Vol. 776
No. 65

Friday
18 November 2016

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2016-11-18

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

Friday 18 November 2016

10 am

Prayers—read by the Lord Bishop of Winchester.

International Development (Official Development Assistance Target) (Amendment) Bill [HL]

Second Reading

10.06 am

Moved by ***Lord Lipsey***

That the Bill be now read a second time.

Lord Lipsey (Lab): My Lords, this is a simple Bill that I can simply precis. In the last Parliament, legislation was passed committing Britain to spending at least 0.7% of GNI on official development assistance. Ministers are to report to Parliament if they miss this target. However, by making the target an annual one, the Government run the risk of having to rush through expenditure at the end of each financial year to meet their target. The National Audit Office has pointed out examples where precisely this may have happened. This Bill, therefore, intends to make the target one that applies over a five-year period, not one year, which would allow much greater flexibility.

Looking around the Chamber, I see very good representation of what I might call "the aid crew"—people who know a great deal more about aid than I do. My knowledge of aid is confined to a short period on the Economic Affairs Committee, during which time we wrote a report on the subject, to which I will return. However, I do claim perhaps a little knowledge of another subject, and that is how best to manage the public finances. I wrote a book, *The Secret Treasury*—there were not many secrets, but that is what it was called—and it was mostly about how you sensibly control public expenditure under our system. That is the main motivation behind my Bill today.

I should say straight away that it is not in any way an anti-aid Bill. You could substitute defence, education or health for aid throughout the Bill. If an annual target had been set in those areas, I would have said that that also should be changed to a five-year target—it is mere good sense.

It will be apparent to most noble Lords that this is a re-run of a debate that we had in the last Parliament. I, along with the noble Lord, Lord Forsyth, moved amendments to the Bill from the noble Lord, Lord Purvis, which would have had the effect of bringing in this five-year target. Noble Lords will have their own opinions as to who won the argument, but no amendment was made. Yes, this is a replay, but it is a replay under very different circumstances. To stretch the football analogy, we are now on a pitch that slopes the opposite way to the one on which we played last time.

Then, David Cameron was the Prime Minister in No. 10, in coalition with the Lib Dems. Mr Cameron was—how shall I put this in "lordly" language?—not known for his strong beliefs. But one belief that he did adhere to was giving a higher priority to aid. Some will think that this was for high moral reasons and others that it was to appease liberal voters so that they would not go back to thinking that the Conservative Party was the nasty party. As is often the case with politicians, I should think it was a bit of both. However, he was adamantly in favour of spending on aid. Today, Theresa May is the Prime Minister. It may be my failing, but I cannot find in her reported words any reference whatsoever to aid. But sometimes actions speak louder than words, and her appointment to DfID of Priti Patel, who has previous as a critic of aid, perhaps says more about where this Prime Minister stands than any words she might have uttered.

The Lib Dems, and I pay tribute to them, supported the Bill, partly for moral reasons and partly no doubt to show their supporters that they were having some influence on the Tory Government. However, that argument was dissolved with the election and the Lib Dems reduced to a rump in the Commons, although it is delightful to see them in such hefty numbers here. There is a new Prime Minister, a new Government and a new Commons with a new mandate. If this Bill has its way, there will be a new, less harmful way of putting in place the 0.7% target for aid.

The Economic Affairs Committee that reported in March 2012 was chaired by the noble Lord, Lord MacGregor, and included two ex-Chancellors and a bevy of heavy hitters, not including me. We were against having targets. The arguments that persuaded us are set out clearly in paragraph 15 of the summary and conclusions of that report, and I will save the House's time by not reading them out now. I do not really want to go over water that has flowed under the bridge. We have a target of 0.7% a year and it would be way beyond a modest Private Member's Bill to get rid of that. My Bill would simply change a series of one-year targets to a five-year target, again, of 0.7%. Incidentally, there has been some speculation because the Bill sometimes changes a single calendar year to multiple years. That was a mistake in my drafting. It could easily be amended on Report so that it referred only to calendar years.

This change will be relevant quite soon. Over the past couple of years, Britain has been meeting the Purvis target. However, under the new methodology for calculating gross national income about to be introduced, we would have fallen short. The excellent briefing prepared by our Library suggests that over the last few years we have not been spending what we should have been spending. We do not yet know what the outcome will be for 2016, but with a further shortfall looming, we can guess at the temptation of DfID to shove the money out of the door as fast as possible to meet the target. However, I am not confident that all that money will be well used and my confidence has been further eroded by the Government's shifting of money from the DfID budget to the Foreign Office budget to make it look as though they are making their target whereas in fact aid money is being used for wholly different purposes.

[Lord Lipsey]

But it is not my judgment that matters, but the judgment of more objective and more informed observers. Therefore, we have very seriously to consider the report, which was available even last time we debated this subject, from the National Audit Office. It said—not I said—that, when it was unlikely that the ODA target would be met, DfID increased its spending and quickly added activities to its plans, which made it,

"difficult to achieve value for money".

Achieving value for money is the sole aim of my Bill. The report cited the way that the department had brought forward £300 million of activity planned for 2015 to 2014 to meet the target and then the department asked the Treasury for extra cash to meet the target in the following year. That is the kind of inflation that occurs.

"Never mind", the defenders of the 0.7% aid target might say, "as this will mean more money for aid, which is what we want". That is a judgment. My judgment is different. This kind of fiddling the figures is bad for aid and bad for the level of aid. The British public are not, for better or worse, supporters of aid spending. A poll in 2015 showed that 67% of the public made aid their number one target for public expenditure cuts—way out at the top of the list of potential public expenditure cuts. The British public, rightly or wrongly—and, in my view, sadly—are not aid fans.

I am sure that a great deal of shaping the opinion of the public is reflective of a kind of reporting in the press. I do not mean reporting in any pejorative sense because there was an excellent series last year by Dominic Kennedy, the investigations editor at the *Times*. It revealed examples of where we were using aid to prop up corrupt police forces or for cultural projects of one kind or another. That is not the kind of thing that aid fans like me want to see—projects that alleviate poverty on the ground. The new development secretary has inveighed eloquently about the abuse of multilateral aid programmes, but before she goes on too long about that she would be well advised to get the beam out of her own eye.

Aid will never be a vote winner, but if we continue with a set of rules that make waste all but inevitable, we may face a backlash from taxpayers that renders the whole programme vulnerable. Anyone who thinks that that is fantasy should look at what happened in Ireland. In Ireland they legislated for precisely this target. The Irish people got crosser and crosser and step by step they backed away from it so that they do not have such a target today.

Let me be clear with the House one final time. I am a passionate supporter of development aid. I know that there are great projects going ahead with Britain's support. By most standards, I would call DfID a competent department. I am proud of that and I am even willing to pay my share of taxes to support that. But I am not happy to pay those taxes—and here I exaggerate to make my point—to go down various toilets of DfID's devising as the Government try desperately to fulfil the daft mandate given to them by Parliament. I do not actually favour a five-year target, but I prefer it to the one-year aid target that the last Parliament, mistakenly in my view, legislated for. I beg to move.

10.18 am

Baroness Hodgson of Abinger (Con): My Lords, I would like to thank the noble Lord, Lord Lipsey, for raising the issue of international development in his Private Member's Bill today.

This Second Reading comes at a pertinent time following the announcement yesterday that the target spend on official development assistance of 0.7% of GNI was achieved precisely in 2015. The UK Government have led the world with their commitment to deliver 0.7% annually—a target set by the UN—and we are the first G8 country to do so. This target was first achieved here in 2013, two years ahead of the EU target, and the International Development (Official Development Assistance Target) Act enshrined this commitment into UK law in March last year. That legislative commitment was not easy to attain and had to be hard fought for. We should be proud of our Government for this achievement and for setting an example that other nations should follow. As we have heard, the Bill before us seeks to amend the legislation from having an annual target of 0.7% to making it apply over five years, and that causes me some concern. I know that many question our commitment to overseas aid, but tackling poverty and thus tackling the root causes of many of today's challenges in developing countries is not only the right thing to do, it is also in the interests of the UK.

I do not propose to reiterate all the arguments that were put forward when the International Development (Official Development Assistance Target) Act 2015 was debated, but I think that we have all been shocked by the sheer numbers of refugees trying to get to Europe this summer. The majority of them come from countries where there is either extreme poverty or conflict, and the simple fact is that unless we help these countries, more will follow. I have seen myself when visiting countries the enormous difference that aid can make. Giving children an education in today's world is critical for economic empowerment, and between 2010 and 2015 the UK has supported 11.3 million children in primary and secondary education. Over the four years to 2015 the UK had helped 64.5 million people to gain access to clean water and better sanitation, which impacts positively on health and livelihoods. I have seen women in Africa who expend all their energy every day walking miles to bring water home. Also, through working in fragile and post-conflict states, UK aid is protecting the national security of this country. The Syria crisis, one of the worst disasters of our time, has caused millions to flee their homes. It is to be applauded that the UK has committed £2.3 billion in humanitarian assistance from 2012 to 2020. When one visits the refugees in camps, as I and I am sure many other Members of this House have done, one can see what vital support we give. I remember a woman in the Bekaa Valley in Lebanon trying to look after seven children in a tent. The water standpipe nearby was life-saving for her. I saw how traumatised women in a camp in Kurdistan who had fled from Daesh now had a safe haven where support was being given and some education provided for their children. This is all vital work which is the difference between life and death for so many.

I welcome the fact that we have a new Prime Minister and a new Secretary of State who are prepared to stand behind the annual commitment to 0.7% of GNI. Having made this commitment, we have to demonstrate to the British taxpayer that the money is spent wisely and efficiently and that we obtain maximum value for every pound spent. I welcome in particular the fact that DfID has put women and girls at the heart of development because it is the women of the developing world who are always the poorest of the poor. How will my noble friend the Minister ensure that some of our aid reaches the smaller organisations working at the grass roots, because it is there, working in communities, that meaningful change can be made?

What are my concerns about the Bill? I am worried that this change may undermine the overall goal of the international development Act and that it could be seen as the thin end of the wedge. While I recognise that it is not easy to ensure that the 0.7% GNI target is hit every year, changing it to every five years would mean that there can be annual slippage. I suppose I worry that in tight financial circumstances there might be a temptation at the end of five years perhaps not to make every year a good one.

As I have said, we fought hard to get the overall annual commitment to 0.7% and if we lose it now we will never get it back. At the moment this is a closed issue with 0.7% locked down. That gives the UK the moral authority to encourage other countries to do likewise. That is because the UK cannot do it alone. To lift countries out of poverty it needs other countries to come alongside and commit their resources too. This Bill will damage the UK's standing in this regard and contribute to lessening the moral impetus on other countries to meet the target.

In conclusion, much as I am grateful to the noble Lord for raising the issue of international development, I am unable to support the Bill.

10.24 am

Lord Judd (Lab): My Lords, first I thank my noble friend most warmly for introducing this Bill. It is on an important subject and it is good that we are going to consider it in the House. It will need very careful attention in Committee. Perhaps I may also say that having known my noble friend for many years, his faith and commitment to our aid and development responsibilities are very real and he has evidenced them consistently.

What the noble Baroness has just said about the danger of slippage must be in the mind of anyone who has held ministerial responsibility. Slippage can begin to accumulate like a snowball. This is a difficult issue that I have never totally resolved intellectually. Having been a defence Minister and a development Minister, I do not think it is altogether satisfactory to have a defence policy or an aid policy that relies heavily on its percentage of the GNP. What you must have is an effective defence policy and an effective development policy. It is the quality and quantity of what is being done that is really important, and that ultimately is how an aid programme will be judged.

But the world is not quite like that. Why I supported without qualification all the energy that went into ensuring that the 0.7% commitment is enshrined in our legislation is because I know, from having held ministerial office in that area, that what the noble Baroness has just said is terribly important: the pressures coming from all sorts of different quarters might mean that in the end, while you might have an impressive aid programme to address the challenges of world poverty, suffering and injustice that gives you a lovely shining halo because you have a perfect project, it would not realistically add up to much of a contribution to world justice, peace and stability. From that standpoint, therefore, the target is important.

On annual or five-yearly reporting, there are issues that would need to be examined. A general election would almost certainly ensue within a five-year period, so would the outgoing Government really be held to account in the general election as fully as they should be? The other issue is how to ensure that results are being produced, and therefore some discipline about annual performance is important. However, there is a complication. I have no hesitation in saying, having been a development Minister, that I was subsequently director of Oxfam. During my time with Oxfam I learned an important lesson: the pressure to produce tangible results within short timescales can actually be distorting in terms of genuine and lasting development. Long-term development extends over a number of years, and there is an argument that in some situations you can judge what has been contributed only many years later, when you can see what has happened in that society. It may not always be exactly what you had hoped for, predicted would happen or stated as your objective, but it might be very interesting. Development is about not just producing results, but contributing to a process that belongs to the people of the country concerned and the communities with which you are working. It is about what they can gain in self-confidence, skills and abilities, and building them up over a lasting and sustained period. A lot of details will need to be looked at in Committee.

I hope I will not be accused of being sentimental—this House is very harsh on sentimentality, and rightly so—but I have a mind jammed full of vivid, real anecdotes I have encountered at first hand that have regenerated my commitment to this very important issue. I will share with the House just one. It was during that awful, bitter, cruel civil war in Mozambique. I could get to my destination only by hitching a lift on a relief plane. My heart was in my mouth during that flight. A merrier band of cowboys flying a plane I had never encountered. Furthermore, the state of the plane needed some attention, but it was carrying relief supplies and it got there.

What struck me when we arrived—I am sure many of us saw the situation on television and elsewhere—was this quiet murmuring from the huge crowd that had assembled. There were thousands of people. Some had lost absolutely everything. I was introduced to a family who, just a few days ago, had watched their village and home burn to the ground, and their seven year-old child be chopped to death and burned in the house. Here were these people. I was glad that I could come home and say to Oxfam supporters, the wider public and my colleagues, "It is worth it. We aren't getting it all through because it's a war situation"—one

[LORD JUDD]
must be realistic; not all does get through—"but a very substantial amount is getting through and it makes the operation worth while".

But that was not the main message that came home to me. This is the point at which the House may feel I am testing credibility, but it is true. What I experienced then had a great deal to do with my decision, when asked, to join this House, which is an experience I have always valued. Yes, the blankets, the soap, the salt, the food was getting through, but within days of those people getting into that camp, they were asking for spades, for shovels, to start growing their own food again. I thought of my home community in Oxford and of my own family. If we had been through a fraction of this experience, we would be totally broken. Yet here were these people, already physically and committedly rebuilding their lives.

I came home saying that I really had to do something about getting this message across. It is not these people's privilege to be helped by us. That is a moral responsibility that we cannot escape. It is our privilege to work with people of so much dignity, courage and drive. Therefore, I hope that in the deliberations on the Bill, as in every debate we have on this subject, we remember that we are not generous, wealthy people saying, "We must give some of our wealth to the poor". There may be people who say that, but that does not switch me on. Rather, we should say, "How exciting, how challenging to have the opportunity to work with people in these desperate conditions, in desperate plight, to build a more secure, just future". Have no fear: we will not have a secure, peaceful world unless there is effectively growing social justice in the world.

10.35 am

Lord Purvis of Tweed (LD): My Lords, it is a real pleasure to follow the noble Lord. I think I speak for the whole House in saying that we recognise his commitment to, and knowledge of, this area, and his contribution in this morning's debate proves that even more.

A considerable coalition of support led to the international development Act reaching the statute book in 2015. That included: the previous Labour Governments from 1997, in particular when Gordon Brown was in the Treasury; the Conservative Party, in particular under David Cameron, with its strong stance on this position; and, in government and in this House, the great forbearance and patience of the Government Chief Whip in the Lords, the noble Lord, Lord Taylor of Holbeach, who worked with me and supported me at sometimes tense moments. His commitment and that of others, especially from those such as the noble Baroness, Lady Hodgson, led to a great deal of consensus in this House.

I particularly welcome the noble Lord, Lord Bates, to his position. He is extremely highly regarded in this House, and I know he will be a great addition to the department. I look forward to him summing up the debate today.

Like the noble Baroness, Lady Hodgson, I have been in the Bekaa Valley this year and seen those fleeing the terrible crisis in Syria. I have been in northern Iraq a number of times and seen internally displaced people fleeing Daesh, all supported by DfID programmes. UK aid is literally saving lives today as we debate the Bill. That needs to be recognised.

The coalition of support also included NGOs, which were unanimous in their view. For my own party's worth, I said in the Second Reading debate that we were delivering a manifesto commitment. That manifesto was the 1970 general election manifesto, where my party had our commitment before the UN adopted it. The former MP for Berwickshire, Roxburgh and Selkirk, the right honourable Michael Moore, who piloted that Bill through the House of Commons, and my colleague my noble friend Lady Northover, who was at the Dispatch Box on behalf of the Government, together with other parties and NGOs, all had a desire to move away from what the noble Baroness, Lady Chalker, described movingly in her Second Reading speech as the struggle that she had as a Minister, who could start a year not knowing what level of aid she could commit to programmes at the end of the year. Her challenge as a Minister had lived with her over the following years. I was struck by her commitment to this area.

I commend the noble Lord, Lord Lipsey, for allowing us to continue to scrutinise, to challenge and to question our development budget, not least because it is the public's money, after all, and it is of a very large scale and a very large amount. Proper scrutiny and continuing questioning of it is valid. It is the role of parliamentarians to do that. I also commend him for his consistency, given his contributions to the Act, but while I commend him for his consistency, I do not think he will be surprised to learn that I think he is consistent, but not correct.

In some respects, I could understand if the Bill argued against meeting the target altogether. Some are making that argument in the rather reactionary right-wing press. We can see that their argument is that the aid budget should be slashed entirely. Thankfully, the vast majority of people are not calling for that. I remain slightly confused that the Bill seeks to amend the existing law in a way that would make the noble Lord's complaints about the legislation on the statute book even more egregious. It is a perplexing paradox that legislation designed to improve an Act would actually make it worse.

In most respects, this Bill is a version of the amendments that the noble Lord, Lord Lipsey, tabled to the international development assistance Bill in February last year. In presenting his arguments then, he said:

"It is intended to avoid waste, to provide ministerial flexibility and to help in the management of our national budgets".—[*Official Report*, 27/2/15; col. 1854.]

These are all very laudable aims, but I fear that the position has not really changed between then and now: his amendments would actually make the situation worse.

The Permanent Secretary of DfID told the International Development Committee in the Commons on 4 February last year, when asked about moving from an annualised budget to a rolling three-year programme:

"If you take a rolling three-year programme, what that means is for years one and two you have a lot of flexibility. In the third year, by definition, you have to hit a precise number, because it is

the end of the rolling three-year period. In the fourth year, you also have to hit a precise number, because you are dealing with what you had in years two and three. In the fifth year, you are dealing with years three and four. In a rolling programme, you get the benefit in the first year and possibly the second year, but not at any point thereafter. You are locked in after that".

In many regards, over the five-year period that the noble Lord asks for, we would lock it in even more. Add to that the greater uncertainty that comes from saying that it is simply an average over the period—we do not know whether he is arguing for an average or just a combination of each year—and we would really gain nothing from flexibility towards the end of the rolling period anyway. This is harder from year four of the first period. Locking in greater uncertainty is no way to bring about the aims that the noble Lord is asking for, and which the Act actually delivers. Far from offering greater ministerial flexibility, it would fundamentally defeat the entire purpose of trying to put stability and certainty into development programmes.

As the ONS statistics said yesterday, we are, in effect, in year three of meeting the UK target under a consistent statistical reporting mechanism that the ONS has recognised in its own papers. The 2015 Act now establishes this as the norm going forward, and that is very helpful, especially in the context that we still have to operate under DAC reporting rules, and DfID operates under its own relationship with the multilateral bodies on an annualised basis anyway. In effect, this Bill, unfortunately, cuts the ground from under the 0.7% commitment in its entirety.

For those who continue to argue that we should withdraw our legislative certainty and dilute our aid commitment, the two words "Aid works" are the simple repost. I spoke, as many noble Lords will have done last Sunday, to many young people who were taking part in Remembrance Sunday, about development assistance. It made me reflect back to when I was their age—to when I was 16. The combination of growing aid and concerted effort means that only 14% of people living in developing countries live on less than $1.25 a day. In 1990, it was 47%. We have made very significant progress.

Some 59 million deaths from malaria, measles and tuberculosis have been averted since 2000. There has been a threefold increase in the economies of the least developed countries between 1990 and 2014. Green energy investments in new renewables in many developing countries has gone from $45 billion in 2004 to $270 billion, leading to renewables such as wind, solar and biomass generating an estimated 9.1% of the world's electricity. Most importantly, I think, 137 million more children worldwide were enrolled in primary school in 2013 than when I was 16 in 1990. Just imagine the benefit for the world's future. The number of countries where an equal number of boys and girls attend school has increased by nearly 75% since 2000.

I use all these statistics to show that aid works. As the noble Baroness, Lady Hodgson, said, UK leadership in aid is now working, recognised by the Global Fund replenishment conference, by the Canadian Government and by the funding for development conference in Addis Ababa—the list is long of where the world is recognising the UK commitment.

Finally, when introducing the 2015 Bill in this House I asked: if the UK was a global citizen, what kind of citizen would it want to be? I confess that I did not expect then that the world would see the UK leave the European Union and the USA elect a racist, nativist, narcissist, bigoted billionaire as its head of state. In an uneasy world, our citizenship in the world must surely be seen as forward-looking, stable, open, tolerant and giving, where we grieve here when there is conflict elsewhere, where we are ashamed when children are born malnourished and continue into adolescence with poor health, and are angry when girls are prohibited from reaching their full potential. The UK is a leader in global goals and in financing for development. We know that the development pressures in the world are unprecedented, but we also know that we can eliminate absolute poverty and end chronic disease that affects those least developed in our lifetime.

I commend the noble Lord, Lord Lipsey, for his consistency, but he will not be surprised that I humbly submit to your Lordships that we reject the Bill he is arguing for this morning.

10.45 am

The Lord Bishop of Winchester: My Lords, I am grateful to the noble Lord, Lord Lipsey, for the opportunity to have this debate. I will not detain the House long.

During my time living and working in east Africa, I became acutely aware of the importance of international development, and in attempting to raise funds for educational development I experienced the challenges of having to think in the long term and strategically while being accountable in the short term on financial matters. I suggest to your Lordships' House that, in framing international development, we need to have a medium or long-term perspective on outcomes but a short-term perspective on requirements for financial accountability. Overemphasising either leads to short-termism or to the dangers of misallocation of funding and lack of appropriate accountability. In the Bill, I therefore suggest that these two dimensions be kept together, rather than split apart and put in opposition to one another.

As with all things, there are both positive and negative points to draw on, some of which have already been helpfully identified, but one further area I want to explore is our use of the words "outputs" and "outcomes" in this context. In proposing this, I am advocating a well-known approach to development: "outputs" are those things that can be counted and recorded, such as buildings put up and people taught, whereas "outcomes" are changes which will need to be measured over time, such as those now engaged in new vocations making a difference. In proposing this approach to development, I am suggesting a short-term approach to outputs and financial reporting, but a medium and longer-term approach to outcomes in relation to strategic development and financial planning.

With those short remarks, I wish the noble Lord, Lord Lipsey, well with his Bill, with the proviso that we do not change our overall commitment to the 0.7% annual figure, representing our serious commitment to development.

10.48 am

Lord Blencathra (Con): My Lords, I warmly support this Bill, because I think it is sensible and right. I believe that the current law is an ass and is typical of the bad law we get when we go in for tokenistic measures—things such as the Dangerous Dogs Act. Leaving aside my personal view that spending 0.7% of our GDP on overseas aid is a waste of money which could be better spent elsewhere, I accept that if the country and the Government are determined to spend 0.7% then none of it should be wasted, and I believe that a large part of it is being wasted.

One of the most telling speeches I heard in this House on this matter came from a former Permanent Secretary on the Cross Benches when the last Bill was being passed. It may have been the noble Lord, Lord Butler, but I am not sure. Whoever it was, he said that he strongly supported the 0.7% target but that it was sheer folly to lay down a legal requirement that the department had to spend every penny of it in each year and was not permitted any carry-over. He said that, inevitably, in January, February and March, as the financial year ended, the Government would throw money at any old rubbish just so that they did not break the law by underspending. I paraphrase slightly—the noble Lord would not have used the phrase "any old rubbish", but I think that that is what he intended.

As a matter of general principle, is there anything more insane or wicked for the taxpayer than that the Government would break the law if they did not waste enough taxpayers' money by a certain date? This Bill is the law we should have had if we want to implement a compulsory 0.7% target, or any target. We have all seen it in local government, where there is a silly, wasteful spending spree in March because the Government —all Governments—will not let councils carry over unspent money into the next financial year. Therefore, setting a five-year window to complete the expenditure is infinitely preferable to a 12-month window. I would have preferred something like a permitted 5% carry-over each year so that projects with, say, a three to five-year lifespan would have flexibility as to when they spend the cash. I sincerely hope my noble friend the Minister will state today that this Bill will become government policy and the Government will implement it in due course. I often live in hope.

Turning to other related matters of overseas aid—I am afraid your Lordships will find even less favour with these remarks—as I said earlier, I accept that we may need to spend 0.7% on aid but that means that not one penny should be wasted on undeserving countries or projects. I greatly admire my right honourable friend Priti Patel for the stance she is taking on waste in overseas aid projects. However, I suspect that she is up against a huge, elitist development cabal of all the NGOs and those who make millions from managing projects, which will seek to defeat her.

When one looks at some of the outrageous things that have been funded, it is easy to pick out examples of appalling waste. But in my view there is an even bigger racket: the multimillion-pound organisations which bid for contracts to manage the disbursement of aid projects. They are brilliant operators. They tick all the boxes in the DfID forms—they are non-misogynist, transgender, equal-opportunities, anti-smoking, huggy, squeezy feminist liberals—and then go on to rip off the department in the way they manage the projects. I hope that in due course my right honourable friend may be able to purge these companies from the aid disbursement list.

Despite criticism of some of the waste, I accept that DfID has a far better track record of spending money on the most deserving poor than any other organisation on earth, particularly the EU. I hope that on Brexit day plus one the British Government will devote all the money they are giving to the EU to British-run overseas aid projects.

Now we come to what I consider some thoroughly undeserving countries. This House has rightly condemned FGM. I dislike that term since I consider it a bit of a euphemism. It is the brutal torture of young girls. It is vile and it is evil. Nevertheless, in February 2016 I asked DfID,

"which countries where female genital mutilation is known or suspected to be practised widely receive UK overseas aid".

The Government responded a week later by saying:

"Female Genital Mutilation (FGM) is one of the most extreme manifestations of gender inequality. It is a form of violence against women and girls and can result in a lifetime of physical, psychological and emotional suffering. It is a global problem—over 200 million women and girls across at least 30 countries, including the UK, have been cut. The UK Government remains firmly committed to bringing about an end of FGM. Our Flagship FGM programme supports efforts to end the practice in 17 of the highest burden of these countries. With the support from UK aid over 13,500 communities across these countries have publically declared the abandonment of FGM since 2008".

So I then asked,

"which 17 countries their Flagship female genital mutilation (FGM) programme supports, how much aid each of those countries receives annually from the UK, and how much aid from the UK is spent annually on programmes to end female genital mutilation in those countries".

DfID's Answer was:

"DFID's regional FGM programme is providing up to £35 million in funding to end FGM in 17 high prevalence countries: Burkina Faso, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Kenya, Mauritania, Mali, Nigeria, Senegal, Somalia, Sudan, Uganda and Yemen. This funding is apportioned over a five year period from 2013-2018 and the breakdown by country is not readily available. Six of these countries (Kenya, Nigeria, Somalia, Sudan, Yemen and Uganda) have DFID country programmes".

I looked to see what the funding for those six countries was. Last year, according to the DfID report, we gave Ethiopia almost £400 million, Nigeria £263 million, Sudan £208 million, Kenya £156 million and Uganda £123 million. These five countries alone got £1.15 billion in aid and they are among the worst offenders perpetrating the evil of FGM. As a sop, we have offered up to £35 million if they would please, please not do quite so much FGM in future. I am sorry but if I was a politician in one of those countries why on earth would I bother bidding for a bit of that £35 million when the British Government will continue to throw £300 million at me even if I do not bother doing a thing? If we mean to stamp out FGM in those countries, we must make it clear to all aid-taking countries: stop the torture of girls or no more money, or considerably less money.

Then there is another gross iniquity: giving money to wealthy countries and those that have space and nuclear programmes. I would like my noble friend the Minister to explain the articles in this week's press that we are still giving money to India and China. There was some suggestion that that was not correct and that it was some sort of fancy trade and development deal, with which I might be slightly happier, but I thought that we were not allowed to link trade to aid. I am sure that my noble friend has a brief on this and I look forward to hearing the explanation.

I am relaxed about aid to India because it is not hostile to this country but the same cannot be said of Pakistan. It is a nuclear power, it has a massive army and—I say this very carefully—it is a potential force for evil in the world. Let me justify that: we have been engaged in war in Afghanistan and Iraq but we have never had a single terrorist from those countries. Over 90% of our terrorists have come from Pakistan or from Pakistani heritage. They have been indoctrinated in madrassahs, largely funded by Saudi Arabia, and Pakistan is the breeding ground for most Islamic fundamentalist terrorists in the world.

In the past few years I have had the privilege of meeting two US generals who commanded in Afghanistan and they both said—in a guarded, political way—that Pakistan was the real enemy supporting the Taliban, aided and abetted by the Pakistani Government's Inter-Services Intelligence, the ISI. They regarded Pakistan as a failed, pariah state. Our Government say that they are targeting aid to the poorest countries and there is no doubt that millions in Pakistan are in poverty. But much of that poverty is because of corruption and expenditure of almost $3 billion on Pakistan's nuclear weapons programme. Is it our moral duty to feed Pakistan's poor when their own Government starve them by not spending that $3 billion on them?

I ask my noble friend the Minister—but I know that he dare not answer if he wishes to remain in post—why do we give every year the massive sum of £400 million to a country that is a major nuclear power, practises FGM, murders its own politicians who defend other religions, persecutes Christians, is corrupt and is the breeding ground for terrorism in the UK? Those are a few simple questions but I know that my noble friend dare not comment.

Finally—your Lordships will be relieved to hear—if we are going to spend that money, whether over one year or five, let us have a slightly wider definition of what constitutes overseas aid. If the Royal Navy is engaged in picking up migrants in the Mediterranean and rescuing them, that should come out of the overseas aid budget because that is what it is. If we have to build a wall in Calais and provide for other camps, the cost of bringing in the migrants should also be paid out of the aid budget. If we are going to bring in the refugees and economic migrants, the cost to British local authorities should also be paid out of the overseas aid budget. Of course, these issues are not germane to this Bill but this is the only vehicle I have seen in the past few months where I could make these comments, which I know are not acceptable to the majority.

Going back to the core point, I hope I have not severely damaged the noble Lord's Bill—I probably have—by commenting on it favourably; in fact, I know I have. It was not my intention to wreck this Bill with my comments. It is a sensible Bill, which allows us to spend the money more wisely, whether it is 0.7% or even 1%. The Bill deserves to pass and I wish it well.

10.59 am

Lord Bruce of Bennachie (LD): My Lords, I do not wish to respond to a speech with which I disagree entirely and which I believe is not backed up by evidence. However, I am very pleased to be able to speak on this topic in this House. I draw attention to my entry in the register of Members' interests.

The UK's commitment to and delivery of 0.7% has hugely enhanced our country's standing in the world. Having had the privilege of chairing the International Development Committee for 10 years, I continue to be connected with the development sector and, having travelled extensively all across sub-Saharan Africa and South Asia, I have met the recipients of UK and international aid and can say that it is well received. In many areas, it is game-changing in very positive ways; it cannot be done by blackmail or bullying but it can by engagement. Our standing among developed countries as the first and only G20 country to have delivered 0.7% has also given us considerable moral authority and leadership, not least because it is about not just the commitment to 0.7% but the quality of what we do across the piece with our aid budget.

Regarding the commitment to 0.7% causing waste, or uncontrolled or not well-monitored spending, there is not a great deal of evidence to support that. There was a problem—I say this with no degree of negativity—about the Labour Party's commitment in government to deliver 0.7%, which I absolutely accept was genuine. The cross-party consensus was crucial. Nevertheless, it was done on a sort of hockey-stick approach: it was deferred and deferred so that once we got to the point of committing to 0.7%, a very substantial increase was required in one year. It would have been better phased in over several years and, yes, it did lead in that year to some difficulties. But none of those difficulties led to any evidence that the money was not spent effectively in delivering aid and development assistance.

We have of course now achieved the 0.7% and therefore that problem no longer arises to anything like that degree because the budget is much more predictable and the variation is much more manageable. The department is well capable of managing those fluctuations. There is of course a slight problem in the fact that government operates on a financial year and the 0.7% target is based on the calendar year, which is why there may be some variations. I do not think that anybody is concerned about a shortfall or a slight overshoot in any given year, which would require a report to Parliament, but it would be quite a different proposition if that was allowed to slip over five years.

In fact, with all respect to the noble Lord, Lord Lipsey, who argued his case very cogently and consistently—I understand that—I would nevertheless regard his Bill as a Trojan horse for those who wish to see the aid programme substantially cut back and dismantled. This is not least because it is a well-known fact of our constitution that Parliaments cannot bind their successors. It would therefore be perfectly possible for a Government to slash the aid programme on the grounds that it

[Lord Bruce of Bennachie]
would be the responsibility of the next Parliament in some four or five years' time to make up the difference and do it within a legal framework. That was surely why we introduced the legislation in the first place: to ensure that the commitment was maintained, and maintained on an annual basis.

There is also an absolute right to ensure that we get value for money and that we attack corruption and waste wherever it occurs. I acknowledge the right reverend Prelate's contention that we need to differentiate between measured outputs and long-term outcomes, which are about changing societies and creating sustainable long-term capacity and development.

The Secretary of State, who has made some quite strong pronouncements, will however need to recognise that she is constrained in what she can do—I am glad to say that she is—by both British law and international law. For example, to suggest that we can use our aid and development budget to promote trade and investment as we negotiate our way out of the European Union would simply be illegal. It would not qualify as aid and would therefore not enable us to achieve our 0.7%. Parliament has rightly imposed that constraint on successive Governments to ensure that our aid is untied, is pro-poverty reduction and is not about furthering the commercial or political interests of this country. As the noble Lord, Lord Judd, said, it is about delivering real benefits to the poorest people on the planet.

I make just one comment on the suggestion that we disengage with countries which have practices we do not like. That would be pretty well all of our aid programme going out the window. We are not a colonial power; we do not have the right to go in and say, "Our aid is conditional on you doing these things". What we do is, first, to work with the people—all right, with the agreement of a Government—to address problems which they have and which we can assist with. In the process, we also engage in discussions about child marriage, which we have had a fantastic impact on in Ethiopia—I have seen that programme in action myself—and on FGM in many countries, where we are beginning to get traction and support those campaigning within those organisations which need the support of outside agencies to enable them to deliver real support.

Another thing is that the aid budget is already under pressure. The idea that we cannot spend this money and that there is not enough need is really not supported by any evidence whatever. There has been a massive increase in the requirement for humanitarian assistance, to which the UK has responded extremely generously, but in the process of doing that DfID has acknowledged that on occasions it has had to cut development programmes in order to support the humanitarian programme. This immediately demonstrates that there is constraint within the existing budget, which was a problem before the consequences of the referendum diminished the spending or purchasing power of our aid budget by the fall in the value of sterling. This has effectively cut the purchasing power by around 10% and in some countries by significantly more. The idea that the department somehow or other has difficulty spending money is belied by the fact that it is under pressure to ensure that it can cover all its commitments in these changing circumstances.

To those who are at all minded to support the Bill, I suggest that the idea that we should commit to 0.7% and maintain that commitment year-on-year is crucial to ensuring that the department, and those other government departments which spend ODA, have a clear framework and a budget for what they are doing. The UK should not find itself in the situation any time soon where, having achieved the 0.7% and shone out as a beacon to other countries for what we can do, we find ourselves slipping away and having to explain why our aid commitment has fallen back from 0.7%. It is interesting to note—I think I am right in this—that all those countries that have delivered the 0.7%, of which there are too few, have worked really hard to ensure that they maintain it. Some have even tried to exceed it and, in some cases, set higher targets.

Nothing should give the impression that the UK is turning its back on its commitment to be the second-largest aid donor in the world—in my view, the best in terms of what we deliver—and implying that somehow or other we were looking to our own domestic circumstances as a priority over the needs of the poorest people in the world. To quote Andrew Mitchell when he was the Secretary of State:

"We will not balance the books on the backs of the world's poorest".

I cannot think of anything that would compound the damage we have already done ourselves by disengaging from the European Union than suggesting that we were going to disengage from the poor people of the rest of the world. I am sorry to say to the noble Lord, Lord Lipsey, that although it is not his intention, I believe that both the implication of the Bill and its practical output would have exactly that impact.

11.08 am

Baroness Nicholson of Winterbourne (Con): I thank the noble Lord, Lord Lipsey, for giving us this wonderful opportunity in your Lordships' House to have such a full and important debate today. I have to admit that I am very attracted and drawn to the idea of giving the Department for International Development a bit more time to manage its expenditure. However, I am not a budget person—indeed, I do not think this is a suitable House of Lords topic—so I stand to be corrected either way. None the less, this opportunity is too good to miss and I thank the noble Lord immensely.

I congratulate my noble friend Lord Bates on his appointment as Minister. This is my first opportunity to do so, and to say what full support I am sure he has from the whole House in this important task. As many Members have already said, Britain is just about the largest aid donor in the globe. The poverty is acute and the difficulties are enormous; our aid is therefore utterly vital.

I think I am correct in saying that the bulk of our aid is, and has been for some time, used for soft power. My comments will therefore look at that soft power and I may make one or two suggestions which I will be glad if the Minister will take away, think about and comment on another time. Soft power is vital at the top. It has enabled the United Kingdom to sit at the topmost table when discussing conflict resolution, peacebuilding, the rights of women and girls, which my noble friend Lady Hodgson focuses on, and other

aspects that noble Lords have touched on. There is also an opportunity for soft power at the other end of the scale, and I have one or two thoughts on how we might increase our influence at the far end of the line where aid is being delivered.

When we look at the top of the soft power possibilities for the United Kingdom, are the Minister, the Secretary of State and the department as a whole able to report the ways in which that soft power is exercised? I regularly visit places where people are in great difficulty in conflict zones. I came back from Iraq on Tuesday. There are one or two rather important things that have not been brought to the Minister's attention with sufficient strength. For example, the United Nations Convention on the Rights of the Child, the most powerful of all conventions, was drafted in this Chamber and in the other place and put forward by the United Kingdom. It was pushed very hard and worked on by the United Kingdom, and as a consequence it was adopted, signed and ratified by almost every nation on the globe. Somalia is a little difficult, and the United States has signed it but has not yet ratified it. None the less, if you look at that convention, you will see that it covers the entirety of what a child needs. In that context, a child is someone up to the age of 18 and, if the person is in particular difficulty, up to 20 years of age. Given the low life expectancy in some of the nations which need overseas aid, such as Yemen, where life expectancy is 47, we are talking about nearly half of a person's life.

I see a point here which the Minister might wish to address long term. As he and his department are aware, internally displaced people have no rights at all. They have no United Nations convention protecting them in any shape or form. Those nations that never signed the 1951 Geneva Convention on refugees also fall down a gap in terms of UN protection because it is extremely difficult to claim that anyone on their territory qualifies under UN rules as a refugee, but I return to IDPs. With probably about 40% of any refugee population or IDP population being under the age of 18 and therefore qualifying as children, those children have no protection of any sort. They are not given any special attention, there may be no registration system and they may not be reunited with their families. If you look at the figures, you will see that those children are the most vulnerable for human trafficking, sexual slavery and all sorts of awful futures. For example—I cannot check these figures, but they seem correct in terms of those who are quoting them—after the earthquake in Nepal 20,000 children disappeared. Indeed, this week on my return to the UK I saw in the papers that we have lost several thousand children. Children are very difficult to track unless you have a proper identification system and absolute clarity about who is responsible for what in terms of protecting them.

The point I wish to put in front of the Minister is that internally displaced children have no rights of any sort. When they are in camps, they are the most vulnerable to being trafficked, forcibly married and otherwise abused. They may have no opportunity to see their parents or any remaining members of their family again. Perhaps the Minister will consider using our soft power by demanding that the United Nations adopts an optional protocol on internally displaced children, thus allowing them the same level of protection accorded to refugees under international law. He might also consider pushing the United Nations to create a mechanism so that as soon as internally displaced children reach camps, whether run by the local Government or the UN, their identity is preserved to prevent their further abuse through rape, trafficking and forced marriage, and to reunite them with their family, which forms the heart of child protection mechanisms through the UN Convention on the Rights of the Child.

Those recommendations are part of the set of recommendations that have come from a big conference I chaired in September at St George's, Windsor, under the AMAR Foundation, LDS Charities and Cumberland Lodge. There are a number of recommendations, which I will leave with the Minister. On the soft power point, I particularly raise internally displaced children and their complete lack of protection. That is one way in which I would like to see the United Kingdom use a portion of its soft power at the top.

Another possible scenario the Minister might consider is that here in the UK we spend an inordinate amount of time worrying about a very small fraction of global refugees and internally displaced people and whether we will grant them a safe haven in the United Kingdom. When you look at the figures, you will see that nearly every displaced person or refugee wants to go back home. They just want a safer home. They do not want to be assaulted again. I am talking mainly about conflict countries, of which there are all too many. Yet the United Nations, which is a principal conduit of British overseas aid expenditure, understandably focuses on giving support to camps. I believe that once a person arrives in a camp, every possible effort should be made to help them get back home as soon as possible, if only because life in camps is terrible. There is almost nothing there. Very often, they do not even have the basics of life. I have recently visited camps which do not even have human sewage disposal and therefore people are sick all the time. Apart from that, the average length of stay in a camp is nine years, or 11 years, in some cases, and 24 years for squatters. Yet the UN, the World Food Programme and all other organisations focus on people in camps. Would it not be possible to think a little differently and push the UN to think about getting people back home again, which is what about 98% of people want to do? Of course this means rebuilding the health centre, the school, the roads and everything that has been destroyed, but all that is feasible. Speaking for half a moment as trade envoy for Iraq, I would like to see British companies being invited to do that because we are among the best in the globe and can do the work best, quickest and most efficiently.

In my capacity as chairman of the AMAR Foundation, I have just visited a number of camps and hospitals right on the front line very near to Mosul. I had the opportunity to give a whole load of medical equipment; it was very satisfying. It was a wonderful opportunity paid for by the Hunt Oil Company. I had another opportunity in a nearby new camp which was waiting to receive the refugees from the liberation of Mosul, just as the hospital was. I had the opportunity to open

[Baroness Nicholson of Winterbourne]
a health centre for the AMAR Foundation funded entirely by the Vitol Foundation—another very happy moment. None the less, when I looked around, I was gravely concerned at the level of implementation of British expenditure on the ground by, say, UNICEF, UNHCR or UNDP. I wonder whether some monitoring could be brought in. It is not very good for me to say something, as I am merely a stray visitor, but there should be some monitoring of the way in which the UN, in particular, uses British aid.

More than that, the final thought to leave with the Minister is about how British soft power could become visible on the ground. Everyone—by which I mean the various mayors and governors who I met and so on—said to me, "Where is British aid?". I would say, "We have given this, this and this. We have just dedicated that, that and that. I have the correct figures in my head, which are enormous; we are far and away the largest donor". But this is invisible aid. It comes through the UN and of course comes down through various subcontracts, which at the end of the day very probably mean that the funding spent is relatively small.

But irrespective of the size of the funding, my point is that I want Britain to shine. I want our aid to be known about, not just at the top table in Geneva or in New York, but so that the people on the ground understand that Britain cares for them. I want the local Governments to know that Britain is strong and powerful and is doing everything we can to fight the enemy, not just by supporting military efforts but by our huge amount of overseas aid. I have taken up too much time. I thank the Minister for listening, and I leave those thoughts with him, as I again thank the noble Lord, Lord Lipsey, for giving us this opportunity.

11.22 am

Lord Hollick (Lab): My Lords, I, too, thank my noble friend Lord Lipsey for his great perseverance and for giving us the opportunity today to consider and discuss how effectively our development aid programme is being delivered, and what improvements might be made.

My noble friend Lord Lipsey and I were both members of the Economic Affairs Committee, which in 2012 published the report he referred to, entitled *The Economic Impact and Effectiveness of Development Aid*. The report was enthusiastic about the positive role of development aid. We concluded that aid should be increasingly targeted towards building stronger and sustainable economies if it is to help reduce poverty and improve the quality of life in developing countries. We recognised that development aid is of course a fraction of the private capital now flowing into developing countries, but that it can play a vital catalytic and enabling role in promoting prosperity.

Our report expressed concern that a sudden increase in funds available to DfID, and the requirement to spend those funds in one particular financial year, would place great pressure on DfID's resources and might lead to unwise decisions being made about the deployment of those funds. Noble Lords will be aware that in any walk of life the requirement to spend funds within a short period of time and by a certain deadline can promote a very perverse and dangerous set of incentives. It can elevate the need to spend above the full and proper—and sometimes lengthy—consideration of how best to spend that money. It is a case of invest in haste and repent at leisure. This is not an approach well suited to deliver the wise investment of considerable sums of public money. Good opportunities for grant aid or investment do not march to the drumbeat of Her Majesty's Government's financial year. That is why the Bill's modest proposition that replacing the rigid annual spending window with a cumulative five-year window is common sense and can help to promote better outcomes and better value for money.

Since the report was published, I have had the opportunity to see DfID's work at close quarters and to better understand the process of designing and delivering development projects, large and small. In 2014, I was appointed, like the noble Baroness, Lady Nicholson, by the Prime Minister as a trade and investment envoy, to Kenya and Tanzania. I now work closely with DfID, the Department for International Trade and the Foreign Office to help to promote trade and investment into both countries. In a way, Dr Fox is my boss—and he is not unaware, I hope, that I like playing golf on Friday afternoons.

I have been very impressed by the range and quality of DfID's work and by its deep knowledge of different sectors of the east African economy. It has wholeheartedly embraced the prosperity agenda and is becoming the partner of choice for government, civil society, local business, and international funders and investors. Its business model has evolved from the traditional donor model of cash grants, often made to host Governments and international intermediaries, to direct investment in partnerships with specialist venture investors to help fund early-stage business and co-operatives, or to fund the expansion of small social enterprises. Direct loans are made to support projects which improve the infrastructure, the skill base and the regulatory environment, all of which help the economy to flourish—and in some of the smallest and most remote communities in east Africa.

A not-for-profit venture which is successfully implementing this model is TradeMark East Africa. It was set up in 2010 and has already invested $550 million over the last five years. Its success has attracted funds from 10 other nations, and TradeMark will now invest $700 million over the next five years, with 60% of funding coming from DfID—or "UK Aid" as it is now rather more snappily branded. TradeMark is funding investments to improve infrastructure, to ease the crossing of land borders by introducing digital cargo tracking, to improve skills and to simplify taxation—something we might perhaps try to do here.

TradeMark used to receive an annual disbursement from DfID, but now capital is released by DfID only when investments and projects are fully evaluated and approved. This funding method concedes the principle underlying my noble friend Lord Lipsey's Bill: namely, that funding and cash transfers should follow approved investments and not precede them. We need look only to DfID's practices to understand the importance of the principle that lies behind the Bill.

This funding model mirrors the hard reality of project funding and investment: the funding arrives only if the project is viable and the sums add up. Large or small projects take time to design, test and gain approval, and the level of funding required is often lumpy and does not fit into the neat world of government's annual cash accounting. It is a world where funding flows to rigorously reviewed projects, not one where there is a guaranteed level of funds available to invest by a deadline unrelated to the readiness of the project.

My noble friend Lord Lipsey's Bill reflects the tried and proven structure of the commercial investment fund world. Investors place their money in a fund, either in one payment or in a number of them over several years, and then allow the fund to make the investment when the opportunities have been extensively evaluated and approved. In the private sector, the fund's five-year investment period can be extended if not enough suitable investments have been identified. This type of patient capital investment has proved time and again to generate better outcomes than investments made in haste under the threat of arbitrary deadlines.

Although the Government may be reluctant—perhaps the Minister may surprise us—to align the legislation to the way the project-funding and investment world works on the ground, there is a ready-made administrative solution. They can establish a fund, centrally, which is funded annually in line with government accounting rules. That would address the concern raised by the noble Lord, Lord Judd, that underspending one year might somehow disappear in subsequent years. The holding fund can then disburse funds to the country or to regional funds—just in the way it is doing with TradeMark at the moment—when the investments have been approved. This approach could, and indeed should, become the funding model for the newly established and rather clumsily named Cross-Government Global Prosperity Fund, which will disburse £1.3 billion of ODA money over the next five years to promote economic growth.

As DfID's prosperity agenda matures and develops, it is likely to fund an increasing number of projects with debt or equity. This is to be welcomed, for debt repaid and equity sold for value will replenish the funds and allow them to become more self-sustaining and evergreen. Annual ODA targets can then be met, supported with the benefit of the proceeds and repayments from successful investments made in prior years. For instance, if DfID had adopted that approach when it originally funded M-Pesa in Kenya and made it an equity investment rather than a grant, it would now be the proud part-owner of the world's leading mobile banking and payment system, worth well over £1 billion.

11.30 am

Viscount Eccles (Con): My Lords, the Bill is about reporting. As the noble Lord, Lord Lipsey, said, you can on occasion get involved in disbursing rather more rapidly than you first intended. You can also be caught by delays created by circumstances and not be able to disburse. It is the unexpected effects on DfID's cash flow and its accountability with which the Bill seeks to deal.

It is a pleasure for me to follow the noble Lord, Lord Hollick. The Commonwealth Development Corporation has of course behaved in entirely the way he was describing and has been doing so for nearly 70 years, having been formed in 1948 as the Colonial Development Corporation, subsequently becoming the Commonwealth Development Corporation and finally, in order to be modern, CDC Group—like "UK Aid" rather than DfID. It has been 100% owned by the British taxpayer throughout its life. It was a public corporation and technically still is. It is doing well, and I commend it to your Lordships as being an interesting institution to study when one is thinking about international development and aid.

International development and aid is a very complex subject. We have heard about some of that complexity this morning in some passionately delivered speeches. Measuring outcomes is very difficult. I was in a sense a colleague of the noble Lord, Lord Judd, for many years; he was at an NGO and I was at CDC as an economic development operator. I entirely agree with his conclusion that the whole business of knowing whether or not you are achieving a good outcome is very humbling. You cannot be at all certain that you know what you have actually achieved, and you might have to wait for your grandchildren to tell you.

International development and aid is also very controversial, which has also been illustrated this morning. I commend to your Lordships the great days of Lord Bauer and Lord Balogh debating the subject of aid in the 1960s as an interesting study. The literature that has followed over the years is very controversial, different in its views and passionately expressed. This is therefore a very difficult subject. When we consider it, it is probably as well to remember that we did not achieve our own development with anyone providing an aid programme, unless you include the Marshall Plan. There was no equivalent in the days when we were becoming developed.

The history, and what is being done, makes DfID's task highly complex and difficult to evaluate as a whole. I come back to thinking in some detail about part of what DfID is doing, and trying to evaluate the whole. The reporting is also very complicated. The question then arises: is the system of accountability satisfactory? That is what I would like to spend the rest of my time on. The 2006 Act is pretty complete, setting out as it does accountability very well and in great detail. My question is: do the amendments to that accountability chain created by the 2015 Act actually stand up? Were they needed and, if so, why?

We should also remember that in 2011 the independent evaluator of DfID's programme, ICAI, was also created. It is very busy looking in depth and detail at what DfID does and reporting to the Select Committee down the corridor. My argument is that, before deciding on the Bill from the noble Lord, Lord Lipsey, and what he is attempting to do, we should consider the accountability chain that affects DfID.

DfID's latest report, published in July, is 156 pages long. It does not have a single photograph; it is absolutely not a glossy. Well done DfID. I challenge your Lordships to find any other report that has more words on a page than that DfID report; it is very dense. I draw the

[Viscount Eccles]
House's attention to an interesting paragraph about the remaining need to deal with matters that arose in the recapitalisation of my old employer, CDC, in 2004; *Private Eye* spent quite a lot of time in 2004 addressing some of the issues contained in it. It would make the most amazing subject for a PhD, and it would probably engage the Select Committee down the corridor for a full day, if it wanted to spend that time. That is only one paragraph; there are dozens of similar ones in the report. I draw attention to a particular line in it that says the Asian Development Bank supported 166,000 households to get water. I thought, "166,000 households in a world population of however many billion? It doesn't sound like very much to me". It would be very interesting to have another day just quizzing DfID on how it accounts for the money it disburses to this multilateral called the Asian Development Bank, and whether it thinks it is getting value for money. There is a legion of questions that we could ask arising from the DfID report. We should be very careful before we say that the burden we put on the department with the 2015 Act is okay.

Reporting to the OECD has been mentioned. The Development Assistance Committee has 35 members. It lists countries in four categories up to incomes of $13,000 a year. The money going has to be 25% concessional, using a 10% discount rate. Those reports, which are not easy to make, have to be in by 31 December. The recipe from the noble Lord, Lord Lipsey, does not actually simplify DfID's job because there is no way we can escape the 31 December date for the OECD, nor would we want to. We will always have two year-ends, one on 31 December and the other on 31 March. That is the way it is and it would be a mistake to try to change it.

It is also true that DfID has so far achieved the 0.7%—and well done DfID—but the risks are still great. Suppose a delay is caused by an unexpected war or the shutting of a border. It only has to miss the target by £250 million, which is not a big sum in its life, to be on 0.69% or thereabouts, not 0.7%, and trigger the statutory requirement under the 2015 Act, if I read it correctly.

We should consider briefly the obligation under the 2015 Act. The Secretary of State's statement is required to cover the economic and fiscal circumstances here and,

"circumstances arising outside the United Kingdom".

That could lead to another 156-page report. It is an open door to a huge system of reporting. Do we really need it? Surely the present system of accountability under the 2006 Act means that Section 2 of the 2015 Act is not needed. My noble friends on the Front Bench are very good at explaining to the House when they consider something to be unnecessary, and that is my argument. We should not change the reality of what is being reported or what is being done, but we should look at whether we are putting an additional contingent liability on DfID with Section 2 of the 2015 Act. I think we are, and I look forward to further stages of the Bill in order to return to this subject.

11.42 am

Baroness Sheehan (LD): My Lords, I start by adding my warm words of welcome to the Minister in taking up his new post. Before I turn to what I had planned say, I shall address some of the remarks of the noble Lord, Lord Blencathra, in his very wide-ranging speech, almost every word of which I did not agree with—in particular, his condemnation of giving aid to countries still practising FGM. His recommendation would condemn girls in those countries to the continuing practice; whereas engaging with the countries to change their practice would, in time, bring about the change that he says he would like to see. At this point, I pay tribute to the huge amount of work that my noble friend Lady Featherstone, who is no longer in her place, has put into alleviating this dreadful practice for the millions of girls who are subjected to it.

I also want to address the remarks of the noble Lord, Lord Blencathra, about Pakistanis. As a British Pakistani, I draw his attention to the fact that on the planes that flew into the World Trade towers on 9/11, there was not a single terrorist on board of Pakistani descent; rather, the vast majority were Saudi Arabians. Saudi Arabia is a country with which we do a great deal of trade in arms, yet we fail to condemn it for exporting its particularly vicious, mediaeval brand of Islam to countries such as Afghanistan and Pakistan, which are trying their utmost to deal with it.

I turn to my prepared remarks. There are people in the Middle East and parts of Africa who are on the move. They are on the move because they want the right to live in peace, freedom and human dignity. Decades of abject poverty has devastated families and communities, leading to the political unrest we have seen in recent years.

Until recently, it really was not our problem. We could tinker with the odd issue as it arose, respond to the various media frenzies and retire back into our comfortable lives until the next disaster struck. Today, it is different. Today, we have to confront these issues more directly, because they have arrived on our doorstep. A mass of people—indeed, the biggest mass movement of people in Europe since the Second World War—are desperate enough to cross a continent on foot and risk their most precious possessions to chance the Mediterranean because what they are fleeing is more terrible than what lies ahead.

This debate, brought to us by the noble Lord, Lord Lipsey, is timely because it presents an opportunity to stress again the importance of developed Western nations working to alleviate poverty, and to assert again that, although it is the moral thing to do, this is not just about charity and justice, it is patently in our own interest—a point made most ably by the noble Baroness, Lady Hodgson of Abinger. The problems posed by the issue of people on the move is overturning political norms at home, and we are seeing a rapidly changing political landscape, with all its inherent dangers. Surely it is cheaper and smarter to do what we can to help people where they live, so that they continue to live in their homeland—which is the option that the vast majority prefer.

In the fourth century BC, Aristotle said,

"poverty is the parent of revolution and crime",

and it is incontrovertible that an important lever for sustained action in tackling poverty and reducing hunger is money. I am proud that it was a Liberal Democrat in the coalition Government, Michael Moore, whose Private Member's Bill saw one of the finest moments in British history when we enshrined in law our pledge to fulfil the 1970 UN resolution to spend 0.7% of our GNI on international development. I should not forget the part played in its success by my noble friend Lord Purvis. Not only did they enable Britain to fulfil the UN resolution, but a Liberal Party manifesto pledge dating back as far as 1970 was also fulfilled.

What gives the legislation teeth is annual accountability. DfID is exemplary in the way it reports its activities openly and transparently—a lesson that other departments would do well to learn. The department's work is widely respected across the world, so much so that international development is one of the few areas where the UK is still a global leader and reaps the huge soft power benefits that come from that.

DfID recently published its 2015-16 annual report, referred to by the noble Viscount, Lord Eccles. He took different things away from it than I did. It gives me an opportunity to cite examples of what the department has achieved on Britain's behalf, particularly with respect to giving us value for money. Here are some examples.

On wealth creation, it supported 69.5 million people, including 36.4 million women, to gain access to financial services to help them work their way out of poverty, exceeding the target of 50 million by some margin. On poverty, vulnerability, nutrition and hunger, it reached 30 million children under five and pregnant women, of whom 12.1 million were women or girls—again, exceeding their own target of 20 million by a considerable margin. On health, DfID supported 5.6 million births with skilled birth attendants, exceeding their commitment of 2 million. On education, water sanitation and hygiene, governance and security, humanitarian assistance and supporting people to deal with the effects of climate change, DfID can be proud of its work, and I congratulate the department. It has given us real value for money.

DfID also delivers results through the multilateral organisations that it supports, such as GAVI, the Global Alliance for Vaccines and Immunization, which immunised 56 million children in 2014. Then there is the Global Partnership for Education, which trained 98,000 teachers in one year, and UNICEF, which helped 10.4 million children in humanitarian situations to access basic education in 2014. I for one welcome the fact that DfID's achievements are presented to us on an annual basis, so not only can we see for ourselves the good work that the department is doing but we can use it to persuade others to follow our lead.

There is one other point worth making—that it is important to maintain quality as well as quantity of aid. We must bear in mind that other departments will now spend an increasing proportion of the official development assistance budget, increasing by more than 25% by 2020. There are obvious risks that this presents, such as diluting the quality and potential impact of aid. However, it also represents an opportunity to get cross-Whitehall buy-in for supporting progress towards sustainable development goals and policy coherence for sustainable development. It is clear to me that, to have peace on our planet, we must eradicate poverty—and peace must be translated into food, shelter, health and education. Money well spent and annually accounted for allows us to do just that.

11.52 am

Lord Collins of Highbury (Lab): My Lords, I, too, thank my noble friend Lord Lipsey for putting forward today's Bill. He has initiated an incredibly positive debate on the importance of development and aid. I respect my noble friend's principled position; he is in favour of aid, but he is concerned that the rigidity of the target will lead to wasteful spending and therefore bring the budget into disrepute with an already sceptical public. It is right that we address those issues. We have to make the case—we cannot take anything for granted, particularly given some of the things that are happening in our world. Value for money is a vital ingredient of this debate, and we should not forget that.

My noble friend acknowledges that this is indeed a rerun of part of the debate on the 0.7% Bill, which is now of course an Act. His amendments then would have had the same effect as this Bill but, he argues, this replay is under very different conditions. He focused on changes to political leadership in the expectation that it could lead to a weakening of the 0.7% commitment. Yet, following the much-reported speech at the Conservative Party conference, the new Secretary of State Priti Patel said:

> "Meeting the 0.7 per cent target for overseas aid is a manifesto commitment. It is enshrined in law and the Government has been unequivocal that we will continue to honour that promise".

Good—we need to repeat that. We also need to remember that legislating for the 0.7% target featured in all three manifestos at the 2010 election, so we have a very broad political consensus for the principle.

As my noble friend Lord Judd said, development is about tackling the imbalance of power, politically, economically and socially. Value for money means measuring success by the change we make, not simply the cash we put in. My two noble friends mentioned the March 2012 report from your Lordships' Economic Affairs Committee, which questioned the effectiveness of the targets, saying that,

> "the speed of the planned increase risks reducing the quality, value for money and accountability of the aid programme".

I agree that we need to understand that risk; as the aid budget increases, so must our ability to control it. That is why we strongly support, as I know all noble Lords do, the Independent Commission for Aid Impact. Value for money should mean maximising the impact we make; when a budget as important as this is ring-fenced, there is a fiscal responsibility and a moral duty to deliver as much change as possible for the money we invest. That sort of value for money is crucial.

As we have heard in this debate, development is also in Britain's interests. Britain invests in development to prevent extreme poverty, climate change and conflict. Retreating from that responsibility one way or another will still carry a cost; the way to eliminate that cost is to tackle it at source. The UK would be much better off growing and trading with a strong global economy, with a sustainable climate, supportive Governments and secure borders. That is what British development helps to achieve; tackling those big global issues can save us billions in future.

[Lord Collins of Highbury]

The world that we live in is a rapidly changing one. Defence, diplomacy and development are the combined necessary ingredients of securing the peaceful world we all desire. In promoting the Bill, my noble friend repeats the argument that increased flexibility in respect of the one-year programme will avert the danger that the money will be rushed out to hit the target in one year, and there will not be enough to hit the target so easily the following year. As noble Lords have said, the target has now been met for the third year—and I hope that, when we reach Committee, we can address the issue of evidence. Where is the evidence of this rush? Where is the evidence of waste, bearing in mind the elements of scrutiny that we now have, to which the noble Viscount, Lord Eccles, rightly drew our attention?

I agreed strongly with the noble Baroness, Lady Hodgson, when she repeated her commitment to the 0.7% target and said that she feared that any loosening of that commitment could be the thin end of the wedge. I agree with her; we have to see this commitment as a political one that binds us to the future, that is about changing the world as it is. Turning to the comments made by the noble Lord, Lord Bruce, it is an international target, not something in isolation. We participate in it because we want to show the world what we are doing. We want to lead the world and set an example that we want others to follow. That is why I am extremely concerned that any weakening of this principle could weaken our ability to argue for others to do more.

In this debate, many noble Lords drew attention to DfID's latest annual report. I too was going to quote a number of examples, but that has been done for me already. The key element—it is a principle we have heard in relation to the sustainable development goals—is our commitment to leave no one behind. That means we seek to alleviate poverty and address those fundamental issues in every country in the world. Every item of the programmes we have heard described addresses the needs of millions of people. We are making a difference.

When he introduced the original Bill, the noble Lord, Lord Purvis, made a comment which is worth repeating, as it addresses some of the issues raised by the noble Viscount, Lord Eccles. With the 2006 and 2015 Acts, we now have an annual target and a very strong framework of accountability, involving both the ICAI and Parliament. We should be properly assessing that framework and whether it is delivering the scrutiny we require to ensure value for money. I welcome the Bill proposed by the noble Lord, Lord Lipsey, in the sense that it has given us the opportunity to debate this issue, and look forward to Committee stage, when we can go into these issues in a bit more detail. At the end of the day, we want public policy based on evidence. We have very strong evidence that what this country does today is helping to change the world.

12.02 pm

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, I thank the noble Lord, Lord Lipsey, for this timely debate on international development. It does not often happen in your Lordships' House, but last business yesterday was the debate on international development in Africa in the name of the noble Lord, Lord Chidgey, and this is first business today. It is a welcome opportunity to flesh out, look again at and rigorously test the Government's policies on international development.

It is absolutely right to place this in context. This is not a new debate; it goes back some time. My noble friend Lord Eccles referred to the history of the CDC going back 70 years. This particular pledge goes back to the UN General Assembly in 1970 and remained a commitment. I had not appreciated the point about the Liberal manifesto, but I do know that the 1974 Labour Government were the first to adopt it as an aspiration that they were seeking to achieve. However, it was not until the UN conference on financing for international development in Monterrey that serious impetus began to be given to that target. It was not until 2013, under the coalition Government led by David Cameron, that the pledge was met.

It is in the nature of good-quality debate that there will always be contributions that make one feel less comfortable and that nudge and challenge. I may be a member of the "aid crew", as the noble Lord, Lord Lipsey, put it, but it is there because of the conviction that the best route out of poverty is economic development and education. It does not matter whether you are from Gateshead in Tyne and Wear or growing up in Tanzania, Kenya or any other part of the world, the facts are the same: economic development is based on education and that leads to less conflict. The more trade there is in the world the less conflict there will be. That is what we are focused on.

If I may say so, the noble Lord, Lord Lipsey, was a little uncharitable towards the role played by David Cameron. As a former Treasury Minister, the noble Lord may have a great deal of knowledge of the Treasury and he has written about those times. I will look up his book and take a closer interest in it. However, I was around the table when these policies were being developed when David Cameron first took over as leader of the Conservative Party and I can tell noble Lords that they were heartfelt. He initiated Project Umubano, a social action project in Rwanda, which many candidates from the Conservative Party went on. My noble friends Lady Hodgson and Lady Jenkin, who are in their seats, were part of it. Hundreds of people went on that project and saw at first hand what was being delivered there and it had a transformational effect. Led by the work of Andrew Mitchell, it resulted in a policy document called *One World Conservatism*. Whether you like the title or not, this was a genuine, deep and heartfelt recognition of the work which needed to be done by Government to fulfil our responsibility—in our enlightened self-interest—to the world's poor. I have immense pride that it was David Cameron, supported by George Osborne, Andrew Mitchell and William Hague—now the noble Lord, Lord Hague—who delivered on that pledge as part of the coalition. It continues to be a Conservative Party manifesto pledge and we do not want to consider the notion that we might not be living up to that.

Additional legal rigour was given to this by the tremendous initiative undertaken by the noble Lord, Lord Purvis, in this House and Michael Moore in the other place. This brought forward the extra bit of steel

needed to ensure that we live up to the obligations which were, as my noble friend Lady Hodgson outlined, "hard fought for". Having been involved in some of those fights, I believe we are in a better place now. Having established and settled the argument over funding levels, we can now move our attention and gaze to the effectiveness with which those resources are being deployed and we welcome that.

I will set out our position on the Bill and then address some of the points raised in the debate. The UK's Official Development Assistance investment is creating a safer, healthier and more prosperous world and is something Britain can be proud of. It is not in Britain's interests to allow states to become ungovernable or unstable, nor allow their paths to development to be blocked. The noble Lord, Lord Hollick, referred to it having a "catalytic" and "enabling" impact. We believe that, at its best, that is exactly what it should be. It should also apply to all other programmes.

With more fragile states across the Middle East and Africa vulnerable to insecurity and terrorism and protracted crises, driving people from their homes in search of a better life—as the noble Baroness, Lady Sheehan, mentioned—the world is rapidly changing. The notion that this is the time to withdraw or back off, whether diplomatically, militarily or through our development programme, is flying in the face of reality. This is a time when this country needs to be more outward-looking and globally engaged than ever before. In many ways that is the argument I use to my noble friend Lord Blencathra. Britain's strategic leadership on the global stage is more important. We cannot sit back and wait for international problems to arrive on our doorsteps. An outward-looking and globally engaged nation must take action to tackle these issues at source. The UK's leadership in responding to global challenges is critical for eliminating extreme poverty and firmly in the UK's national interest.

Delivering 0.7%, alongside our world-class Diplomatic Service, is a very important commitment. Sometimes there is argument and contention around the 0.7% figure. However, the Government also have a 2% commitment on defence expenditure. I do not hear many noble Lords, including on the Benches behind me, questioning that commitment. They think it is absolutely right in a world that is less safe that the safety of this country and of other people around the world is a priority, so we make that commitment of 2%, and 0.7% is part of our aid policy on that. We have, of course, our permanent seat at the UN Security Council and our historic relations with the Commonwealth. It has enhanced Britain's role in the world as a global leader on development, as the noble Baroness, Lady Nicholson, said. We have a hugely influential voice in this field. I was particularly interested in her suggestion that we ought to look at ways of giving our aid greater visibility.

Many noble Lords spoke of their visits to different countries. The noble Lord, Lord Judd, talked about his experiences in Mozambique and the noble Baroness, Lady Hodgson, talked about the Bekaa valley. The noble Lord, Lord Purvis, spoke of his experiences and the noble Lord, Lord Bruce, talked about his extensive work and travelling during his time as the distinguished chairman of the International Development Committee in the other place. The right reverend Prelate the Bishop of Winchester talked about east Africa. When we visit these places, we may ask why there is not greater visibility for the UK taxpayers' contribution in these areas. Of course, sometimes that is due to safety concerns for the staff working in an area delivering the aid. However, in certain cases I think we could do better in projecting our soft power in the way the noble Baroness suggested. I undertake to look at that.

Aid had a significant impact in transforming the lives of the world's poorest people between 1990 and 2010. In the world today, 88% of people have enough food to eat and lead healthy lives—up from 76% in 1970. Fifty-four million more children started going to school in sub-Saharan Africa between 1999 and 2011. Millions more women now have access to family planning, and the number of women dying due to complications during pregnancy and childbirth fell by 47% between 1990 and 2010. Britain's own aid programmes have already delivered education for 11 million schoolchildren and provided 69 million people with crucial financial services to work and trade their way out of poverty. On that point I again come back to my noble friend Lady Hodgson, who asked about some of the microfinancing initiatives, which those of us who have looked at this area consider are often the most effective, yet sometimes it seems as if the funding is biased towards the huge organisations with great delivery capacity. While that may of necessity be the case, a lot of those large organisations are working with small communities in small villages, and with individuals within those villages, particularly with women, to bring about transformational change.

Meeting the internationally recognised—OECD-wide—approach to calculating 0.7% gives us the moral authority to hold others to account for failing to meet their own promises. This is critical in convincing others to step up and contribute more to often underfunded humanitarian crises. I was particularly struck by references to this moral authority and how it is developed. It was most visibly in evidence at the regional conference in London to secure support for Syria held in February 2016, which secured pledges of more than $12 billion, the largest amount raised in one day for a humanitarian crisis. At the conference, the then Prime Minister David Cameron announced that the UK would double its own pledge to the Syrian crisis from £1.2 billion to £2.3 billion. The best kind of leadership you can ever have on the world stage is leadership by example. I believe that that is what happened there.

I am very grateful to the noble Lord, Lord Collins, for recognising the unequivocal commitment of the Secretary of State, Priti Patel, to overseas aid and to the 0.7% target, which she reiterated as a manifesto pledge. I know from the visits that she has made in recent weeks to Kenya, and last week to Sierra Leone, what a profound impact those countries have had on her as she has seen the effectiveness of DfID's work around the world, as the noble Lord Hollick, mentioned. If the Bill were to be passed it could be perceived that, if we are to hit an average figure rather than an annual figure, certain years will be under the average. Therefore in those years we would fail to meet the obligation which has resulted in our having such a great effect on the world stage. That point was excellently underscored

[LORD BATES]
by the noble Lord, Lord Purvis, who said that there was a considerable downside to the proposals in the sense that we would lose the authority conferred by being a 0.7% committed donor. He also said that there is no visible upside, certainly in years three, four and five, as he rightly described the effect that procedure would have. As I have already noted, the five-year average target implies that in some years we will not meet that 0.7% figure. However, we are committed to ensuring that that happens.

In terms of annual reporting, the noble Viscount, Lord Eccles, said that living with two different year ends is something that has to be done in meeting an OECD DAC commitment. I was particularly interested in that not least because of my noble friend's great experience in this area, having previously been for many years the general manager—as I think it was called then—of the CDC, or chief executive, as we would now term it. I was particularly interested when he asked whether we were doing too much reporting, overdelivering and duplicating. I am happy to look at that again. We will be able to examine the reporting requirements in the CDC Bill, which is now going through the other place, and debate whether they are too onerous.

DfID is one of the most effective aid delivery organisations in the world. It is widely respected. It spends around 1% of its budget on administration. It is rigorous in the way that it delivers its work. There are welcome elements to this Bill, which, if it is your Lordships' will that it proceeds to Committee, we could explore further. For example, we could explore the right reverend Prelate's comments on outputs and outcomes. We could also look at the work done by the Independent Commission for Aid Impact and its reports in this area and the work and scrutiny of the Select Committee. We believe that the work achieved through having this 0.7% target, and the impact that enables us to have on the world stage, are something we ought to cling on to and build on. I undertake to write to noble Lords and consult officials to see whether there are any issues I have not dealt with. I am grateful to the noble Lord for giving us the opportunity to talk about this issue and the reasons why we have got to where we are. As the noble Lord, Lord Collins, said, we should not for one minute be complacent. We need to recognise that we are dealing with UK taxpayers' money and we need to make the case for what we are doing, as so many have done this morning and will continue to do. We are grateful to them.

Lord McColl of Dulwich: Would it be possible to have an arrangement whereby, if the budget is not completely spent in one year, it could be carried over to the next year for agreed, acceptable projects? The reason I suggest this is because when the consultants took over the running of Guy's Hospital some years ago, we had a legal agreement that any money not spent could be carried over but only for agreed, acceptable projects.

Lord Bates: That is an interesting point. In reality, when the allocation is made a lot of the funding goes to multiyear projects, because these are often more effective than one-off events. They are multiyear, which is important—so in a sense, as part of the overall commitment, there is a carrying-over of programmes. We believe that the 0.7% commitment needs to be met. To do that, we need to stand by the OECD DAC rules, and we committed to doing that both in legislation and in our manifesto.

12.20 pm

Lord Lipsey: My Lords, I thank the Minister for that reply. I should correct one misunderstanding, which is probably my fault. I did not mean to say that Cameron was doing this for wicked motives; in fact, I said that he might be doing it for high moral motives. However, my more than 40 years in politics, including working for a Prime Minister and a Foreign Secretary, have persuaded me that it is not a good idea to think that you can tell exactly what motive lies behind politicians' utterances. They nearly always have mixed motives, and we should consider their pronouncements on their merits rather than think that they are doing something for this or that reason. On that basis I do not think that I would make a very good popular journalist, but that is my view.

I also thank all those who have spoken in this debate and, because this has been a remarkably full House for a Friday morning, all those noble Lords who have sat through the speeches, listening carefully and grappling with a real, if limited, issue. I will not use the phrase "House of Lords at its best" because that comes out three or four times a day, but I think we have a good claim to that this morning.

At the same time, there were moments when I felt that we were ships passing in the night and that, in particular, some noble Lords felt that in some way I was up to something, which I was not. I heard the phrase "slippery slope", and the noble Lord, Lord Bruce, referred to a "Trojan horse". My noble friend on the Front Bench spoke of the "thin end of the wedge". I shall therefore use a cliché of my own: "give them an inch and they'll take a mile". I may be wrong about this but I believe that, if the Bill were to become law, the aid programme would be more soundly planned, more soundly based and more likely to survive the vicissitudes of public debate. So whether it turns out to be a Trojan horse or a galloping thoroughbred that carries us through to an even better system of aid in the future, only time will tell—but I do refute the proposition that I am in any way aiming to cut the level of aid.

The other thing that strikes me very much is how we would benefit from a Committee stage, where we could narrow things down a bit more. Some very intelligent suggestions were made for better ways of achieving the same objectives that I have. The noble Lord, Lord Blencathra, suggested 5% flexibility either way, and the noble Viscount, Lord Eccles, had some very good ideas on this, too. With a further stage of the Bill we might be able to progress the debate until we reached a consensus on both sides, provided that the bottom line is observed, which is that whatever emerges does not result in a penny less than 0.7% of GNI being spent on aid—not a penny, because I would not countenance that.

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

Register of Arms Brokers Bill [HL]

Committee

12.24 pm

Relevant document: 5th Report from the Delegated Powers Committee

Clause 1: Register of Arms Brokers

Amendment 1

Moved by ***Baroness Jolly***

1: Clause 1, page 1, line 5, leave out "by Order in Council" and insert "lay before each House of Parliament a draft of an order to"

Baroness Jolly (LD): My Lords, I start by thanking the Minister and her officials for a really useful meeting last week. Amendments 1 and 2 are technical and would rectify shortcomings in the original Bill debated at Second Reading, as highlighted by the Delegated Powers and Regulatory Reform Committee report of 25 October this year.

With the leave of the Committee, I should like to outline briefly the purpose of the Bill. It is a small Bill to meet an obvious need. Its purpose is to require British arms brokers to register before they can trade. It brings arms brokers into line with those of other countries, such as the US—a country not recognised as being in favour of unnecessary regulation. Here, I should point out that a strong regulatory regime is already in place to ensure that licences are granted to export appropriate goods to states which we trust to act responsibly with the arms that are purchased.

At Second Reading the right reverend Prelate the Bishop of Derby summed up the issues really well. He said that the Bill,

"builds upon existing legislation about licensing and export control, so we have a set of criteria and an assessment process in place so that all companies involved are scrutinised and licensed. We are doing the work that would provide the register. So the principle of identifying and monitoring arms brokers is established.

Secondly, there has been a recommendation from the House of Commons Committees on Arms Export Controls that the Government establish a register of UK arms brokers. So besides have a principle of identifying and licensing brokers, even in our own parliamentary system there has been some expert scrutiny of that principle and a recommendation that it is taken forward to a formal system of registration".

Finally, I refer to the right reverend Prelate's recent experience of being involved in the crafting and implementation of the Modern Slavery Act. He said:

"In the language of that world, which is analogous, there is the issue of … supply-chain transparency: how people trade and make it transparent for the benefit of all concerned, pushing back against temptations towards corruption".—[*Official Report*, 10/6/16; col. 958-59.]

As I said, these are two technical amendments, which were prompted by the DPRRC. I beg to move.

Lord Swinfen (Con): My Lords, I apologise for speaking, as I did not have the opportunity to take part at Second Reading.

I am a little puzzled by the meaning of new Section 4A(2) proposed in Clause 1. As I read it, it would mean that members of the Ministry of Defence, civil servants, members of the Armed Forces and the Treasury and various Ministers,

"involved in the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of military equipment or military technology",

should be registered. I find that odd. It is quite obvious that members of the Armed Forces and civil servants in the Ministry of Defence are involved in the design, improvement and manufacture of weapons to be used by our Armed Forces, but I do not really understand why they should be registered as arms brokers.

12.30 pm

Lord Judd (Lab): My Lords, I must also apologise for not having been able to participate at Second Reading. However, I am glad to say that I cannot think of a Bill that is more pressing or important in the highly dangerous world in which we live.

Weapons are lethal. I have always held the view that the export of arms is so dangerous that it should be only to recognised allies, in the context of alliances to which we belong, or in the case of very specific arrangements that further defence interests as we see them and which can be monitored. The ethos has to be changed from one of exporting arms unless there is a reason not to, to seeing arms as very dangerous, hazardous and unwise things to export unless there is a very good reason for doing so. I believe that that underlying ethos is crucial. In the context of what I have just said, the amendment speaks for itself. As far as I am concerned, I warmly applaud it, as I do the Bill, and hope that it succeeds.

Baroness Jolly: Perhaps I can better help the noble Lord, Lord Swinfen, by explaining that the issue he raised comes under the second group of amendments. The amendments in the first group are merely technical to determine how such legislation could take effect.

Lord Swinfen: I am quite happy for the noble Baroness to answer my query when we come to the second group. I shall wait patiently to hear what she has to say.

Lord Stevenson of Balmacara (Lab): One does not often hear those words in the House. It was very gracious of the noble Lord to agree to reorganise his speech in order to get the answer that he wants from the noble Baroness.

We have gone back slightly over ground that was raised at Second Reading and I do not want to carry on that trend. We should focus on the amendment. As has been said, this amendment has been recommended by the Delegated Powers and Regulatory Reform Committee and it is entirely appropriate for the noble Baroness, Lady Jolly, to bring it forward for the Committee's consideration today.

Having said that, I feel very strongly that this is a gap in an existing and strong system, as was referred to by the noble Baroness in her introductory remarks. We have a strong regime that deals with these difficult areas, and we have licensing and registers already in place. The additional work required is very small, but it fills a lacuna in our existing arrangements, which is very important, in that we do not currently focus on the agents or people in the supply chain, as she says. I recommend the amendment to the House.

Baroness Mobarik (Con): My Lords, I start by congratulating the noble Baroness, Lady Jolly, for steering her Bill into Committee today. I know that there was an interesting and thoughtful debate at Second Reading, during which my noble friend Lady Neville-Rolfe expressed some of the Government's reservations about the Bill.

I will pick up on one or two points before I commence my remarks. On the vetting of trade control licence applicants, presently only the eight elements of the consolidated EU and national arms export licensing criteria are considered when granting or refusing export or trade control licences. The Government have no plans to introduce any further changes to those criteria.

The noble Baroness mentioned the need for greater transparency. The UK already publishes one of the most comprehensive reports concerning strategic exports. This includes reference to all our international reporting requirements, as well as information on export licences issued, refused or revoked by destination, including the value and type—for example, military—and a summary of the items covered by the licences.

The straightforward amendments in this first group, which stem from recommendations made by the Delegated Powers and Regulatory Reform Committee in its fifth report, seek to clarify the Bill's order-making power. The amendments simply change the type of subordinate legislation the Bill provides for so that it is in line with the other powers conferred in the Export Control Act. It remains the Government's view that this power is not necessary to introduce a register along the lines of that being proposed by the noble Baroness.

Section 4 of the Export Control Act already confers a power on the Secretary of State to introduce trade controls on the acquisition, disposal and movement of goods, and activities which facilitate or are otherwise connected with these actions. As such, we already have the means to implement further controls, such as a register, via secondary legislation if the Government consider it to be in the public interest to do so.

Lord Stevenson of Balmacara: It was very helpful of the noble Baroness to explain some of the Government's thinking on this matter, but she has highlighted one of the key questions, and I am sure that if I do not stand up and press this, the noble Baroness, Lady Jolly, will. If the Government already have the powers under the existing legislation, will she explain concisely why it is they will not act on what is so clearly a lacuna?

Baroness Mobarik: I wonder whether I might get back to the noble Lord on that point.

Lord Stevenson of Balmacara: Of course. I look forward to receiving a letter on this point. Perhaps the word "lacuna" has caught the noble Baroness unprepared and I should explain a little further—I am not entirely sure myself whether I have got the right word.

The noble Baroness made it very clear that the powers exist, and indeed we discussed that at Second Reading. However, there is a reluctance in the Government's mind, as I have detected from what she said, around whether or not it is necessary to do so. You do not have to be a reader of lurid fiction or even have an imagination to recognise the sort of people who populate the world in which this activity goes on. Many firms are of high regard and good standing, but there is a penumbra —I am sorry, I must stop using these complicated words; there is a shadow—in which other people operate.

It would be helpful to the progress of this Bill and more generally to the world at large if the Government could be a little more forthcoming about the reasons why they do not support this. In addition to the licensing and registers already in place and the complicated processes that are gone through in government to ensure that licences are properly awarded, they should be able to focus on the people concerned.

Baroness Mobarik: One cannot get into the mindset of such people, but we have such a thing as brass-plate companies. They operate in name only. They are shell companies that have no presence other than a brass plate. Therefore, the kind of people that the noble Lord is talking about will operate under the radar regardless. The existing legislation is adequate, according to the Government, in controlling such behaviour as far as we are able to.

Baroness Jolly: I thank the Minister for her explanations. We have already gone into the next amendment, which I will introduce in a moment. To bring us back to Amendments 1 and 2, I guess that this is very much a legal point. We looked at the issues raised by the committee. We took some legal advice and came up with another form of drafting. It seems as though the Government's lawyers are less than happy with what we have come up with, but I thank the Minister nevertheless.

Amendment 1 agreed.

Amendment 2

Moved by ***Baroness Jolly***

2: Clause 1, page 1, line 14, leave out "in Council laid"

Amendment 2 agreed.

Amendment 3

Moved by ***Baroness Jolly***

3: Clause 1, page 1, leave out lines 16 to 18 and insert—

"(b) a person may only be entered in the register if he or she is a fit and proper person to be registered as an arms broker.

(4A) The Secretary of State shall specify in guidance what is meant by a "fit and proper person" in subsection (4)(b)."

Baroness Jolly: This amendment is really the nub of what we are trying to achieve. It calls for a fit and proper test for arms brokers. The majority of British arms brokers are decent, upright citizens who have chosen this particular profession and would most certainly pass any fit and proper person test as defined by the Secretary of State. However, as the Minister indicated earlier, some are brass-plate operators and work in offshore tax havens such as the British Virgin Islands, Cyprus, Hong Kong, Liechtenstein or Gibraltar. They pay no tax on considerable earnings.

The events of earlier this year highlighted the key role that offshore shell companies have played in large-scale tax avoidance, prompting a series of reforms and proposed new legislation in the Criminal Finances Bill, which will come before this House some time early next year. There is widespread political support to crack down on these activities and make it harder for individuals to use such offshore vehicles for tax avoidance, including greater powers of disclosure over such overseas assets.

Crucially, these offshore company vehicles have not just been used by those seeking to avoid paying tax. There is a direct link to arms brokering in that they are also the vehicle of choice for arms brokers wishing to conceal their activities. Here, I am clearly not referring to perfectly bona fide arms manufacturers, Ministers, members of the Cabinet or whatever who, if they are caught within the remit of the Bill, are caught totally unintentionally.

A registration system of arms brokers, including mandatory disclosure of all overseas company assets, would serve as a major enforcement tool for Her Majesty's Government to tackle illicit brokering. It would also be fully consistent with complementary to parallel initiatives being pursued to clamp down on tax avoidance using the same overseas company vehicles and structures. As such, it would be wholly inconsistent with emerging government policy in this area and a huge missed opportunity to exclude arms brokering activities from the process of establishing greater oversight and regulation over offshore companies.

The UK has one of the most active and lucrative arms industries in the world and, at a time of global instability, it is critical that we play our part to ensure that it is transparent. Over 30 industries in the UK require registration, from bouncers to beauticians, yet people who make millions trading weapons, bombs and military equipment have no such scrutiny. The amendment would require all UK arms brokers to pass a fit and proper person test, bringing us into line with most western countries, including the USA and Australia. I beg to move.

Lord Judd: My Lords, the amendment is critically needed. It relates to my previous point. Ideally, we should export arms only when they are furthering our defence policies or our strategic alliances for specific purposes. If they are exported outside that context, it should be in a very carefully considered way that contributes towards world peace and stability. Of course all the huge issues of end use and the rest are critically important for context. From that point of view, I can imagine that only the most responsible citizens are qualified to be involved in this trade. The amendment is very important if we are to take the whole purpose of the Bill as seriously as we should.

Lord Wallace of Saltaire (LD): My Lords, perhaps I may press the Government a little on the extent of this register for arms brokers. My noble friend Lady Jolly has spoken about how, in the past, companies in the overseas territories and Crown dependencies have been used for quite extensive arms brokering to foreign companies. Many of us will remember a number of instances of that. I and others will also be aware of the extent to which our Government provide support to companies based in the overseas territories and Crown dependencies in their exporting activity but do not register and regulate them entirely. That is a possible loophole, which the noble Lord, Lord Stevenson, might even describe as a lacuna. It is important that we should be clear quite how far registration and regulation extends. Questions of transparency and proper regulation are always left ambiguous when offshore companies operating in our overseas territories and Crown dependencies are engaged, and historically they have been very active, in the arms brokering trade. I would like further clarification on that.

Lord Swinfen: My Lords, I know that I do not hear very well, but I did not hear the noble Baroness, Lady Jolly, answer the points I made on the first amendment, although I heard her say on that one that she would respond to them when taking Amendment 3. I gather that we are now on that amendment and I look forward to hearing from her.

12.45 pm

Baroness Jolly: The point I thought the noble Lord was making was to do with the breadth of the measure having to cover Secretaries of State, members of the Cabinet and British arms manufacturers who deal perfectly legitimately and regularly overseas. Do I understand the noble Lord aright?

Lord Swinfen: The noble Baroness is moving in the right direction, but as I read her Bill it would cover the Ministry of Defence, civil servants working for that ministry, members of the Armed Forces, the Treasury, Ministers in the Treasury and anyone involved in the manufacture and supply of arms for our own forces. I am sure that that is not her actual intention, and I am not a lawyer although I am descended from lawyers, but that is my reading of her Bill. It may be that she needs to look at this point before the Report stage.

Baroness Jolly: I thank the noble Lord for that clarification. I am not a lawyer either and neither am I descended from lawyers, but I will most certainly take advice from them and ensure that, should the Bill reach the Report stage, I table any necessary amendments to exclude those particular groups. The aim of the Bill is to catch arms brokers who for the most part operate in small or single-individual companies hiding behind brass plates. Recently there have been several instances of brokers trading illegally. They have been charged and served their time, but because there is no registration, they can come straight back and trade again. That is the purpose of the Bill and so that is what the fit and proper person provision is for.

Lord Swinfen: I am most grateful to the noble Baroness for saying that she will have a look at this point, and I look forward to hearing what she decides on it at a later stage.

Lord Stevenson of Balmacara: My Lords, I am tempted to say that we probably all want to be sure those who are caught by the broad definitions which have been read into the Bill by the noble Lord, Lord Swinfen, are indeed fit and proper persons. I hope that

[Lord Stevenson of Balmacara]
Ministers would not object if that was a test which was applied to them, although the idea that it might be applied by civil servants to their incoming Ministers might be a bit of a shock to those who aspire to high office. I will not perpetuate that myth any further, and I am sure that the point can be dealt with as we move forward to the Report stage.

Again, the noble Baroness has done a good job in producing a better set of words to try to capture the issues that are in play in the Bill. A further point that she might want to consider before we reach Report is that it might be worth also looking at the recent report from the UN Human Rights Council, which has brought out the principles under which international trade should be regulated in order to make sure that human rights are not breached. Obviously, it is a tricky area and she has acknowledged that the people who operate in this world are often registered outside UK territorial reach and therefore we are not able to pursue them through the British courts or other areas. This is exactly the point raised by the UN Human Rights Council. It is about the need for us all to work together to try and make sure that any gaps in the system are not left unfilled. But these are broader issues than the context of this Bill and I therefore support the amendment as it is framed.

Baroness Mobarik: My Lords, this amendment would remove references to the consideration of criminal history and tax status to leave the determination of who is a fit and proper person to guidance that would be issued by the Secretary of State. Any fit and proper person test as a prerequisite for inclusion on a register would need to apply to all categories of applicant, including businesses, individuals, non-governmental organisations and other entities, and be robust enough to hold up to legal challenge if necessary. The Government, who remain committed to better regulation where it is necessary, consider the existing control regime to be sufficiently robust and fully in line with our obligations under the international Arms Trade Treaty. Requiring brokers to register in the way proposed would make the system considerably more complex.

I will pick up on a couple of points the noble Baroness made. The first we referred to earlier, which is brass-plating. Existing legislation would, in certain circumstances, allow enforcement action to be taken against brass-plate companies and their officers. However, there needs to be sufficient evidence to justify any such action. On her other point on tax evasion, HM Revenue & Customs considers all credible information regarding potential breaches of UK strategic export and trade controls, and takes a range of enforcement action based on the particular factors of each case.

I will refer to something that the noble Lord, Lord Judd, raised on human rights issues. Risks around human rights abuses are a key part of our assessment. We do not export equipment where we assess that there is a clear risk that it might be used for internal repression, would provoke or prolong conflict in a country, or would be used aggressively against another country.

Each licensing decision is currently considered on its own merits against the consolidated EU and national arms export licensing criteria, known as the consolidated criteria. This provides a thorough risk assessment framework and requires us to think hard about the impact of providing or brokering arms and equipment and their capabilities. These are decisions we never take lightly.

I should make it clear that the UK operates one of the most robust and transparent export and trade control systems in the world. We are confident that, by considering all applications against the consolidated criteria, we employ a thorough risk-based approach to determine whether to grant a licence to a particular end-user or broker.

Finally, we are proud of the fact that the UK has been at the forefront of addressing concerns on arms brokering by introducing controls that apply not only in the UK but extraterritorially. That was the point that the noble Lords, Lord Wallace and Lord Stevenson, made. It is quite a technical issue and I can write to noble Lords to clarify further. As I said, it applies not only to the UK, but extraterritorially to UK persons overseas. This signifies our clear intention to prevent UK persons escaping brokering controls by simply operating outside the UK.

Lord Judd: I thank the Minister for responding to my intervention, but I do not believe she has quite taken the point. My concern is that weapons are so dangerous and potentially negative in their effect that they should be exported only in situations in which peace and stability are at risk, or an agreed necessary military action, in the context of an alliance, is undertaken. I cannot see really, logically, why anyone else would come in with a desire to export arms if it did not fit into that context. If it did fit into that context, why would somebody else have to apply? It therefore seems to me that if we are going to have these free-standing individuals operating in the market, they need to be incredibly responsible citizens who fully understand what the purposes of foreign defence policy, stability policy and all the rest really are. Otherwise, we are in a situation in which the conveyed message is that it is okay to export arms, unless we establish through our very effective controls systems that there is a very good reason for not doing it, whereas I think there has to be a very good reason for doing it. From that standpoint, this amendment moves in the right direction.

Amendment 3 agreed.

Clause 1, as amended, agreed.

Clause 2 agreed.

House resumed.

Bill reported with amendments.

Renters' Rights Bill [HL]

Committee

12.56 pm

Relevant documents: 5th Report from the Delegated Powers Committee

Clause 1 agreed.

Clause 2: Ending of certain lettings fees for tenants

Amendment 1

Moved by ***Baroness Grender***

1: Clause 2, page 1, leave out lines 11 to 18 and insert—

"(1) A letting agent who, in connection with the grant, renewal or continuance of a residential tenancy, requires from the tenant the payment of any premium shall be guilty of an offence under this section.

(2) In subsection (1), "premium" means any fine, sum or pecuniary consideration, other than the rent or deposit, and includes any service or administration fee or agency charge.

(3) In subsection (2), "deposit", in relation to a residential tenancy, means any money intended to be held (by the landlord or otherwise) as security for—

(a) the performance of any obligations of the tenant, or

(b) the discharge of any liability of the tenant, arising under, or in connection with, the tenancy.

(4) The Secretary of State may by regulations specify the categories of sum which are not to be treated as a premium for the purposes of this section; and the maximum amount which tenants may be asked to pay in respect of such a sum."

Baroness Grender (LD): My Lords, I let your Lordships know that I am registered as a vice-chair of the All-Party Group for the Private Rented Sector.

In England, one-quarter of all families with children now live in a private rented home. In the UK, £48 billion is spent each year on rent for privately rented homes, double the figure for 10 years ago. Government data released yesterday show that the median monthly rent in London is now £1,473, a rise of 13% over the last two years. Salaries, as we are all aware, have come nowhere near to matching those rent rises. The number of renters is soaring, monthly rents are soaring and up-front costs are soaring. The sector is changing at a rapid and unsustainable pace and pushing many on low and average wages to crisis point. Ending of a private tenancy is now a leading cause of homelessness, and that does not include the hidden homeless who do not show up in any of the data. One in four renters now say that their last move strained their finances and more than one in three took on some form of debt to pay for it.

This amendment goes to the heart of one of the key issues for renters: high up-front costs, which are a barrier to moving into a home. Ironically, these are even higher for those on low incomes, who are seen as more of a risk to a landlord. Of course, those tenants should be in social housing—we have debated this a great deal and will continue to do so. According to Shelter, one in four renters moved home in 2013-14 and 29% of renters have moved three times or more in the last five years. That rises to 37% if they live in London. Shelter estimates that the median cost of moving for a private renter is £1,500 but we need to ask: how often will that be paid? As I have just explained, it could be paid as many as three times in a five-year period. That is the median cost; for many, it is much higher, with two or three months' rent demanded up front along with the deposit, as well as letting fees.

Shelter's research shows that average letting fees are £355 per move, with one in seven people paying £500. On rare occasions, renters have been forced to pay fees of £900 or more to a letting agent, simply for the privilege of moving into a home. Reference checks, credit checks, administration fees, inventory fees—the list goes on. Invariably, the fees charged are extortionate compared to the cost actually incurred by the agent and they are not necessary. Furthermore, any cost actually incurred should be covered by the lettings agent's client—the landlord—not by the tenant. Far too often these high up-front costs are proving a barrier to tenants, who simply cannot afford to move.

This week Radio 4 broadcast a documentary, presented by Sarah Montague, called "After Cathy", 50 years on from Ken Loach's "Cathy Come Home". It featured the audio diaries of three homeless people over the course of a year. One of them, Zara—not her real name—from London, a teacher and mum of a three year-old and an 11 year-old, had lived in the same private rented home for six years when her landlord put up her rent. She could not afford to move to cheaper accommodation because she could not afford the up-front costs of moving. This teacher is now homeless and has been living in emergency accommodation with her children for a year—a teacher. Does anyone in this Chamber really believe that this teacher, who could not afford the up-front costs to move to cheaper accommodation, would have been helped by a nice clear and transparent breakdown of the additional costs of the credit check, the inventory check, the administration charge and the cleaning costs, on a nice large poster in the lettings agency's office that complied fully with the Consumer Rights Act, with clear guidance about who she could complain to if the fees were not sufficiently transparent? Does anyone genuinely believe that at that critical moment when she could not afford the up-front costs to move somewhere cheaper, transparency would have made the difference? It would not.

So the critical question in this key amendment and this part of the Bill is what to do about up-front costs—nothing else. I suspect the Minister will tell us that if we take away lettings agency fees from tenants so that only landlords pay them, as in Scotland, rents will rise. But Shelter's research surveying 120 landlords found only one who had noticed an increase in agency fees and had passed this on to tenants. Of the 50 Scottish letting agency managers it surveyed, 76% either were positive about the change or said it had had no impact. If the Minister is going to say that he is not convinced by Shelter's research on rents and lettings agencies in Scotland, will he please demonstrate that there is alternative research or a study that the Government have conducted which counter that claim? If there is no such research, I am sure he will tell us.

At Second Reading, the Minister, the noble Viscount, Lord Younger of Leckie, also said that tenants would still end up paying, but through higher rents. If the Minister makes that argument today, could he please tell us where the evidence comes from for it? The evidence from Scotland suggests that this is not the case. But even if it is, tenants would be better able to absorb a smaller rise over a 12-month period than having to pay the up-front costs in advance, with lettings agency fees on top. It is the up-front costs that

[Baroness Grender]
this amendment and Bill seek to remove. I apologise for labouring the point but I want the Minister to answer specifically about up-front costs.

I am moving Amendment 1 having reached the conclusion that the list of potential fees in the Bill, as drafted, would leave too many options for newly named fees to be charged to get round the list outlined in Clause 2(2). The proposed new section originally specified registration fees, administration fees, an inventory check and reference, extension, renewal and exit fees. This amendment therefore bans all fees from the tenant to the lettings agency and specifies that charging a fee to a tenant would be an offence under that section. Subsection (2) of the amendment clarifies that this refers to anything other than the deposit and rent.

Subsection (4) would enable the Secretary of State to make exemptions through regulations, so that if evidence emerges of services in respect of which there is value to the tenant in charging a particular fee, this can be done. I do not anticipate any such fees but my new amendment allows for the possibility, if concrete evidence was indeed found that a fee for a specific service would be in the best interest of the tenant in some way. Such an approach would ensure that all interested parties can be consulted and allowed to have proper discussions about services where there is value. It also enables the Secretary of State to set through regulations a maximum amount for those exemptions.

While I have made it clear—if not somewhat laboured the point—that the central proposal is about taking away unnecessary up-front costs to the tenant and that transparency, while welcome, is not the solution, I would like to pursue one more matter about transparency. At Second Reading the Minister, the noble Viscount, Lord Younger of Leckie, said that,

"the Government have committed to reviewing the impact of letting agent fee transparency later this year ".—[*Official Report*, 10/6/16; col. 987.]

I believe that November is a later part of the year and would like the Minister to tell us what progress has been made on that review.

If, when it comes to up-front letting fees charges to tenants, the Government are waiting, as many suspect, for some industry-led solution to come forward, I believe that they will be disappointed. The Government will have to choose whether to back the "just about managing" tenants, to use the current terminology, who now constitute 25% of the population, or to back an industry which, according to the evidence available, is able to weather the proposed change in this Bill with ease.

I conclude at this stage with what I believe is the significant challenge before us in the Bill. Is there a way to reduce up-front costs for tenants in the private sector when they move? I believe that there is. Do not allow this Government to hide behind the smoke and mirrors of transparency, however welcome that is. There is one central question in this section of the Bill: can up-front costs be transferred to landlords? Shelter's evidence from Scotland—in the absence of any other—has shown us the way. There is no counterevidence. This amendment provides a positive yes and I beg to move.

Lord Shipley (LD): My Lords, I extend strong support to my noble friend Lady Grender for this amendment and for her Bill as a whole. This amendment really matters, given the current state of housing supply. It was reported this week that in the last five years, local government spent £3.5 billion on temporary accommodation for homeless people. I declare my interest as vice-president of the Local Government Association. The main reason for that spending is the cost of accommodation. One of the contributors to it for individuals is the up-front costs they have to pay, which in very many cases have become too high. This creates a barrier to people moving into a home.

As my noble friend pointed out, because tenants in the private rented sector tend to move more frequently than in the public social housing sector, the costs can be more frequent and become increasingly unaffordable. Removing the up-front cost from the tenant is the right thing to do and I hope that whatever happens to this Private Member's Bill, the Government will take on board how serious this issue has become. I understand there is to be a housing supply White Paper some time after the Autumn Statement next week. Whether that comes in December or January—perhaps the Minister can help us with that—who funds what in the private rented sector has to be addressed, and for that reason my noble friend Lady Grender has our full support.

Lord Best (CB): My Lords, I thank the noble Baroness, Lady Grender, for her work on the Bill, which highlights a number of key issues affecting the private rented sector. She introduced her amendment with one or two rather broader points about the private rented sector, which enables me as well to say something of a slightly broader nature.

At present, there is a real fear that as shorthold assured tenancies within the private rented sector, to which the noble Baroness referred, gradually terminate, tenants in receipt of housing benefit or universal credit will be rejected by landlords who will find a gap between the amount the tenant can pay using their housing benefit or universal credit and the market rent which the landlord can easily obtain. While that gap exists, landlords will want to see tenants currently in receipt of housing benefit or who in future will be on universal credit out of their accommodation. This is not simply cruelty; this is the market. It will be unwise for a landlord to continue to let to people who have a big shortfall between the amount they receive to pay their rent and the actual rent they are being asked to pay. Even generous landlords who are prepared to go half way will still find that they are in a very uncomfortable position if they know that the people from whom they are asking the rent do not have the money to pay it. They know that there will be trouble over time, so how much better to take a couple, both working, who can afford the rent?

I see a position in which, gradually over a period, virtually all those in high-pressure areas such as London who are currently letting to tenants on housing benefit will wish to see those assured shorthold tenancies terminated, so those tenants will be outside the private rented sector. Sadly, I fear that the social housing sector will find it very difficult to cope with the pressure that that will bring as all those tenants are shed.

We are sure to see homelessness grow. I am indulging in some broader comments before addressing some aspects of Amendment 1.

I declare my interest as chair of the Property Ombudsman Council as well as my other interests as set out in the register. I fear that chairing the ombudsman service, which looks after complaints about agents and therefore about fees and the transparency issue that is being debated, prohibits me from using this platform to comment today.

I shall draw attention to one way in which this issue may be taken forward, if the Government feel unable to accept Amendment 1 today. I am leaning on the precedent created by the noble Baroness, Lady Hayter, who, during the passage of the Housing and Planning Bill pressed for an amendment that would place a requirement on managing and letting agents to take out client money protection insurance—this being a proxy for being a respectable body in many cases. Her amendment to place a requirement on agents was not accepted in the context of the Housing and Planning Act 2016, but the Government agreed to take the issue away and create a working group to look in depth at the issue. I suggest that if the Government feel unable to accept Amendment 1, they might think that that excellent precedent, which has now been brought to fruition with DCLG civil servants hard at work looking at these issues under the chairmanship of the noble Baroness, Lady Hayter, might be repeated in this context—in which case I hope very much that the noble Baroness, Lady Grender, could play a leading role in such a working group and I ask the Minister to consider it.

1.15 pm

Baroness Gardner of Parkes (Con): My Lords, I declare an interest as someone who has rented out property for a long time. I believe I raised this point at Second Reading, and I certainly did on the Housing and Planning Bill last year. What concerns me about all this is where the money is going to come from. If the noble Baroness, Lady Grender, believes that people will simply reduce their rents, it is unrealistic. When she talks about how much rents have gone up, that is nothing compared to how much property has gone up.

Baroness Grender: To clarify the question, is the noble Baroness asking where the money that the lettings agencies currently charge would come from?

Baroness Gardner of Parkes: I am raising the point because, as I have discussed in the past—not during the last Bill, but previously—the inventory cost has to be borne by someone. If the inventory cost is paid only once, by the person who has the benefit of it, it is not then built into the rent in the way it would be if the landlord paid it, when it would be included in the rent, and every time there was a rent increase, there would be an increase in the inventory cost. It would already have been paid and would be a one-off and out of the way. I am very half-hearted about these suggested changes here.

People are overlooking the situation where, particularly in London, landlords are giving up ordinary residential lettings. There is quite a desperate shortage of lettings for ordinary people wishing to rent, because landlords can make so much more money out of Airbnb, which is totally uncontrolled. I opposed the practice when it came up last year during passage of the Deregulation Act, but no one else did. Now, sure enough, Berlin is bringing in controls. New York, Vancouver—all these places—are finding themselves in the same position. The Mayor of London has acknowledged the problem. It is only capital cities that have ever had that limitation on short lets. Whether it is in the tenancy agreement or not, people are totally ignoring that and simply letting them, because they can earn as much in four months as an ordinary landlord would in the whole year. It is much more complicated

Again, we have talked about references. The Government expect you now to know that your tenant, whoever they are, is entitled to be in the country. As for the days when people could employ someone who was not legitimately here, all that changed, if your Lordships remember, with the situation that came up with the noble Baroness, Lady Scotland. This is much more complicated than people appreciate. This amendment sounds very good and sweeping but the whole thing has not been thought through in enough detail. There might be limits on what you could charge, but as I have said before, I remember letting a property in the days when the Wilson Government just froze rents. They were frozen for about two years, and then they absolutely escalated when the freeze was lifted.

You cannot really find a very easy answer to this, but I am very much in favour of an answer. I thoroughly approve of the idea that you should have access to a register of rogue landlords and all that, but it is unrealistic to imagine that this list of things which the noble Baroness has set out in detail will suddenly become inexpensive or vanish or something. Where is it going to vanish to? This is what I would like to know. I am convinced it will just be built into rents. The noble Viscount, Lord Hailsham, spoke about this recently, as a landlord or someone who had been one way back in history. He said that people had to realise that people who were landlords were doing it as a business, which is true. It is most unfortunate that the supply of housing, both social and ordinary commercial, has vanished, because people need homes and they need them desperately. We all hope that that housing Act will produce more homes for people at affordable prices but the press on it has not been very encouraging. I wait to hear what is said about it.

Lord Thurlow (CB): My Lords, I thank the noble Baroness, Lady Grender, for tabling the Bill. I declare my property holdings as set out in the register of interests. As personal background, I have spent over 35 years working in the property market as a chartered surveyor, most of it on the commercial side, specifically in development letting, investment and funding. There is a close relationship between commercial and residential when dealt with in bulk.

Who is principally affected by the clauses of the Bill? It is the lowest earners—the most vulnerable, in that sense. It is no coincidence that Shelter has briefed on this, and I think it is tragic that that was necessary. It is students in higher education who have to go to their place of education. It is students who become jobseekers and have to move again. It is a transient group.

[Lord Thurlow]
It is immigrant labour that goes to wherever the work is; there is no shortage of that, apparently. And it is my daughter; in fact, this week both my daughters have applied to rent residential accommodation, and they are learning all about the bumps in the road that we are discussing.

This is the era of social mobility. The world has moved on and the working population is much more mobile. People may move several times, particularly in the early steps of their working lives. They are unlikely to buy, we know that; they rent, and the housing provision must respond. I am afraid the evidence suggests that dishonest or at the very least questionable practices are rife. I thoroughly endorse the list of the noble Baroness, Lady Grender, and in fact I think the list is considerably longer than we were given. Only regulation would prevent this.

The problem is that, as we have just heard, it is difficult to identify what might be fair and what is spurious. The list is growing. In fact, I have with me the small print from one of my daughters' contracts with a national firm of estate agents. The small print, which is smaller than I can read with these new glasses of mine, identifies seven different specific items, several of which I as a practitioner in the marketplace think are spurious. It is shocking, with non-refundable payments and refundable payments that, as we know, are sometimes not refunded. The people affected by this have very little recourse—they do not have the wherewithal or the experience, and they are dealing with an institution. Every time they move, we have heard, they pay again: £1,500, a month's gross salary for many people. For the dishonest agents, if I may be so bold, it is low-hanging fruit. It is an important revenue source. I am sorry to say that, but I am afraid it is probably true. Rents are not going to rise because these costs are transferred to landlords; that is not how economics works. Rent rises because of supply and demand. If there are not enough flats to go around, the rent goes up, and if there is a surplus, the rent comes down.

I am not one-sided on this. The list of fees is not all bad, as we have also heard. Landlords need deposits and references. However, the clever instrument in the Bill is that the Secretary of State is given the right to approve those fees that are considered fair. An adequate supply of housing would stifle spiralling costs, and competition for tenants would trim the fees. However, the shortage of government support for new rental development, particularly in the social housing sector, means that the private sector fills the gap. There is a new product in the parlance of property, the private rented sector. It does not sound very new but it is new in that context, and it refers specifically to the bulk development of residential property that is exclusively built to rent. It is designed to rent, not for sale. It is not for sale after two or three rental periods; it is designed for long-term renting. Services are engineered into the architecture.

This is a new product which some other countries already enjoy and have done for a long time, but our market has never embraced it in the private sector. There are tens of billions of pounds now looking at this market in the UK. It is happening. Sites have been acquired, developments are being processed and planning is being obtained. They are being built in bulk and they will deliver tens of thousands, at least, of new residential units.

I have spoken to Legal & General, a well-known and respected investment manager. It has allocated more than £100 million for this sector. It will finance and own it itself and wants to completely re-engineer the whole rental model. It wants it to be tenant-friendly, and thinks it can be done to provide it with a worthwhile return. It is possible, and the Government should applaud it.

Existing legislation is just not fit for purpose. It is creaking and, with the scale of new development on the horizon, must be updated. There is design of the highest standards, with the quality services I referred to and everything there for the tenant, but who will find the tenants? The letting agent, unless the organisation owning the property is big enough to run that in-house. It is tragic that this product, for want of a better description, could be brought to its knees in reputational terms by spurious fees and up-front costs frustrating the mobility of labour. The scale of this new prospect deserves our attention, and the Bill is a vital step in preparing for it.

To conclude, the Government have a choice: ignore it and play to the unscrupulous—I fear it is as simple as that—or support this initiative, update the law, give it teeth, stamp out unacceptable practices and protect the most vulnerable. Any Bill improving the lot of those in need is to be welcomed; this is one.

Lord Kennedy of Southwark (Lab): My Lords, I should first declare that I am a councillor in the London Borough of Lewisham and a vice-president of the Local Government Association. I fully support Amendment 1, moved by the noble Baroness, Lady Grender. It replaces what is presently in the Bill with a more detailed provision to further protect tenants and, we hope, avoid a rogue letting agent getting around the Bill. I am particularly pleased to see the reference to deposits in subsection (3). As the noble Lord, Lord Thurlow, said, the amendment also gives flexibility on what should or should not be treated as a premium by giving the Secretary of State power to make regulations to set that out. Importantly, it also allows the Secretary of State to set by regulation the maximum amounts that tenants may be asked to pay; a welcome flexibility here.

I also endorse the general comments made by the noble Baroness, Lady Grender. As she said, housing is an issue that we have debated many times and will continue to do so: the cost of housing, up-front costs, fees, the lack of social housing, the cost of rent in the private sector, et cetera. The noble Lords, Lord Shipley, Lord Best and Lord Thurlow, all made contributions that I endorse. The noble Baroness, Lady Gardner of Parkes, expressed some concerns and reservations about the clause and the amendment in particular. I do not agree with her: these fees and charges can be abused and tenants taken advantage of; the amendment seeks to address that. I particularly endorse the comments of the noble Lord, Lord Thurlow, who spoke about the effect that supply and demand has on the housing

market. As he also said, at present, the legislation is not fit for purpose. I fully endorse the amendment and hope that we get a positive response from the Minister.

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 have participated in the debate on this amendment, particularly the noble Baroness, Lady Grender, for so ably moving it and making some very significant points in relation to this. The Government are clear that the majority of letting agents provide a good service to tenants and landlords—that is our starting point. The Government also know how important housing affordability is and the challenges faced by some tenants, in terms of consumer protection. We have introduced a number of measures to help to tackle this issue. Since 1 October 2014, for example, it has been a legal requirement for letting and managing agents in England to belong to one of the three government-approved redress schemes. Those schemes offer a clear route for landlords and tenants to pursue complaints, weed out the cowboys and cowgirls who give agents a bad name, and drive up standards.

While landlords and letting agents are free to set their own charges, they are prohibited from setting unfair terms or fees under existing consumer protection legislation. We have gone further; in May 2015, under the Consumer Protection Act, we introduced transparency measures that require letting agents to publicise a full tariff of their fees, whether or not they are a member of a client money protection scheme or which redress scheme they are a member of, prominently in their offices and on their website. For the first time, a fine of up to £5,000 has been introduced for agents that fail to do this.

1.30 pm

We are working with the noble Baroness, Lady Hayter, who has already been mentioned, and correctly so, and the noble Lord, Lord Palmer of Childs Hill, on a review of client money protection. They are looking at how client money protection is working and whether to use the powers in the Housing and Planning Act 2016—the powers are obviously already there—to make it mandatory. They are supported by expert representatives from across the private rented sector; there are five members in all on this review, as I understand it. The experts include local authorities and the insurance sector as well as the private rented sector. The group has actively sought views in the call for evidence from all relevant interests, including organisations such as Shelter. I thank the noble Baroness for all the work that she has done for Shelter in the past and to say that it is a very valued partner in this regard. The working group members were invited to bring a range of expertise and perspectives and were expected to deliver their report to Ministers in the new year.

We have also established a private rented sector affordability and security working group, bringing together landlord groups, letting agents and housing charities. The group is exploring, among other issues, options to reduce up-front costs for tenants when accessing and moving within the sector and increasing security. Its report is expected close to the end of the financial year—that is, during the first half of 2017. I think that that answers the points raised by the noble Lord, Lord Shipley, on reporting dates; they are the best evidence that we have at the moment, and they are likely dates.

The Government have always been clear that any regulation in the sector must be appropriate. The Minister for Housing, Planning and London in another place has also been clear that we must be mindful of the potential impact on rents from banning fees paid by tenants—something raised by my noble friend Lady Gardner of Parkes. I express some reservations on the clause, but I have listened very carefully to what the noble Baroness has said, as well as to the remarks of the noble Lords, Lord Shipley, Lord Thurlow, Lord Best and Lord Kennedy. My noble friend Lady Gardner of Parkes said that there was value in looking at this, but we have to be careful about unforeseen issues in terms of the effect on rents. This is not as straightforward as it might at first seem.

Baroness Grender: If the Minister believes that there will be an impact on rents, can he cite evidence of any research done by the Government into the changes in Scotland, given that at the moment we have one piece of research that says—and I say it again—120 landlords were surveyed and only one had put up costs as a result of the change in Scotland? Does he have some alternative research to present?

Lord Bourne of Aberystwyth: The noble Baroness will have heard me say very clearly that we are awaiting the outcome of both the working groups looking at the issue. They will provide important evidence and will have looked at this issue in far greater detail than I have, so I anticipate looking at that when we have the report. I want to take this away and consider it further. I am not opposing the amendment; I am expressing reservations. The noble Baroness and other noble Lords have raised some important issues. I will take this away: we really do need to see the evidence. I hope noble Lords will understand that this is an evidence-based approach that I want to be pragmatic about.

Lord Kennedy of Southwark: Is the Minister going to address the comments made by the noble Lord, Lord Thurlow, about supply and demand and rent levels? All noble Lords accept that we have a major housing crisis in the country now. I live in Lewisham and when I look in estate agents' windows I am always shocked at the level of rents now charged in that part of south-east London. Very modest houses can now command extortionate rents and people are just driven out of the area.

Lord Bourne of Aberystwyth: The noble Lord will have previously heard me and the noble Lord, Lord Thurlow. There is an issue of housing supply across the board. There is no question of that: it has been a problem for successive Governments and we have to address it. It is not as simple as addressing a particular part of the problem: it is across the board. There are challenges in all the sectors: private rented, social rented

[Lord Bourne of Aberystwyth]
and owner occupied. This is not a straightforward issue and we have to be careful that any changes that we make do not have impacts elsewhere. I therefore want to reflect on this in a positive way and consider all the evidence.

Baroness Grender: Noble Lords will not be surprised to hear that, as the promoter of the Bill, I am minded to accept my own amendment. There is no doubt that there are good lettings agents out there who are members of government-accredited redress schemes and pursue best practice. They should continue to charge a fee for the work that they do but the fee should be from the landlord, who can shop around and choose which lettings agency to use. Landlords can decide to use the decent, regulated ones. I particularly thank the noble Lord, Lord Thurlow, for bringing the Committee the perspective from the private sector, which is critically important. I again praise Dorrington Residential, one of London's leading private sector residential landlords. It has announced that it will work only with lettings agencies which agree not to charge renters any fees. In its own words, it cannot see why other landlords and the Government do not follow suit. There is evidence that it can work and does not impact adversely on the private sector. It is advocated by some private sector landlords, which I praise for doing so.

Citizens Advice produced a report entitled *Still Let Down*, which found that 18% of letting agents were still not members of a redress scheme, despite this being required since October 2014. Only 4% of renters knew the name of the scheme of which their agent was a member. Generation Rent researched 720 agency websites, of which 96 had no fees published and 240 did not list, as they should, which redress scheme they belong to. We heard from the noble Lord, Lord Thurlow, whom I thank for his support, about the spurious and unreadable small print. I thank the noble Lord, Lord Best. The critical issue, which is not covered in the Bill, is housing benefit and universal credit and the attitude of private sector landlords to it. This is, of course, why we need a healthy, burgeoning social rented sector and we need to build more social housing. I expect with a heavy heart a White Paper which is coming in two weeks. According to an exclusive which I read in the *Sun* yesterday, this will tell us to build higher and higher—a new whizzo wheeze. I still say that we should give the money to local authorities, or remove the cap, and let them build. We all hold our hands up; there is a 30-year legacy which all of us in government have owned, but building social housing is now critical and we have to get on with it.

I thank the noble Baroness, Lady Gardner, for her support and long years of campaigning in this area. I am sure that all tenants are grateful for this and her pursuit of trying to sort through the complicated issue of leaseholds. The purpose of Amendment 1 is to simplify: it takes away all the lists and bans all lettings fees, but allows the Secretary of State to specify exemptions through regulations. I think that is a better and tidier way of doing it. However, if the Government were to kindly indulge me with a Report stage, I would be happy to work with the noble Baroness and look at any tidying up that could be done to accommodate that issue.

The noble Baroness said that the money has to come from somewhere. I again refer to the experience so far in Scotland. I am very happy to look at alternative evidence on this but so far the evidence is that rents did not go up. However, let us assume that the noble Baroness is correct and rents go up. If they did so, they would be eased out over a 12-year period. I have another example publicised by the BBC yesterday of a lady, Lucy Surridge, who has spent nine weeks living in a hostel in Dagenham, east London, with her 11 year-old daughter and six year-old son. She is a full-time school chef and was made homeless when her landlady sold the property. She is 29 and has approached several agencies, which have told her that she needs to earn £38,500 before they would consider renting to her, and she would need £3,500 in deposit fees. I challenge most noble Lords, bar the obviously extremely wealthy ones, to find that kind of ready cash immediately. That is the critical question we are addressing, that of up-front cash in such cases. I have an 11 year-old who is applying to secondary schools, but I have a fixed and permanent address. However, the two ladies I have described are applying for places in secondary school for their children from an unclear and unfixed address. I know that everyone is up in arms about Brexit, but why we are not rioting on the streets about this is frankly beyond me.

I pay tribute to the Debrief organisation, which has campaigned to make renting fairer and has many examples of people who have experienced exorbitant tenancy fees. A lady called Emily has talked to me. She has moved four times in four years, only once out of choice. Her most recent moving fee was £1,850. She has had to pay that sum up front four times. When this Bill was initiated, most people who contacted me were young professionals living in London. However, as the Bill has been publicised, a striking number of older people have contacted me with similar issues. Whatever we think of the private rented sector and its suitability for tenants on low incomes, we are stuck with that form of tenure for a while. Government data released yesterday show that the affordable housing stock is growing at the lowest rate since 1992—52% lower than last year. Lack of affordable homes is forcing more and more people into the private rented sector, so we are stuck with the private rented sector as an immediate stop-gap solution, even if we could all wave our magic wands and instantly start building social housing at a very fast pace. Therefore, we have to make the private rented sector suitable for people on low incomes.

For all those reasons, I particularly thank the Minister for saying that this is not the end of the journey on this amendment, and that he will consider it. I very much like the suggestion of the noble Lord, Lord Best, which I will call the Hayter/Palmer precedent. I see that as a very valuable way to move forward on this. I am aware, of course, that there is a working group and people are holding meetings to discuss this. However, at some point people will be at loggerheads and the Government will have to make a decision. I beg the Government to make a decision in favour of the tenants I have described.

Finally, I thank my noble friends on these Benches—and my noble friend Lord Shipley, in particular—for their support for this area of the Bill.

Amendment 1 agreed.

Clause 2, as amended, agreed.

1.45 pm

Clause 3: Mandatory electrical safety checks

Amendment 2

Moved by ***Lord Tope***

2: Clause 3, page 2, line 1, leave out subsections (2) and (3) and insert—

"(2) In subsection (1), for "may by regulations impose duties on a private landlord of residential premises in England" substitute "must lay before each House of Parliament a draft of regulations which impose duties on a private landlord of residential premises in England or the landlord's agent (or both)".

(3) In subsection (3), leave out "may" and insert "or the landlord's agent (or both) in the draft regulations must"."

Lord Tope (LD): My Lords, I shall speak also to Amendment 3. In doing so, I declare my interest as a vice-president of the Local Government Association.

The Housing and Planning Act enables the making of regulations governing electrical safety checks, and Clause 3 of the Bill would make such checks mandatory. Amendments 2 and 3 seek to ensure that letting agents acting on behalf of landlords are compliant with regulations that are introduced. Where a letting agent was employed by a landlord to deal with the maintenance of a property, the amendments would ensure that the landlord could enlist the letting agent to ensure the upkeep of their responsibilities in relation to electrical safety checks. The amendments are intended to clarify and provide assurance to landlords and letting agencies regarding their responsibilities while seeking to ensure that electrical safety checks place no undue burdens on landlords and that they are kept in line with gas safety checks.

We have debated electrical safety checks many times in your Lordships' House, most particularly during the passage of what is now the Housing and Planning Act and during the Second Reading of this Bill on 10 June this year. During that time we have all quoted many important figures demonstrating the priority that needs to be given to electrical safety checks. We all welcome and support the mandatory checks for gas safety, carbon monoxide and so on, but the reality is that more deaths in the home are caused by electrical fires than by gas. Therefore, it remains a mystery to us why electrical safety checks are still not mandatory. The Bill proposes that they should be.

At Second Reading on 10 June, some six months ago, the Minister, the noble Viscount, Lord Younger of Leckie, said:

"We plan to conclude further research as soon as possible".—[*Official Report*, 10/6/16; col. 988.]

Given that six months have now elapsed, I hope that the Minister will be able to give us some information about the progress of that further research. I know, for instance, that a working group has been set up, that it has been meeting to look at this matter and that it is nearing the conclusion of its work. Therefore, I hope that the Minister will be able to say to us today that the Government intend to use the enabling provisions in the Housing and Planning Act and that they will produce draft regulations.

If the Minister is able to confirm that the Government will be producing draft regulations, I wonder whether he can give us any indication of when we might expect them. If I may say so, "shortly" would be very much more welcome than "in due course". Over the years, some of us have learned to interpret what "in due course", "shortly", "in the fullness of time" and so on actually mean. So "shortly" would be very welcome but a precise indication would be even more so.

Also at Second Reading, my noble friend Lord Palmer of Childs Hill—we should perhaps make it clear that that is the Lord Palmer to whom we have been referring in this debate—spoke, among other things, about the frequency with which electrical safety checks should be carried out, suggesting every five years. In his reply, the Minister said:

"Maybe that should be four or three".—[*Official Report*, 10/6/16; col. 989.]

An average tenancy in the private rented sector has now increased slightly and is four years. Electrical Safety First, which has given excellent safety briefings in support of this issue over the years and for this debate, and most of the industry and stakeholders believe that every five years strikes the right balance with regard to all the interests concerned and given the current turnover in the private rented sector.

Checks every five years in the private rented sector would align it with HMOs in England as well as with legislation being introduced in Wales and what is already in place in Scotland. It would therefore seem sensible for England to follow suit. Will the Minister therefore confirm that the Government now accept that the appropriate frequency for mandatory checks should be five years—more frequently when desired, but mandatory for five years? We have debated this subject many times, and I suspect that this will not be the last debate on the subject. I beg to move.

Lord Kennedy of Southwark: My Lords, I will be very brief, as I am conscious of the time. I fully endorse Amendments 2 and 3, tabled by the noble Lord, Lord Tope. The noble Lord has a track record in campaigning for electrical safety in the private rented sector, and I pay tribute to him for that. As we have heard, the amendment seeks to ensure that letting agents acting on behalf of landlords can be enlisted to ensure that they meet their statutory responsibilities. As the noble Lord also reminded us, we have protections for gas and carbon monoxide poisoning through checks, and it is only right that we get electrical safety checks on the same statutory footing. I fully support both amendments.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lord, Lord Tope, for moving these amendments and the noble Lord, Lord Kennedy, for his brief contribution. If approved, these amendments would require the Secretary of State to introduce regulations requiring landlords and/or their agents to ensure that electrical safety standards are met in their rental properties. I am conscious that many noble Lords, rightly, feel strongly about electrical safety—I also pay tribute to

[Lord Bourne of Aberystwyth]
the noble Lord, Lord Tope, for his campaigning role on this—and that it has raised considerable debate. I also know that Shelter has campaigned on this; I pay tribute to its role.

Yet again, the Government are taking a measured and pragmatic approach. As noble Lords have appreciated, we have taken an enabling power in the Housing and Planning Act 2016 that allows us to introduce requirements on regular electrical safety checks in rented properties at a future date. It has also been stated, correctly, that we have established an electrical safety working group and are working with experts from across the sector to fully assess whether regulations are needed and, if so, to determine the detailed options for regulation. It would therefore not be appropriate for me to say, "These are the regulations that we will bring forward" or to give a date when we will bring them forward, because we are awaiting the report. The working group has met twice, is due to meet again in the coming weeks, and it is due to present its reports to Ministers by the end of this calendar year.

Six months is an appropriate period in this regard; it is entirely right that on something of this nature we look to a working group to report in a six-month period, and that is what we are doing. The Government will then need to consider it and will of course do so—it is an important issue. I am afraid that I cannot give an undertaking about when regulations will come forward if they come forward. I will not say "in due course", "timely" or "coming shortly". However, the Government take this issue seriously, and I can understand the spirit in which these important amendments have been tabled. I can provide the reassurance that the Government regard this as important and will carefully consider the report of the safety group.

However, as I said, it would be premature to commit to legislation, and particularly the scope of any legislation, before the working group has concluded its research and before we have had a chance to look at it and consider what is appropriate in the light of that research.

Baroness Grender: My Lords, again it will not surprise the House to hear that I am minded to accept Amendments 2 and 3. This is a Government leaning on the rented sector for support, like leaning on a walking stick that has woodworm, damp and dry rot. We need to improve the rented sector to meet the needs of people over at least the next decade, if not two. Shelter's research states that one-third of privately rented homes in England do not meet the Government's decent homes standard, while almost one-fifth pose serious health and safety hazards. The lack of compulsory electrical checks plays a significant part in that.

As I conclude on the final part of this amendment, I would like to pay tribute to Electrical Safety First, which has been campaigning, along with my noble friend Lord Tope, to bring about these changes. More widely, I would like to thank Debrief and its petition, Generation Rent, Shelter, Crisis and Citizens Advice, all of which supported the Bill. I would also like to thank Hull City Council, which yesterday passed a motion at full council supporting the Bill. The motion was proposed by Liberal Democrat Councillor Charles Quinn and supported by Labour councillors. I am sure that the Minister will be pleased to hear that Conservative Councillors John Fareham and John Abbott also voted in favour in Hull, because all three parties think that renters now need a fairer deal and that getting rid of up-front costs will help.

I want to take the opportunity to say that I am pleased that the earlier clause on rogue landlords received the support of the noble Baroness, Lady Gardner. That information should be publicly available in the same way that, for instance, employers who flout the national minimum wage are made public. I see no reason why information on rogue landlords cannot similarly be made public.

In conclusion, and in the knowledge that there possibly will not be a Report stage for the Bill, I want to say that we on these Benches will not let any of the issues in the Bill rest here. My colleague Tom Brake in the Commons will take up as many of them as he can. If a White Paper is to be forthcoming, we will try to ensure that all four of the substantive clauses are continued through other legislation. In particular, we will continue to pursue, with some passion and vigour, the issue of up-front costs to tenants, which is hurting tenants every day.

Lord Kennedy of Southwark: Before the noble Lord, Lord Tope, decides what he will do with his amendment, I want to say that I worry that the Minister's use of the word "measured" is another euphemism for "in due course". Will the Minister please take back to the department the strength of feeling here? Although six months may seem a relatively short time, this issue has been around for a very long time. As the noble Lord, Lord Tope, said, we really have to sort out the electrical safety check to prevent deaths. The Government have the power and we need to resolve this sooner rather than later.

Lord Bourne of Aberystwyth: My Lords, I fully accept that. I think the noble Lord is in danger of appearing churlish on this. I have said that we regard it as a very important issue. However, it would be premature to act before the working party has brought forward its report, which it will shortly do. As soon as it does, the Government will look at it very seriously. I do not think that that is an unreasonable approach.

Lord Tope: My Lords, I am grateful to the noble Lord for accepting my amendments. It does not come as too much of a surprise to me, but, in my 22 years in your Lordships' House, it is a very rare pleasure for me to have an amendment supported so willingly and with so much pleasure.

I am grateful to the noble Lord, Lord Kennedy, and his colleagues for their continuing support, and to the Minister for his reply. I believe that the working group to which he referred has its last meeting next Monday. I understand, therefore, why he feels it would be inappropriate to comment before it has even had its last meeting, let alone produced its report. If it produces that report by the end of the year, and I hope that it does, I hope that the Government will not take too much longer to measure it. Successive Governments have taken measured approaches to this for years—not months. Therefore, my reference to six months was perhaps a little optimistic.

The Minister has said, and I believe him, that the Government are taking this seriously and that they have a pragmatic approach. It is hard to see why, if that is so, they are not yet able to commit to at least making safety checks mandatory, even if they are not yet in a position to go into the technical detail necessary for the publication of the draft regulations.

As my noble friend Lady Grender said, I do not know how much further this particular Bill will go in its progress, but this issue and the issue raised in the previous debate will not go away. They will be pursued. We will continue to pursue them and I feel sure that the Labour Opposition will continue to pursue them. We hope that the Government will indeed take their pragmatic, not-too-long, measured view and bring forward draft regulations for debate within the foreseeable future, by which I mean the first part of next year.

Amendment 2 agreed.

Amendment 3

Moved by ***Lord Tope***

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

"(5) In subsection (5), after "landlord" insert "or the landlord's agent (or both)"."

Amendment 3 agreed.

Clause 3, as amended, agreed.

Clauses 4 and 5 agreed.

House resumed.

Bill reported with amendments.

Lobbying (Transparency) Bill [HL]

Committee

2.02 pm

Relevant document: 5th Report from the Delegated Powers Committee

Clause 1: Registrar of Lobbyists

Amendment 1

Moved by ***Lord Lansley***

1: Clause 1, page 1, line 3, leave out "Secretary of State" and insert "Minister"

Lord Lansley (Con): My Lords, I am grateful for the opportunity to speak to the amendments that I have tabled. They appear forbidding in number, but I encourage noble Lords to recognise that a large number of them are intended to put back into the legislation, were the Bill to be passed, the structures, duties and powers of the registrar in order to make the job of the registrar effective. I am not intending today to revisit the argument about the scope of the definition of what should be the subject of the register for lobbying, nor about who the lobbyists in question have to contact in order to be within the scope of the registrar.

I do not agree with the Bill—I make that perfectly clear—but the purpose of our Committee stage should at least be that, were the Bill to make further progress, it should be in a form capable of being enacted. I hope that noble Lords will understand the motivation behind most of my amendments. Some are trying to circumscribe it a little and ameliorate some of its rather expansive terminology, but most are in order to make it effective, if it could be so.

I should draw attention to my register of interests. I do not actually undertake any consultant lobbying but I suspect that what I do would be captured under the proposed register. I think that that is probably true for most Members of this House, frankly. It may not be—we need not argue about that—but it is probably best that we all make a declaration in any case that we might find ourselves in such a position.

I can be very clear about the first amendment. It is simply to make it so that the Minister in question can be a Minister from the Cabinet Office. As your Lordships will recall, I was a Minister in the Cabinet Office and I was the Cabinet Minister responsible for the Bill; I was the Lord Privy Seal. But actually the Minister in question who will be making appointments and undertaking other duties in relation to this Bill is very likely to be a Minister in the Cabinet Office and not a Secretary of State. It would therefore be more effective for the description to be that of a Minister. I beg to move.

Lord Brooke of Alverthorpe (Lab): My Lords, I start by declaring no interest—although if this was carried some years ago I would have been caught by it. I am grateful for the comments of the noble Lord. As he is aware, we are very short on time today and I intend to be as speedy as possible in addressing what he has put before us. I also intend to be as co-operative and helpful as I can be, and I even hope to persuade him not just to move amendments to make the Bill better, as he sees it, but possibly to see some merit in giving it further support. I invite him to think about that. I accept the amendment.

Baroness Chisholm of Owlpen (Con): My Lords, as has been noted, this amendment would reflect the normal practice that Ministers rather than Secretaries of State are referred to in legislation. While this change might be welcome for the sake of consistency, it does not change our overall position. We believe that the existing legislation as it stands is effective and we do not think that it needs to be supplemented.

Lord Lansley: I am grateful for those responses.

Amendment 1 agreed.

Amendment 2

Moved by ***Lord Lansley***

2: Clause 1, page 1, line 6, leave out paragraph (b)

Lord Lansley: My Lords, the purpose of the second group of amendments is to remove from the Bill the intention that the Secretary of State should prepare and issue a code of conduct. Clause 1(3)(b) states that the Secretary of State should,

"prepare and issue a code of conduct".

[LORD LANSLEY]
That is the subject of Amendment 2, and of course Clause 7 follows that in determining all the circumstances relating to a code of conduct. I will not go on at length. I think I was very clear at Second Reading that in my view there is a structure of voluntary codes that are more flexible, able to operate qualitatively and are therefore more appropriate to the task. This would be an unacceptable and unwise substitution of an inflexible and potentially much more limited statutory code for what in practice are developing as flexible voluntary codes. I beg to move.

Lord Brooke of Alverthorpe: My Lords, as the noble Lord described, a variety of codes are on offer at present from different organisations. It seems to us that this causes confusion and leads to a lack of clarity, so there is a strong case for the type of standard code that operates in other places. But in the light of the issues that we have on timetabling and to move the business forward, we have reflected seriously on this and have looked at the group of amendments closely. On balance, we have decided to make a major concession and agree that a code of practice should not be included in the Bill this time round. I am therefore prepared to accept the amendment.

Baroness Chisholm of Owlpen: My Lords, the Government believe that the self-regulatory codes administered by the lobbying industry work well, and the 2014 Act on transparency of lobbying aims to complement rather than replace the existing non-statutory codes. It is not necessary to regulate through a statutory code of conduct as the existing systems are working well. In that regard, the amendments in this group that remove the requirement for a statutory code of conduct would be welcome. However, they do not change our overall position: we cannot support the Bill as we believe that existing legislation achieves what it set out to do and that further regulation is not necessary.

Lord Lansley: I am grateful to the noble Lord sponsoring the Bill for what he described as a "concession". From my point of view it is a very welcome one. There are a number of codes. People may argue about their relative effectiveness. I know from observing the behaviour of some of the organisations—for example, the APPC—that the members on that register take this very seriously. They see it as their role to enforce it, to make judgments and to improve the code as they go along. It is demonstrating itself to be flexible. There are good instances of self-regulatory activity in this country and wherever we can support self-regulatory action we should.

I am grateful to the noble Lord. I take it that he is accepting Amendment 2 and that Clause 7 should not stand part of the Bill—as well as Amendment 14, which follows from that. I would be very grateful if the House would agree the amendment.

Amendment 2 agreed.

Amendment 3

Moved by ***Lord Lansley***

3: Clause 1, page 1, line 11, leave out subsection (4) and insert—

"(4) Schedule (The Registrar of Lobbyists) makes further provision about the Registrar."

Lord Lansley: My Lords, the purpose of Amendment 3 is to introduce a schedule that sets out the provisions of the establishment of the registrar, which directly parallel what is in the existing legislation, for which I was previously responsible. The schedule establishes the registrar as a corporation sole, and enables the registrar to sue, be sued and enter into contracts. It means that the registrar is not exposed as an individual but has a corporate entity. That can therefore create continuity. It enables the accounts and money to be provided by the Government by way of loans or grants, and it makes the accounts and activities of the registrar subject to examination by the Comptroller and Auditor-General and, if necessary, by the ombudsman.

I hope your Lordships agree that, if the Bill is enacted, this will enable a smooth transposition from the existing registrar structure to the registrar's new responsibilities. I beg to move.

Lord Brooke of Alverthorpe: I am grateful to the noble Lord for his comments. Again, they are acceptable. I will also move Amendment 31 in this group, which makes a minor amendment to take into account that this would extend the scope from the present arrangements to cover in-house lobbyists too, if it becomes law. It is an appropriate technical amendment to make.

Baroness Chisholm of Owlpen: My Lords, the amendment would reproduce wording that is identical to Schedule 1 of the Transparency of Lobbying Act 2014. The schedule sets out the role and functions of the registrar. We believe that the 2014 Act effectively fulfils the purpose for which it was passed and that it does not need to be changed or amended.

Lord Lansley: My noble friend will not be surprised that I agree with her, but since the Bill would repeal that schedule to the present Act, it is necessary, were the Bill to make progress, for the schedule to be reinserted. I am very grateful for the support on that issue. I beg to move.

Amendment 3 agreed.

Clause 1, as amended, agreed.

2.15 pm

Clause 2: Definition of lobbyist

Amendment 4

Moved by ***Lord Lansley***

4: Clause 2, page 2, line 4, after "or" insert "controlling"

Lord Lansley: My Lords, in this group we are not in the territory of simply trying to put in place the necessary structures, powers and duties of the registrar, but are concerned with the definition of lobbying and who lobbyists are. I feel it is too wide-ranging. I do not want to have a debate at this stage on narrowing it right down, but there are some egregious examples, which are reflected in the amendment. So in Amendment 4 it should not apply to all shareholders but only to those who have a controlling interest. In Amendment 5, lobbying has to relate to government policy, statements and decisions: for it to include everything that relates to every government position seems excessive.

Amendment 6 would put us back in the position we are currently in and make the situation clearer, avoiding the worrying risk that we would have to decide when Members, particularly of this House, are acting in an official capacity. Is that everything that they do, on every subject, for every potential organisation which might ask us for our interventions or support? No—I think it is better to be very clear that payment, for this purpose, does not include payments to MPs and Peers. That is how it is reflected in the current legislation.

Amendment 7 reflects the current legislation and excludes statutory communications; so one cannot be required to register by virtue of the fact that one undertakes communications which one is required to do by law. Regarding Amendment 8, I was not happy that the exemption was well enough drawn to make it clear that the communications in question must be directed at public officials. If they are not directed at public officials they should not, therefore, be captured in the scope of the register.

Regarding Amendment 9, I could not understand why trade unions engaging in negotiations should be left out. When transparency is being pursued, why should it not apply to trade unions in the same way as anyone else? I was rather aghast at the presumption that media workers should be excluded from the transparency requirements altogether. The point is that when anybody is engaging in communication via the public media, that should be exempt, but media workers should not be exempt by definition, otherwise there is a risk that simply by virtue of the fact that one is employed by a media organisation, one would regard oneself as outwith the scope of the register. That should not be the case because one could, none the less, in practice be engaged in lobbying.

I realise that there are intrinsic merits in some of the amendments in this group, and people will argue about others. I hope your Lordships will find favour with one or two, particularly Amendments 6 and 7, on payments to MPs and Peers and the exclusion of statutory communications. I beg to move.

Lord Brooke of Alverthorpe: My Lords, again I express my gratitude for the explanations the noble Lord has given for these amendments. I hope he will not be surprised to hear that I am going to accept most of them. In Amendment 4, "controlling" is perfectly acceptable. I shall leave Amendment 5 to one side for a moment. Amendment 6 is, I believe, from and identical to the previous legislation, which is already in force, and I am happy to accept it. I am prepared to accept Amendment 7. The wording of Amendment 8 is better than the original, so that is accepted too. The noble Lord might not be surprised, given my background, that the bit about trade unions appears in there. I do not have quite the same close links with the media, but I do my best there, where I can, and we are prepared to accept the amendment.

The one area I am not happy about is Amendment 5, which would delete "or position". Again, I go back to my past experience. I was in the trade union movement for most of my life but also spent some time in business —I swapped sides, almost, so to speak. I was involved with people who were coming up with ideas about how they could make public service operations more effective. They would devise ideas and I would be part of that. We put the ideas in a bag and went to, for example, Australia and sought to persuade the Government that they could do a particular piece of public policy work better if only they would adopt what we had in mind. The Australian Government had no policy on that issue but we were able to persuade them that they should do it that way. Of course, we then bid for the business. We then took our portmanteau and went to Hong Kong and all round the world, persuading different Governments, in the UK as well. Often the Government were not running public services as efficiently as they could have been, and we came along with ideas on how they might change things.

However, such activities should be in the open. The public should be aware that efforts are being made to change not just the policy but the Government's mind. We have a good example of that at the moment with Brexit. Technically, we have no real policy on Brexit, so far as I can understand—or that we have been able to elicit from the Government—but we know that positions have been reached and that people are lobbying. Technically, if you believe in transparency, that should be in the public domain. This is what the amendment would remove and it would limit the area in which it would take place. I hope I might persuade him that he should withdraw the amendment and reflect on it.

Baroness Chisholm of Owlpen: My Lords, in some cases, such as Amendment 5, what is proposed seems to be a logical amendment to the original Bill. However, in others, such as Amendments 6 and 7, the wording is identical to that used in the 2014 Act. As those proposals already exist in statute, they would unnecessarily duplicate existing legislation. Overall, the Government believe that the definitions in existing legislation are effective and fulfil the regulatory aims the Government believe are necessary. As such, the definitions of "lobbying" and "lobbyists" do not need to be changed, as proposed in the original Bill or this group of amendments.

Lord Lansley: I am grateful for those responses. As my noble friend on the Front Bench will understand, my purpose here is to try to see how these elements of the existing legislation should be incorporated into a Bill that would otherwise repeal the whole Part 1 of the original Act. They would be lost and I think they would need to be reincorporated before the Bill could properly make progress.

I am very grateful for the support of the noble Lord, Lord Brooke, on Amendment 4. On Amendment 5, I do not necessarily agree with the points he made but I do not think we should detain the Committee now. We can come back to it if we have the opportunity on Report. I am certainly willing to reconsider. For the moment, I do not plan to move Amendment 5.

I am grateful for what I think was the noble Lord's acceptance of the other amendments, with the exception of Amendment 9, on the trade unions. I am not sure whether he was willing to let go—

Lord Brooke of Alverthorpe: Yes.

Lord Lansley: Very good. On that basis, I will not move Amendment 5 but will move the other amendments in due course.

Amendment 4 agreed.

Amendment 5 not moved.

Amendment 6

Moved by ***Lord Lansley***

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

"( ) For the purposes of subsection (8), payment does not include any sums payable to a member of either House of Parliament—

(a) under section 4 (determination of MPs' salaries) or 5 (MPs' allowances scheme) of the Parliamentary Standards Act 2009,

(b) pursuant to a resolution of the House of Lords, or

(c) otherwise out of money provided by Parliament or out of the Consolidated Fund."

Amendment 6 agreed.

Clause 2, as amended, agreed.

Clause 3: Mandatory electrical safety checks

Amendments 7 to 10

Moved by ***Lord Lansley***

7: Clause 3, page 3, line 24, at end insert—

"( ) any communication which is required to be made by, or under, any statutory provision or other rule of law;"

8: Clause 3, page 3, line 28, leave out "widely and publicly available, such as a speech" and insert "to audiences which primarily include those who are not public officials, or to audiences in respect of which public officials are amongst a wider audience"

9: Clause 3, page 3, line 30, leave out paragraph (b)

10: Clause 3, page 3, line 34, leave out from "communication" to end and insert "made through publicly accessible media, including press and broadcast media"

Amendments 7 to 10 agreed.

Clause 3, as amended, agreed.

Clause 4 agreed.

Clause 5: Registration

Amendments 11 and 12 not moved.

Amendment 13 had been withdrawn from the Marshalled List.

Clause 5 agreed.

Clause 6 agreed.

Clause 7 disagreed.

Clause 8: Investigations by the Registrar

Amendment 14

Moved by ***Lord Lansley***

14: Clause 8, page 5, line 44, leave out paragraph (b)

Amendment 14 agreed.

Clause 8, as amended, agreed.

Amendment 15

Moved by ***Lord Lansley***

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

"Duty to monitor

The Registrar must monitor compliance with the obligations imposed by or under sections (Notice to supply information), (Limitations on duty to supply information and use of information supplied) and (Right to appeal against information notice)."

Lord Lansley: We have happily arrived at the point where we would be by virtue of this group, which appears forbidding in its extent but is actually very straightforward. These amendments give the registrar the duties and powers that she has currently. They cover a range of things, including the issuing of information notices and the duty to monitor compliance with the register. The ability to issue information notices is in Amendment 16. Giving safeguards to those people to whom notices are issued is in Amendment 17 and a right of appeal for those people is in Amendment 18. The power to issue guidance on compliance with the register is in Amendment 27 and the ability to charge is covered by Amendment 28. A regulation-making power for the Minister in relation to the powers in the Bill is in Amendment 29. In so far as these amendments are re-incorporating powers that the registrar would need, I hope that they will find support from your Lordships.

Lord Brooke of Alverthorpe: I will be moving Amendment 16A as well.

Baroness Hayter of Kentish Town (Lab): My Lords, Amendment 16A is in this group and I am sure that my noble friend Lord Brooke will speak to it.

I want to be clear on one point on Amendment 28, which we will come to in due course and is about the ability to charge. The noble Lord, Lord Lansley, may not like it but I think he is absolutely right—that is the end of his political career, but all our political careers are behind us—in that the regulators of virtually every sector, other than the Charity Commission, are funded by the sectors that they regulate. We have had an unhappy position with the Charity Commission when the Government were able to cut its funding, for understandable financial reasons. However, it leaves a regulator in some jeopardy if its running costs are, as in this case, in the hands of the Government—the very people who are being lobbied while we are trying to get a register of who is lobbying them. Amendment 28 is very important and I hope very much that my noble friend Lord Brooke will find it possible to accept this one.

Lord Brooke of Alverthorpe: My Lords, I have some difficulties with this amendment. I declared at the beginning that I had no interests but I have been helped very considerably by a couple of NGOs, Spinwatch and Unlock Democracy. They have been very big parties to the preparation of the Bill and, in fairness to them, they are very unhappy indeed about any movement on my part on the charges side. They make the fundamental point of principle that it is open to anyone to lobby. It should be free, and there should

not be any charge for anybody who engages in it, whether they be the highest in the land or the lowest. In particular, they are concerned that if charges are introduced charities may find it difficult, as might small businesses which might like to play a part in lobbying in one form or another and would have to register and pay, and that would be an imposition on them. They are strongly in favour of resisting any attempt to move away from what the Bill proposes, which is that the Government should bear the cost. They point out that in virtually every country in the world where there is a lobbying or transparency Act, the funding is from the Government. Scotland put a Bill through last year. It is coming into place, and the cost will be met by the Scottish Government. If we continue with charges, we will have a different approach within the UK, assuming this Bill becomes an Act.

2.30 pm

We have taken one issue away to think about. People say I compromise too much, but I can see an area in which it might be possible to talk about a different approach. There would be charging to a degree, but we could conceivably think about the possibility that organisations, such as charities which are registered with the Charity Commission, should be exempt from charges. I would be happy to take this away and talk to my colleagues and to the noble Lord, Lord Lansley, if he is willing to withdraw the amendment on that basis. If not, at the end of day, as I am very keen that this legislation should move forward, I would back off and accept the amendment.

Baroness Chisholm of Owlpen: My Lords, I think I am probably beginning to sound a bit repetitive, I am afraid, but there we are. These amendments would largely repeat a number of sections of existing legislation. The Government believe that existing legislation is effective as it stands and does not need to be supplemented.

Baroness Hayter of Kentish Town: This is a slight aside, but I am sorry that the Government are taking this view. We know that they do not want the Bill, but it seems a shame that they are not engaging with how to make it as good as it can be—which the noble Lord, Lord Lansley, is doing—so that, should it become an Act, it can be made to work. I am sorry that the Government are taking the view that, because they do not like the whole Bill, they will not engage on its content. That is a small comment. There seems to be a slight loss of the expertise of the Cabinet Office and the Government to make this Bill as good as possible, even if, at the end of the day, we do not manage to get it on the statute book.

Baroness Chisholm of Owlpen: As the noble Baroness obviously realises, the Government feel that the Act we already have is the right one. Our aim was for lobbying regulation to avoid unnecessary burdens, not to establish top-to-bottom regulation of all who lobby. That is why we set up an appropriate way to ensure high levels of transparency, but only in the specific areas of the lobbying industry where that was needed, and that is the Government's position.

Lord Lansley: Perhaps I may defend my noble friend on the Front Bench in this respect. She was aware that I was going through the Bill with the benefit of having been responsible for the original legislation. I think she did not feel that the work was not being done—it was just not being done by the Government, which would give the misleading impression that the Government were seeking to make this legislation in a form that they felt was worthy of enactment. It is okay for me to do that from the Back Benches, but I do not think it is quite the same thing for the Government to try to do it—so I do see a difference.

On this group, I am very grateful for the support for a number of the amendments. On Amendment 28, relating to charging, I am going to disappoint the noble Lord, Lord Brooke of Alverthorpe, by persisting—but I shall say two things that might comfort him. First, the structure of the amendment, which obviously reflects what is in the current Act, enables the registrar to impose charges but does not require them to impose charges in any particular form. The form in which those charges are to be imposed would be the subject of regulations under the Act, which would have to come here and be approved by this House. It is perfectly open to the Minister, in making those regulations, to clarify where there may be exemptions. It would not require everybody to pay the same charges for the same register entry or for the same service, so there may be the ability to modulate the charging. If the Government were considering regulations, they could look at this and at whether it would be appropriate to modulate charges for the organisations that would otherwise find there was some chilling effect resulting from that.

So I will persist with this, and I hope the noble Lord might let us reflect the fact that it is necessary for regulators—in this case the registrar—to meet the cost of their activity through charging. On this group, I will move Amendment 15, and I hope to persist with the others, while accepting Amendment 16A, which is a helpful addition.

Lord Brooke of Alverthorpe: My Lords, as your Lordships probably recognise, I am in a little difficulty here, particularly with my noble friend, with whom I have worked very closely on this. I hear the explanation which has been given and see a chink of light on the degree of elbow room which already exists. I am particularly anxious that we try to proceed with the Bill and hope that the Minister may be persuaded that there are elements in here which the Government should be concerned about. I am particularly pleased that the noble Lord, Lord Lansley, has, I think, accepted an extension of the requirement to register and to open it to in-house lobbyists as well as the professional lobbyists.

I am keen that the Bill moves forward. I can understand the Minister's difficulty, but she could redeem herself if she could see a way to arrange a meeting with the responsible Minister for us to talk about the fundamentals in the Bill. Perhaps the noble Lord, Lord Lansley, might wish to join that meeting, along with at least two noble Lords who I know are very keen indeed to

[Lord Brooke of Alverthorpe]
see this Bill, which is well supported across the House, move forward. If the Minister is not giving much today, perhaps she might be willing to try to facilitate that for us in the future. On that basis, I am prepared to accept the amendments.

Baroness Chisholm of Owlpen: I will quickly say that of course I would be more than happy to facilitate a meeting. I always think that meetings are an enormous help in this House, and I will make sure that the office goes ahead and organises that meeting.

Amendment 15 agreed.

Amendment 16

Moved by ***Lord Lansley***

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

"Notice to supply information

(1) In connection with the duty under section (Duty to monitor), the Registrar may serve a notice (an "information notice") on a person mentioned in subsection (2) requiring the person to supply information specified in the notice.

(2) The persons are—

(a) any registered person;

(b) any person who is not entered in the register but whom the Registrar has reasonable grounds for believing to be a consultant lobbyist.

(3) Regulations may specify descriptions of information which the Registrar may not require a person to supply under this section.

(4) An information notice must—

(a) specify the form in which the information must be supplied,

(b) specify the date by which the information must be supplied, and

(c) contain particulars of the right to appeal under section (Right to appeal against information notice).

(5) The date specified under subsection (4)(b) must not be before the end of the period within which an appeal under section (Right to appeal against information notice) can be brought.

(6) Section (Limitations on duty to supply information and use of information supplied) sets out limitations on—

(a) what information is required to be supplied under a notice, and

(b) how information which is supplied may be used.

(7) Where an information notice has been served on a person, the Registrar may cancel it by serving written notice to that effect on the person."

Amendment 16A (as an amendment to Amendment 16)

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

16A: After Clause 8, in subsection (2)(b), after "lobbyist" insert "or an in-house lobbyist"

Amendment 16A agreed.

Amendment 16, as amended, agreed.

Amendments 17 and 18

Moved by ***Lord Lansley***

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

"Limitations on duty to supply information and use of information supplied

(1) An information notice does not require a person to supply information if—

(a) doing so would disclose evidence of the commission of an offence, other than an offence excluded by subsection (2), and

(b) the disclosure would expose the person to proceedings for that offence.

(2) The following offences are excluded from subsection (1)—

(a) an offence under section 9 of this Act;

(b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath);

(c) an offence under section 44 of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath);

(d) an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (SI 1979/1714 (NI 19)) (false statutory declarations etc).

(3) Any relevant statement made by a person ("P") in response to a requirement in an information notice may not be used in evidence against P on a prosecution for an offence under section 9 unless the conditions in subsection (4) are met.

(4) The conditions are that in the proceedings—

(a) in giving evidence P provides information inconsistent with the relevant statement, and

(b) evidence relating to the statement is adduced, or a question relating to it is asked, by P or on P's behalf.

(5) In subsection (3) "relevant statement", in relation to a requirement in an information notice, means—

(a) an oral statement, or

(b) a written statement made for the purposes of the requirement."

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

"Right to appeal against information notice

(1) A person on whom an information notice has been served may appeal to the Tribunal against the notice.

(2) If an appeal is brought under this section, the person is not required to supply the information until the date on which the appeal is finally determined or withdrawn.

(3) Regulations may make provision for and in connection with the determination of appeals under this section."

Amendments 17 and 18 agreed.

Clause 9: Offence of lobbying without being registered

Amendment 19

Moved by ***Lord Lansley***

19: Clause 9, page 6, line 19, at end insert—

"(2A) It is a defence for a person charged under this section to show that the person exercised all due diligence to avoid committing the offence."

Lord Lansley: Your Lordships will be pleased to know we have arrived at the final group, in which the amendments all relate to the question of offences. The structure of the Bill as it stands is such that if there was a breach of the requirements of the register, the registrar would be able to proceed only by way of seeking to impose a criminal penalty in respect of the breach, whereas the current legislation enables the registrar to act in other—and in my view more proportionate—ways by seeking a civil penalty.

The purpose of most of these amendments is therefore to introduce the option of a civil penalty and the various requirements that go with that: a civil penalty regime in Amendment 20; a requirement to notify someone who is believed to be in breach and the civil penalty that would be imposed under Amendment 21; the character of the notice under Amendment 22; the right of appeal against that under Amendment 23; the relationship of the civil penalty to any criminal offence so as not to create double jeopardy under Amendment 24; the enforcement if a civil penalty is imposed as a civil debt under Amendment 25; and further details relating to the civil penalty under Amendment 26.

Amendment 19, the lead amendment that I am moving now, is about due diligence. It illustrates the difference between a criminal offence and the civil penalty since, if someone was guilty of an administrative oversight in relation to the requirement to register, essentially the registrar observing this breach would be inclined to go down the route of a civil penalty if it was sufficiently serious. One would be very unlikely to want to create a criminal offence for those kinds of administrative oversights. If someone has failed to comply with the register but has applied due diligence, it is important that they have a defence of due diligence against a criminal offence; however, where a civil penalty is concerned with something like an administrative oversight, there should not really be that kind of defence. So this replicates the existing structure of penalties, I think it is more proportionate and I hope it will commend itself to the Committee. I beg to move.

Lord Brooke of Alverthorpe: I am happy to accept.

Amendment 19 agreed.

Clause 9, as amended, agreed.

Amendments 20 to 26

Moved by ***Lord Lansley***

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

"Civil penalties

(1) The Registrar may impose a civil penalty on a person (in accordance with sections (Notice of intention to impose civil penalty), (Imposition of penalty), (Right to appeal against imposition of civil penalty) and (Civil penalties and criminal proceedings)) if the Registrar is satisfied that the person's conduct amounts to an offence under section 9.

(2) For this purpose—

(a) section 9(2A) is to be ignored, and

(b) a person's conduct includes a failure to act."

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

"Notice of intention to impose civil penalty

(1) Before imposing a civil penalty on a person, the Registrar must serve on that person a notice stating that the Registrar proposes to impose the penalty.

(2) The notice must—

(a) set out the conduct on which the proposal to impose the penalty is based,

(b) set out the reasons why the Registrar is satisfied that the person has engaged in that conduct,

(c) state the amount of the proposed penalty, and

(d) inform the person that the person may, within a period specified in the notice, make written representations in relation to the proposal.

(3) The Registrar must not impose the penalty before the end of the period specified under subsection (2)(d).

(4) The Registrar must consider any written representations received before the end of that period."

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

"Imposition of penalty

(1) If the Registrar decides to impose a civil penalty, the Registrar must serve on the person a notice to that effect (a "penalty notice").

(2) The notice must—

(a) set out the conduct on which the decision to impose the penalty is based,

(b) set out the reasons why the Registrar is satisfied that the person has engaged in that conduct,

(c) state the amount of the penalty,

(d) specify the period within which and the form in which the penalty must be paid, and

(e) contain particulars of the right to appeal under section (Right to appeal against imposition of civil penalty).

(3) The amount specified in a penalty notice must not exceed £7,500.

(4) Regulations may amend subsection (3) by substituting a different maximum figure.

(5) The period specified under subsection (2)(d) must not end before the end of the period within which an appeal under section (Right to appeal against imposition of civil penalty) can be brought.

(6) The person must pay the amount before the end of that period (but this is subject to section (Right to appeal against imposition of civil penalty)(2)).

(7) Where a penalty notice has been served on a person, the Registrar may vary or cancel it by serving written notice to that effect on the person."

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

"Right to appeal against imposition of civil penalty

(1) A person on whom a penalty notice has been served may appeal to the Tribunal against—

(a) the decision to impose the penalty;

(b) if the penalty notice has been varied, the decision to vary it;

(c) the amount of the penalty.

(2) If an appeal is brought under this section, the person is not required to pay the penalty until the date on which the appeal is finally determined or withdrawn.

(3) Regulations may make provision for and in connection with the determination of appeals under this section."

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

"Civil penalties and criminal proceedings

(1) The Registrar may not impose a civil penalty on a person in respect of any conduct—

(a) at any time after criminal proceedings for an offence under section 9 have been instituted against the person in respect of that conduct and before those proceedings have been concluded, or

(b) after the person has been convicted of an offence under section 9 in respect of that conduct.

(2) If the Registrar has imposed a civil penalty on a person in respect of any conduct, the person may not be convicted of an offence under section 9 in respect of that conduct."

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

"Enforcement

(1) An amount payable to the Registrar as a civil penalty may be recovered by the Registrar as a debt.

(2) In proceedings for the enforcement of a civil penalty no question may be raised as to—

(a) liability to the imposition of the penalty, or

(b) the amount of the penalty.

(3) The Registrar must pay into the Consolidated Fund any sums received by virtue of a penalty notice."

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

"Further provision about civil penalties

Regulations may make further provision about civil penalties; and in particular may—

(a) specify circumstances in which a penalty may not be imposed;

(b) specify steps that the Registrar must take before imposing a penalty;

(c) set a minimum for the period which must be specified under section (Notice of intention to impose civil penalty)(2)(d) or (Imposition of penalty)(2)(d);

(d) require other matters to be specified in a notice under either of those sections;

(e) specify a maximum period that may elapse between the service of a notice under section (Notice of intention to impose civil penalty) and the service of a penalty notice under section (Imposition of penalty);

(f) provide for the reviewing of a decision to impose a penalty;

(g) make provision about the variation or cancellation under section (Imposition of penalty)(7) of penalty notices;

(h) impose duties on the Registrar about the keeping of accounts and other records in relation to penalties;

(i) allow for the charging of interest, or an additional penalty, if a penalty is paid late."

Amendments 20 to 26 agreed.

Clause 10 agreed.

Amendments 27 to 29

Moved by ***Lord Lansley***

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

"Guidance

(1) The Registrar may give guidance about how the Registrar proposes to exercise the functions under this Act.

(2) The Registrar may do so, in particular, by publishing guidance—

(a) as to the circumstances in which the Registrar would, or would not, consider that a person is carrying on the business of consultant lobbying;

(b) as to the circumstances in which the Registrar would remove a person's entry from the register;

(c) as to the circumstances in which the Registrar would consider it appropriate to impose a civil penalty;

(d) about how the amount of a civil penalty will be determined.

(3) The Registrar may publish—

(a) revisions to any guidance published under this section;

(b) replacement guidance.

(4) Publication under this section is to be—

(a) on a website, and

(b) in such other form or forms as the Registrar considers appropriate."

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

"Charges

(1) The Registrar may impose charges for or in connection with the making, updating and maintenance of entries in the register.

(2) The charges are to be determined by or in accordance with regulations.

(3) In making the regulations, the Minister must seek to ensure that the total paid to the Registrar in charges is sufficient to offset the total of the costs incurred by the Registrar in exercising the functions under this Part (whether or not those costs are directly connected with the keeping of the register).

(4) If a charge imposed for making an application or a return to the Registrar is not paid, the Registrar may treat the application or return as not having been made.

(5) The Registrar must pay into the Consolidated Fund any sums received in respect of charges under this section."

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

"Regulations

(1) Any reference in this Act to regulations is to regulations made by the Minister.

(2) Regulations under this Act may make such consequential, supplementary, incidental or transitional provision as the Minister considers appropriate, including provision amending or modifying the provisions of this Act.

(3) Regulations under this Act may make different provision for different purposes or cases.

(4) Regulations under this Act are to be made by statutory instrument.

(5) A statutory instrument containing any of the following regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament—

(a) the first regulations to be made under sections (Right to appeal against information notice) (3) and (Right to appeal against imposition of civil penalty) (3);

(b) regulations under this section or section (Charges) which amend or modify the provisions of this section or that section.

(6) Any other statutory instrument containing regulations under this Act is to be subject to annulment in pursuance of a resolution of either House of Parliament."

Amendments 27 to 29 agreed.

Clauses 11 and 12 agreed.

Amendment 30

Moved by ***Lord Lansley***

30: After Clause 12, insert the following new Schedule—

"SCHEDULE

THE REGISTRAR OF LOBBYISTS

Status

1_ The Registrar is a corporation sole.

2_ The Registrar exercises the functions of that office on behalf of the Crown.

Appointment

3_(1) The Registrar is to be appointed by the Minister.

(2) The Registrar holds office in accordance with the terms and conditions of that appointment; but this is subject to sub-paragraphs (3) to (6).

(3) The term of office for which the Registrar is appointed must not be more than 4 years.

(4) A person may be appointed for a second or third term; but the term for which a person is re-appointed must not be more than 3 years.

(5) The Registrar may resign by giving written notice to the Minister.

(6) The Minister may dismiss the Registrar if the Minister is satisfied that the Registrar is unable, unwilling or unfit to perform the functions of the office.

4_(1) A person is ineligible for appointment as the Registrar if, at any time in the previous 5 years, the person—

(a) was a Minister of the Crown or a permanent secretary, or

(b) carried on the business of consultant lobbying or was an employee of a person who carried on that business.

(2) For the purposes of this paragraph—

"Minister of the Crown" means the holder of an office in the government, and includes the Treasury;

"permanent secretary" means a person serving the government in—

(a) the position of permanent secretary or second permanent secretary in the civil service of the State, or

(b) one of the following positions—

(i) Cabinet Secretary;

(ii) Chief Executive of Her Majesty's Revenue and Customs;

(iii) Chief Medical Officer;

(iv) Director of Public Prosecutions;

(v) First Parliamentary Counsel;

(vi) Government Chief Scientific Adviser;

(vii) Head of the Civil Service;

(viii) Prime Minister's Adviser for Europe and Global Issues.

(3) Regulations may amend the positions in the list above by adding or removing a position.

5_ A defect in the Registrar's appointment does not affect the validity of anything done by the Registrar.

Remuneration and staffing

6_ Service as the Registrar is not service in the civil service of the State.

7_(1) The Registrar may make arrangements for sums in respect of the following to be paid to or in respect of the person holding office as the Registrar—

(a) remuneration;

(b) allowances;

(c) pension.

(2) The sums paid under sub-paragraph (1) are to be determined by the Minister.

8_(1) The Registrar may make arrangements with the Minister or other persons—

(a) for staff to be seconded to the Registrar;

(b) for accommodation or services to be provided to the Registrar.

(2) The payments that may be made under arrangements under sub-paragraph (1)(a) include payments to the staff in addition to, or instead of, payments to the person with whom the arrangements are made.

Accounts

9_(1) The Registrar must keep proper accounts and proper records in relation to the accounts.

(2) The Registrar must prepare a statement of accounts in respect of each financial year.

(3) The Registrar must send a copy of the statement, within a period specified by the Minister, to the Comptroller and Auditor General.

(4) After the Registrar has sent a copy of a statement of accounts to the Comptroller and Auditor General, the Comptroller and Auditor General must—

(a) examine, certify and report on the statement, and

(b) arrange for a copy of the certified statement and the report to be laid before Parliament as soon as possible.

(5) In this paragraph "financial year" means—

(a) the period beginning on the day on which section 1comes into force and ending on the following 31 March, and

(b) each successive period of 12 months.

Funding

10_(1) The Minister may make grants or loans to the Registrar.

(2) The grants or loans may be subject to conditions (including conditions as to repayment with or without interest).

Amendment of other enactments

11_ In Schedule 1 to the Public Records Act 1958 (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert—

"The Registrar of Lobbyists".

12_ In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments and authorities subject to investigation) before the entry for the "Registrar General for England and Wales" insert—

"The Registrar of Lobbyists".

13_ In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices which are public authorities) at the appropriate place insert—

"The Registrar of Lobbyists"."

Amendment 31 (to Amendment 30)

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

31: After Clause 12, in paragraph 4(1)(b), after "business" insert "or was an in-house lobbyist"

Amendment 31 agreed.

Amendment 30, as amended, agreed.

House resumed.

Bill reported with amendments.

House adjourned at 2.44 pm.