further devolution on this matter.

Lord Hain: Before the noble Lord sits down, is he now saying that he will not be moving his Amendments 58 and 97 on the devolution of the Wales and Borders franchise? I was going to speak about that briefly.

Lord Wigley: As I understand it, the Government have moved on the Wales and Borders franchise. Perhaps the Minister can respond and there will be an opportunity for the noble Lord, Lord Hain, to intervene.

Lord Hain: I was going to say that I strongly support Amendments 58 and 97, in the absence of an assurance from the Minister to the contrary, because there is a strong case—following the St David's Day agreement, the work of the Silk commission and, indeed, the logic of the case—that responsibility for this franchise should lie with the Welsh Government. To avoid taking up any more time, I hope the Minister will confirm that it will be devolved and the Government will bring forward an amendment to that effect at some point, presumably on Report.

Baroness Morgan of Ely: My Lords, as currently drafted, reservation 183(c) removes the ability of the National Assembly to introduce town and country planning legislation relating to the development of railways. This aspect of the Bill clearly rows back on the existing devolution settlement, as the National Assembly currently has the ability to legislate on town and country planning matters, which can include the construction of railways.

The Welsh Government are clear that the development and use of land for such infrastructure falls within the current devolved planning system. This is supported by the fact that, since devolution, subordinate legislation has been made by the Welsh Government under the Town and Country Planning Act 1990 to make provision for railway development, and that such development can be, and has been, given consent under the planning system.

More recently, the Welsh Government made regulations under the Town and Country Planning Act 1990, as amended by the Planning (Wales) Act 2015, to make provision for railway development to constitute development of national significance in Wales. At no point during the scrutiny of the Planning (Wales) Act was the issue of legislative competence raised in the context of railways by stakeholders, which included the UK Government. The inclusion of railways in the reservation would restrict the National Assembly's ability to legislate further for railway development in the context of developments of national significance. There is a clear need to preserve the existing devolution settlement, which Amendment 70, in deleting reservation 183(c), achieves. I urge the Committee and especially the Minister to support this amendment.

Amendment 109 deals with railway franchising. At present, the majority of rail services in Wales are provided under the Wales and Borders franchise operated by Arriva Trains Wales. This was concluded following the joint parties' agreement in 2006, which set out the division of responsibility for the management of the Wales and Borders franchise between the two Governments. From early 2017, the Welsh Government will become a franchising authority in their own right, with responsibility for awarding the next Welsh rail franchise, due to start in October 2018.

The current Railways Act does not allow the Welsh Government to permit public sector organisations to bid for rail franchises—a matter which was conceded for Scotland following Smith commission recommendations. We on this side of the House do not have ideological objections to the nationalisation of railways, unlike the UK Government. In fact we think that the German nationalisation model, which has been allowed to run franchises in the UK, has simply stuffed UK taxpayers' money into the pockets of German taxpayers. The French nationalised railways run a much cheaper and more efficient system than any of our current players in the UK. We would like to see flexibility so that if the Welsh Government wished to bid for that franchise, they could do the same for Welsh people. The Welsh Government have stipulated time and again that they may be interested in applying for such a franchise or allowing a not-for-profit organisation to bid. Again, we would like the UK Government to explain on what grounds they justify this discriminatory action.

Lord Hain: I strongly support my noble friend's case. Would she also say that the model of Welsh Water could be a very good one for the Wales and Borders franchise? That is not least because, being a not-for-dividend company, Welsh Water is able to raise capital at a far cheaper rate than on the open markets in the City, as other water companies are required to do. It is therefore a better model and that option should be available to the Welsh Government, should they choose to pursue the franchise in the future on that basis. I do not think that the existing Bill allows for that.

Baroness Morgan of Ely: The noble Lord is quite correct in his assessment. One of the problems is that the Welsh Government have indicated that they would be interested in looking at some kind of not-for-profit model, such as that of Dwr Cymru. But one of the real problems here—the real shame—is that the timing on this issue is very bad because while we hope that the Government will accede to our request on this matter, if they agree to do so it will come too late for the current procurement round. That round has already opened, so the earliest that we could see a Welsh public sector bid or a not-for-profit franchise bid on this matter would be 2028. I suppose that would be better late than never; at least we will be ready for the next time. I hope that the Minister will be able to give us some comfort on this issue.

I support the views of the noble Baroness, Lady Randerson, in relation to devolving the training, testing and certification of driver licensing to Wales.

Finally, I ask the Minister for clarification on a point regarding the regulation of bus services in Wales. Traffic management is already devolved, in addition to the regulation of transport facilities. These will continue to be devolved, thankfully, under the Bill by virtue of the fact that they are not reserved. Under the new settlement, there is new scope for the Assembly to legislate concerning local bus registration. Ministers currently have limited executive powers in respect of local authorities co-ordinating bus operations, as set out in the Local Transport Act 2008, including voluntary and statutory quality contracts.

I believe that there should be scope in the Bill to allow for the regulation of buses in Wales. I hope that the Minister can confirm that this is indeed the case. Can he confirm whether the associated benefits of regulation, include the possibility of capping and regulating fares and integrated ticketing, will also be possible? It is unclear to me whether reservations concerning competition and consumer protection could prevent these important issues being pursued. Some assurance on that would be helpful. Can he also confirm that the Bill in its current form does not prevent the Assembly legislating in relation to the registration of bus services and franchising, or indeed other areas covered by traffic management and regulation in addition to other transport facilities and services, such as parking, street works and the blue badge parking scheme?

7.15 pm

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in the debate on these issues relating to transport. I turn first to Amendment 57A, moved by the noble Baroness, Lady Randerson. Section E1 of new Schedule 7A lists the road transport powers that are reserved. Amendment 57A would give the Welsh Government responsibility over driver training, testing and certification. The words "including training, testing and certification" are intended to clarify further what is meant by driver licensing, which is an exception to the Assembly's competence under the current devolution settlement. It is not intended to modify the Assembly's current competence; I can confirm that and it will of course appear on the record. It is important for business and road safety for there to be a consistent approach across Great Britain. It would be impractical and costly for the transport industry to follow different rules on how drivers should learn to drive and have a different driving test from the rest of the country. I do not think the noble Baroness was suggesting that. Moreover, road safety is reinforced by all road users having to observe the same rules so that everyone is able to fully understand the consequences of not observing those rules.

Amendment 57B, as tabled by the noble Baroness, Lady Morgan, would except the registration and regulation of bus services from the road transport reservation. The Welsh Government already have the ability to determine a number of aspects of bus policy including concessionary fares, smart ticketing and the provision of subsidies. The devolution of the registration of local bus services—a St David's Day commitment—is already provided for in the Bill and will complement the Assembly's existing powers. Welsh Ministers will have the power to legislate in respect of bus franchising, quality contracts and quality partnerships. I will write to the noble Baroness more specifically on some of the exceptions and issues that she raised. I am sure she realises that one or two of those were fairly technical. I do not have the information to hand.

Amendment 97 will not be moved, as I understand it, but I will refer to it briefly— notwithstanding that I think the noble Lord, Lord Wigley, said that to confirm his understanding. Perhaps I could turn first to Amendment 58, which was spoken to by the noble Lord, and seeks to extend the legislative competence of the Assembly in relation to railway services to include the Wales and Borders rail franchise. It is not clear what the intended geographical scope of these powers would be, nor what particular functions potentially relevant to the procurement and operation of the franchise the Assembly would have competence over. This is somewhat like the issue relating to water; at issue is that the railway line is partly in England and partly in Wales. On railway services, the Assembly currently has legislative competence only in respect of financial assistance relating to railway services, subject to limited exceptions in relation to the carriage of goods, railway administration orders and compensation of passenger service operators for public service obligations, under EU Regulation 1370/2007.

Extending the Assembly's legislative competence in relation to the provision of railway services was not recommended by the Silk commission and so was not considered in the St David's Day process. The Bill therefore seeks to preserve the existing devolution settlement in relation to legislative competence for railway services. It may also be helpful if I confirm that an amendment to the Assembly's legislative competence is not necessary to give effect to our agreement with the Welsh Government to take forward the devolution of executive franchising functions for Welsh services to Welsh Ministers.

Amendments 59 and 60, tabled by the noble Lord, Lord Wigley, seek to extend the Welsh Assembly's legislative competence in relation to rail infrastructure in Wales and the specification and funding of Network Rail's operations in Wales. As he will no doubt be aware, the Silk commission recommended the transfer of executive functions in relation to the specification and funding of Network Rail's operations in Wales. This recommendation was considered as part of the St David's Day process but there was no political consensus to take it forward. The Government do not intend to revisit this issue, given those discussions. I can however assure the Committee that the Department for Transport continues to liaise closely with the Welsh Government on the specification and funding of Network Rail's operations in England and Wales for each five-year railway control period, to ensure that requirements in Wales for increased capacity on the network are reflected. The Government also welcome the significant investments made by the Welsh Government in the rail network in Wales to support the Welsh economy. These complement the significant investments in the strategic capacity of the England and Wales rail network that have been, and will continue to be, made by the UK Government that benefit Wales.

Amendment 70, which was tabled by the noble Baroness, Lady Morgan of Ely, and the noble Lord, Lord Wigley, seeks to remove planning in relation to railways in Wales from the list of reservations. The underlying issue is the interpretation of the current devolution settlement set out in the Government of Wales Act 2006. The UK Government and the Welsh Government interpret the extent of current devolved competence in relation to this issue differently. This again emphasises the lack of clarity that exists under the current devolution settlement. It also points to the need to ensure that the Bill removes any uncertainty and provides clarity going forward. Establishing a clear

[Lord Bourne of Aberystwyth]
boundary between what is devolved and what is reserved is, of course, a key objective of this Bill. However, Amendment 70, without further clarification, has the potential to introduce further uncertainty to the devolution boundary by creating a conflict with the "railway services" reservation in Section E2 of new Schedule 7A. As such, we need to be able fully to consider the issue and the most appropriate approach to adopt.

However, I am aware that the Assembly has already exercised competence in this area, as referred to by the noble Baroness, Lady Morgan, under the Planning (Wales) Act 2015. In the circumstances, I therefore propose to take this issue away for detailed consideration and to return to the House and set out the Government's position on Report. With that assurance, I hope the noble Baroness will not press the amendment.

Amendment 109, in the name of the noble Baroness, Lady Morgan of Ely, seeks to press the UK Government to a decision on a matter they committed to consider in the St David's Day Command Paper. That matter is whether to legislate for Wales in a manner similar to provision in the Scotland Act 2016 regarding the powers of Scottish Ministers, as committed to in the Smith commission agreement, to enable Welsh Ministers to invite United Kingdom public sector operators to bid for rail franchises for which they are the responsible franchising authority. I say in parenthesis that, as my right honourable friend the Secretary of State set out in other place, the Railways Act does not prevent not-for-profit bidding for franchises but prevents public sector bidders.

I recognise that the Welsh Government are keen to have such flexibility, in addition to that available under current legislation, to encourage bids from other sector organisations. The Government consider it would be premature to reach a decision on this matter in advance of final agreement with the Welsh Government on the terms for future devolution of executive franchising functions. At present, Welsh Ministers do not have any statutory powers to procure rail franchises. The effect of the proposed amendment would be to confer discretion to allow public sector bidders for franchises consisting of, or containing, Wales-only services on the Secretary of State. This would be inconsistent with the United Kingdom Government's policy not to allow UK public sector operators to bid for rail franchises.

As the noble Lord, Lord Wigley, indicated, I am committing to the progress made between the United Kingdom Government and the Welsh Government in preparing for the transfer of franchising functions to Welsh Ministers. That is something we are seeking to do and are committed to do. As part of reaching final agreement, we will be able to reach a decision on the issue raised by this amendment regarding Welsh Ministers' ability to invite bids from public sector operators in future procurements.

Baroness Morgan of Ely: Can the Minister give us a timetable for when those decisions will be made? Will it be before Report or is it an issue that will be resolved after the Bill has left this House?

Lord Bourne of Aberystwyth: My Lords, to some extent I am in the hands of noble Lords as to when we complete Committee stage—a subtle hint if ever there were one. I hope and intend that we should be in a position to bring this forward on Report, but certainly during the passage of the Bill. I hope it will be before Report.

Amendments 83A, 83B, 119C, 119D, 119E and 119F amend Clause 27 and Schedule 5 so that all the Minister of the Crown powers in Sections 6, 6A and 6B of the Transport Act 1985 are transferred to Welsh Ministers by the Bill, which I am sure noble Lords will welcome.

As a result of the complexities involved in the traffic commissioner being a reserved body but exercising some devolved functions, the original clause transferred the regulation-making powers in Sections 6 and 7 of the Transport Act 1985 that related to the traffic commissioner. This was to provide clarity in the Bill, with the remaining powers to be transferred via a subsequent transfer of functions order. Following discussions with the Welsh Government, we have agreed to transfer all the regulation-making powers relating to the registration of local bus services in Section 6, 6A and 6B of the Transport Act 1985 in the Bill.

On the basis of that information and the assurances and responses I have given, I urge the noble Baroness to withdraw her amendment.

Baroness Randerson: My Lords, I fear that the longer I sit here and listen to the detailed debates, the less confidence I have that the Bill will provide the certainty that we on all sides believe should be provided.

On the specific issues, devolution is the name of the game in railways at the moment. I regret that that rule does not apparently apply to Wales in the fullest sense. I entirely accept that railway services in Wales do not run neatly within the country only. That is a specific challenge. I fear that there is a failure here to provide sufficient incentives to the Welsh Government to invest in the railway system in Wales because they are not being given sufficient control over it.

In relation to Amendment 57A, I agree with the Minister that it is necessary to have a consistent approach to road safety across the country, not least because the road along the border weaves in and out of the border so any other approach would not be workable. In the light of the Minister's comments, I shall withdraw my amendment, but I ask him to consider clarification of the Assembly's powers on training in road safety matters because I fear that, as written, the Bill could be taken by the Assembly and the Welsh Government to mean that they do not have to involve themselves in it any more, and that would not be an appropriate result. I beg leave to withdraw the amendment.

Amendment 57A withdrawn.

Amendments 57B to 65 not moved.

Amendment 65A

Moved by ***Lord Bourne of Aberystwyth***

65A: Schedule 1, page 65, line 34, leave out "or liabilities for local taxes"

Amendment 65A agreed.

House resumed. Committee to begin again not before 8.28 pm.

Museums

Question for Short Debate

7.29 pm

Asked by ***Baroness Royall of Blaisdon***

To ask Her Majesty's Government what steps they are taking to ensure that the value and vibrancy of museums such as the People's History Museum are recognised, and to secure the future of such museums.

Baroness Royall of Blaisdon (Lab): My Lords, it is nearly two years since my noble friend Lord Monks secured an important and interesting debate on museums focused on the People's History Museum, of which he was chair. I am honoured to say that he is now the life president and I am the chair of this wonderful museum, grappling with many of the challenges which were mentioned in 2015 but to which others have been added. I start by thanking the Minister for spending an evening at a recent event organised to raise awareness about and support for the museum. Although we knew that the Minister had strong links with Manchester —the clue is in the title—we did not know of his proud association with one of our radical heroes, a delightful revelation.

The People's History Museum is a very special place, full of the traditions and examples of the best in British working class culture and telling the story of people whose work, achievements and struggles shaped this country and who created its wealth and fought for our freedoms. It is also the national museum of democracy, the only museum dedicated to telling the story of the development of democracy in Britain, celebrating the radicals who pushed the boundaries, from Thomas Paine to Margaret Thatcher, from William Wilberforce to Winston Churchill and from Mary Wollstonecraft to many of the suffragettes whose success we will be celebrating in 2018.

We have the largest collection of banners in the world and a superb textile conservation studio dedicated to their preservation and that of others; we have an extraordinary archive; and we have a fantastic collection in which every object has played its part in the fight for democracy and equality. We have terrific exhibitions such as the current superb exhibition of the work of the printmaker Paul Peter Piech, which is dedicated to the defenders of all human freedoms. But we are also a vibrant living museum, not only bringing history to life and making it relevant to the 21st century but providing opportunities to debate and discuss ideas, and to learn from each other. We are the home of ideas worth fighting for, where our radical past can inspire and motivate people to take action, to shape a future where ideas of democracy, equality, justice and co-operation are thriving.

The People's History Museum is located in Manchester, and although considered by the Government as a non-national museum, I believe that it earns the right to be a national museum. The collection is designated as being of national importance and tells the story of working men and women throughout the United Kingdom and their struggle for democracy. However, unlike the other six museums with which we are grouped, we receive neither direct funding from the Government nor sponsorship. Contrary to what the Government said in the DCMS business plan for 2010—

> "there is no question of cutting these museums adrift without any financial support in the unlikely event that no new sponsorship arrangements can be found"—

that is exactly what is happening to the People's History Museum. In 2015, our government funding was cut, although a very welcome £100,000 was made available to the museum last year to help the museum move to what the Government called a new and sustainable model of funding—perhaps new, but sustainable it is not.

Two other museums whose funding was cut at the same time but did not find either sponsorship or alternative private funding, the Geffrye and the Horniman, had their DCMS funding reinstated. I celebrate that, but why the lack of consistency? Why is a museum that happens to be based in Manchester treated differently from museums based in London? If it is visibility in the capital that is a problem, I should explain that we are planning a series of events in partnership with organisations in London so that we are more visible and better known. We are also setting up a London friends of the museum group to widen our support.

We are very grateful to all of our funders, especially the Association of Greater Manchester Authorities, of which my noble friend Lord Smith of Leigh is chair, but funding is a massive challenge. Our brilliant team under the director Katy Ashton—who is about to have a baby, and we wish her well—acting director Janneke Geene and Cath Birchall have done a fantastic job in attracting funding from various sources, including the Arts Council. We really are focusing on our own fundraising, as well as ensuring that our commercial endeavours—the shop, the cafe and venue hire—perform well. The vast majority of the money, however, is designated for specific projects or tasks, and as with so many organisations, the biggest headache is access to core funding: the money which used to come from DCMS for that very purpose. For example, we recently considered how to pay for a new front door for our beautiful building and had to ask, "Where does one get the money from?". That might seem a trivial example but it is a very real one.

I well understand that other parts of our cultural life and heritage are suffering in the current climate and that at times the Government seem to ignore the extraordinary benefits that arts and culture bring to the lives of individuals, to our society and to our country, but the People's History Museum finds itself in a very different situation from comparable museums, and that is simply not acceptable. I am sure the Minister will say two things in answer to questions about funding—first, that as announced in the culture White Paper, a wide-ranging review of museums is being conducted to gain a deeper understanding of the sector; and secondly, that DCMS has increased funding through Arts Council England. We celebrate that but I would reply, first, that the People's History Museum wants to take a constructive part in the review, and I hope that the Minister will ask Neil Mendoza and members of the Challenge Panel to visit the museum; and secondly, that although very welcome, funding from the Arts

[Baroness Royall of Blaisdon]
Council requires lengthy and time-consuming bid preparation, and one can never be sure of success, so it is difficult to plan for long-term stability.

Clearly devolution is changing the financial landscape, and the People's History Museum is in Greater Manchester—the northern powerhouse—so we are naturally looking for new opportunities. However, as it is a museum of national importance, I believe that DCMS also has a responsibility. Museums, like the rest of the cultural sector, have an economic impact, but they are also in a unique position to meet some of the 21st-century challenges faced by society, including those of health and well-being, social integration, community cohesion and education. I believe education is particularly important, because the EBacc does not offer any creative subjects. The People's History Museum, like so many other museums, works with schools and community groups, reaching out but also providing expertise and a space for them to explore history as a means of learning and discussing present day issues, enabling them both to celebrate heritage and diversity and to better understand that, as my wonderful friend Jo Cox said, there is more that unites us than divides us.

The conduct and discourse of the campaign in the US and the election of President-elect Trump have heightened my awareness of the need for divisions in our own society to heal following the divisive and intolerant Brexit campaign, and museums have a real role in bringing communities together. The People's History Museum, as the museum for ideas worth fighting for, is a safe place to discuss and debate difficult issues, to disagree agreeably, and to confront the rise of xenophobia, racism and discrimination. The relationship between local authorities and museums is vital in relation to this and other aspects of public policy. I note that leaving the European Union has provided new challenges for the cultural sector, although that should be a subject for a different day and a different debate.

In this exciting digital age, museums have a number of roles to play—most obviously, to embrace the new technology and make good use of it, to widen access and to connect to the wider world; but also to enable people to respond to contemporary issues by drawing on their collections. Technology means that schools, FE colleges and universities in the UK and further afield can use collections and expertise to inform their studies, bringing history to life—and in the case of the People's History Museum, celebrating democracy and the hard-fought-for rights which make up our democratic system. This story is relevant to many fragile democracies and countries in which they are seeking to implement or embrace democracy. In the next three years, we will be focusing on LGBTI rights on the 50th anniversary of the Sexual Offences Act in 2017; the 100th anniversary of the widening of the franchise to all men and some women in 2018; and the 200th anniversary of the Peterloo massacre in 2019, a defining moment with regard to parliamentary representation.

I am grateful to all noble Lords who are participating in this short debate. Although I have focused on one museum, many of the issues I have raised are common to other museums. We have to find a way to recognise their value and vibrancy and to secure their future. Democracy is at the heart of the People's History Museum and I end by citing an extract from a speech by my noble friend Lord Bragg:

> "Milton wrote that the price of liberty was eternal vigilance. He was yet another on the long list of English radicals. The price of democracy, it seems, is eternal struggle. We can see it on the wall and in the archives of the museum in Manchester. It is a chronicle and a warning, an inspiration and the beginning of the recognition of the contribution of the vast majority of people in this country".

7.39 pm

Lord Cormack (Con): My Lords, it is a great pleasure to follow the noble Baroness, who has really brought the People's History Museum alive for us. I remember that debate two years ago when the noble Lord, Lord Monks, and I talked about my visiting. I still have not got around to doing so, but I hope that perhaps next year we can arrange a visit by the All-Party Parliamentary Group on Arts and Heritage, which I had the honour of founding way back in 1974 and which is still a vibrant and large group, including over 400 Members from both Houses and from all parties. I think we should go and see the museum.

I come to this debate as one who believes passionately in the enriching capacity that our museums have. They bring our people closer to their roots—specific roots, as was just talked about. In my own native town of Lincoln, where I have the honour to be the chairman of the Historic Lincoln Trust, the museum and gallery there played an enormous and enriching part last year during Magna Carta year. Next year we are going to be commemorating the 800th anniversary of the Battle of Lincoln. Probably not many of your Lordships have heard about the Battle of Lincoln but in fact it was, after Hastings, the most decisive battle in English history; it led to Henry III being confirmed on the throne, to the Plantagenet dynasty being secured, and to the French dauphin who had been invited by many of the barons to assume the throne leaving the country. It is a very important milestone in the development of our history. We are going to call the exhibition "Battles and Dynasties" and, through wonderful objects and works of art that we are borrowing from national, regional and private collections all over the country, we are going to seek to bring this alive.

That is a point that I want to touch on in this brief debate: I believe that the interchange of materials is of enormous importance. The noble Baroness, Lady Royall, talked about the People's History Museum bringing things to London. That is very good, and I hope we will have chance to see some of them in this great Palace of Westminster. But for museums in the countryside to be able to borrow great national treasures, as we borrowed the Luttrell Psalter last year, is again an enriching and enhancing experience.

This very afternoon, as president of the All-Party Arts and Heritage Group, I chaired a meeting attended by a number of your Lordships and Members of the other place to hear about a very special museum in Scotland: the Kilmartin archaeological museum. We were told by the director, who spoke with great passion and infectious enthusiasm, what a rejuvenating effect the museum had had since it was founded in 1997 and will continue to have—not just on the intellectual and educational life of the area but on its economic life as well.

Far too often, Ministers—I am sure my noble friend who will respond to this debate is an exception—do not really have the breadth of vision that enables them to see that the prosperity and future of our country are themselves enriched and developed by our great historic buildings, cathedrals, churches and fine museums and galleries. Of course, our great national museums and galleries here in London have a starring role—but, as we have heard today, a vibrant museum in Manchester is having a transformative effect. I think back to my own youth when I was fired with enthusiasm for my great parliamentary hero, William Wilberforce. I went to Wilberforce House in Hull, which is still there, still attracting visitors from all over the world and still telling the story of one of the greatest parliamentarians of all time.

There is so much that our museums and galleries can do. We need the help of the DCMS and we need Ministers to look beyond the immediate balance sheet to the balance sheet of the nation. We need to have our museums recognised and supported and local authorities encouraged not to put them at the back of the queue. I heard of an authority today that spent 26p per elector on cultural pursuits. I know the constraints are real, but that is not good enough. Let us hope that this, like the debate two years ago of the noble Lord, Lord Monks, will be a springboard, and that we may go forward and ensure the long-term future not only of a truly great and important museum but of many others throughout our land.

7.45 pm

Lord Clark of Windermere (Lab): My Lords, I am very pleased to follow the noble Lord, Lord Cormack, for I have been very much aware for the past 40-odd years of his deep commitment to the cultural history of this country. I am also very much indebted to my noble friend Lady Royall, who has proved such a worthy successor to my noble friend Lord Monks as chair of the People's History Museum in Manchester. We are all indebted to her for calling this debate, and I thank her.

This also gives me an opportunity to thank the staff of the museums, archives and indeed libraries whom I have bothered over the past 50 years and met with nothing but kindness and assistance. We are all indebted to them as well. I will not press this too far, but I listened attentively to the early part of my noble friend's speech when she talked about the concern within museums, archives and libraries about the Government's cuts, which, frankly, are decimating many of those services. I hope the Government will take note of that.

We in this country have not been particularly well served by history. Many of the people of this country have felt that history did not touch them because in many ways, especially in the way that it was taught in universities and schools, history was a top-down subject. This struck me forcefully in the 1960s and I wanted to challenge that. I would go to the funerals of lifelong suffragettes and trade union or labour pioneers. A bit of time afterwards, I would approach the family and say, "What about the records that I know Jane or Tom had?". They would say to me time and again, "Oh, no one was interested in that. They were no use so we burnt them", or, "We put them in a black bag". Gradually, though, we have won that battle; people have begun to realise that their lives and those of their families are critical to understanding the nature of this society, this country and our democracy.

Perhaps I should declare an interest as a visiting professor of history and politics at the University of Huddersfield. Huddersfield is quite important if we are looking at Labour and suffragette history. Indeed, the University of Huddersfield has probably one of the finest archival establishments anywhere in this country thanks to the generosity of the Heritage Lottery Fund, which has given millions to that establishment. It is wonderful.

I mention Huddersfield because, when I was Member of Parliament for Colne Valley, my experiences at funerals caused me anxiety. The Colne Valley Labour Party was the first constituency Labour Party in the whole of Britain. If that was not strong enough, it had the minute books of every meeting, from its inception on 21 July 1891 right through to the current day, of the executive and general management committee—my Labour colleagues know what I am talking about here—which were stuck away in a corner. I was terrified that, with changes of secretary, we would lose them, so I managed to persuade the University of Huddersfield—this was in the 1970s, before the National Museum of Labour History, as it became in 1990, was established—and we got the histories of the Labour Party in Colne Valley, Huddersfield and a number of other areas. Since then, it has added to its deposits the papers relating to Robert Blatchford, whose book, *Merrie England*—I am looking at the noble Lord, Lord Balfe, who knows what I am talking about—sold millions of copies and created millions of socialists in this country; it was quite a phenomenon.

I am very proud of that, but it makes the point mentioned by the noble Lord, Lord Cormack: all the museums, libraries and archives are interlinked. I talk about Huddersfield, but Bradford is just up the road. Half an hour by rail is Manchester, with the People's History Museum and the superb Manchester central ref, which has so much suffrage history. Then one thinks of the great institutions nationally, such as the LSE and Warwick University. My point is that we need more interrelationship between museums great and small, national, county and local—they are all part of the understanding of the peoples of Britain.

I would like to finish on the internet. The internet has the propensity to revolutionise research in this country, if it has not already. By clever use of the internet, you can get into local archives as far away as New Zealand. That can be very valuable, but it is very expensive. I would like the Government to consider finding ways of funding the digitisation of many more records.

7.51 pm

Lord Balfe (Con): My Lords, I, too, begin by thanking the noble Baroness, Lady Royall, whom I reflect I have known for 37 years, which is a long time back in history, is it not?

Much of my speech will be taken up by the words "such as", rather than just talking about the People's History Museum, but I should declare an interest at the beginning. I am a vice-president of the European Parliament Former Members Association—the whole

[Lord Balfe]
lot of them, all 28 states, sadly soon to be 27. One job I have undertaken there is to try to get some order into the archives. I pick up on the point made by the noble Lord, Lord Clark, because there is a tendency for people to undervalue their relatives. Like the noble Lord, our project was motivated by discovering the large number of cases where papers were thrown away, so we decided to be proactive and to encourage people to donate or leave their papers with any public institution that was interested in taking them. For instance, one of my colleagues, Alf Lomas, who will almost certainly never join us here, deposited newspapers in the Bishopsgate Institute. Another, Stan Newens, has deposited his papers in the University of Essex. They are all around; and I will come to that at the end.

There are many other archives. One of the first projects I was associated with was getting the archives of the Royal Arsenal Co-operative Society, now long gone, put on to microfiche and deposited in a number of libraries, because there was a real fear that the minute books would disappear when that co-op was taken over. Indeed, the museum at the Royal Arsenal Co-op was broken up by the CWS—some of it went to Greenwich and some of it went to Rochdale—and it was a stark warning that we did the right thing at the time.

I congratulate the People's History Museum on its breadth. We are talking about people's history. I have said on many occasions that not all people vote for the Labour Party. Roughly a third of working-class people vote for the Conservative Party, and they also have a history. In many cases, it is a very noble history. Also in our past are a lot of non-party-aligned people—in the Methodist Church, for instance—and in the various radical parts of the Liberal Party, who helped to build the country we have today. The National Museum of Labour History has played a valuable part in that.

Incidentally, the National Museum of Labour History also has the files of the European Parliamentary Labour Party, and has given them a place where they can be consulted, where people can see at least some of the history—I am sure that a lot of it is not in there—of what went on in Brussels and Strasbourg. It is probably as well that some of it is not in there, actually. I am sure that it has a record of the visit of the noble Lord, Lord Whitty, to Strasbourg, when he came over to try to sort out the warring factions in the Labour group, of which I was one.

I move on to a couple of other examples which I do not think are quite as good. I am a member of the Working Class Movement Library, which is based just up the road from Manchester in Salford. My criticism is that I think it is a bit too sectarian. It has not reached out, as it should have done, to the Conservative group on Salford Council, so it constantly has its grants opposed. I am not saying that the Conservative group is wrong; I am saying that a bit of reaching out and charm offensive would do no harm in that instance.

I move on to another body that I was in but was expelled from—it is not just the Labour Party that gets rid of me. That was the Marx Memorial Library. That went through a very sectarian phrase. It was quite mad, because the Marx Memorial Library, thanks to the efforts of the highly unlikely duo of Lord Woodrow Wyatt and Richard Balfe MEP, received a large National Lottery grant, but it then went through a sectarian period and got rid of virtually everybody who did not fit into its little categories. It needs to think its way through again, because it is not exactly the brightest thing to do to get rid of people who are getting you money—maybe the Marx Memorial Library already has some.

I shall make one final point. We have lots of papers deposited in lots of places. I have tried to start a project at European level to record where the papers are. It is no good saying that we want all the papers to be in one place. The European Parliament set up an archive, but it did not get much in it because a lot of people wanted to donate to their local museum or library. We need, at a British as well as a European level, a comprehensive reference and data point where the libraries and institutions can declare what they have, so the researchers will have a much better way to find the resources that already exist. If something can be done to move that forward, it would indeed be a noble endeavour.

7.58 pm

Lord Monks (Lab): My Lords, as has been said, I am the former chairman of the People's History Museum, having given way very willingly to my noble friend Lady Royall, who has led this debate with great distinction, great charm and considerable passion. I have not known Richard Balfe for 37 years, but it sometimes feels like it.

Tonight, I want to set out the case for re-recognition of the People's History Museum as a national museum. It is not the only museum with problems—I know that there are many knocking on the DCMS's door—but we are in a unique and rather uncomfortable position. However, first, I pay tribute and echo the thanks of my noble friend Lady Royall to the Minister, who has already demonstrated his personal interest in the museum. I hope that his interest can be shared more widely among his colleagues and in the Government more generally.

The museum was originally the National Museum of Labour History and was recognised nationally by John Major's Government; I continue the bipartisan tone struck so far in the debate. Notice was given in 2011 by the coalition Government as part of a rationalisation of the number of national museums that the funding would end and the national tag would not be recognised by central government. In effect, we were asked to huddle together with other, similar museums, preferably under the banner of one of the great London museums—and most museums have managed to do that. For example, the technology museums around the country have come together under the Science Museum in South Kensington. But for us there was no obvious partner. I explored with the British Museum whether it might want some sort of partnership, but it decided that it had enough problems of its own. However, as the noble Lord, Lord Cormack, has suggested, it very much responded to work with us on particular exhibitions and exchange of materials and so on. So we did not find a partner—and we have ended up as the orphan in the storm. Our grant ran

out in 2015; there was this useful one-off supplement which followed the debate two years ago and which has been referred to. But unless the Minister has something in his back pocket tonight, there is nothing on the horizon.

As has been said, the tale we tell is the story and evolution of British democracy, the story of pressure from below, in which this House found itself on the wrong side of history on many occasions—from John Wilkes to Tom Paine to the rise of unions, co-ops, mutuals, the non-conformist chapels, the Great Reform Act and the subsequent widenings of the franchise down to the suffragettes and the establishment of the welfare state. Within that rich landscape pictured in the museum roam the great figures of the Whig, Tory, Conservative, Liberal and Labour parties. It is a story that covers our nation in peace and war—a story of why the UK has a strong claim to be the leading democracy in the world and a good exemplar for others to follow.

Perhaps the Crown jewel in our collection is the Labour Party archive, which many have said is the richest of all the party archives because the Labour Party was intrinsically much more bureaucratic and kept minutes and wrote documents and so on. I commend that archive to anyone who goes to visit there—it is brilliant. We are extremely proud of that, but we know that the other party archives—the Conservative Party archives at the Bodleian and the Liberal Party archives at the LSE—both enjoy public support, while the Labour Party archive does not. A couple of years ago, we did some imaginative fund-raising, and we continue to do that; that very welcome one-off grant has allowed us to keep going, with economies but without any diminution of the service that we are able to provide in terms of opening hours or skilled staff. But if we do not receive help from national level we will have to review our operations at some stage in future, which could be rather difficult and drastic.

As the noble Baroness, Lady Royall, said, we receive a lot of support from local authorities in the region and money comes in from unions, the Co-operative movement and individuals. I pay tribute to the number of noble Lords who have supported the "radical heroes" exercise in our museum, which includes Margaret Thatcher and six other prominent Conservative politicians. We seek to operate across the political spectrum, as has been said. There are many chicks in the DCMS nest craning for feeding and we know that resources are tight, but Manchester does not have a nationally recognised museum, as far as I know. However, I know that down the road in Liverpool they have three excellent ones, fully deserving of support. I believe that our story is unique; it is certainly not provincial—it is a national story, at a time when democracy itself is in a rather fragile state and there is no shortage of people seeking to use all sorts of devices from social media to how some of the media operate in this country, which does not bring out the best in our country's practices and democracy. As the noble Baroness said, we will be celebrating the 200th anniversary of Peterloo. The museum will be at the centre of that in a couple of years' time. Matthew Parris, William Hague—the noble Lord, Lord Hague—and Charles Kennedy have all opened exhibitions there. For the recent referendum in the EU, we had a big tunnel where the main arguments for and against were displayed and people were asked to cast their opinion at the end of it. Tonight, I hope that the House as a whole sends a strong message to the Government of help, to help us get across the story of British democracy to this generation and many future generations.

8.06 pm

Lord Sawyer (Lab): My Lords, I thank my noble friend Lady Royall for initiating this important debate and I pay tribute to her excellent work in chairing the People's History Museum. I also thank the director and staff of the museum for their outstanding work and contribution to forwarding the case of learning about British history. I also thank the noble Lord, Lord Monks, for the time that he spent as chair of the museum and for his continued commitment and support; I hope that the Government listen carefully to the case that he makes tonight to make sure that we have no detrimental effects to the future of this great museum.

What I have always loved about the museum—and I can go back to the days when it was a small place in the east of London—is that it celebrates and promotes a great tradition, not one of kings and queens and the rich and powerful but of working people from all walks of life, including their experience, trials, tribulations, aspirations and most of all their achievements. They are there, forming a rich tapestry in this excellent and outstanding museum. I also love how it reaches out to its community; it does not just educate and inform, although it does that well, but encourages its visitors in innovative and exciting ways. It challenges people and makes them think; it brings the past to life and makes it relevant for today's generation. As has been said in the debate, other museums do that work well, including the Black Country Living Museum and the highland museum.

My own personal passion after the People's History Museum is the Beamish Museum, which is in my home county of Durham, an excellent place. Lives from the past come to life in an exciting and vibrant way; streets and communities have been recreated and transport runs as it was in days of yore. I had the great pleasure to give part of a library belonging to a famous Durham miners' leader, which I brought down from the north-east 30 years ago, having found it in a junk shop. I had been looking for a good home for it ever since, and I am pleased to say that it has ended up in Beamish Museum, where I am looking forward to going to see it on the shelves of one of the houses there.

I also very much support and like the Working Class Movement Library. If there is an issue about needing to reach out, perhaps the noble Lord, Lord Balfe, and I could have a look at this together and see whether we can improve things there, because libraries and museums have to reach out. They cannot be isolated —they cannot go down one track; they have to broaden out and be relevant to more and more communities and to various people in communities. I would be happy to do that with the noble Lord, Lord Balfe. The Working Class Movement Library was built with the wages of a trade union official and his teacher wife, Eddie and Ruth Frow. It now serves not just the community in Manchester, but students from all across

[Lord Sawyer]
the world. It is a marvellous institution. The library shows how much the explosion of the written word and its eventual availability to ordinary people actually changed the world. Nothing could be more exciting, or more worth keeping and securing than that.

When we visit these museums or libraries we see how our forebears, despite poverty, unemployment and all manner of hardship, held values and believed in principles which forged institutions like the trade union, the churches and the friendly societies and enabled the promotion of those values and principles to spread out to a wider community. It is not so easy to do that today. Rampant consumerism, economic dislocation, reality TV, and the communication of disrespect—or even hatred—at the press of a button are only some of the things that have changed the landscape from the time when these values were first promoted. Today, as we open the doors of our museums and libraries and our fellow citizens in their more individualistic, fragmented and often isolated lives file past the displays and take part in activities, I hope they can be inspired to think about what their forebears achieved and how they did it. I hope that some of the values and principles that were passed on to me as an apprentice on a factory floor 60 years ago can at least be understood. The question is: is it possible that they can be used again to support positive social and economic advance?

They say that the past is no guide to the future. In today's world that certainly looks to be true, but the underlying principles of community, social inclusion, respect for each other, kindness from and towards all men and women, regardless of their status, race or religion, might be hard to win today but are surely worth fighting for. The lessons from our museums are that we can see how that can be done. Much of what we see in our people's museums and libraries shows the very best principles in action. As a consequence, they can and will enhance people's lives today. That is why they must be supported and promoted.

8.13 pm

Lord Stevenson of Balmacara (Lab): My Lords, I join others in thanking my noble friend Lady Royall for securing this debate and in congratulating her on her appointment as chair of the trustees. We have a number of trustees and ex-trustees present, so it is a glittering occasion for the People's History Museum. I declare an interest as a very willing funder—no arm twisting was involved—of the innovative Radical Heroes scheme. Indeed, the cheque is in the post for my next instalment, which is due. It was interesting to hear that the Minister has connections in this area as well. I hope he will expand on that when he comes to respond. I also buy, when I can, copies of posters from the museum's vast collection and I regularly visit it when I am in Manchester.

I ran a cultural organisation in the late 1980s and early 1990s, a rather difficult time economically. The British Film Institute, like lots of other bodies at that time, had real difficulty in making ends meet when audiences dried up and the money was cut from the centre. A bit like the People's History Museum, we had a combination of problems, partly because the audiences were not coming but also because within the British Film Institute we had the national museum for film, a library of books and collections of papers from film makers which were important to our core mission. Had we not had the support of the incredible philanthropist J Paul Getty Jr we would not have survived. However, throughout the time that he funded us he made it consistently clear that he would not fund core costs. His money was there to take the institute into different areas of interest; to explore, research and publish in a way which would not have been possible without his generosity but which was not the core functions which he felt were for government. Indeed, he used to summon Ministers—as rich people often can—to make it clear what their responsibilities were. Some of them listened, which was great, and we survived.

My noble friend Lady Royall made the point that the difficulty is finding this core funding. It is easier to get people interested in funding exhibitions and involved in and enthused by the material in your collections. However, money for opening the doors, cleaning the place and making sure it is available day in, day out, 365 days a year has got to be found somewhere and it is not easy to do. There are no easy solutions to that problem, but you can make sure that the institution itself is in good shape. We have learned from this debate that we have an excellent operation up in Manchester. As I have already said, it has good trustees and fundraising which looks exceptionally good to me. It is a very impressive list of people and they seem to be very effective. They get audiences—100,000 in a year is very good for a place like this museum and it is a tourist attraction as well as a centre for local people and a recognised research base.

So what is the problem? It is the snare of being designated as a national collection but not being funded to operate as that. I look forward to hearing the Minister explain why that conundrum has arisen. The designation under which it falls is run by the Arts Council. I have read a report on its website that makes it clear that the designation scheme is important in relation to museums which are not in the national category but it is a bit coy about how that is going to turn into effective operation. Arts Council England says at one point:

"We will use our public investment"—

presumably that is the grant from DCMS—

"to support the development and enrichment of these collections for the long-term public benefit. We will continue the active dialogue we have with other funding bodies to promote the potential of their investment in Designated collections in addition to Arts Council funding".

I hope the Minister will say what the Arts Council is doing to support this organisation, and what it can expect from the Arts Council going forward if it cannot get support from national government. As we heard, when we had a similar debate two years ago, money was made available from the DCMS to put the museum on a new and sustainable funding footing. However, it has been left alone, unlike the Geffrye and Horniman Museums, which have been picked up and supported through continuing funding from the department, so there is a bit of a dichotomy there. We worry that somehow this museum is being picked out and not supported in the way that others are, possibly

because it is not in London and has no lobbying body to promote it. That may be one of the reasons for this situation.

Current events surely make it vital that we conserve and preserve our history. You would have thought that having a vibrant museum in Manchester, as the noble Lord, Lord Cormack, said, means that it would be picked up, supported and made a fuss over. It certainly would not be left to slip between the cracks, as seems to be the case, or even face closure, as the noble Lord, Lord Monks, hinted, or dispersal of its collections. Surely this museum is too important to be abandoned. I hope that we can save it.

8.18 pm

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, I thank the noble Baroness, Lady Royall, for this debate, and I thank other noble Lords who contributed. I particularly thank the noble Baroness for alluding to my non-conformist, suffragist, pacifist great-great-aunt, who was the first woman to be elected to Manchester City Council. She was a non-conformist. I think the underlying subtext is: what went wrong?

I do not know whether my comments will address the point made by the noble Lord, Lord Cormack, about Ministers' breadth of vision and interest in relation to the arts. I will address that in a minute, but first I would like briefly to outline the steps that the Government are taking to support museums, and then address some of the specific questions that have been raised.

We think it is important that the Government still support, and are keen on supporting, the arts. Funding for regional culture is predominantly channelled through Arts Council England. Between 2015 and 2018, Arts Council England will invest about £118 million in museums. This money is used to care for collections, support work with the local community and help museums develop creative, self-sustaining financial models. Arts Council England also determines which museum collections are designated as having national significance. There are 144 such collections in England. The People's History Museum has been one of them since 1998, as we were told. This is important because achieving designated collection status opens up new sources of funding, such as the DCMS/Wolfson fund. That partnership has already spent nearly £40 million refurbishing more than 300 museum and gallery spaces, and is continuing to do so. A new round of applications has just closed, and early next year a further £4 million will be provided to the successful organisations, helping more people to access these collections. I was very pleased that in August the People's History Museum secured £273,600 from the Arts Council's museum resilience fund to support its Builders and Dreamers: the Future of Ideas Worth Fighting For project.

In addition, the Heritage Lottery Fund helps museums to pay for major capital projects. Around a third of all Heritage Lottery Fund grants go to UK museums across the UK, which in 2014-15 alone meant that the Heritage Lottery Fund invested £430 million in museum projects. Against this background, the Government's wide-ranging museums review, announced in the culture White Paper and led by Neil Mendoza, will seek a deeper understanding of museums around the country. The public call for evidence closed at the end of last month, with more than 1,500 full responses. It has three elements, two of which directly relate to this debate. It looks at the big picture in the *State of the Nation* report on English museums, including the role of government and arm's-length bodies, such as Arts Council England, in working with museums. Secondly, it looks at non-national museums to examine more closely accredited local and regional museums to better understand things such as the impact of changes in funding, the new models of working, what works and why, how to deal with museums in difficulty, how to ensure that collections and expertise thrive, and the responsibilities of local authorities for the provision of services. Lastly, for completeness, it looks at national museums in undertaking a strategic review.

By next summer, the museums review will make recommendations for how government can best help and enable regional museums to flourish. The noble Baroness, Lady Royall, asked whether the review had visited the PHM. It has visited 40 regional museums as part of the review, including other museums in Manchester, but not, I believe, the People's History Museum. The People's History Museum was able to contribute to the consultation but I do not believe that it did so.

Another important government consultation also closed last month, on the museums and galleries tax relief. From April next year, this will help museums produce and tour exhibitions.

Last month, Arts Council England announced its 2018 to 2022 funding settlement. This will be £622 million every year, with an increase of £37 million for national portfolio organisations. Moreover, Arts Council England will increase the proportion of funds spent outside London by 4%.

For this new funding round—to an extent, this addresses the point raised by the noble Lord, Lord Monks, about the position of the People's History Museum—museums will be able to apply as national portfolio organisations, which have replaced the current major partner museums system. Applications are now open, bringing new opportunities for regional museums to access more funding, and rewarding the best and most innovative. That means making access as broad and diverse as possible in terms of both visitors and staff, and making the museums relevant to changing times and audiences. It might also mean better embracing the possibilities of digital, as the noble Lord, Lord Clark, mentioned, in order to open up collections to new audiences and put communities in touch with museums in new ways. Many museums are doing great work in these areas. For example, the Museum of London has done wonderful digital work on the anniversary this year of the Great Fire of London, including building the 17th-century city in the game Minecraft.

The favourite museum of the noble Lord, Lord Sawyer—the open-air museum Beamish in the north-east—has just received nearly £11 million from the Heritage Lottery Fund for Remaking Beamish. This creates a 1950s town populated by objects given to the museum by local people, including the noble Lord.

[Lord Ashton of Hyde]

The Government also continue to fund exciting projects such as the Great Exhibition of the North, which will run for two months in 2018 in Newcastle. Tyne & Wear Archives & Museums will play a big part in this celebration of the very best of northern art, culture and design.

I turn to some of the specific points raised by noble Lords. It is true that in 2011 the Government said that they did not want to cut the People's History Museum adrift, so there were a number of facilitations. For example, they facilitated discussions between the People's History Museum, the British Library and the National Archives in 2011, following suggestions from the People's History Museum. However, the British Library is a DCMS-sponsored body and the National Archives is a non-ministerial department, and these discussions failed partly due to funding restrictions and partly due to the British Library and the National Archives feeling that the People's History Museum was not a good fit.

In December 2014, there were more discussions between the DCMS and the British Library, but they did not get to the point of the British Library doing due diligence and determining the feasibility of taking on the People's History Museum. That is why, at the time, Ed Vaizey agreed an additional £100,000 beyond the termination of the agreed funding to enable the museum to continue. However, that was always on the understanding that that would be the final payment.

Various things happened and I could go on, but I would like to point out that the People's History Museum is a great success. It attracts 100,000 visitors a year. It runs a successful programme of public events and exhibitions, which included an exhibition of parliamentary democracy in advance of the last election, and it delivers a learning programme for all ages. I mentioned that it had attracted large funding grants on the basis of that.

My noble friend Lord Cormack talked about national museums and their influence on the regions. Of the national museums which are directly sponsored by the DCMS, seven are present in the regions, and they are encouraged to work with regional museums through their funding agreements with the DCMS. National museums lent objects from their collections to 1,629 venues in 2014-15.

Regarding the Government's view of the arts and what should be done in terms of the so-called devastating cuts, I would like to point out that the settlement for 2018-22 for Arts Council England is a budget of £622 million per annum across the three primary funding streams. This is a flat-cash settlement compared with 2015-18 and is protected in the 2016 Budget. In fact, over the spending period Arts Council England gets a 2% increase. Investment outside London will be increased by 4% by augmenting the amount of funding available through NPO funding streams by a further £37 million per annum.

There are a number of questions that I still have to address from the noble Lord, Lord Monks, about Manchester museums. There are national museums in Manchester. The Museum of Science and Industry is one and I think that the Imperial War Museum has a branch there. I have some more questions which I am afraid I do not have time to answer. However, we very much welcome the variety of such interesting, innovative, and important work in our museums, and we recognise the crucial role of arts and culture in making places communities where people want to live, work and learn, and which visitors from abroad want to visit. We wish the People's History Museum all the best.

Lord Stevenson of Balmacara: I am sorry to interrupt the Minister but after making the point that there are questions unanswered he normally adds a little phrase to say that he will write to people—he did not say that this time. For the convenience of the House, will he confirm that he will write to people to answer the outstanding questions?

Lord Ashton of Hyde: Of course. I was going to say that I will be very pleased to answer all the questions that I have not been able to.

As I was about to say, we wish the People's History Museum all the best under the stewardship of the noble Baroness, Lady Royall, and her team. No doubt they will make it the go-to destination for those attending the Conservative Party conference in Manchester in 2017.

Wales Bill

Committee (3rd Day) (Continued)

8.30 pm

Amendment 66

Moved by ***Lord Hain***

66: Schedule 1, page 69, line 3, at end insert—

"Terms and conditions of employment and industrial relations in Welsh public authorities and services contracted out or otherwise procured by such authorities."

Lord Hain (Lab): My Lords, Amendment 66 stands in my name and that of my noble friends Lord Murphy and Lord Kinnock, and the noble Baroness, Lady Randerson. As Secretary of State, I took through the Government of Wales Act 2006 and I begin by commending the Minister for his empathy, skill and civility in our collective purpose, which is to get a Bill that does the very best for Wales. I hope he will see what we are doing as support for him in battles in Whitehall with some of his colleagues who I do not think really understand the Wales devolution settlement.

This amendment will come as no surprise to your Lordships. Not only did I explain at Second Reading that I would be tabling it, but I and my noble friend Lady Morgan of Ely also explored in detail the issues it raises during the passage of the Trade Union Bill through this House at the beginning of this year. At that time there were many references to the UK Government's insistence on ignoring their own legal advice, ignoring a legislative consent Motion voted through by the National Assembly for Wales and ignoring the ruling of the Supreme Court in 2014 in relation to the Agricultural Wages Board. The Government's insistence on pushing ahead with measures that interfere with the functioning—I stress this to the Minister—of the devolved public services in Wales demonstrated an intention to override the devolution settlement. I am sure that the Minister is concerned about that and I

hope that he, with his known support for devolution, will change that policy in the Bill and accept the amendment.

The Minister may insist that this reservation amendment is unique: it is the only amendment in which we are seeking to go further than the Scottish settlement. I concede that. This should not, however, be taken out of context. It is precisely because the Government of Wales Act that I took through Parliament in 2006 has allowed the National Assembly for Wales and the Welsh Government to develop and foster unique relationships with public sector employers and trade unions that we find ourselves in this position. The UK Government are making a clear and in some ways remarkably transparent move to go beyond overriding decisions that the Welsh Government have taken since 2011 and deliberately take back powers because they are unhappy about decisions taken and the judgment of the Supreme Court—a matter to which I will return. I believe that this is an attack on the heart of the Welsh devolution settlement. The employment reservation is only one of many that other noble Lords have raised on this deeply flawed Bill—but it is an important one.

Over the past nearly 20 years, the Assembly has earned its place in the public consciousness. As we know from the referendum in 2011, the Welsh public have overwhelmingly endorsed the approach taken by the Assembly and confirmed their desire for public services in Wales to continue to be run from Wales. The Conservative Party supported the 2011 referendum, and the public were asked in that referendum whether they wanted the Assembly to make laws on all matters in the 20 subject areas it had powers for. At the top of that list were education, health, housing and local government—the very devolved areas specifically affected by this reservation. It is incongruous in the extreme to think that the argument put forward in another place by the Secretary of State that—I paraphrase—the 2006 Act never intended to give powers over employment matters in the devolved public services is a reason now to claw them back.

There have been many positive developments by the Welsh Government in their relationships with their social partners in the public services, including the Partnership and Managing Change agreement, signed up to by all public service employers and trade unions, the memorandum of understanding in local government and the implementation of the two-tier workforce code. We have been fortunate in Wales not to have seen a difficult and divisive strike by junior doctors. We might think that to be no accident. It comes out of precisely the culture made possible by the circumstances that flowed from the 2006 Act that this Bill now seeks to reverse.

All of these things have been possible because of the social partnership structures in place to ensure that the difficult decisions facing our public services at a time of austerity are worked through from the beginning with employers and trade unions round the table. All of this has been possible because the legislative framework has permitted this flexibility.

The legislative competence over the delivery of public services is undoubtedly devolved to the Assembly. There is no question about that. The Government's own legal advice during the passage of what is now the Trade Union Act demonstrated that. The differentiation that must be drawn here is between collective bargaining over employment law matters—which it is widely agreed should be maintained at an England and Wales level—and industrial relations that intimately impact upon the day-to-day discussions to enable change and flexibility in the delivery of the services that affect the people of Wales.

I turn briefly to the Trade Union Act, for it is here that the UK Government appear to have developed their principled opposition by allowing the Assembly to retain its current legislative competence over industrial relations. During the passage of that Act in this House I referred to the Supreme Court judgment on the Agricultural Wages Board in 2014. Their Lordships made crystal clear their view that even though employment law was a reserved matter—I am not contesting that in this amendment—nevertheless the operation of services devolved to Wales, in this case agriculture, was a matter proper to the Welsh Assembly to legislate upon. The Supreme Court upheld that view.

The Welsh Government have made clear their intention to legislate in relation to three devolved aspects of the UK Trade Union Act 2016. The first is the administration costs of check-off, the means by which trade union subscriptions are automatically checked off in the payroll system in devolved public services—and in those services exclusively. The other aspects are the 40% overall support threshold for important public services and powers to regulate facility time. These are all matters that affect industrial relations in Welsh public services. They do not impinge upon employment rights and duties. In other words, the main contours of employment law remain a reserved matter. Rather, the Government are interfering with the legislative competence of the National Assembly and the Welsh Government to deliver effective public services through social partnership. Surely that cannot be right.

The effect of this amendment would be to provide an exception to the legislation as drafted to ensure that the Assembly retains its legislative competence—a competence it now has—over terms and conditions of service for employees in devolved public services and over industrial relations in such services. It is consistent with both the Wales TUC and the Welsh Government's stated policy, which is not to break up England and Wales collective bargaining and to agree that employment rights and duties remain an area reserved to the UK Government—I stress this point. But it seeks to ensure that the Assembly maintains the legislative flexibility that it currently has to influence employment and industrial relations in the devolved public services over which it and the Welsh Government maintain legislative policy and fiscal control.

I hope that the Minister is listening carefully. I repeat that the amendment does not challenge the Government's position that employment law covering such matters as strikes, unfair dismissal, health and safety and so on should be reserved. Indeed, it does not challenge the reserved status of any of the 17 employment Acts listed in Section H1 of new Schedule 7A on pages 68 and 69. They are all listed, ranging from employers' liability to pneumoconiosis, the Trade Union

[LORD HAIN]
and Labour Relations (Consolidation) Act 1992, the Employment Rights Act 1996 and so on. It does not seek to challenge any of them or to contest that they are reserved matters. I appeal to the Minister to reconsider the Government's policy and to adopt a practical, common-sense stance in line with that of the Welsh Government and the Assembly.

When the Government claim to be marching in step with the Assembly on progressing greater devolution, surely there is nothing to be gained by confrontation on the matter of how public services in Wales are run. For confrontation between the Assembly and Westminster there will certainly be if the Bill is not amended—almost certainly also leading to another unedifying dispute in the Supreme Court. I hope that the Minister will accept this point and be conciliatory in his response so that we can move forward together, reserving properly reserved matters of employment law to the UK level but ensuring that the Welsh Government can run their public services and the industrial relations that are so crucial to those services in the way they choose to do in keeping with the devolution settlement.

Baroness Finn (Con): My Lords, the key purpose of the Wales Bill is to provide clarity over powers and accountability of those powers. The introduction of the reserved powers model makes clear what is devolved and what is reserved so that people in Wales know who is responsible for what. It is worth emphasising that the need for clarity lies at the heart of the Bill.

Employment law and industrial relations law are clearly reserved matters. It would be unworkable to have different employment laws applying in the different jurisdictions of Great Britain. This issue was also considered by the Smith commission for Scotland, and both the Smith commission and the Silk commission recognised the importance of having a single employment regime. Both concluded that employment and industrial relations law should remain reserved and neither recommended any sort of exceptions.

I appreciate that the noble Lord, Lord Hain, is not asking for the devolution of all employment law, the core issues of which will remain reserved, and I apologise to the noble Lord if I was not clear on this point when I spoke at Second Reading. The noble Lord and the noble Baroness, Lady Morgan, explained during the passage of the Trade Union Act 2016 that industrial relations law in devolved public services is a devolved matter. That Act is about employment law and industrial relations. The Government have consistently argued that these are reserved matters and that the Act will apply consistently across the whole of Great Britain.

This amendment would lead to the unwelcome creation of a two-tier system of employment rights in devolved public services as well as a regrettable reduction in clarity over industrial relations powers. The Wales Bill introduces a reserved powers model precisely to bring more clarity to the Welsh devolution settlement and the effect of the amendment would undermine that primary intent. I therefore urge that the focus now should not be on yet more interminable wrangling about where powers lie. The focus should instead be on the efficient delivery of quality devolved public services on which the Welsh people rely.

8.45 pm

Lord Elystan-Morgan (CB): My Lords, I very much regret that I must disagree respectfully with the submissions of the noble Baroness. Looking at it in a very narrow constitutional context, the issue is a massive irony. On the day the Supreme Court unanimously gave its judgment in the agricultural workers' wages case, there was an epoch-making decision that changed the whole face of Welsh devolution. Until then, people had thought devolution was a fairly limited matter, limited to the specific expression of matters transferred, minus matters that were reserved. Nobody had conceived of what we might call the massive silent transfers, with which the decision of July 2014 was involved.

The irony we face is that that is the state of the law. It was the unanimous decision of the Supreme Court. There is no appeal from it. That is the state of the law at present. If the Bill passes in its present form there is a massive row-back, diminution of status and deduction of authority as far as Wales is concerned compared with the decision. I know I need not press the point with the Minister, who is an excellent lawyer and well understands this matter. If there is no change in this matter, there is a massive diminution of authority for Wales compared with that decision. That is the irony.

When the then Prime Minister, Mr Cameron, stood, as noble Lords will remember, in the grey dawn in Downing Street after the Scottish referendum—which was after the Supreme Court decision we are referring to—and said that Wales is at the very heart of devolution, what if he had said, at the same time, "Mind you, there'll be far fewer rights for Wales when we've finished with the Bill than there are at present"? What would people have said? That is exactly the situation I put to the House. It is so plain and obvious that I do not think there can be any controversion regarding it at all. Although one may say it is politic to change the situation, it means doing so in such a way that would diminish the rights of Wales relating to devolution massively.

Lord Murphy of Torfaen (Lab): My Lords, I support the points made by my noble friends Lord Hain and the noble Lord, Lord Elystan-Morgan. I, too, spoke during the passage of the then Trade Union Bill. I hope the Minister will reply to the debate with greater knowledge of the devolution settlement than his colleague did. Inevitably, his ministerial colleague looked at it from the point of view of employment throughout the whole of the United Kingdom. This is not about that, however: my noble friend made it absolutely clear that employment law is reserved. This is about public services in Wales and how industrial relations operate within them.

Since these public services are wholly and exclusively devolved, so should be the modest industrial relations consequences that flow from that. We are talking not about strikes, but about the possibility of public bodies allowing their workers to have their wages docked for trade union subscriptions and about allowing public workers to have full-time officials paid for in those organisations. These are not revolutionary or tremendously difficult issues; they are issues that affect public services. The constitutional point that the noble Lord, Lord Elystan-Morgan, made is crucial to this, because it strikes at the heart of the devolution settlement in Wales.

That is why the Welsh Assembly is taking it so seriously that it has promised it will legislate to change the trade union law in so far as it affects public services in Wales. That could be avoided at a stroke were the Government to agree to my noble friend's amendment. They probably will not, but they will cause a huge amount of trouble to build up in the months and years ahead.

In the agricultural workers' case, the Supreme Court made it clear that the service was devolved to Wales and that the industrial relations aspect of it was therefore devolved as well. Nothing could be clearer than that, so why are we entering a war with the Welsh Government and the Welsh Assembly on this issue? It is a pointless war which will not be won. I hope the Minister will give some hope to us. If he does not, I am sure the issue will be raised again on Report. If the amendment is unsuccessful then, the Welsh Assembly will pass a law and the Supreme Court might become involved. Why are the Government doing this when there is no need for it? The public services are devolved. I urge the Minister to think carefully about his reply.

Baroness Randerson (LD): My Lords, I have put my name to the amendment because we need to establish a clear principle here: if the Welsh Government and Welsh Assembly are funding a service, they should have an element of control over the terms and conditions of their employees who are running it. It should come as no surprise to anyone here that I hold that view, because I spoke on this matter during the passage of the Trade Union Bill.

The Welsh Assembly has long had considerable powers —for example, over doctors' pay, terms and conditions. The doctors' contract could in principle be completely different in Wales from that in England. It is not, for reasons of pragmatic certainty and manageability, but it could be. I see that the Government have signed an amendment tabled by my noble friend Lady Humphreys on teachers' pay and conditions. That is very much along the same lines as the issues that we raise in this amendment.

The Assembly effectively gained such powers after the agricultural wages issue was referred to the Supreme Court. I was in the Wales Office at that time. I am sure I came to this House and told noble Lords that we firmly believed that the issue of agricultural wages was not devolved, but the Supreme Court found otherwise. The noble Lord, Lord Hain, was probably quite surprised by the Supreme Court's judgment, too; I do not think he believed that he had devolved agricultural wages or any other issue of that nature in the 2006 Act. The Supreme Court's interpretation of it is not in some way unmanageable or at odds with everything else; it can be viewed as completely consistent with other aspects of the Assembly's work.

I ask the Minister to think about the issue of trust, of what it will look like in Wales, if the Government try to row back on what has now been accepted as part of the powers of the Assembly. I urge the Government to think again.

Baroness Humphreys (LD): My Lords, I shall speak to Amendment 74 in my name and that of my noble friend Lord Thomas of Gresford. I am grateful to the noble Baroness, Lady Morgan of Ely, and the Minister for adding their names to the amendment, which will see power over teachers' pay and conditions transferred to the National Assembly. I draw the Committee's attention to my interests as a former teacher and my current membership of a teachers' union.

I am sure that all noble Lords agree that the present system of teachers' pay and conditions has served us well, with a clarity on pay scales that a single system has bought across both England and Wales. However, the system is a creature of its times. It was created in the days before devolution when a single system of education operated across England and Wales. Now our two education systems have diverged, with England moving to academisation and free schools, resulting in a system where English schools are no longer required to comply with the school teachers' pay and conditions documents. It is more than likely that the Government's announcement that they intend to introduce more grammar schools in England will contribute to further differentiation in salaries, as the new grammars attempt to recruit the very best teachers. Meanwhile, a fully comprehensive system still exists in Wales and the Cabinet Secretary for Education has vowed that there will be no grammar schools in Wales on her watch. Also, of course, Wales still fully complies with the teachers' pay and conditions documents.

However, this places restrictions on the ability of the Welsh Government to respond to circumstances which arise. There are difficulties, for example, in recruiting head teachers in rural Wales and retaining staff in village schools. Devolving powers over teachers' pay to the National Assembly would allow the Cabinet Secretary for Education and the Welsh Government the flexibility to begin to address these and other concerns.

My party has long been in favour of the devolution of teachers' pay and conditions and, following our submission to the Silk commission, we welcomed the commission's clarity in 2014 when it determined that teachers' pay and conditions are an integral aspect of the school system, that they should be closely related to the devolved education function and that they should be devolved to the National Assembly. In recent days there has been some speculation in the Welsh media about the outcome of this debate today, with a teachers' union voicing some doubts about the wisdom of the devolution of this power. I remind your Lordships, though, of the words of the general secretary of the Welsh teachers' union, Undeb Cenedlaethol Athrawon Cymru—and here I declare an interest as someone who has retained her membership of that union. Speaking after the publication of the Silk report, she said:

> "At a time when education policies in Wales and England are diverging at an increasing rate there's little point in preserving a joint system of pay and conditions. It's a power that's already devolved in Scotland and Northern Ireland, and we're extremely pleased that the Commission has made an unambiguous recommendation on the matter".

It appears to me that that is the crux of this debate. We cannot continue to treat Wales differently from Northern Ireland and Scotland. The time for parity in these powers over teachers' pay and conditions for all three devolved nations has surely arrived. In the debate on the second day in Committee in the other place, my honourable friend the Member for Ceredigion, among others, spoke to a similar amendment, which made the case for the devolution of powers over

[Baroness Humphreys]
teachers' pay and conditions. The Secretary of State's response gave some comfort to those who spoke in favour of the amendment. He said,

"in principle I am in favour of devolving teachers' pay and conditions, but there is a case for further discussions between the UK Government and the Welsh Government about how that can best be achieved".—[*Official Report*, Commons, 11/7/16; col. 91.]

I would be very grateful if the Minister, when he speaks to this amendment, would outline the discussions that have taken place between the two Governments on this matter. I would like to give him the opportunity to formally inform the House whether the discussions have resulted in an agreement that the powers over teachers' pay should be devolved to the National Assembly for Wales.

9 pm

Baroness Morgan of Ely (Lab): My Lords, I support the amendment moved by my noble friend Lord Hain. The Welsh public sector workforce is the linchpin in ensuring that Welsh public sector authorities carry out their functions and provide services to the public. There is a well-recognised link between good employment practices and industrial relations within authorities and contractors and the quality of the services they provide to the public.

Since devolution, the Welsh Government have led with a distinct vision for public services, rooted in the principles of social partnership. These principles have guided the development of public service delivery in Wales, which is now distinct from that of England. As many noble Lords have noted, this amendment would not undermine the shared framework and protections in respect of employment and industrial relations, but would allow the Assembly to augment these where appropriate to support the effective delivery of devolved public services by Welsh public authorities. I ask the Minister how he thinks people based in London can have the first inkling of what is happening in our schools and hospitals, which are devolved.

For devolution to be meaningful, the Welsh Government must be able to continue to pursue social partnership, defining the relationship between public service employers and employees with integrity, transparency and trust. In proposing this reservation, the UK Government are seeking to divorce the terms of employment and industrial relations in public services from the delivery of those services. The reservation will fundamentally weaken the existing powers of the Government of Wales Act and will prevent Welsh Ministers exercising their legitimate functions prescribed by the Bill on public services. We know this because a leaked letter from the government legal opinion suggested that we currently have the rights over these powers.

I echo the point made by my noble friend Lord Murphy: let us avoid a future reference to the Supreme Court. This was supposed to be the final full stop in the whole legislative framework for the devolution settlement for Wales. If this goes through, I assure your Lordships that this will be not the full stop but the beginning of another battle.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, I thank noble Lords who participated in the debate on this part of the Bill concerning employment law. I thank the noble Lord, Lord Hain, for his very kind words in opening the debate.

To put this in perspective, I think it is common ground between the noble Lord, Lord Hain, and I that employment and industrial relations law is a reserved area. I am not sure that that view is shared by the noble Baroness. She seemed to be suggesting that somehow our reservation meant the end of civilisation as we knew it. It is fundamental to the country that we live in. The UK Government believe that the underlying legislative framework concerning rights and responsibilities in the workplace must be reserved. I believe as much as anyone does in good employment practice. I worked in the public sector in Wales before I went into the Assembly. I was a member of a trade union. I do not think I can still be a member of that trade union or I would be. It is imperative that we have good employment law and good industrial relations. I would not contest this. This is a very important area, but we want a simple, unified system in Great Britain. As the noble Lord acknowledged, this is not something that is devolved to Scotland. It was not considered by the Smith commission or the Silk commission and it was not part of the St David's Day process.

The system we have allows workers to be clear on their rights, whether they are in the public sector or the private sector, in England or in Wales. This is a fundamental principle and I cannot accept that the law underpinning the terms and conditions of public sector workers should be different from the law that underpins the rights of other workers. Whether that leads to better rights, more rights or worse rights, it seems fundamentally wrong. It is important to have common minimum standards which apply to all workers throughout Great Britain to minimise uncertainty and cost for both workers and employers. This is a matter of employment law; it is not about public service delivery.

Furthermore, it seems clear to me that if public sector employers in Wales, which would include the Welsh Government and public sector authorities, want to grant more favourable wages or more holidays then they are able to do so. They can do that presently and there is no question of it being taken back. Also, the judgment on the agricultural wages Act in the Supreme Court is an exception to the reservation. There is no question of that being clawed back as that specific piece of law remains.

If we had a diversified system of rights, workers might be reluctant to pursue the best progression opportunities in their organisation because they could get better rights in the private sector or the public sector—one or the other. They may find it more difficult to undertake collective bargaining and make their voice heard in isolation from colleagues in similar roles in Wales or the rest of Britain. I certainly believe in having strong industrial rights and strong employment rights—and obligations, too—but this has to be unified. As I said, both the Silk and Smith commissions came down in favour of a single employment regime, such as this, and there is nothing to prevent the Welsh Government or devolved public authorities agreeing specific arrangements with their staff, provided that they meet the requirements of employment and industrial relations legislation which apply across Great Britain.

The noble Lord, Lord Murphy, suggested that this amendment did not concern strikes. I am sure that I heard the noble Lord, Lord Hain, say that it related to altering the threshold, so it is about strikes and, as drafted, would certainly include the possibility of doing that. The Government could not sign up to that, nor to different rights on check-off or facility time. The rights should by all means be generous, but they should be unified across the country. I do not see that insisting on this is somehow apocalyptic in the way that some noble Lords suggested. The reservation of employment law ensures that there is a minimum floor of rights to offer workers key protections. At the same time, it recognises that each workplace is unique by allowing employers to provide additional pay or holidays in the public or private sector, if they want to do so.

Amendment 74 was put forward by the noble Baroness, Lady Humphreys, for the Liberal Democrats, and I have added my name to it for the Government. I am not sure whether that makes it an additional government amendment, but we are in agreement with removing the reservation relating to teachers' pay. This has been a key priority for the Welsh Government and we are very happy to support this amendment. We have been listening on teachers' pay and are content to support the noble Baroness's amendment.

In relation to employment law, because we see specific difficulties regarding different rights in the public sector, some of which relate to the calling of strikes but do not affect pay and holidays—which the public sector can negotiate quite separately, as it does now—I urge the noble Lord, Lord Hain, to withdraw his amendment.

Lord Hain: My Lords, can I express my severe disappointment at the change of tone in the Minister's delivery? The rest of his responses to the amendments moved by my noble friends have been genuinely positive. He has conceded where he could and stood his ground where he could, but within the framework of the devolution settlement in which he believes, as I do. On this amendment, I do not mean to sound insulting, but the way that he came across was, I felt, like he was reading out a prepared text—no doubt supplied by the Wales Office in Whitehall—that simply does not recognise the reality of this amendment.

The noble Baroness, Lady Finn, said along with the Minister that there would be the creation of a two-tier system of employment rights. How is that possible, when the 17 Acts and regulations which are already listed as reserved matters on pages 68 and 69 of the Bill would remain reserved under the terms of this amendment? How is it possible that we would create a two-tier system of employment rights when all the employment rights would remain reserved? We are discussing the operation of industrial relations practice in Welsh public services, not in the Welsh private sector. There is no exception provided for the Welsh private sector, which is the largest area of employment in Wales. The amendment is simply about devolved public services and reserved matters and many others matters covering all the issues. I can read them out to remind the Minister, but they are there.

Lord Bourne of Aberystwyth: The amendment would insert:

"Terms and conditions of employment and industrial relations in Welsh public authorities and services",

so the amendment is not just about industrial relations.

"Terms and conditions of employment",

is also contained in the amendment.

Lord Hain: I understand that. I understand my own amendment. It refers to public services.

The Minister is saying that there should be common standards. Wales already has entirely differently configured public services. That is the beauty of devolution. There is a learning experience between the different constituent parts of the United Kingdom about where best practice occurs. In some areas, it is in Wales. We have not had a doctors' strike. I do not think we have had the same teachers' disputes. We have not had the same local government disputes. We have not had the same firefighter disputes. Why is that? It is because these are devolved public areas run in a different way in Wales, with a different system of employee/employer relations provided for—we believed until this Bill tried to overturn the provisions of the Supreme Court ruling—in the devolution settlement. I echo the great eloquence and legal authority of the noble Lord, Lord Elystan-Morgan, in saying that this is massive diminution—to use his phrase—of the authority of Wales. Indeed, it is a direct challenge to the Supreme Court, where it may well end up. As my noble friend Lord Murphy said, I do not think that is where the Minister wants to be in his private view of the future, even if that is where he is going to end up if he sticks to this stance.

The noble Baroness, Lady Randerson, underlined that the Supreme Court caught the UK Government by surprise. She was very frank about that. It perhaps even caught me by surprise by interpreting the devolution settlement in the way that it did in a very convincing way. I hope that the Minister recognises that he is now seeking to undermine that.

I remind the House of what my noble friend Lady Morgan of Ely said; she said that the terms of the Bill will prevent Welsh Government Ministers exercising their legitimate functions in public services in how they treat their employees and how they operate their industrial relations from training time to facility time to all the matters that are essential to running public services in Wales effectively.

My legal advice is that the Minister's position is flawed. He may deploy government lawyers to contest that, and then we will see in the courts. We will have the Wales TUC and the Welsh Government and, I suspect, all the people of Wales right behind them challenging the UK Government's position.

The question I shall conclude on is: are public services in Wales devolved or not—not just the policies, but the delivery, which depends on employees and the relationships between employees in the public sector and their managers being very good? That requires good industrial relations, and Wales has been able to achieve that. Wales would continue to be able to achieve it under the devolution settlement if this amendment were accepted.

The Deputy Chairman of Committees (Baroness Fookes) (Con): I am not clear whether the noble Lord wishes to withdraw the amendment or press it.

Lord Hain: I am not going to press it at this hour, but I reserve the right to press it on Report if there has not been a rethink by the Minister.

Amendment 66 withdrawn.

Amendment 66A not moved.

Amendment 67

Moved by ***Lord Wigley***

67: Schedule 1, page 71, line 20, at end insert—

"Exception

Welsh language broadcasting and other Welsh language media."

Lord Wigley (PC): My Lords, Amendment 67 seeks to devolve Welsh language broadcasting and Welsh language media to the National Assembly. There is currently an anomaly in that the Welsh Government have responsibility for and powers relating to the Welsh language, but no powers whatever over S4C or Welsh-language media, which are perhaps the most significant tools in promoting the Welsh language in this day and age. I should perhaps mention that I served on the S4C Authority's board for three years during the last decade.

The survival of the Welsh language is a miracle, but it is a struggle that has to be perpetually refought and re-won from year to year. The language is important not just for its own sake but because it is the transmitter of our history, folk memory and culture from generation to generation, and a conveyor of our values and experiences as a nation. Welsh belongs to all of Wales—to those who speak it and those who, by accident of geography and history, do not. Its associated culture depends, in part, on language transmission, and its survival as a living part of our identity. It is no coincidence that our national anthem, so much loved by Welsh speakers and non-Welsh speakers alike, concludes with the line:

"O bydded i'r hen iaith barhau"—

"O that the old language should flourish".

9.15 pm

The Welsh language media are of cultural, economic and linguistic importance to Wales. S4C and its services have endured a painful period of financial instability following last year's Autumn Statement. The then Chancellor announced a cut in the S4C grant from £6.7 million to £5 million by 2020. The first year of those cuts was reversed, but only the first year. This funding enabled S4C to provide an impressive new service in HD just in time for the 2016 Euros—something I believe the Secretary of State for Wales genuinely welcomed with open arms.

The original intention was that the same level of grant should remain in place until the UK Government's independent review into the role, governance and funding of S4C was published in 2017. It looks now as if the independent review will not be finalised until after the current financial year comes to an end, which creates uncertainty over the future of S4C's grant and its ability to maintain the quality and range of its programmes. It is not only the DCMS side of the funding equation that is in doubt: in September, we were told that the BBC Trust intends to freeze S4C's funding until the end of the current licence fee agreement in 2022. This was portrayed in the media as a victory for the industry; however, it represents a cut in real terms.

The UK Government may have an agenda to cut public funding for broadcasting in general in the long term. That in itself is highly regrettable when one considers the achievements and reputation of the BBC. But if, heaven help us, the BBC disappeared as a public service broadcaster, a whole range of broadcasting—radio, television and the new media outlets—would still remain in the English language. That is not the case for Welsh. Such far-reaching decisions could be a body blow for the prospects of the language surviving and flourishing. Why should such fundamental decisions, critical to our language and culture, rest—perhaps even linger by default—in the hands of government Ministers in the DCMS, who very often do not have any background or feeling for the issues relating to these powers as they will play out in Wales? Why should the people of Wales be bound by decisions made in London regarding the only media platform on which they can access services in their own language?

The Institute of Welsh Affairs and the Wales Governance Centre, in their report *The UK's Changing Union*, which was published in 2013, both called for the full responsibility for S4C to be transferred to the National Assembly and Welsh Government. In the other place, the Secretary of State for Wales claimed that devolution of S4C was not included in the Silk commission report's recommendations and used that as a reason to block my colleague's amendment. May I correct him today? I am sure that our Minister in this House, having been a member of the Silk commission, will recall the words. The Silk commission concluded:

"In terms of our devolution principles, it is anomalous that the power to fund S4C public service broadcasting lies with the UK Government rather than the Welsh Government. We do not believe that this can be justified against our principles of accountability, subsidiarity and efficiency".

It recommended that,

"within the framework that the bulk of funding should continue to be met from the licence fee, responsibility for funding the public expenditure element of S4C should be devolved to the National Assembly for Wales".

The Secretary of State's misinformation was echoed in the Answer to a Written Question that my colleague Jonathan Edwards MP asked in the other place of the Secretary of State in the Department for Culture, Media and Sport. This is as unacceptable as it is surprising.

I am not alone in my firm belief that Wales should have full control over a channel that belongs to the Welsh people. The Welsh language media are a central ingredient in our heritage and culture, and it is only right we are granted the entitlement to safeguard their future. I beg to move.

Lord Morgan (Lab): My Lords, I strongly support the amendment. Language is of course central to the Welsh identity. More than that, this television channel is almost alone. In so many ways, Wales is less adequately prepared in terms of cultural media than Scotland is. There is effectively no Welsh press; there is certainly scarcely a Welsh-language press. I think *Y Cymro* still appears once a week but the Welsh-language press

is minimal. Therefore the television service, particularly Sianel Pedwar Cymru, the Welsh channel, is central in a way that is true for no other sub-nationality.

What my noble friend Lord Wigley is proposing is precisely what Silk proposed. Some time after 2006, when we had the previous system, I remember sitting through a debate discussing whether Welsh-language matters were a competence of the Welsh Assembly and thinking, "Who in heaven's name does have competence other than the elected representatives of the Welsh people?". This seems a central matter that goes to the heart of devolution and preserving and celebrating difference in Wales. I strongly support the amendment.

Baroness Randerson: My Lords, I have always felt that Welsh-language broadcasting should be part of the general broadcasting pool, not isolated from the rest of broadcasting. That way, I felt, there would be cross-fertilisation and Welsh-language broadcasting would not be seen as out of the usual in broadcasting.

On balance, though, it is clear that S4C has been under threat in recent years. Year after year, the Wales Office has to ride to the rescue of S4C by explaining to a Minister elsewhere in government why Welsh-language broadcasting is important and significant, and why it has a totemic importance in Wales well beyond the relatively small amounts of money that the Government are trying to cut from its annual amount. Indeed, if the control of S4C were devolved to the Welsh Assembly, I think S4C would still find itself under threat because it is responsible for spending a significant proportion of the total amount of money spent every year on the Welsh language. There are lots of other aspects of huge importance to the development of the Welsh language that would want part of that total amount of funding.

I do not think devolution is necessarily the answer but there needs to be a new settlement, a new concordat, or at the very least some kind of agreement between the UK Government and the Welsh Government to ensure that, year after year, the position of S4C is secure, not just in law and in theory but financially. The financial position of S4C should be secure so that there is not this constant fire sale going on. I therefore urge the Minister to look at a suitable solution to what I am sure he will acknowledge is a recurring problem.

Lord Murphy of Torfaen: My Lords, on more than one occasion, I probably rode to the rescue of S4C myself, and I very much agree with the noble Baroness, Lady Randerson, about the financial dangers unless we have guarantees. At the moment, the Welsh language is rightly devolved to the Welsh Assembly, so it would seem logical—would it not?—that Welsh-language broadcasting should be also. There are two issues that we should consider. First, Welsh-language radio broadcasting would presumably stay with the BBC. More significantly, were S4C to be devolved to the Welsh Assembly and the Welsh Government, there should be a proper financial settlement to go with it. At the moment, the United Kingdom Government provide the funds for S4C; were it to be devolved, that financial settlement absolutely must be devolved with it.

Baroness Morgan of Ely: My Lords, I shall speak briefly on the issue of devolution of S4C. In this rapidly evolving digital environment, it would not be sensible to attempt to devolve responsibility for broadcasting in its entirety to Wales. Broadcasting institutions play a vital role in creating that common cultural citizenship for people across the UK. That would not be strengthened by any attempt to define responsibility for them among its constituent parts. We should acknowledge that the broadcasting landscape is changing very rapidly and that there is no guarantee that the current structures will remain in future. In the meantime, it is vital that the UK role is reinforced by measures aimed at strengthening the particular contribution which broadcasters make in each of those constituent parts: improving the accountability of UK broadcasting institutions to the National Assembly and to Welsh viewers and listeners is vital. This improved accountability can best be delivered by strengthening the position of Welsh Ministers with regard to appointments made to the regulatory bodies governing broadcasting in Wales—I am sorry if I have veered off the point of S4C directly, but that is an important point to underline.

I now turn to the issue of devolving responsibility for S4C to the National Assembly. At first glance, it seems an absolute no-brainer. Like the noble Lord, Lord Wigley, I have worked for S4C: my first ever job was to be responsible for photocopying the "Fireman Sam" scripts. However, unless there are strong safeguards for the continued overall funding of the channel, devolution carries great risks. That overnight decision to remove the vast majority of S4C funding from the Department for Culture, Media and Sport to the BBC with absolutely no discussion with the channel was an immense insult. As the BBC is not devolved, S4C's fate now lies to a large extent with the BBC. The current system is certainly unsatisfactory but, until we have a clear financial commitment from the Government to give the Welsh Government the money, it would be unwise to risk this great institution of broadcasting in Wales.

Lord Elis-Thomas (Non-Afl): My Lords, as we have heard, we currently have substantial change in the structure of broadcasting. The BBC is going through major changes. The BBC Trust is moving out as a way of managing the BBC; personally, I welcome that. Ofcom is now playing a far stronger role in the whole question of content at the BBC. As part of the BBC structure, there will be from now on not only a director for Wales but also a member of the BBC board. So we have a new system of devolution internally inside the BBC. I was there at the time of the discussion with the noble Lord, Lord Crickhowell, and we were surprised at what we were offered by the then Government, which was the model of a traditional broadcasting authority. I have never believed that that was what was really required, and I still believe that we need to look at some stage at the governance of digital platforms in Wales and the rest of the UK, as well as internationally. We need to look at these issues in a new way.

I am anticipating what the Minister is going to say. Far be it from me to disagree with my noble friend on this issue, with his experience as someone who was a member of the S4C board, but now is not the time to disrupt relationships; now is the time to strengthen

[Lord Elis-Thomas]
them—and to strengthen the relationship practically between S4C as a production body and BBC Wales and the other platforms active in digital production in Wales.

9.30 pm

Lord Thomas of Gresford: My Lords, most of the debate has so far referred to the necessity to devolve control over Welsh broadcasting to the Welsh Assembly, and the arguments have all been made in structural terms, but I want to put in a word for S4C. It is very good. Its children's programmes in the morning are outstanding and are carried worldwide in various languages. Its farming programmes and programmes about the natural world are also outstanding, and the sporting coverage probably takes up more of my weekends than anything else on television. In fact, I spend quite a lot of time in Scotland, and when I am there my wife is amused to see that, much of the time, I am watching S4C. I am saying nothing about Scottish broadcasting, but there we are. It is not just the sport, of course—it is the musical tradition as well. It is heartening to see so many young people taking part in classical music and choral works, as well as in much more modern music. It is excellent, and we cannot allow this debate to come to an end without making that clear.

Lord Elystan-Morgan: My Lords, I greatly appreciate the kind and generous words of the noble Lord, Lord Thomas of Gresford, on S4C. I support the amendment completely, but there is a possible compromise, if I may be so bold as to suggest it. Many months ago, when the question of the BBC charter was mentioned, I asked the Government whether they would be prepared to have in-built in the charter a guarantee on the adequate financing of S4C as well as on its independence and future. The reply that I received was somewhat anodyne, but I was assured that so great was the affection of Her Majesty's Government for the Welsh language that I had nothing to fear at all. It may be that that is a compromise that would guarantee effectively the future of S4C, its independence and its finance, and I commend it to the noble Lord.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lord, Lord Wigley, for moving this amendment on Welsh language broadcasting and other Welsh language media—and I note that that is the exception that is set down. I do not think that it is limited to S4C, as some noble Lords have assumed. It is not. I join other noble Lords in applauding the work of S4C; it is an extraordinarily strong and effective institution that does marvellous work for Wales in relation to the language and more broadly, and it has totemic significance and real significance and generates jobs in the Welsh media sector, which is important.

As the noble Lord said, it is absolutely right that the Silk commission recommended that funding the public expenditure element for S4C should be devolved to the Assembly. It was part of its recommendations but was not taken forward in the St David's Day proposals: I understand that it was considered in that process but there was no consensus round it. It is also worth noting that as recently as June last year, the Welsh Government said, through Minister Ken Skates, that they could not support the devolution of broadcasting. Admittedly, that was said across the piece but it was the general position.

Where does that leave us? I will try to give an update on the financial commitments made by the Government, in response to the noble Lord, Lord Elystan-Morgan, and other noble Lords. The Government have agreed that funding for S4C—as opposed to Welsh language broadcasting—would be protected in 2016-17 at its current level of £6.8 million. The settlement for Exchequer funding in following years was set out at the 2015 spending review, and in September the BBC confirmed that it will protect licence-fee funding for S4C at £74.5 million until 2022. That is beyond the length of this Parliament, as noble Lords will be aware. The Government then committed to a comprehensive review of S4C in 2017, covering its remit, funding and governance to ensure that the broadcaster can continue to meet the needs of Welsh-speaking audiences in the future. I will endeavour to find out if we have any further details on the process and will write to noble Lords to update them on what the timetable is.

Broadcasting is different from almost any other area of activity in that it is international, national UK and national Wales. I am conscious of the fact that, historically, many people have been quite keen to see S4C's budget settled in Westminster because they thought it was safer here that it would be in Wales—I had better be careful what I say. I notice a change of tenor in that position. Given that the Welsh Government do not seem to be seeking this, and given that there was no consensus in the St David's Day process, I will have a look at it. I am very content to discuss this with the noble Lord, Lord Wigley, and others to see if there is anything we can do to strengthen the position of S4C and the involvement of the Welsh Government—a point raised by the noble Baroness, Lady Morgan. I appreciate what the noble Baroness, Lady Randerson, has said on the issue of the difficulty of broadcasting. As I said, it is internationalised in many ways so is unique among activities.

I am very conscious of the fact that the noble Baroness, Lady Morgan, was photocopying "Fireman Sam" scripts at S4C, so spoke with great authority. My first job in life was loading Britvic bottles on a production line. We had very different experiences: the noble Baroness was more clerical and managerial than I was in those heady student days. I appreciate that this is an important area and I will have another look at it and speak to the noble Lord, Lord Wigley, to see if there is anything we can do to strengthen this position. I hope that, with that, he will be content to withdraw the amendment.

Lord Wigley: My Lords, I am grateful to all noble Lords who have taken part in this debate, which has brought out a number of issues relating to S4C. I am grateful to the Minister for his undertaking to look again at some aspects of this. On that basis, I beg leave to withdraw the amendment.

Amendment 67 withdrawn.

Amendment 67A not moved.

Amendment 67B

Moved by ***Lord Bourne of Aberystwyth***

67B: Schedule 1, page 74, line 6, leave out "or training" and insert ", training or libraries"

Amendment 67B agreed.

Amendment 67C not moved.

Amendment 67D

Moved by ***Lord Bourne of Aberystwyth***

67D: Schedule 1, page 74, leave out lines 20 to 22 and insert—

"176_ Proceedings and orders under Part 4 or 5 of the Children Act 1989 or otherwise relating to the care or supervision of children."

Amendment 67D agreed.

Amendment 68

Moved by ***Baroness Morgan of Ely***

68: Schedule 1, page 74, line 36, leave out ", deaths and places of worship" and insert "and deaths"

Baroness Morgan of Ely: My Lords, I draw the attention of the Committee to the immense overcomplexity that has been introduced in the Bill by the Government insisting on the arbitrary reservation of powers. This amendment refers to the reservation of births, deaths and places of worship.

The first thing that will strike your Lordships is the fact that the other great milestone in life, marriage, is not covered here, nor is civil partnership. These are covered by a different clause—Clause 174. Nor, indeed, is adoption mentioned in this clause. That is mentioned in Clause 175. I do not know about other noble Lords, but I always understood that registrars covered births, marriages and deaths. The separation of these functions conducted by the same registrars is another example of the unnecessary complexity of the legislation as drafted. It would have been just as valid to introduce an amendment to remove all the reservations of arrangements for registering births, adoptions, marriages, civil partnerships, deaths and places of worship. This would have brought Wales into line with Scotland and Northern Ireland, where these matters were not reserved in the 1998 Acts, reflecting the decision of Parliament to legislate separately for these matters in those jurisdictions since the introduction of such registration in the 19th century.

Although the basics of registration arrangements in England and Wales are the same, there are already significant differences between the two countries. The use of the Welsh language in registration is a distinctive feature of arrangements in Wales. At those key points in life's journey at which legal registration is required, to be able to use one's mother tongue is clearly a matter of great importance. Registrars are appointed by local authorities and work within their structures, and legislative responsibility for local government is, of course, devolved to Wales.

My amendment, however, focuses on removing the reservation of the registration of places of worship. This registration is different from the others in two respects. First, it relates to the registration of buildings used for a particular purpose—places of worship—rather than to the registration of life events of individuals—birth, marriage, death. Secondly, it is voluntary. We do not in England and Wales require that places of worship be registered, and the Places of Worship Registration Act 1855 makes that clear. However, such registration is required if a place of worship is to be registered for the conduct of marriages or civil partnerships, or to gain exemption from council tax or business rates.

Places of worship have always played a vital role in Welsh society, but since the Welsh Church Act 1914, which led to the disestablishment of the Church of England in Wales, now the Church in Wales, in 1920, the law of England and Wales has acknowledged that the religious situation in Wales is significantly different from that of England. The Welsh Church (Burial Grounds) Act 1945 continued that separation of law regarding ecclesiastical property in England and Wales. The law in Scotland and Northern Ireland has always been different from that in England and Wales, and so these matters were rightly not reserved in the Acts of 1998 relating to those jurisdictions. The removal of the reservation of legislative responsibility for the registration of places of worship in Wales is therefore an entirely logical step now that there is a National Assembly to legislate for Wales, when it is surely no longer appropriate for Parliament to continue to legislate for Wales alone on such matters.

The Church in Wales is not an established church, unlike the Church of England. However, its incumbents retain the role of registrars for marriages conducted in their premises, and its church buildings remain exempt from registration, as in England. These matters remain governed by the Welsh Church Act 1914 and subsequent legislation of this Parliament which relates only to Wales. Moreover, in spite of its being disestablished in 1920, the Church in Wales still retains a historic obligation in common law to marry parishioners simply on the basis of residence, whether or not they are members of the Church. Now that there is an elected National Assembly, which can legislate for Wales, again it would seem appropriate that the Assembly should decide whether—and, if so, how—to amend these arrangements in the future.

In 2001, the Welsh Government established the Faith Communities Forum, which enables them to consult all religious faiths and not just Christian churches in a formal way. An excellent relationship has been established through that forum. This Parliament has no such consultative mechanism specifically with faith groups in Wales, and the UK Government are regarded by many as rather remote when it comes to such matters. If these reservations are removed, we can be confident that the Welsh Government and the National Assembly will have the mechanisms in place to ensure that any future changes are made in consultation with faith groups and others, such as humanists, with an interest in these matters. I beg to move.

9.45 pm

Lord Bourne of Aberystwyth: My Lords, I thank the noble Baroness for moving this amendment in relation to the civil registration of births, deaths and places of worship. I have listened carefully to her argument. Civil registration functions, including the registration and administration of births, deaths, marriages, civil partnerships, adoptions and associated functions, and the registration of places of worship, are overseen by the Registrar-General for England and Wales, and the Government do not have plans to devolve any of these functions. Perhaps I may try to explain some of the difficulties that would arise in relation to devolution and answer some of the issues raised by the noble Baroness.

First, the noble Baroness raised the issue of the Welsh language, which is obviously very valid in relation to registration. However, it is already possible to register events in both English and Welsh where the events take place in Wales. The registration Acts, as extended by the Welsh Language (Wales) Measure 2011, the Welsh Language Act 1993 and the Welsh Language Act 1967 enable any person who can speak and understand Welsh to make a bilingual registration. Welsh local authorities, by virtue of their obligations under their Welsh language schemes, should provide registration staff who can speak, write and understand Welsh to accommodate citizens who desire this service.

The current position is that the Places of Worship Registration Act 1855 extends to England and Wales. Amendments 68 and 69 seek to separate civil registration functions by specifically devolving responsibility for the registration of places of worship to the Assembly. There are clear efficiencies in administering the responsibilities across England and Wales, and the inevitable cost of separating after over 150 years would appear to be disproportionate to any wider benefit.

The Registrar-General is an independent statutory officeholder—appointed under Section 1 of the Registration Service Act 1953—who exercises functions through the General Register Office, set up under Section 2 of that Act. As the arrangements are well established, there are significant links to, and dependencies on, the provision of civil registration in a unified system across England and Wales, including the use of a single computer system for all registrations. It works well in its current form and it does not make sense to separate out one element of it. I have not heard of any particular groundswell of support for a change in the law in relation to marriage in Wales. It is, in any case, not a devolved matter, and it is a very complex issue, as one can imagine, with the diverse faiths that we have in this country.

However, I can reassure the noble Baroness on one specific point. Looking at faith and integration in the devolved Administrations, I have already been in contact with the devolved Ministers in Scotland, Northern Ireland and Wales. I have arranged meetings so that we can discuss issues such as this, and I have had a positive response from Minister Carl Sargeant in Wales and from the other Ministers. We will be looking at issues such as this in the devolved forum, although I have to say that the issue of marriage law is not specifically a matter for the Department for Communities and Local Government; it is a matter for the Ministry of Justice.

However, it is a very wide-ranging issue because of the nature of the conduct of marriages. Some faiths' marriages are recognised automatically if they take place in particular religious buildings—specifically, those of the Church of England, the Church in Wales and the Society of Friends, and synagogues—but that would not be true of other faiths as things stand. At some stage, this whole area probably will be looked at. However, as I say, this is not my specific ministerial responsibility, so I say that without being certain whether it is proposed at the moment. I do not think it is, but no doubt at some stage it will be looked at.

I am happy to discuss this further with the noble Baroness but, as I say, the Government have no plans to devolve this function. Therefore, I ask the noble Baroness to withdraw the amendment.

Baroness Morgan of Ely: My Lords, I will be very brief. I am not quite convinced by the argument that the separation would not lead to efficiency and cost savings—we could say that about almost all devolved areas of policy. The whole point here is that you need to respond to local needs. I am very happy to hear that the Minister has initiated the devolved forum to look at this, and I look forward to hearing more about that. It would perhaps be an idea for us to discuss this further. It is just another one of those things for which I can think of no good reason to retain it nationally. I have not been convinced that there is a good reason and so we will just have to agree to differ on that point. I beg leave to withdraw my amendment.

Amendment 68 withdrawn.

Amendments 69 and 70 not moved.

Amendment 71

Moved by ***Baroness Morgan of Ely***

71: Schedule 1, page 75, leave out line 28

Baroness Morgan of Ely: I am sorry, my Lords, but I seem to be monopolising things a little this evening. In moving Amendment 71, I will speak to all three amendments in the group. The first relates to the community infrastructure levy—a planning charge that was introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area.

In Wales, local planning authorities currently have the power to charge a levy. These authorities all prepare local development plans for their areas, which include an assessment of their future infrastructure needs, for which the levy may be collected. The authority can set charges based on the size and type of the new development. It can set different rates for different geographical areas and for different intended types of development. The levy is intended to encourage development by creating a balance between collecting revenue to fund infrastructure and ensuring that the rates are not so high that they put development across the area at serious risk. The levy can be used for a variety of infrastructure projects, such as roads and transport, schools and educational facilities, and even

flood defences, medical facilities and sports and recreation facilities. As long as these have been identified in the authority's local development plan then it can address this issue and appeal to the fact that it can have a community infrastructure levy.

The Welsh Government argued for the devolution of the community infrastructure levy in their evidence to the Silk commission in 2013. The issue was not addressed by the commission and thus did not feature in the UK Government's St David's Day document. However, the levy is inextricably linked with the delivery of already devolved responsibilities. The Secretary of State has not, to my mind, made the case for reserving the community infrastructure levy and we believe that this reservation should be deleted.

On the issue of compulsory purchase orders, these are an essential facet of highways and planning, both of which are devolved matters. In addition, compulsory purchase orders are essential to education services, to housing provision and to the NHS. Again, these are all devolved. The reservation of compulsory purchase of land in the Wales Bill would constitute yet another rolling back of power on what was previously a silent subject. The proposed reservation, if implemented, would cause unnecessary difficulties across a range of devolved activities that are underpinned by powers of compulsory acquisition of land.

Reserving the whole subject of compulsory purchase of land would risk rolling back, or at least creating uncertainty about, powers over the range of legislative competences already noted. Reform proposals across all these areas that may require adjustments to land acquisition powers would be likely to run into concerns about whether such powers are ancillary and necessary within the meaning of paragraph 2 of new Schedule 7B, issues upon which we have already touched. As it stands, the reservation is wholly unjustified and wholly unexplained. In this context, we need more laser-like focus on the more limited set of issues on which a common England and Wales approach is really necessary.

Finally in this group, I address the issue of buildings. Executive functions to set standards for the design, construction and demolition of buildings through binding regulations have already been transferred, with some exceptions, to Welsh Ministers under a 2009 transfer of functions order. Reservation 186 narrows the current competence of the Assembly, while Clause 47 extends the executive functions of the Welsh Minister. Removal of this reservation would therefore achieve a closer alignment of executive functions and legislative competence in Wales. As things stand, should Welsh Ministers wish to change current primary legislation governing Wales in relation to building standards, a request would have to be made to the UK Government, proposals agreed with them and time found in the parliamentary calendar. This would be a sledgehammer to crack a nut.

I am wholly unclear as to why the UK Government think that the legislative framework for buildings in Wales can be amended only at Westminster. Again, this seems a wholly unjustified and narrow approach to the Welsh devolution settlement. Prior to this, a renowned constitutional expert said that the previous Wales Act covered everything except the kitchen sink. He added while considering this report that in this Bill, the Government have even reserved the kitchen sink. I hope that your Lordships agree that the Government have simply gone too far in pushing back Assembly powers. Will the Minister explain in particular why he thinks that,

"the regulation of … services, fittings and equipment provided in or in connection with buildings",

needs to be devolved? I beg to move.

10 pm

Lord Howarth of Newport (Lab): My Lords, in warmly endorsing the case made by my noble friend Lady Morgan of Ely on the three amendments in this group, I shall add a word on Amendment 73 concerning the regulation of the design and construction of buildings. I shall illustrate why it would be unfortunate if this reservation were to be retained and why my noble friend is right to propose that this should be devolved. We have seen extraordinary vagaries in building regulation policy on the part of the Government of the United Kingdom. For example, the Government committed themselves to a requirement that all new homes should be designed to be lifetime homes by, I think, 2013. That was a commitment made in 2008, but when the moment came in 2013 and it had not been met, when the change to the building regulations was announced in 2015, the lifetime homes criteria were so diluted as to be rendered almost useless and ineffectual.

Let me explain what this is all about. Originally the Joseph Rowntree Foundation and subsequently the Habinteg Housing Association developed 16 design criteria to ensure that the design and construction of new homes is such that they can be easily adapted at minimal cost to become more accessible to people as their lives go on, as they become older or as they become disabled. It makes eminently good sense economically and socially, yet we have seen a reneging on the commitment that had previously been made. The same has happened with another commitment by government to require that new homes should be designed and constructed so as to be carbon neutral; this was to be achieved by 2016. It was hailed as a very progressive and excellent policy in the interests of the environment, but again in the same set of announcements in 2015 the Government reneged on the commitment, and of course it was a turning point that was deplored by everyone who cares about the environment. So what we have seen is a set of decisions on housing design made in Whitehall and at Westminster which have been detrimental to the environment, the construction industry, the architectural profession and surveyors, and detrimental to the interests of disabled and elderly people, all of which will add costs to social services and the health service because the longer you can keep people in their own homes, the better.

I do not want to elaborate on or labour the point any further except simply to say that whereas it is clearly the right of the Government of the United Kingdom, but regrettable when they use it, to march people up the hill and down again and to do these about-turns on policy, and to retrogress in terms of social and environmental policy, I cannot see why these processes should be inflicted on Wales. If Wales wishes to pursue a project to create carbon-free homes and build lifetime homes for the people of Wales,

[Lord Howarth of Newport]
why on earth should it not be entitled to do so? This is just an instance of where I think it would be greatly to the detriment of Wales if the Government insist with the rigour they are applying at present on denying Wales sensible discretion on matters that on any reasonable basis could well be devolved and where we have actually seen the practical effect of policy as made in London being seriously detrimental.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Baroness, Lady Morgan, for proposing these amendments.

Amendment 71 would devolve to the Assembly competence to legislate for how infrastructure funding should be collected in relation to development. This is currently accomplished through the community infrastructure levy, which applies across England and Wales, and the mechanisms we use to raise funding for infrastructure to support development are undoubtedly important. I appreciate the points made by the noble Baroness and I am aware of the issues raised on the matter in the other place. In addition, the Welsh Government have argued persuasively in discussions with the UK Government that the community infrastructure levy should be devolved. I can therefore confirm that, as the Secretary of State announced on 31 October, we are content to devolve competence over the levy to the Assembly and I expect to table a government amendment on Report to achieve this. I hope that that is reassuring to noble Lords.

The noble Baroness, Lady Morgan, made some interesting points, when speaking to Amendment 72, about why she believes that the compulsory purchase law in its entirety should come within the legislative competence of the National Assembly and not be reserved to the United Kingdom Parliament. The debate has highlighted the lack of clarity that exists in the current devolution settlement. As compulsory purchase is a so-called "silent subject", the United Kingdom Government and the Welsh Government have formed different views on the extent of the Assembly's legislative competence in this area.

This reservation has been the subject of detailed and productive discussions between the United Kingdom Government and the Welsh Government. The United Kingdom Government consider that legislating on the general rules and framework of the compulsory purchase system, such as the compensation regime in the Land Compensation Acts, falls outside the Assembly's current legislative competence. However, we accept there are arguments that the Assembly could confer or modify powers in legislation for bodies to acquire land by compulsion for devolved subjects. These would include powers for local authorities to acquire land for housing, planning or education purposes, among others.

I assure the noble Baroness that discussions between the two Governments on this reservation are at an advanced stage and appear to be going well. Discussions are fruitful. I would therefore like to reflect further on her points as the Government conclude their consideration of the extent of this reservation.

Amendment 73, also tabled by the noble Baroness, Lady Morgan, seeks to remove the reservation concerning building standards and building regulations. The noble Lord, Lord Howarth, also spoke with effect on this. Before responding to the amendment, I note that, through earlier transfer of functions orders and Clause 47 of the Bill, Welsh Ministers will have powers to make building regulations in respect of almost all buildings in Wales. There will now be parity in England and Wales as to buildings for which building regulations may be made by the Secretary of State and Welsh Ministers respectively. As drafted, the noble Baroness's amendment goes considerably wider than this to devolve competence to the Assembly over building standards. I am aware that this devolution is being sought by the Welsh Government. There are some genuinely difficult issues here in terms of organisations currently exempted from the application of building standards in England and Wales. I am none the less happy to reflect on this further, with a view to returning to it on Report.

I hope I have been able to provide reassurance to the noble Baroness and I ask her not to press her amendments.

Baroness Morgan of Ely: My Lords, things are getting much better. We have had three positive replies. I thank the Minister for his constructive approach on those issues. We look forward to working with him much more closely on them in the next few weeks, and to new amendments coming, we hope, on Report. I beg leave to withdraw the amendment.

Amendment 71 withdrawn.

Amendments 72 and 73 not moved.

Amendment 74

Moved by ***Baroness Humphreys***

74: Schedule 1, page 78, leave out lines 7 to 13

Amendment 74 agreed.

Schedule 1, as amended, agreed.

Schedule 2: New Schedule 7B to the Government of Wales Act 2006

Amendments 75 to 78 not moved.

Amendments 78A to 80A

Moved by ***Lord Bourne of Aberystwyth***

78A: Schedule 2, page 82, line 40, leave out "Sections 144(7) and 146A(1)" and insert "Section 144(7)"

78B: Schedule 2, page 83, leave out lines 1 to 38 and insert—

"(2) A provision of an Act of the Assembly cannot, unless it is an oversight provision, make modifications of—

(a) section 146A(1) of the Government of Wales Act 1998, or

(b) sections 2(1) to (3), 3(2) to (4) or 6(2) and (3) of the Public Audit (Wales) Act 2013 (anaw 3),

or confer power by subordinate legislation to do so.

(3) A provision of an Act of the Assembly cannot, unless it is an oversight provision and also a non-governmental committee provision—

(a) make modifications of section 8(1) of the Public Audit (Wales) Act 2013 so far as that section relates to the Auditor General's exercise of functions free from the direction or control of the Assembly or Welsh Government, or

(b) confer power by subordinate legislation to do so.

(4) An "oversight provision" is a provision of an Act of the Assembly that—

(a) relates to the oversight or supervision of the Auditor General or of the exercise of the Auditor General's functions, or

(b) is ancillary to a provision falling within paragraph (a).

(5) A "non-governmental committee provision" is a provision conferring functions on a committee of the Assembly that—

(a) does not consist of or include members of the Welsh Government, and

(b) is not chaired by an Assembly member who is a member of a political group with an executive role,

or a provision conferring power by subordinate legislation to do so.

(6) A person designated under section 46(5) to exercise the functions of the First Minister is treated as a member of the Welsh Government for the purposes of sub-paragraph (5)(a)."

78C: Schedule 2, page 85, line 20, after "Part 5" insert "not listed in sub-paragraph (2)(d),"

78D: Schedule 2, page 85, line 24, leave out from "taxes" to end of line 25

79: Schedule 2, page 86, line 32, at end insert—

"(d) the Joint Committee on Vaccination and Immunisation;

(e) the Human Tissue Authority;

(f) the NHS Business Services Authority or Awdurdod Gwasanaethau Busnes y GIG;

(g) NHS Blood and Transplant or Gwaed a Thrawsblaniadau'r GIG."

80: Schedule 2, page 87, line 22, at end insert—

"(h) the Joint Committee on Vaccination and Immunisation;

(i) the Human Tissue Authority;

(j) the NHS Business Services Authority or Awdurdod Gwasanaethau Busnes y GIG;

(k) NHS Blood and Transplant or Gwaed a Thrawsblaniadau'r GIG."

80A: Schedule 2, page 88, line 5, at end insert—

"(f) any function of the Treasury under section 138(2) or 141(4),"

Amendments 78A to 80A agreed.

Amendments 81 and 82 not moved.

Schedule 2, as amended, agreed.

Clauses 23 to 26 agreed.

Amendment 83

Moved by ***Lord Wigley***

83: After Clause 26, insert the following new Clause—

"Assignment of VAT

(1) The Government of Wales Act 2006 is amended as follows.

(2) In section 117 (Welsh Consolidated Fund), after subsection (2) insert—

"(2A) The Secretary of State shall in accordance with section 117A pay into the Fund out of money provided by Parliament any amounts payable under that section."

(3) After that section insert—

"117A Assignment of VAT

(1) Where there is an agreement between the Treasury and the Welsh Ministers for identifying an amount agreed to represent the standard rate VAT attributable to Wales for any period ("the agreed standard rate amount"), the amount described in subsection (3) is payable under this section in respect of that period.

(2) Where there is an agreement between the Treasury and the Welsh Ministers for identifying an amount agreed to represent the reduced rate VAT attributable to Wales for that period ("the agreed reduced rate amount"), the amount described in subsection (4) is payable under this section in respect of that period.

(3) The amount payable in accordance with subsection (1) is the amount obtained by multiplying the agreed standard rate amount by—

10/SR

where SR is the number of percentage points in the rate at which value added tax is charged under section 2(1) of the Value Added Tax Act 1994 for the period.

(4) The amount payable in accordance with subsection (2) is the amount obtained by multiplying the agreed reduced rate amount by—

2.5/RR

where RR is the number of percentage points in the rate at which value added tax is charged under section 29A(1) of the Value Added Tax Act 1994 for the period.

(5) The payment of those amounts under section 64(2A) is to be made in accordance with any agreement between the Treasury and the Welsh Ministers as to the time of the payment or otherwise."

(4) The Commissioners for Revenue and Customs Act 2005 is amended as follows.

(5) In subsection (2) of section 18 (confidentiality: exceptions) omit "or" after paragraph (j), and after paragraph (k) insert ", or

(l) which is made in connection with (or with anything done with a view to) the making or implementation of an agreement referred to in section 117A(1) or (2) of the Government of Wales Act 2006 (assignment of VAT)."

(6) After that subsection insert—

"(2A) Information disclosed in reliance on subsection (2)(l) may not be further disclosed without the consent of the Commissioners (which may be general or specific)."

(7) In section 19 (wrongful disclosure) in subsections (1) and (8) after "18(1)" insert "or (2A)"."

Lord Wigley: My Lords, in view of the time, I shall try to truncate my comments. The amendment would give the National Assembly as of right a proportion of VAT revenues and so give Wales the same tax power in this regard as enjoyed by Scotland. It would also open the possibility, post Brexit, for some variation of VAT levels in Wales to help provide the cash stream needed to service capital investment programmes, as discussed earlier in Committee.

It is widely acknowledged, by the Institute of Welsh Affairs and others, that devolution of public spending responsibilities should be accompanied by the assignment of significant own sources of revenue. Wales's funding framework has been highly unusual from an international perspective: there are not many Governments in the world with significant legislative and spending powers who do not also have a correspondingly important

[LORD WIGLEY]
responsibility for raising tax revenues. If the UK Government are serious about securing a lasting devolution settlement for Wales, the devolution of VAT should be considered as part of a package of devolved fiscal powers.

The Scotland Act 2016 stated that revenues from the first 10 percentage points of the standard VAT rate would be devolved by 2019-20. The current UK VAT rate is 20%, so half of all the VAT raised in Scotland will be kept in Scotland. A recent article published by the Wales Governance Centre states that:

"Welsh VAT revenues have been far more buoyant than other major taxes, such that VAT has become the largest source of revenue in Wales (in contrast to the rest of the UK and Scotland, where income tax remains the largest source)".

The report entitled *Government Expenditure and Revenue Wales 2016* concluded that around £5.2 billion was raised in VAT revenue in Wales in 2014-15. With a similar deal to Scotland, around £2.6 billion would be assigned to the Welsh Government. There would of course be an offset from the Barnett block for however long that remains in its obsolete and unfair current format. Based on the report's figures, it would mean that more than a third of total devolved expenditure would be financed by devolved and assigned taxes, up from 21% with currently proposed devolution.

I hope that the House will agree that this fiscal lever is essential to secure the success of the Welsh economy. I beg to move.

Lord Hain: My Lords, I normally agree with my noble friend on devolution matters, but I want to question the consequences of the amendment. If we look at change in income tax take in the UK and Wales during the past few years—indeed, since 2010-11—we see that income tax receipts have grown across the UK by 6% and in Wales by only 2%. Notwithstanding the noble Lord's point that VAT represents a much larger proportion of tax receipts in Wales, I would be very surprised given the lower GDP and lower spending per head in Wales if Wales did not do badly out of the devolution of VAT. I have to oppose the noble Lord on that basis. Given his belief in an independent Wales, I understand ideologically why he would want just about everything devolved, but this measure would be folly in the context of the economic, financial and tax realities of Wales's economy relative to that of the UK.

Lord Wigley: VAT is very much more stable and would be less likely to go down by the nature of the expenditure and the pattern of finances in Wales. There is that problem with income tax, but VAT has a much better prospect and I believe that we really should have it.

Lord Hain: The noble Lord may have a point in the sense that more VAT proportionately is paid by people on low incomes, and there are relatively low incomes in Wales, but I would want to see the figures. I would want to have the drains up on this proposal before I went anywhere near it, because I would not want Wales to be short-changed by such a reform. On that basis, I oppose the amendment.

Lord Rowlands (Lab): I support my noble friend because I worry about taxation. It can be very regressive in an individual context. There is a history of it, and it could be not only in income tax but in VAT. We should be very careful before we proceed down that road.

Baroness Morgan of Ely: I endorse the views of my two colleagues on the Labour Benches. I think it would increase budget volatility for the Welsh Government without enhancing their powers in any meaningful way. I underline one other point, and that is that we would, potentially, have different rates in England and Wales. Imagine the chaos that that could cause communities and businesses on both sides of the border. The economies of England and Wales are closely integrated and I am mindful that having varying rates applied on opposing sides of the border could pose significant issues in the long run, so I am really sorry—it always pains me not to agree with my noble friend Lord Wigley—but I cannot support this amendment.

10.15 pm

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lord, Lord Wigley, for moving Amendment 83, which seeks to assign a share of the VAT revenues generated in Wales to the Welsh Government in the same manner that a share of VAT raised in Scotland will be assigned to the Scottish Government following the Smith commission agreement, given effect through the Scotland Act 2016. In parenthesis, I may be wrong but I do not think that Scotland has the right to vary the rate, so it is possible to protect that element.

It is important to understand the purpose of VAT assignment, which is to increase the link between the Scottish Government's policy decisions and their budget, and thereby further increase their accountability and give them power for a purpose. While assignment does not, as I said, enable the Scottish Government to change VAT policy in Scotland, they have a wide range of policy levers at their disposal which can affect the performance of the Scottish economy and can therefore impact VAT revenues in Scotland. For example, the Scottish Government's approach to skills, planning, housing and transport all have an effect on the performance of the economy and therefore on VAT—as, of course, can their approach to taxation. The impact of these decisions on the Scottish economy, and in particular on VAT revenues, will in the future feed through into the Scottish Government's funding.

Of course, these arguments can also be made in relation to Wales. The Welsh Government have a similar range of economic policy levers and one of the Government's key aims is to increase their accountability and to give them power for a purpose. However, I share some of the caution urged by the noble Lords, Lord Hain and Lord Rowlands, and by the noble Baroness, Lady Morgan of Ely. The independent, cross-party Silk commission gave full consideration to the case for assigning a share of the VAT receipts generated in Wales and, while it recognised some of the arguments I have set out, it ultimately recommended against VAT assignment in Wales. Unlike in Scotland, there is therefore no clear consensus of support for the proposition. Our focus at this time should be to work with the Welsh Government to implement the Wales Act 2014 and to look at the main thrust of this legislation and take it forward on that basis. I therefore urge the noble Lord to withdraw his amendment.

Lord Wigley: I am grateful for the contributions made by my noble friends on this side, and for the response of the Minister, of course. All I say is that it is bizarre that we have devolved income tax, which is in Wales a relatively low-take tax, while we do not have a proportionate amount of the VAT. If we do not have the right to vary the VAT percentages, there will not be the effect on the poorer people in the community that has been referred to. However, we are not going to get very far with this tonight, and since it is getting late, I beg leave to withdraw the amendment.

Amendment 83 withdrawn.

Clause 27: Bus service registration and traffic commissioners

Amendments 83A and 83B

Moved by ***Lord Bourne of Aberystwyth***

83A: Clause 27, page 24, line 11, leave out "subsection (9)(g), (i) and (j)" and insert "subsections (2), (3) and (9)"

83B: Clause 27, page 24, line 13, at end insert—

"( ) In section 6A (applications for registration etc where restrictions are in force), after subsection (12) insert—

"(13) The power to make regulations under subsection (11), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State)."

( ) In section 6B (applications for registration where quality contracts scheme in force), after subsection (8) insert—

"(9) The power to make regulations under subsections (5) and (7), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).""

Amendments 83A and 83B agreed.

Clause 27, as amended, agreed.

Clause 28 agreed.

Clause 29: Transfer of executive functions in relation to Welsh harbours

Amendments 83C and 83D

Moved by ***Lord Bourne of Aberystwyth***

83C: Clause 29, page 25, line 12, leave out "sections 11 and 43(1)" and insert "section 11"

83D: Clause 29, page 25, line 27, at end insert—

"( ) section 1 of the Harbours (Loans) Act 1972;"

Amendments 83C and 83D agreed.

Amendments 84 to 86 not moved.

Clause 29, as amended, agreed.

Clause 30: Transfer of executive functions: amendments of the Harbours Act 1964

Amendments 87 to 90 not moved.

Amendment 90A

Moved by ***Lord Bourne of Aberystwyth***

90A: Clause 30, page 26, line 35, at end insert—

"( ) In section 43 (provisions with respect to loans made by Minister)—

( ) after subsection (1) insert—

"(1A) Any loans which the Welsh Ministers make under section 11 of this Act shall be repaid to them at such times and by such methods, and interest thereon shall be paid to them at such rates and at such times, as they may from time to time direct.";

( ) after subsection (2) insert—

"(2A) Such sums as are necessary to enable the Welsh Ministers to make loans under section 11 of this Act may be issued to them out of the Welsh Consolidated Fund.";

( ) after subsection (4) insert—

"(4A) Any sums received by the Welsh Ministers under subsection (1A) of this section shall be paid into the Welsh Consolidated Fund.";

( ) after subsection (5) insert—

"(6) The Welsh Ministers shall, as respects each financial year, prepare an account of sums issued to them under this section and of the sums to be paid into the Welsh Consolidated Fund under subsection (4A) and of the disposal by them of those sums respectively, and send it to the Auditor General for Wales not later than the end of November following the year; and the Auditor General for Wales shall examine, certify and report on the account and lay copies of it, together with his report, before the National Assembly for Wales.";

( ) in the heading, at the end insert "or the Welsh Ministers"."

Amendment 90A agreed.

Amendments 91 and 92 not moved.

Clause 30, as amended, agreed.

Clauses 31 and 32 agreed.

Clause 33: Development consent

Amendments 93 to 95 not moved.

Clause 33 agreed.

Clauses 34 to 36 agreed.

Amendment 96

Moved by ***Lord Rowe-Beddoe***

96: After Clause 36, insert the following new Clause—

"Tax on carriage of passengers by air

In Part 4A of the Government of Wales Act 2006, after Chapter 4 insert—

"CHAPTER 5

TAX ON CARRIAGE OF PASSENGERS BY AIR

116O Tax on carriage of passengers by air

(1) A tax charged on the carriage of passengers by air from airports in Wales is a devolved tax.

(2) Tax may not be charged on the carriage of passengers boarding aircraft before the date appointed under subsection (6).

(3) Chapter 4 of Part 1 of The Finance Act 1994 (air passenger duty) is amended as follows.

(4) In section 28(4) (a chargeable passenger is a passenger whose journey begins at an airport in the United Kingdom), for "England, Wales or Northern Ireland" substitute "England or Northern Ireland".

(5) In section 31(4B) (exception for passengers departing from airports in designated region of the United Kingdom) for "England, Wales or Northern Ireland" substitute "England or Northern Ireland".

(6) Subsections (3) to (5) have effect in relation to flights beginning on or after such date as the Treasury appoint by regulations made by statutory instrument.""

Lord Rowe-Beddoe (CB): Amendment 96 stands in my name and those of the noble Baronesses, Lady Morgan of Ely and Lady Randerson, and the noble Lord, Lord Wigley. I refer noble Lords to my register of interests, specifically as past chair of Cardiff Wales Airport. Your Lordships will be pleased to know that I do not intend to repeat what I have said in the past on this vexed issue. The Minister is well versed on the subject as a result of his previous membership of the Silk commission, before his ennoblement, on which he sat with distinction—and which recommended that this particular tax be devolved.

As a brief background, the tax was introduced in 1994 at a rate of £5 per passenger for travel within the United Kingdom and the European Union and £10 per passenger for travel elsewhere. Over the past 22 years, there have been several increases and changes in the structure. Since April this year, band A is levied at £13 per passenger at the reduced rate and £26 per passenger at the standard rate. For journeys of more than 2,000 miles—band B—the reduced rate is £73 and the standard rate is currently £146. These are significant amounts, I am sure your Lordships will agree.

Despite some small changes in structure, these taxes continue to be the highest in the world and represent a growing barrier to tourism, trade and investment in our country. Internationally, the tax is currently either being frozen or, in many cases, abolished. It is worth noting that, for domestic flights within the United Kingdom, air passenger duty is twice the amount of that paid for travel to and within Europe. This has a significant impact on domestic air services and, of course, regional connectivity—something which we hear a lot about on the development on new runways in the south-east. One must never forget the congestion on the roads or the slowness of our rail building. Air connectivity in the regions is very important and becoming increasingly so.

However, this tax—it is my favourite subject, really—is another example of the asymmetrical devolution of powers that has been thrust upon Wales continuously. In January 2013, the Government devolved APD to the Northern Ireland Executive on all direct long-haul flights there, which set the tax at £0. That still pertains. In January 2015, as part of the Scotland Bill, air passenger duty was devolved and the Scottish Government have since announced that they will reduce the level of APD by 50% between 2018 and 2021 and abolish the tax completely when public finances allow. In February 2015, in line with the St David's Day agreement, the Government announced that they were considering the case—or recommendation, call it what you will—and the options for devolving this tax to Wales. Is the deliberate omission of this provision from the Bill therefore the result of the Government's consideration?

It is clearly recognised that the devolution of APD could provide a much-needed boost to the Welsh economy through the growth of inbound tourism, additional trade links and a much-needed increase in destinations from Cardiff Airport, particularly for long haul. Abolishing this tax in Wales on long haul alone could bring an increase of 27% in jobs within aviation-related employment at Cardiff and indirect support employment in the greater area. This would give rise to a 28% increase in the GVA impact for the Welsh economy, which would clearly include the anticipated 41% increase in inbound tourism. I am sorry that it is so late an hour to give the Committee these numbers and percentages, but the abolition of this tax could be significant for the economy of our country.

In the other place, the honourable Member for Carmarthen East and Dinefwr posed this question on Report, which I repeat:

"Why would the Wales Office seek to deny Wales the same powers as Scotland and Northern Ireland?".

Again, he asked a little later,

"why would it deny the ability of the Welsh economy to grow?".—[*Official Report*, Commons, 12/9/16; col. 701.]

Wales needs parity with Scotland and Northern Ireland. It is in the interests of the development of our economy and therefore clearly in the interests of the people of our country. I beg to move.

Baroness Randerson: My Lords, I was very pleased to put my name to this amendment. This is a tale of two airports—the rivalry between Bristol and Cardiff airports—but someone listening to this debate who is not familiar with the geography that lies behind the arguments within it could be forgiven for thinking that these two airports are near neighbours. The argument is always put forward that, if you devolve responsibility for APD to the Welsh Assembly, it will cut the level of the duty and that will put Bristol Airport at a disadvantage. However, these airports are 102 kilometres apart, and they are not easy kilometres. They include driving along the M4, with its congestion, over the Severn bridge with its tolls and over very poor road links around Bristol to the airport, so it frequently takes in excess of two hours to go between the two airports. If you try going by public transport, you have an extremely complex journey involving trains and buses.

10.30 pm

I urge noble Lords to think about the contrast with Edinburgh and Glasgow airports, which now, courtesy of the Scottish Government, have the freedom potentially not to levy APD. They are both closer to the English border than Cardiff airport is to the English border—for example, Edinburgh is 57 kilometres from the English border. The argument that it is all right for Scotland to have this power but not for Wales to have it does not stand up to close scrutiny.

There is a very important point of principle that I apply when I look at Welsh devolution, and that is whether it is consistent with the other devolution settlements. I agree that very often there are good reasons for differences, but I can see no specific reason why there should be a difference with Scotland on APD. I accept there is a good reason for a difference with Northern Ireland. It has a land border with the Republic of Ireland, which has the freedom to levy a different rate of APD, so there is a pragmatic reason why Northern Ireland has that freedom, but I can see

no reason why Scotland is different. I accept that the Scottish Government have control over the judicial system and that that does not apply in Wales and will not apply for a considerable time. I accept those differences as a result of history, but I have thought about this long and hard and I cannot accept that the Assembly should not have powers over APD simply because Bristol Airport has been very effective at lobbying.

This issue is especially important because the Welsh Government have put taxpayers' money into this and invested in developing Cardiff Airport, which has worked extremely well. It has produced good results under the leadership of the noble Lord, Lord Rowe-Beddoe, and Roger Lewis. It is very important that the airport in Cardiff is allowed to grow and to develop fully and is not forced to try to do so with one hand tied behind its back.

Lord Murphy of Torfaen: I agree very much with the noble Baroness, Lady Randerson. Over the past three days in Committee, the Minister has been very helpful. He knows his stuff. He probably knows devolution better than any other Minister in the current Government. I rather suspect that he might not agree with us on this but I hope he can. I think this debate is about Bristol, not air passenger duty. As the noble Baroness rightly said, if it is about devolution, there is no reason whatever that the treatment should not be the same for Wales as it is for Scotland and Northern Ireland.

It seems to me, too, that Cardiff is our Welsh national airport and should not be disadvantaged because of people who lobby for Bristol Airport. As good an airport as Bristol is, that is not the issue. This is about devolution, not about Bristol Airport.

Lord Wigley: My Lords, I will speak briefly in support of Amendment 96, so ably moved by the noble Lord, Lord Rowe-Beddoe. We are glad to hear his expertise in this particular debate.

The amendment provides for the devolution of air passenger duty to the National Assembly for Wales. As has been mentioned, long-haul air passenger duty is already devolved to Northern Ireland and Scotland. It was included as a key part of a carefully crafted package of devolved measures in the recommendations of the Silk commission—of which the Minister was a central part—and would be used to give competitive advantage to Wales.

Plaid Cymru MPs attempted several times to include APD devolution in the other place, but this was met by a deluge of England-centric counterarguments from the Secretary of State and his Ministers. They seemed more interested in the possible effects of devolving APD to Wales on airports in Liverpool and Manchester than the benefits to Wales. I exclude the noble Lord from this criticism, which is based on what was said on 11 July in another place, but I am dumbfounded as to how Wales Office Ministers, who are meant to be working in the interests of their constituents, can justify their position in prioritising English airports. In this instance, I gently say to government Ministers that their job is to stick up for Wales—goodness knows, there are enough other people in the Palace of Westminster to argue England's corner.

A recent *Western Mail* poll found that 78% of Welsh people are in favour of devolving APD, showing that public opinion is clearly on that side. Increasing footfall at the airport would generate substantial revenues elsewhere in Wales, and enable Wales to better market itself for trade, tourism and inward investment purposes, which will become a top priority in the post-Brexit world which we, sadly, will soon inhabit. Let us also remember that Cardiff Airport is owned by the people of Wales. It should be a matter for Welsh Ministers to decide on an aviation strategy that best serves those people. Airports in England should not have the power to determine government policy and block a beneficial Welsh devolution settlement. I support the amendment.

Lord Hunt of Wirral (Con): My Lords, I have to start with an apology. I think this is the first occasion on which I have ever disagreed with my noble friend Lord Rowe-Beddoe. I cannot agree to his proposed new clause—"Tax on carriage of passengers by air"—for three reasons. I hope that when I say what I am about to say, he will recognise that I worked very closely with him in attracting inward investment to Wales and, indeed, in and around Cardiff Airport.

My first point is that, sadly, this debate, like so many debates about the great country where I was born, is centred on south Wales. There has been no mention, apart from a sudden reference just now by my noble friend Lord Wigley, to Liverpool and Manchester airports. I view the airports of England and Wales as a whole, and I will come to a solution in a moment, but Cardiff is certainly not the airport of choice for people living in and around where I was born. It is certainly not the airport of choice for those in central Wales. Indeed, the needs of a large part of the geographical territory of Wales are not met by Cardiff.

Secondly, I have never been a strong supporter of air passenger duty. No doubt, when all the volumes are written and all the Cabinet papers published, it will be seen that I was never a supporter of APD or insurance premium tax. However, I have to acknowledge that it is a very clever way of raising revenue—so much so, as the noble Lord told us, that I think it now totals £3.1 billion a year. The noble Lord seeks, with the best of intentions, at one single airport, to make it possible for the owners of that airport—by the way, I think there is a conflict between owning the airport and setting the tax—to be able to move the duty up or down. Because it is such a clever way of raising money, if the Welsh Government were ever a little short of revenue—and I think they usually are—it would be perfectly possible for them, under his proposed new clause, to raise the amount of revenue from APD. I just do not think I want to go down that route.

Thirdly, there is an urgent need to develop a better policy for regional airports. I am aware that the Government published a consultation paper—last year, I think—looking at the future of regional airports. We are, after all, the Parliament of the United Kingdom, so I would have thought we had to look at regional airports across England and Wales to find the best possible policy for ensuring their success.

I think there are three possibilities. The first is to devolve air passenger duty within England and Wales, a possibility that, if I recall correctly, was raised.

[Lord Hunt of Wirral]
Secondly, rates could be varied from airport to airport, with a view to strengthening the claims of that particular airport. Thirdly, we could give much more aid to regional airports. I recall, and the noble Lord may remember this, that several of the companies that decided to make substantial inward investment in Wales cited the efficiency of Heathrow Airport as the reason they were able to come to Wales.

As the Parliament of the United Kingdom, we ought to look at the policy for regional airports as a whole. I do not know whether the Minister can give us any idea when we will see a policy applying to regional airports in England and Wales, but I hope we will soon. In the meantime, do not let us go off in one direction or another in favouring or disfavouring one particular airport. We have to strengthen regional airports in England and Wales as a whole.

Baroness Morgan of Ely: My Lords, I agree with the case eloquently put by the noble Lord, Lord Rowe-Beddoe, and others. A reduction in air passenger duty would help air passengers, support growth and jobs and cut costs for businesses. I urge the Minister to support this amendment.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in this debate on air passenger duty, specifically the noble Lord, Lord Rowe-Beddoe, who has served with distinction in so many areas of public life in Wales, not least in relation to Cardiff Airport. His very good work is being carried on by Roger Lewis.

As we committed to in the 2015 St David's Day agreement, the Government have considered the case and options for devolving APD to the Assembly, informed by consideration of the impact this would have on regional airports in England, as they happen to be; as things stand, Wales has only the one international airport, in Cardiff.

It is clear from the debate that noble Lords are aware that Cardiff and Bristol airports are about an hour apart, and the population density of the border area there means that more than 4 million people live in the overlapping catchment areas of the two airports. I must take issue with the noble Baroness, Lady Randerson, with whom I am normally in agreement as she is normally very fair: the distance from Cardiff and Glasgow airports to the English border is not the relevant one. There is no international airport in Berwick-upon-Tweed. It is a long while before you get to an international airport, which is Newcastle.

10.45 pm

Baroness Randerson: I understand that difference, but anyone who can get from Cardiff Airport to Bristol Airport in an hour is not obeying the speed limit.

Lord Bourne of Aberystwyth: My Lords, I think the last time I made that journey was with the noble Lord, Lord German, who was driving, but we will gloss over that.

As noble Lords will be aware, those airports are close together, although I accept that it is not always an easy journey, because of the build-up of traffic. However, the nature of the England-Wales border has led to a number of English regional airports raising serious and legitimate concerns about lower APD rates in Wales. As my noble friend Lord Hunt suggested, the rates could go up as well as down; we need to realise that they would not necessarily go down, at least not all the while.

The Government must ensure that devolution does not lead to undue market distortion. Currently we are bound by the state aid rules of the European Union, in any event, which was something that the Silk commission considered long and hard in looking at this issue. I do not have the Silk report in front of me, but I seem to remember that we recommended the devolution of tax on long-haul routes, not overall. It is true that we looked at the analogy of Northern Ireland—which is different because people there have the option of going to Dublin which, being in a different member state, could vary the rates anyway—and we were persuaded just in relation to long haul. I think I am right in saying that no long-haul flights currently take place from Cardiff; I appreciate that that that could make a difference. I am looking at the noble Lord, Lord Rowe-Beddoe.

Lord Rowe-Beddoe: There are long-distance flights and they are being negotiated all the time. They go on as charter flights right through the year, so there are long-distance flights. While I am on my feet, may I say that your commission recommended that long haul be devolved? I apologise to the noble Lord, but that was your position.

Lord Bourne of Aberystwyth: I am grateful for the clarification on the existing charter flights. I am aware of our recommendation for long haul, although the scope of the amendment is probably broader.

As I said, the position in Scotland is very different because the airports are a long way from the next international airports, so the competition and fairness argument cannot apply. The United Kingdom Government have to look at these things in the context of fairness, and it would genuinely not be fair to an airport in England, which is unable to vary the rates, to compete with an airport that could. Noble Lords must surely see that point.

The point made by my noble friend Lord Hunt, speaking with a north Walian voice, was that this tax, if we were to adopt it, would not help the people of north Wales, for whom the nearest international airport would be Manchester or Liverpool; or, indeed, the people of mid-Wales, for whom it would be Birmingham —I am not sure that this is a plea for Birmingham, but I thought I would get in before it.

Lord Thomas of Gresford: I take issue with that. We have always wanted to develop our connectivity in Wales. There have been attempts to use the Broughton airstrip from time to time; I have flown on a regular service from Broughton to Cardiff in the past, and a very good service it was. Unfortunately, it did not pay.

If it were possible to reduce air passenger duty, Broughton would make a very good place from which to start flights, and I am sure it would be very popular in north Wales. Liverpool and Manchester are closer than Cardiff and Bristol. Edinburgh and Glasgow are closer than Cardiff and Bristol. They do not complain; they compete.

Lord Bourne of Aberystwyth: The point being, my Lords, that they are either, in the case of Glasgow and Edinburgh, both able to vary the rates or, in the case of Liverpool and Manchester, both unable to vary them, so they are on an even playing field, which would not be the case between Cardiff and, for example, Bristol. The noble Lord talks about the possibility of Broughton, but that would not give rise to long-haul flights. If noble Lords will allow me to go down memory lane, I remember going out on the roadshow with the Silk commission, and this was not a popular suggestion in north Wales. I remember people in the audience across the political divide saying that this would be a tax that would help people in south Wales, not people in north Wales.

Lord Wigley: The Minister made references to north Wales. I hope that he is not starting to play the old game of playing north against south, because it is to the benefit of the whole of Wales if the Welsh economy flourishes. It is essential that we use these levers to benefit Cardiff and the economy around there. If it has benefits in terms of tourism, that is a benefit to the whole of Wales. We have a number of small airports around Wales. The service from Cardiff up to Valley, for example, is a valuable one. We have an airport in Caernarfon and other airports. What is essential is that we get a coherent policy to work for the whole of Wales and not to have it happen, as is happening again tonight and happened in the House of Commons, that we play the hand for the sake of English airports at the expense of Cardiff Airport and the strategy of the Welsh Government.

Lord Bourne of Aberystwyth: My Lords, that is an unfair suggestion. I am certainly not playing north Wales against south Wales—I am informing noble Lords of what happened when we were out on the road. There is only one international airport in Wales. If we are talking about APD in relation to long-haul flights, that means only Cardiff in relation to Wales, as things stand; that is undoubtedly the case. I am the first person to stand up for Wales, as I hope that the noble Lord will accept, but we cannot do that in isolation from what is happening in the rest of the country. If the measure being talked about is unfair, I am afraid that it will not see the light of day in the context of looking at what is fair for the United Kingdom. Yes, we must stick up for Wales, but it has to be done in the context of fairness.

I shall progress the argument a little to see if there are other things that we can be doing. As I have said, we do not want to look at the position of market distortions, but we want to help Cardiff Airport if we can. We looked at a review of this to see whether it would be possible to devolve APD to Wales while supporting English regional airports against the impacts of reduced APD. However, there are no obvious options that could mitigate against the impacts on regional airports elsewhere, if devolving the tax to the Assembly meant that Bristol could face 25% fewer passengers. That is significant. I shall ensure that I circulate full details of our review into these options to noble Lords so they can see it.

I hope that noble Lords will accept that this is not a desire not to do what is best for Wales, but a desire to do what is best for Wales while recognising that we cannot fail to be fair to the rest of the country. If that happens in this case to be England, I make no apologies for that. Bristol Airport does not have the ability to vary APD, and we cannot do that in the context of the Bill.

I have listened carefully to the debate, and I shall circulate the details of the review, when we had a look to see if there was anything that we could do. There was a long debate in the Silk commission, and it was not along party-political lines; it was generally divided on the issue of what we could do for Wales, partly because of fairness and partly because of the issue that still exists about state aid and the fear of action in relation to that—valid action. On that basis, I ask the noble Lord to withdraw his amendment. As I say, I shall circulate details of the review that we had to see whether there was anything that we could realistically do to help Wales—and, in this context, that means Cardiff Airport.

Lord Rowe-Beddoe: I thank the Minister for his response and thank all noble Lords and noble Baronesses who have participated in this short debate. I thank the noble Baroness, Lady Randerson, who mentioned 102 kilometres. It is an important number because under current EU regulations 100 kilometres has associations with state aid, which the Minister brought up. In Cardiff we have been fighting allegations about state aid—successfully, I am happy to say. I am also very pleased that the elephant in the room was mentioned, not by me but by everybody else. Yes, of course it is Bristol—and this is a pure political gesture. We know it and feel it in ourselves. If we look at the constituency make-up around the city of Bristol and in the south-west, we will understand why. However, I am sorry that the noble Lord, Lord Hunt, disagrees with me for the first time—or I disagree with him.

I will come back on just two points. Cardiff is our international airport, whether it is situated in Ceredigion or in south Wales. We cannot have them all over Wales. We can put up little airports and support ones like Valley and Broughton so we can use them, but Cardiff is our international airport. The status of long-haul flights is under heavy negotiation at the moment and regular routes will be announced soon.

I say to my noble friend Lord Hunt that there is a little group called the Regional and Business Airports Group which represents 32 regional airports in the United Kingdom. In September 2015, it wrote a discussion paper, in which it advocated on behalf of the regional airports in the United Kingdom the devolution of this,

"market distorting tax which impacts far more heavily on smaller airports than larger ones".

That is quite an interesting document—it was addressed to the energy and transport tax team—and perhaps the Minister could take a look at it.

I thank all noble Lords. It is late at night and I will withdraw the amendment, but I will have to come back at some stage.

Amendment 96 withdrawn.

Amendments 97 and 98 not moved.

Clause 37: Development consent for generating stations with 350MW capacity or less

Amendments 99 to 102 not moved.

Clause 37 agreed.

Clauses 38 to 45 agreed.

Amendments 103 to 105 not moved.

Clause 46: Intervention in case of serious adverse impact on sewerage services etc

Amendments 106 to 107A not moved.

Clause 46 agreed.

Clauses 47 and 48 agreed.

Amendment 107B

Moved by ***Lord Bourne of Aberystwyth***

107B: After Clause 48, insert the following new Clause—

"Financial assistance for inland waterway and sea freight

(1) Section 272 of the Transport Act 2000 (financial assistance for inland waterway and sea freight) is amended as follows.

(2) For subsection (4) substitute—

"(4) So far as it relates to inland waterways that are wholly in Wales, the power conferred by this section is a power of the Welsh Ministers.

(4A) So far as it relates to—

(a) the carriage of goods by an inland waterway that is partly in Wales, or

(b) the carriage of goods by sea where the carriage concerned is wholly or partly by sea adjacent to Wales,

the power conferred by this section may be exercised concurrently or jointly by the Secretary of State and the Welsh Ministers."

(3) For subsection (6) substitute—

"(6) In this section—

"inland waterway" includes both a natural and an artificial inland waterway;

"sea adjacent to Wales" means the sea adjacent to Wales out as far as the seaward boundary of the territorial sea.

(7) An order under section 158(3) of the Government of Wales Act 2006 determining, or making provision for determining, any boundary between waters which are to be treated as parts of the sea adjacent to Wales and those which are not applies for the purposes of the definition of "sea adjacent to Wales" in this section as it applies for the purposes of the definition of "Wales" in that Act.""

Amendment 107B agreed.

House resumed.

Investigatory Powers Bill

Returned from the Commons

The Bill was returned from the Commons with reasons. The Commons reasons were ordered to be printed. (HL Bill 70).

House adjourned at 10.58 pm.