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House of Lords

Thursday, 5 March 2009.

11 am

Prayers—read by the Lord Bishop of Norwich.

Schools and Youth Organisations: Twinning

Question

Asked By ***Lord Roberts of Llandudno***

To ask Her Majesty's Government what steps they propose to encourage schools and youth organisations in the United Kingdom to twin with similar schools and organisations in Israel and Palestine.

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): My Lords, this Government encourage international school links through my department's international website, the Global Gateway, and programmes such as the International School Award and the Teachers' International Professional Development programme. The British Council is the United Kingdom's international organisation for educational opportunities and cultural relations. Through its offices in Israel and the Palestinian Territories, it has supported a number of bilateral links with youth organisations in the United Kingdom.

Lord Roberts of Llandudno: My Lords, I thank the Minister for an encouraging reply, but in the present situation should we not be even more vigorous in our attempt to build twinning between youth organisations and schools in the United Kingdom and in Israel/Palestine? Do we not need not only to construct roads and schools but to rebuild the many thousands of young lives that have been traumatised in recent months?

Baroness Morgan of Drefelin: My Lords, I am sure that we all share the noble Lord's sentiments and concerns. My department's research shows that about 50 per cent of secondary schools in this country are involved in twinning. The noble Lord was concerned particularly about relationships with Israeli and Palestinian schools. I can reassure him that we are supporting exchange through the international teacher development programme and working hard, through our Global Gateway website, to support schools to twin sustainably and for the long term.

Baroness Morris of Bolton: My Lords, the British Council's excellent Connecting Classrooms programme promotes trust and breaks down barriers to understanding. Does the Minister agree that if these twinning arrangements are entered into, it must be done so wholeheartedly? I say that because I have just come back from visiting some Connecting Classrooms programmes in Kuwait. While enormous enthusiasm was shown by the Kuwaitis, I have to say that some of the responses from the UK were lukewarm. That does more harm than good.

Baroness Morgan of Drefelin: My Lords, I am sorry to hear the noble Baroness report some lukewarm responses from the UK, which is disappointing. We have worked hard through the International School Award to encourage schools to make a serious commitment to having an international perspective in their work. Our aspiration is for all schools to be given an International School Award over time and to have a framework that encourages them to think globally about their curriculum. So far, we have given 1,500 schools this award; but the noble Baroness is absolutely right that it is not enough. We shall do our best to ensure a more enthusiastic response.

Lord Janner of Braunstone: My Lords, I thank the noble Baroness for her positive reply to a useful and positive Question. Is she aware of the exceptional work of an organisation called the Hand in Hand Centre for Jewish-Arab Education in Israel, which was founded to build peace and understanding between Jews and Arabs in Israel through the development of bilingual and multicultural schools and curricula? Does she agree that twinning Hand in Hand schools with schools in the UK, particularly integrated schools in Northern Ireland, would help to promote peaceful co-existence through shared learning environments?

Baroness Morgan of Drefelin: My Lords, I am aware of the important work that is going on in Hand in Hand schools. I understand that my right honourable friend the Foreign Secretary visited a Hand in Hand school recently. My noble friend has an important point to make. We see through the work of these schools a joining up of Jewish teachers and Israeli/Arab teachers teaching in their own languages, bringing children together and encouraging a culture of tolerance among students. The British embassy in Tel Aviv has supported this work with funding of £28,000 from its bilateral programme budget. It is important and we can see great merit in this approach.

Baroness Walmsley: My Lords—

Lord Kilclooney: My Lords—

Baroness Trumpington: My Lords—

Noble Lords: Oh!

Baroness Trumpington: What is so funny, my Lords? This is a very serious question, Minister; will you take it as such? Are there any arrangements, such as exist for older pupils in America, for exchanges between this country and China? For instance, my American goddaughter, aged about 16, spent six weeks in China, to both countries' great advantage.

Baroness Morgan of Drefelin: My Lords, I can assure the noble Baroness that there are indeed such arrangements for exchange.

Lord Kilclooney: My Lords, the noble Baroness speaks about twinning with schools in Palestine. Have any schools in Gaza been twinned with the United Kingdom?

Baroness Morgan of Drefelin: My Lords, an enormous amount of twinning work goes on between individual schools and international schools. I have obviously asked the question the noble Lord has put. The reliable data on the number of twinned schools come from the International School Award. I am afraid that I can only say reliably that a small number of schools are twinned with schools in the Palestinian Territories. I cannot say on the record how many might be in Gaza. Obviously it is an extremely difficult situation for Palestinian children who are resident in Gaza.

Baroness Walmsley: My Lords—

Lord Turnberg: My Lords—

The Minister of State, Department of Energy and Climate Change & Department for Environment, Food and Rural Affairs (Lord Hunt of Kings Heath): My Lords, it is the noble Baroness's turn.

Baroness Walmsley: My Lords, can the Minister see the benefit not just of twinning but of tripleting? If a UK school were to twin with both an Israeli and a Palestinian school it might make it easer for the Israeli and Palestinian schools to speak to each other through their arrangement with the UK school.

Baroness Morgan of Drefelin: My Lords, I am sure that the noble Baroness has the kernel of a good idea there. The Henry Beaufort School, in Hampshire, has twinned with a Palestinian school. It is keen, from the reports that we have seen, to twin with an Israeli school. There are interesting and innovative ideas that could be developed.

Banking: Executive Pay

Question

11.14 am

Asked By ***Lord Lea of Crondall***

To ask Her Majesty's Government whether they will place an annual limit of £500,000 on the pay of executives in financial institutions in receipt of substantial public funding.

The Financial Services Secretary to the Treasury (Lord Myners): My Lords, at the time of making their investment, the Government agreed a range of conditions with banks in receipt of public capital, including in respect of executive remuneration. The Government are clear that remuneration policies must be based on long-term sustainable performance in the interests of all shareholders, taking proper account of risk. The Government have been very clear that bank directors must bring an end to the short-term bonus culture in the banking sector.

Lord Lea of Crondall: My Lords, I thank my noble friend for that reply. My proposal takes a leaf out of President Obama's book. He is enacting a pay cap of $500,000 a year for executives in financial institutions bailed out by the taxpayer. My proposal is somewhat more generous. Does my noble friend agree with the logic of that? It is that, if the taxpayer is now to take all the risks, top executives, who would thereby carry no risk, should not take the lion's share of the reward? Secondly, does he agree that it is now vital to introduce stakeholder governance and public interest criteria into the private sector, including a remit to reverse the upward spiral of top pay relative to the average, a principle which also needs to be part of the international agenda on multinational banks and tax havens?

Lord Myners: My Lords, all shareholders take risks which relate to equity capital, and the Government, through UKFI, stand alongside other shareholders in that respect. We have been very clear that we find the level and structure of reward in the banking sector unacceptable. We have invited Sir David Walker to lead a report in this area. From my perspective, one of the things that it should address is the insidious influence of external benchmarking and comparators by so-called benefit consultants. There needs to be much more awareness of internal comparators and perceived fairness. The rewards and remuneration for those at the top of the organisation have simply become detached from those of their colleagues and from reality. There should be further disclosure, and there are important roles for shareholders.

I sense a Sir Fred Goodwin question coming fairly soon. It is interesting that, as far as I am aware, not a single institutional shareholder has raised a single question about Sir Fred Goodwin's pension or the terms of his departure. That is the core of the issue. They were the shareholders when the bank got into difficulty; they were the board of directors when that agreement was reached.

Lord Ryder of Wensum: My Lords, when was the first time that the Minister or one of his ministerial colleagues consulted the Treasury Solicitor or external legal advisers about the pay and pensions of senior bankers, and what was the substance of the advice that they received?

Lord Myners: My Lords, pay and pensions for directors of a bank are a matter for the directors of that bank.

Lord Smith of Clifton: My Lords, does the Minister agree that it is not just a question of payment? Given the ingenuity of the Artful Dodgers who sit on the boards of subsidised banks, is it not the total remuneration package which needs to be regulated?

Lord Myners: My Lords, I agree with you, sir, and fully endorse your observation. It is worth noting that Sir Fred Goodwin earned over £11 million in his last three years at the Royal Bank of Scotland, a figure which was approved by the board of directors and the shareholders.

Lord Barnett: My Lords, leaving aside those who seek to blame the wrong person here, rather than the bank, is there any truth that in the Fred Goodwin case the action was taken not by a contract but by one or two directors, not even the whole board? If that is true,

is there an opportunity to consider—I am sure that my noble friend would not want to go outside the law—or can he tell us whether the new directors of the board now could change the situation?

Lord Myners: My Lords, that question is legal in content, and I am not able to provide a legal response. However, I can provide some colour and context. Directors of the Royal Bank of Scotland informed Sir Fred Goodwin on the morning of Friday 10 October that he would have to leave the bank. I met the chairman and senior independent director of the Royal Bank of Scotland on Saturday 11 October and was told that that decision had been reached. I specified a number of core conditions. I said that the Government would not expect to see rewards for failure; they would expect to see the cost of executive departures minimised; and they would expect to see mitigation. Those directors went away with that message very clear in their minds.

I was also told by Mr Bob Scott that Sir Fred Goodwin was a man extremely conscious of his contractual rights and was not going to give up any legal or contractual right. Advised as I was that it was a matter of contract, I adopted the same position as my noble friend took in his question: that it is not incumbent on the Government to oblige, require or even suggest to companies that they break a legal undertaking. That was the basis on which I discussed Sir Fred Goodwin's pension on the evening of Saturday 11 October. To be clear, I did not approve his pension; I was not asked to sign it off; and I was given no papers in connection with it, and quite correctly so. The Government were not a shareholder in the Royal Bank of Scotland at that time. This was a matter for the Royal Bank of Scotland's board of directors. The decision appears to have been taken by a smaller group of directors, but UKFI is asking further questions about that and no doubt we will learn more in due course. If there is a legal option, no doubt it will consider whether that should be pursued.

Earl Ferrers: My Lords, can I ask the Minister about bonuses, which have come under a lot of criticism of late? Are the people who are going to look after the bank of toxic debts going to have bonuses, too?

Lord Myners: My Lords, I suspect that the noble Earl refers to the employees and directors of UK Financial Investments. They are not looking after the toxic debts; they are looking after the Government's investment in banks. If that is the question the noble Earl has in mind, I will answer it. The non-executive directors of that company have no bonuses at all; the executives—fewer than a dozen—have some modest opportunity for bonuses of marginally more than 10 per cent of their basic salary. I regard that as entirely right and proper as an incentive to performance and a recognition of value delivered.

I see shaking of heads opposite. It would be interesting to know whether the Opposition are now of the view that performance should not be rewarded, incentives should not exist and the Government should get involved in statutory regulation of compensation. For my own part, I do not subscribe to that, and I am fascinated that some on the Conservative Benches seem to be suggesting that they do.

Visas: Students

Question

11.22 am

Asked By ***Baroness Finlay of Llandaff***

To ask Her Majesty's Government why they propose to change the length of student visas, issued by the UK Border Agency, from the full length of the course to a maximum of four years.

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My Lords, the Government have further considered their intention to restrict the length of a student visa under tier 4 of the points-based system to a maximum period of four years. I am pleased to be able to announce that we have decided to grant degree students visas for the full length of their course in the United Kingdom.

Baroness Finlay of Llandaff: My Lords, I thank the Minister for that reply with which I am delighted. In relation to medical courses, does he recognise that students must complete their pre-registration year and that under the Medical Act the undergraduate dean is required to sign that they are fit to be fully registered? Without being able to complete that year in the UK, the undergraduate dean cannot verify the quality of practice of that doctor and that potentially devalues the degree that they will have obtained here. Do the Government intend to honour Recommendation 11 from Sir John Tooke's inquiry that students who are UK graduates from overseas should be eligible for postgraduate training in this country as well, a recommendation that the Secretary of State at the time agreed to?

Lord West of Spithead: My Lords, I thank the noble Baroness for her questions. I was delighted to note from yesterday's debate that people were pleased that we had shown flexibility in terms of the duration of time people would be here for a course. I will answer the questions in reverse order. Provision for postgraduate doctors and dentists with a place on a recognised foundation programme has been made under tier 4. In order to qualify, the applicant must have successfully completed a recognised United Kingdom degree in medicine or dentistry in a tier 4 institution, a UK publicly funded institution or a UK bona fide institution. I will come back in detail to the other point in writing because it is rather more complex and would take too long.

Baroness Gardner of Parkes: My Lords, I am aware that the visa system is now based on the Australian points system. While I welcome that, it is important that the Government realise that there is one big difference in terms of people who are destined to become world-famous artists, such as Joan Sutherland. They could never have achieved this if they were limited to a specific amount of time in the UK. No one goes to Australia to become world famous but they come from many countries to achieve greatness here. Does the present flexibility, which I welcome, extend to these potentially great artists?

Lord West of Spithead: My Lords, I hesitate to comment on the importance of going to the Antipodes to become famous. On the noble Baroness's specific point, I do not know the exact detail. As I understand it, there will be flexibility to achieve this. The aim of the points-based system is to enable us to have some of this flexibility, as is shown in the fact that we have already changed the length of time that a student can stay for a course. That shows that we can change the flexibility of those rules within the overarching tier system. Therefore, that will be there. If that is not the case, I will get back to the noble Baroness in writing.

Lord Wallace of Saltaire: My Lords, will the Minister pay some attention to the sensitivity with which officials in the Home Office implement this policy? As it happens, I heard this morning of an American student at the London School of Economics who was told by the Home Office at the beginning of January that if she did not finish her PhD by the end of February, her visa would be revoked. Does the Minister recall that in early January there was an interesting story in the *Times*, which said that more officials in the Obama Administration had studied at the London School of Economics than at any other British university? Sensitivity counts in these areas.

Lord West of Spithead: My Lords, I absolutely take that point. This whole area of education is so crucial for this country. As I mentioned in the debate last night, £2.5 billion in tuition fees alone comes into this country every year: not to mention all the cultural advantages and the fact that we have so many world leaders in all sorts of areas who have trained here. That is absolutely taken on board. I know that the Home Office is not known for sensitivity. Actually, I think it has become more sensitive, although I would not say that that is anything to do with me. I absolutely take the noble Lord's point, and I will ensure that it gets fed back.

Baroness Hanham: My Lords, following up the Minister's reply in our debate last night, will the Home Secretary's recent announcement about limiting the number of immigrants coming here affect student applications, and if so how?

Lord West of Spithead: My Lords, the intention is that it will not limit the number of students coming here. In terms of the various tiers, as I am sure the noble Baroness is aware, low-skilled migration remains suspended at the moment. That is an area in which there is an immediate impact. There is some movement in the skilled area of tier 2, but so far as students go there is no intention to limit the numbers.

Lord Elystan-Morgan: My Lords, I have a question about Welsh institutions of higher education, and in so doing declare an interest as a former president of Aberystwyth University. The Minister may or may not recollect that for about a century the University of Wales was a federated unified institution. That is no longer the case; there are now 12 separate institutions. There is a great deal of cohesion, happily, between them, and the many modular schemes mean that there is a velocity of travel from one institution to the other. Will the Minister give an assurance that there is no question of foreign students having to apply for a refreshing of their visas in the case of such movement? Such a requirement could jeopardise very greatly the considerable enrichment, both financial and culturally, that comes from that source.

Lord West of Spithead: My Lords, if the University of Wales is on the sponsor register as the University of Wales, even with those separated units—I imagine it is, but if I am wrong I will get back to the noble Lord in writing—the answer is that the students would not have to apply each time they change. They can change courses within a particular university or unit. That is allowed for in the rules.

Baroness Sharp of Guildford: My Lords, are the rumours about the curtailing of post-study work arrangements for international students entirely unfounded or are they are correct?

Lord West of Spithead: My Lords, I am not absolutely certain. Is this after they have completed all their studies and then go on to post-study work? There will be an opportunity for them to do postgraduate work, but there is no intention to allow all the people who study in this country to remain here to work. They would have to go through the normal procedure for tiers 1 and 2.

Health: Contaminated Blood Products

Question

11.30 am

Lord Morris of Manchester: My Lords, I beg leave to ask the Question standing in my name on the Order Paper and declare an interest, not pecuniary, as architect of the Archer inquiry.

The Question was as follows:

> To ask Her Majesty's Government when they expect to respond to the findings and recommendations of the independent public inquiry headed by Lord Archer of Sandwell into the infection and death of patients contaminated with HIV and hepatitis C by National Health Service blood and blood products.

Baroness Thornton: My Lords, we take this issue very seriously. We will respond when we have given the report of my noble and learned friend Lord Archer the consideration that it deserves. While successive Governments have acted in good faith, the serious infections inadvertently contracted by those patients as a result of their treatment have had tragic consequences. I am deeply sorry that this has happened. These events were the subject of long-concluded legal proceedings, and the Government have established three schemes to provide financial assistance to those affected.

Lord Morris of Manchester: My Lords, as ever I am grateful to my noble friend. Is she aware that, when I set up the inquiry two years ago, already 1,757 haemophilia patients had died from being infected; that the death toll has since risen by more than 200; and that many more are now terminally ill?

Again, I most warmly thank my noble and learned friend Lord Archer, Dr Norman Jones and Judith Willetts. Is my noble friend further aware that their

report, exhaustively researched and powerfully argued, is by common consent also one of excelling integrity and humane concern for arguably the most stricken minority in Britain today? Is it too much to ask in their name now for a response of matching concern and humanity from Whitehall and Westminster?

Baroness Thornton: My Lords, may I pay tribute to my noble friend for his lifelong work in this and other areas of healthcare? I understand that he made the first call for an inquiry on these issues in 1982. I join him in tribute to my noble and learned friend Lord Archer for the work that he has undertaken and the magnificent report that he has produced. We have every sympathy with those who have been infected, and their families, and we recognise that it has impaired the lives of many people.

The inquiry by my noble and learned friend Lord Archer investigated the circumstances surrounding the supply of contaminated blood in the 1970s and 1980s, and has made many detailed recommendations, all of which we will be seriously considering. My honourable friend the Secretary of State will respond as soon as we are able.

Baroness Masham of Ilton: My Lords, I declare an interest as a vice-president of the Haemophilia Society. Would the Minister agree how important it is to collect data, as the inquiry says, on the dangerous and serious situation of blood safety? Would she also agree that some people are very worried at the moment, as they may have variant CJD?

Baroness Thornton: My Lords, the noble Baroness makes an important point because, as your Lordships will be aware, as recently as 17 February the finding of vCJD was announced in a haemophiliac who died of other causes. It is not surprising, therefore, that people with haemophilia remain concerned that history does not repeat itself. We are taking this very seriously, and investigations are ongoing. At the moment, it seems likely that the exposure was due to contaminated blood products in the mid-1990s.

Lord Turnberg: My Lords—

Lord Patel: My Lords—

Lord Turnberg: My Lords, will the Government be offering further support to the Haemophilia Society, which does such important work in this area, as a result of the inquiry?

Baroness Thornton: My Lords, the work of the Haemophilia Society was absolutely vital to the production of this excellent report, and it does a wonderful job across the country supporting people with haemophilia. The society received core funding under Section 64 of the general scheme of grants for a number of years; however, that source of funding is not intended to be permanent. As we have discussed before in your Lordships' House, we have informed the society's chief executive that we intended to taper its core funding over three years. However, I know that officials are in discussion with the Haemophilia Society about funding opportunities, because we are very keen that it should continue and develop its important work.

Lord Patel: My Lords—

The Earl of Onslow: My Lords—

Noble Lords: Cross Bench!

Lord Patel: My Lords, what policies do the Government have to prevent transmission of infections to haemophiliacs via blood products?

Baroness Thornton: My Lords, the noble Lord will be aware, more than I am indeed, that in 1985 heat treatment for plasma-derived blood products became available. That removed the risk of HIV and hepatitis C and all blood donors are tested. To remove any potential for transmission of infection through donor-sourced products, since 1988 all children in the UK have an access to recombinant—that is, synthetic clotting factors, which are completely safe. In February 2003, the Government announced additional funding to extend availability to adult haemophiliacs in England and all haemophilia patients are now eligible for treatment with those synthetic products. We will continue to provide funding for that; we are committed to this. Expenditure on these products has risen from £21 million in 2004-05 to £46 million in 2008-09.

Baroness Barker: My Lords—

The Earl of Onslow: My Lords, there is an expression that I was brought up with, which goes "fair words butter no parsnips".

Noble Lords: Liberal Democrats!

The Earl of Onslow: My Lords, I am on my feet. Why should I break the habit of the lifetime? Fair words butter no parsnips. Would it not be much easier just to say that both Governments have made a terrible error in this issue and that compensation will be paid, period? That is all that needs to be said.

Baroness Thornton: My Lords, all Governments have been apologising for this since 1987, and there are funds available for those people that both Governments have established.

Baroness Barker: My Lords, does the Minister agree that perhaps the most chilling point in the excellent report from the noble and learned Lord, Lord Archer, is that many of these people were infected as a result of being given experimental products without their consent or knowledge? In light of that, does she agree that the current system of compensation is inadequate and ineffective and that the Department of Health and the Department for Work and Pensions need to act rapidly to ensure that those people who still survive no longer face an uncertain future in dire poverty?

Baroness Thornton: My Lords, £140 million have so far been given to the people who are infected, and we shall consider carefully the recommendations of the noble and learned Lord, Lord Archer, particularly relating to payments for infected individuals and their carers.

Business of the House

Announcement

11.37 am

Lord Bassam of Brighton: My Lords, I thought that it might be helpful to the House if I said a few words about the expected timing of proceedings on the Northern Ireland Bill next week. The Bill arrived from the Commons and had its First Reading last night. It was printed this morning and is available in the Printed Paper Office. The Second Reading of the Bill will be taken on Monday as first business; the list of speakers for the Second Reading opened this morning in the Government Whips' Office. The Committee stage will be taken as first business on Wednesday 11 March, with Report and Third Reading being taken later that day, after proceedings on the Marine and Coastal Access Bill.

To assist the House in considering the Bill, the Public Bill Office will accept amendments in advance of Second Reading; amendments can be tabled from today and a Marshalled List of amendments will be available on Tuesday morning next week. The deadline for tabling amendments to appear on the Marshalled List will be 5 pm on Monday or 30 minutes after the end of Second Reading on Monday, whichever is the later. These arrangements have been agreed by the usual channels to allow the Bill to get Royal Assent on Thursday 12 March. I shall set out next week the likely timings for Committee and Report.

Banking Act 2009 (Third Party Compensation Arrangements for Partial Property Transfers) Regulations 2009

Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009

Banking Act 2009 (Bank Administration) (Modification for Application to Banks in Temporary Public Ownership) Regulations 2009

Banking Act 2009 (Bank Administration) (Modification for Application to Multiple Transfers) Regulations 2009

Banking Act 2009 (Parts 2 and 3 Consequential Amendments) Order 2009

Official Statistics Order 2009

Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009

National Assembly for Wales (Legislative Competence) (Housing) Order 2009

Renewables Obligation Order 2009

Motions to Refer to Grand Committee

11.38 am

Moved By ***Baroness Royall of Blaisdon***

That the orders and regulations be referred to a Grand Committee.

Motions agreed.

Prevention of Terrorism Act 2005 (Continuance in force of sections 1 to 9) Order 2009

Motion to Approve

11.39 am

Moved By ***Lord West of Spithead***

That the draft order laid before the House on 3 February be approved.

Relevant Documents: 6th report from the Joint Committee on Statutory Instruments and 5th report from the Joint Committee on Human Rights.

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My Lords, the purpose of the order before the House today is to renew the Prevention of Terrorism Act 2005. Sections 1 to 9 of the Act will automatically expire after one year, unless renewed by order, subject to affirmative action by a resolution in both Houses. The effect of this order will therefore be to maintain the powers set out under the Act until the end of 10 March 2010. This will allow us to continue to use control orders to tackle the threat posed to national security by suspected terrorists whom we can neither prosecute nor deport.

We remain firmly of the view that the legislation and the order before us today are fully compliant with the European Convention on Human Rights. The other place voted in favour of renewal on 3 March. Since last year's debate on the renewal of the Act we have, of course, had the opportunity to consider the control order powers in some detail. During the passage of the Counter-Terrorism Act 2008 we considered a number of government and opposition amendments to the original powers. Some minor changes were made to the 2005 Act as a result.

In setting the scene for our debate today, it is important to remember that in recent years we have witnessed a number of significant attacks, and attempted attacks, on our country. These have sought to undermine our fundamental rights and values through the indiscriminate murder of innocent people. The threat to the UK from international terrorism remains real and serious. Recent trials and investigations have shown that terrorist networks continue to plan and attempt to carry out attacks. We need a broad range of responses to reduce the risk of further terrorist attacks. These responses must ensure public security while protecting our values and civil liberties. Prosecution has been, and continues to be, our preferred approach, since terrorists are criminals who attack the values that we all share.

In 2008, 51 people were convicted in 18 terrorism cases, with 21 individuals pleading guilty. These figures underline the considerable success that the police and intelligence agencies have had in disrupting terrorist plots and that the CPS has had in prosecuting these individuals. We remain absolutely committed to enhancing the ability to prosecute terrorists. Thus, the Home Office is currently taking work forward to implement the recommendations in last year's Privy Council review report on the use of intercept as evidence. However, the report explained that, in a review of nine control order cases by an independent senior criminal counsel, the use of intercept as evidence would not have enabled criminal prosecutions in any of those cases. In other words, it would not have made any practical difference. From this, one cannot hold out much hope to resolve all the problems.

Where we cannot prosecute suspected terrorists and the individual concerned is a foreign national, we look to detain and then deport them. Last month's Law Lords' judgments in three cases—including that of the Jordanian Abu Qatada—demonstrated that the Government's policy of deportation with assurances, or DWA, is compatible with the ECHR.

Despite improvements in our ability to prosecute or deport individuals who pose a threat to national security, there remains a small group of individuals whom we can neither prosecute nor deport. Control orders are intended to protect the public from the risk posed by those individuals. For the past four years, they have been a valuable and targeted tool in our fight against terrorism. Each order places a tailored set of obligations on an individual to help to prevent or restrict him from engaging in terrorism-related activity. They are not imposed arbitrarily—a judge must agree that they are necessary and proportionate—and they are subject to regular and rigorous review. I know this because I am deeply involved in those reviews. There are currently only 15 control orders in force.

We accept that control orders cannot entirely eliminate the risk of an individual's involvement in terrorism-related activity. Indeed, the independent reviewer of the operation of the Act, the noble Lord, Lord Carlile of Berriew, notes in his most recent report that he has seen material showing that a few controlees,

"manage to maintain some contact with terrorist associates and/or groups".

However, it is absolutely clear that the obligations in place make such involvement more difficult. It is for that reason that the Act itself refers to,

"preventing or restricting ... involvement in terrorism-related activity".

There continues to be a school of thought that control orders should be time limited. That is superficially attractive. However, our position is that orders should be imposed for as short a time as possible, commensurate with the risk posed. Of the individuals currently subject to control orders, only five have been subject to them for more than two years. We do not believe that an arbitrary time limit is an appropriate way to manage the risk.

11.45 am

We would also like to remind noble Lords that the High Court has supported our view that a control order can be justified beyond two years. Mr Justice Collins recently found that, if there is evidence that an individual remains a danger, the control order should continue for as long as necessary.

There continue to be those who argue that the control order regime is an affront to human rights. Let me be clear: that is not the case. The highest court in the land has upheld the whole regime, reflecting the substantive and rigorous judicial checks and balances in the control order regime.

The Law Lords are currently considering what measures are necessary to safeguard the right to a fair trial in control order cases. Their deliberations will undoubtedly take into account relevant jurisprudence, including the House of Lords judgment in 2007, the Court of Appeal judgment of October 2008 and the recent European Court of Human Rights judgment in the case of A and others. The judgment of the European Court last week relates to detention proceedings in SIAC rather than the control order proceedings in the Administrative Court. The cases considered by Strasbourg are historic. There have been many developments and improvements in the operation of the special advocate system since the time of the cases in 2004.

Our view remains that supported by the Court of Appeal last October, which is that there is no irreducible minimum level of disclosure that is necessary to ensure that control order review hearings are compatible with a right to a fair trial. The individual is already given as full an explanation as possible of the reasons for the imposition of a control order, subject only to legitimate public interest concerns, and each case is determined by an independent High Court judge who has all the relevant material.

I place on record the Government's thanks to the noble Lord, Lord Carlile, for yet another thorough report, which will no doubt inform today's debate. We will, of course, respond formally in due course, as we will to the JCHR's most recent report on control orders. The noble Lord, Lord Carlile, continues to view control orders as,

"a largely effective necessity for a small number of cases".

He further notes that,

"the control order system as operated currently in its non-derogating form is a justifiable and proportional safety valve for the proper protection of civil society".

That view is shared by the other two statutory consultees, the Intelligence Services Commissioner and the director-general of the Security Service.

We currently face a threat from terrorism that is sustained and indiscriminate. Indeed, the threat level is severe. We need to protect the public while ensuring that our fundamental rights and values are safeguarded. Control orders are by no means the whole answer—they are one small part of the panoply in our armoury to protect this nation—but they help to deal with the threat that we face. They are an important part of this overall approach. The risk to the public would increase were these provisions not to be renewed and I do not believe that we can allow that to happen. I commend this order to the House.

Amendment to the Motion

Moved by ***Baroness Miller of Chilthorne Domer***

To move, as an amendment to the above motion, to leave out from "that" to the end and insert "this House declines to approve the draft Order laid before the House on 3 February".

Baroness Miller of Chilthorne Domer: My Lords, in moving this amendment, I want to look at what has changed in the four years that Parliament has been approving and reapproving these control orders. In doing so, I will explain why we have, for the first time, tabled a fatal amendment to them.

The House will recall that when these orders were put on the statute book, they were supposed to be a short-term measure to deal with a very real gap in capacity and in measures to deal with the terrorist threat. On 5 March 2007, when these orders were being debated, my noble friend Lord Goodhart reminded the Government of the history of the orders. He said:

"The fact is that the Government are reneging on the undertaking given on 10 March 2005 which was central to the compromise that enabled the Prevention of Terrorism Bill to go through that day".—[*Official Report*, 5/3/07; col. 29.]

In 2007, my noble friend Lord Dholakia tabled a non-fatal amendment as we were still waiting for revised legislation that would bring the orders regime back within the framework of the normal legal processes of this country. Last year, I did the same—the Counter-Terrorism Bill, with all its possibilities to revise the system, was only weeks away from its passage through your Lordships' House. In fact, the long-awaited revision never happened. As the Minister said, there were simply some minor amendments. The Government have resisted any substantial change and this year they have expected that we will simply rubber-stamp these orders again.

The noble Lord, Lord Carlile, has talked continually last year and this year about an exit strategy, yet the Government have not produced any evidence of work on one. The Liberal Democrats Benches recognise all the changes that have happened over the past four years and we believe that the time has come to challenge the Government to fulfil the undertaking of which the noble Lord, Lord Goodhart, spoke.

What has changed that should have prepared the Government for a change of regime? There is a growing body of legal opinion, both national and international, that the system is not within the law. In 2007, as the Minister mentioned, the Law Lords found many things wrong with the control order regime, starting with closed hearings and continuing through the day-to-day operation of the orders. They asked for revision rather than finding them unlawful. However, the Government cannot count on that happening again with the latest challenge. The Minister has referred to the appeal which was heard last Monday on procedural unfairness and we await the judgment from that with great interest. The European Court of Human Rights has delivered fundamental criticisms which should have prepared the Government either to radically revise the orders regime or withdraw it altogether. I am sure that members of the Joint Committee on Human Rights will today tell us their view.

Finally, the Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights published its opinion on 17 February this year expressing concern about a parallel legal system developing. It felt that that undermined the rule of law. In international terms, that is extremely serious. I hope that today noble Lords will expand on just what due process should be in British law and just how far short these orders fall.

The Government have also had four years to increase the capacity of the security services, which I am in no doubt they have done. They have increased expenditure and reorganised their strategies and staff. Despite the continuing threat, this must have had some effect that would feed through into allowing a return to the normal rule of law. Last year, the noble Lord, Lord West, in opening this debate, said:

"We must protect the public, while ensuring that our fundamental rights and values are protected. Control orders are an important part of this ... balancing act. They are one of a significant number of measures that can be deployed to protect the public from terrorism".—[*Official Report*, 27/2/08; col. 722.]

So he does recognise the balance.

We are not suggesting that the terrorist threat has diminished. Indeed, with the Mumbai bombings and this week the bombing in Pakistan of the Sri Lankan cricket team, we have had a very stark reminder overseas; and here, every day on our screens, we are reminded that the threat remains high. I am sure we are all well aware of it every time we take a tube or a flight or read about the cases that are coming to court. I pay tribute to all those involved in discovering the plots and networks of terrorists. The threat does not seem to have diminished since the last time we renewed these orders and in moving this amendment I recognise that. However, we are suggesting today that the intervening years should have been used to ramp up the other measures and get rid of this one. It was pretty hard to accept in the first place and is certainly not acceptable as the long-term measure it has become. Indeed, it is not even a very effective measure. The Minister mentioned people subject to these orders who have stayed in touch with other groups. Why have they not been prosecuted under the various relevant statutes? There are also the people who have absconded while subject to these orders, so they are not very effective.

Should the Government pray in aid the independent reviewer's report, I stress that the noble Lord, Lord Carlile, has done a very difficult job with all the considerable skills at his disposal, but he was asked to look at a tool to see if it is working in the way for which it is designed. His job is not to look at the other tools in the tool box; that is for the Government to do. We want the Government to take that look today and to take it very seriously.

We have heard from the Conservatives about this issue over the years, and I look forward to hearing their view again today. Last year, in the debate on 22 February 2007, Patrick Mercer said in the other place that the Conservatives supported control orders with great reluctance but would not be able to do so the following year. He said in conclusion,

"we will support the extension with great reluctance, but we must put the Government on notice that, in view of Lord Carlile's latest report, we will not be able to sustain our position this time next year".—[*Official Report, Commons,* 22/2/07; col. 443.]

I do hope, especially given the sort of speeches that Conservatives Members made at the convention on liberty this year, they will agree that the time has come to follow their words with their votes.

In the debate in this House on 5 March 2007, the noble Lord, Lord Dear, said:

"Anyone who knows anything about the laws of physics knows that whereas it is easy to go up on the ratchet, it is well nigh impossible to come down".—[*Official Report*, 5/3/07; col. 29.]

He reminded the House how important in winning hearts and minds it is not to be seen as repressive. Our amendment today is offering this House the chance to get the Government to think again and to bring the orders regime back from a parallel system to our tried and tested legal system, a system which has won hearts and minds through centuries.

In the introduction to the splendid British Museum "Taking Liberties" exhibition, which I am sure many noble Lords will have visited, the guide reminds us of how Britain has always been seen. The American revolutionary Patrick Henry said in 1788:

"We are descended from a people whose government was founded on liberty; our glorious forefathers of Great Britain made liberty the foundation of everything. That country is become a great, mighty, and splendid nation; not because their government is strong and energetic, but, sir, because liberty is its direct end and foundation".

As a country we do have a choice to return to a normal rule of law where suspects are charged and tried and where the highly suspicious may be held under surveillance within all the strict codes and guidelines, but where no one is subject to effective house arrest year after year after year. The Government have prepared no exit strategy. They have invited no discussion, even on a draft exit strategy. Parliament—this House—should make the choice. I invite your Lordships to do that today. I beg to move.

Baroness Neville-Jones: My Lords, last year my noble friend Lord Kingsland eloquently set out the position of these Benches. He said:

"We ... take the view that, in circumstances in which it is impossible to prosecute or deport someone, some form of control order system will be necessary. However, control orders are instruments of Executive power and consequently pose dangers to a society based on the principles of democracy and the rule of law".—[*Official Report*, 27/2/08; col. 731.]

Indeed, such orders are obnoxious. He went on to say that the system must be limited and that the need for control orders must be reduced.

We are told by the Government that control orders are necessary because it is not possible to prosecute or deport some terrorist suspects and that indeed there is a gap between the court's requirement for evidence and the ability of the state to meet it without prejudice to wider interests of security. These are real issues. However, despite warnings from opposition Benches in both Houses, and despite successive reports from the statutory reviewer of terrorism, the noble Lord, Lord Carlile, on the need to reduce reliance on control orders, the Government have done very little to help close the gap they have identified. Their lack of interest in so doing says very little for their attachment to civil liberties. It is not as if the Government were powerless to improve the situation. They could have taken serious steps to increase the possibility of obtaining admissible evidence, and the likelihood of successful prosecution.

Noon

I will examine two possible routes to reduce reliance on control orders over which the Government are dragging their feet. On the issue of intercept evidence, the noble Lord, Lord Carlile, in his annual review of the control order system, clearly stated that using intercept evidence had the potential to reduce the need to resort to control orders. Despite the Chilcot review accepting as long ago as January last year that using intercept evidence could be beneficial and could be introduced without threatening security sources and methods, the Government have proceeded very slowly. More than a year later, there is no sign of the implementation committee finishing its work. That it should do a proper job is a given. However, the last statement by the Home Secretary was equivocal and, crucially, conveyed no sense of urgency on the part of the Government.

The deportation of foreign suspects is another route to reducing the number of control orders; but despite the Government declaring that this was an important part of their policy, little progress has been made. The Government in 2005 put in place memoranda of understanding with three countries: Jordan, Libya and Lebanon. They exchanged letters with Algeria in 2006. Nearly three years later, there has been only one more: Ethiopia. In a parliamentary Answer given last July, the Government said that they were pursuing agreements with a number of countries. Does the Minister have progress to report? Is the necessary muscle being put into achieving what the Government call an important part of their policy?

Last month's House of Lords judgments in three cases, including that of Abu Qatada, demonstrated that deportations with assurances are compatible with the European Convention on Human Rights—which of course is the point. The Government need to pursue their own policies with more vigour. I ask the Minister if the Government have made a quantitative assessment of how far using intercept evidence and deporting suspects would reduce the number of control orders. Have the Government looked into whether individuals presently subject to control orders can be prosecuted now that the range of terrorism offences has been extended significantly? Legislation such as the Counter-Terrorism Act 2008 included a number of new offences, and also made terrorist connections an aggravating factor in prosecuting and sentencing. The statutory reviewer, the noble Lord, Lord Carlile, stresses time and again in his reports that the cases of those subject to control orders should be under constant review. If, in the light of their own legislation, the Government have not reviewed the possibility of successful prosecution, could the Minister explain why? What is the point of all this legislation if the Government do not use the powers they take?

As well as doing very little to reduce the need for control orders, the Government have also refused suggestions from all sides of your Lordships' House that would have made the current system significantly more compatible with our notions of the rule of law and with our human rights obligations. With this aim in mind, during the passage of the Counter-Terrorism Bill 2008, we on these Benches tabled two amendments

[BARONESS NEVILLE-JONES]

on control orders. The first would have required the Director of Public Prosecutions to decide whether prosecution was the appropriate course of action to take in respect of each potential controlee. The DPP would have had to declare that the prosecution was impossible before a control order could be activated.

The decision on whether to prosecute is taken currently by a chief police officer. However, in previous reports, the noble Lord, Lord Carlile, has raised two objections to this. He described the wording of Sections 8(4) and 8(5) of the relevant Act as strange. It contains an obligation—the word "must" is used—for the police to consult the relevant prosecuting authority, but—here is the critical and odd point—it goes on to say only,

"to the extent that he considers it appropriate to do so".

The noble Lord, Lord Carlile, also said:

"I have seen letters from chief officers of police in relation to each controlee certifying that there was no realistic prospect of prosecution. Little is given by way of reasons. Whilst I have no evidential basis for doubting, in my view the letters provided by chief officers should give clear reasons for the conclusion that there is not evidence available that could realistically be used for the purposes of a terrorism prosecution".

Those are important words.

The noble Lord further suggested that the letters should make it clear why no additional investigation will be undertaken and why different forms of evidence-gathering would not or could not be undertaken. To get the reasons, and to get the reasons out in the open as to why a prosecution was not possible, was the reason why we on these Benches thought that a decision on whether to prosecute would be better taken by the DPP.

The second amendment would have ensured that the prospect of prosecution, if legitimately considered and properly rejected at the outset, should nevertheless be kept under regular review. That point is picked up by the Joint Committee on Human Rights. It said recently that it,

"has questions regarding the seriousness of the Government's commitment to prosecution as its first preference, in light of the lack of continuing investigation of controlled individuals and a lack of effective system to keep the prospects of prosecution under review"—

precisely. As I said, the amendment that we tabled would have ensured that the prospect of prosecution would be kept under regular review. I do not know why the Government could not have accepted these amendments; they would have been wise to do so. The Court of Appeal has previously said that the Secretary of State's duty to review the prospects of prosecution should be expressed in statute.

There are other problems with the current system of control orders. We did not table amendments on these, but they are well known and need to be addressed. The first is the need for due process. We are not happy with the use of special advocates and the fact that the defendant receives no information on the case against him. As the noble Baroness, Lady Miller, said, the recent report by the international eminent jurists panel said that control orders could give rise to a parallel legal system. I know that the Law Lords are currently considering what measures are necessary to ensure a fair trial, but should not the Government take the lead and themselves be active on this?

Finally, let me turn to what the noble Lord, Lord Carlile, calls the "end game" for control orders. The noble Lord has consistently recommended that there be a recognised and statutory presumption against the extension of control orders beyond two years. He has not set an arbitrary limit; he has set a presumption. He has given reasons for this:

"It is only in a few cases that control orders can be justified for more than two years. After that time, at least the immediate utility of even a dedicated terrorist will seriously have been disrupted. The terrorists will know that the authorities will retain an interest in his or her activities, and will be likely to scrutinise them in the future. For those organising terrorism, a person who has been subject to a control order for up to two years is an unattractive operator, who may be assumed to have the eyes and ears of the State upon him/her".

Do the Government accept the reasoning of the noble Lord, Lord Carlile? In another place, the Minister of State said:

"The Government believe that control orders should be imposed for as short a time as possible, commensurate with the risk posed".—[*Official Report*, Commons, 3/3/09; col. 738.]

The Minister has made that point. Is this view being seriously reflected in what actually happens?

If the Government had accepted our two amendments to the then Counter-Terrorism Bill, and if they had made progress on addressing other well-known problems with the control orders regime, we would have been much more sympathetic to their renewal today.

As it stands, we are most certainly not sympathetic. As shadow Security Minister, I am in a difficult position. I am clear that the Government have been less than energetic in their efforts to close what they call "the gap". Mostly because of this, I cannot prove that none of the orders is necessary, and I am not in a position to assert that there is no valid security reason for them that justifies obstructing their renewal. Let me be clear—just as there is a positive obligation on Government, imposed by human rights law, to take effective steps to protect the public from real threats of terrorism, so human rights law imposes obligations and tests on our counterterrorism legislation. My constant objection to the policies of this Government is that they show too little regard for the second set of obligations.

As my noble friend Lord Kingsland said,

"responding to terrorism with legislation that is itself capable of undermining our values can, if it is not limited to what is absolutely essential and subject to regular review, achieve precisely the objects that the terrorists seek".—[*Official Report*, 5/3/07; col.32]

That is our problem here today.

In the light of this guiding principle, a Conservative Government would, should we enter office, not only review the current control order regime but review, rationalise and consolidate the plethora of existing counterterrorism legislation. In so doing, we would take measures to close "the gap" and would replace the present control order system. We would find ways of bringing the UK into line with other comparable democracies on the use of intercept evidence in court in terrorist cases. We would end the abuse of stop-and-search powers, which are available under terrorist legislation—those powers are being used for non-terrorist

related incidents. We would stop inappropriate surveillance by public bodies and re-examine controversial offences relating to distribution of literature and glorification.

As for today, if the House divides, I invite my colleagues on these Benches to abstain.

Baroness Stern: My Lords, I cannot say that I welcome or enjoy this annual renewing of the order. However, in the circumstances, it seems important that it should take place, so that at least once a year Parliament gets the opportunity to consider this measure, those subjected to it, the way in which it is implemented and its implications for the rule of law and human rights. As I said last year, my concern in this matter has always been to ensure that we do not at any time forget the severity of this measure and the effect that it has on those subject to it, who include the families and friends of those under control orders.

The noble Lord, Lord Carlile, has once again given us a considerable amount of information in his report on the conditions imposed and their intensity. I thought that it would be helpful to put on the record some of the detail of just one case, to indicate the everyday reality of these orders for the individuals who are subject to them. This is Case 15, and can be found in Annexe 1 of the report of the noble Lord, Lord Carlile.

Case 15 has 20 of the 22 possible restrictions. He is electronically tagged. He is under curfew for 16 hours a day. He must report daily by telephone. His visitors are restricted, except for some family members. He cannot meet anyone outside his home without approval. He is issued with a list of people with whom he must not associate. He must let the police in at whatever hour they come. Communications equipment in the house is restricted. He can attend only a specified mosque—the text says "mosque", and I am not sure what one should conclude from that. There are places that he cannot go to at all. He must tell the Home Office if he intends to leave the UK. He can have only one bank account. He needs approval to send anything abroad, apart from personal letters. He must surrender his passport. He cannot leave the UK. He cannot go to a port or a railway station. He must report daily to a specified police station. He must tell the Home Office if he works. Finally, he must get prior approval to study. He was exempted from two of the 22 possible conditions.

12.15 pm

Some more light on the reality of this measure comes from the very helpful table of litigation on pages 15 to 17 of the report of the noble Lord, Lord Carlile. From this, we learn that a control order was quashed on this ground:

"Evidence of sympathy with insurgents insufficient on its own".

From another case, we learn that the detainee was required to,

"move to a specified city where he knew nobody".

From another we read:

"Controlee recently sectioned under *Mental Health Act 1983*".

This is the same controlee who the court said was:

"No longer required to report by telephone to a police station in the early hours of the morning; nor to obtain prior approval for female visitors to his family at home".

For another case, there was a,

"refusal to permit controlee to attend AS Level science courses ... attendance would enable him to acquire skills and information re production of pathogens and explosives".

A court said:

"Relocation to unfamiliar area and 16 hour curfew not of themselves disproportionate. However, those restrictions combined with ban on attending pre-arranged meetings outside his home, and consequent social isolation, made this deprivation of liberty contrary to *Art 5*".

Those give a helpful insight into the experiences of some individuals.

The Home Office's Control Order Review Group, which reviews each control order on a quarterly basis, has an important role. One of its functions is:

"To monitor the impact of the control order on the individual, including on their mental health and physical well-being, as well as the impact on the individual's family and consider whether the obligations as a whole and/or individually require modification as a result".

This is vital and I was glad to hear the Minister say that it is rigorous. I am sure that it is, but it would be very helpful for the House to know how it is done. Is there an independent doctor or a social worker? Who makes the assessments about mental health and physical well-being? Does someone interview the family members and the children? If the Minister could give the House some information on how the Control Order Review Group satisfies itself on these matters, it would help noble Lords to understand, as I am sure is the case, that this responsibility is taken very seriously, for these are extraordinarily stringent measures.

I cannot begin to imagine what it must be like to be a family member living in a house where the husband or father is subject to a regime such as this. It can be imposed without a charge, a trial, a jury or any public scrutiny of the proceedings, and for time without end. Last year, I raised the question of the length of control orders. Two of them have now been in place for more than three years.

The more one finds out about this system, the more anxieties arise. I agree very much with the words of Douglas Hogg MP, in the debate on Tuesday in the other place. He said that,

"it is very difficult for the House, the public or the press to know whether what we are doing is really justified or proportionate, and whether it is being done in a way that is right, proper and justified. We just do not know, and that is profoundly unsatisfactory".—[*Official Report*, Commons, 3/3/09; col. 756.]

I agree that it is indeed profoundly unsatisfactory. I am sure that we could do better than this with all the experience that we now have and I am very grateful to the noble Baroness, Lady Miller, for moving her amendment, which I shall support.

The Lord Bishop of Norwich: My Lords, in February last year the General Synod of the Church of England requested,

"an early review by the Government of the restrictions and other obligations that may be imposed on individuals under the Prevention of Terrorism Act 2005 and the use of undisclosed material in control order proceedings".

[THE LORD BISHOP OF NORWICH]
That was passed nearly unanimously; for the General Synod to do anything nearly unanimously is a bit of a miracle in itself.

The impact of the restrictions imposed on individuals through control orders, as the noble Baroness has just illustrated, can be cumulatively highly repressive, leading to mental health problems not just for the person being controlled but for their wider family. This is deeply serious for someone who is legally innocent. When do cumulative restrictions on liberty become the deprivation of liberty? Where do we set the boundary? This is a crucial question for what we still describe as a free society, of which control orders are meant to be protective. In some cases, the cumulative impact of restrictions gets very close to house arrest. That is what greatly concerns these Benches.

This order is an unsatisfactory expedient for many reasons. When you can neither deport nor charge someone about whom strong security suspicions exist, it is hard to see an immediate alternative. However, Governments can get used too easily to the exercise of such powers. That is why it is important to voice concerns about the conditions and restrictions that may be applied. Issues of natural justice arise when the reasons why someone is subject to a control order are withheld from them while the special advocate presenting their case is aware of them. We need to recognise the ways in which this system can offend natural justice and be vigilant about finding a better way. At least being subject to annual debate and renewal indicates the seriousness of the exceptional provision.

The breadth of the powers given to the Secretary of State under this order present a considerable temptation and we pray daily in this House that we shall not be led into temptation. A separate, urgent and considered review of the restrictions that may be imposed might be one way of resisting the temptations that go with this order.

The Earl of Onslow: My Lords, I speak as a member of, although not on behalf of, the Joint Committee on Human Rights. Having listened to the noble Baroness, Lady Stern, all I can say is that our committee is very sorry that she is not still a member, as her contribution was incredibly important.

I had written in my notes about the limit of time and the fact that somebody could be held in a one-room flat in Ealing for 16 hours with curtailment on whom he sees outside and what he is allowed to do. The noble Baroness, Lady Stern, very reasonably and with great impact, filled out the details of what a control order means to the controlee. It is as near imprisonment without trial as it is possible to get. Our final paragraph in the Joint Committee on Human Rights report states:

"As in previous years, we therefore have very serious reservations about the renewal of the control order regime unless the Government is prepared to introduce the safeguards we have identified as necessary to render it human rights compatible. Without those safeguards, the use of control orders will continue to give rise to unnecessary breaches of individuals' rights to liberty and due process".

The liberty issue has been completely and utterly shown by the noble Baroness, Lady Stern. The due process issue is the fact that the persons are not allowed to see the evidence against them. We took the view that it is only just that someone who has been accused of something should be able to see the evidence against them, although I accept that it may have to be slightly edited.

Our other concern was on intercept evidence. Why, as my noble friend Lady Neville-Jones said, has it taken such a long time to make a decision? The Government seem to be acting like Fabius Maximus the Cunctator—the delayer. I hope that they are as successful as he was.

The other extremely unpleasant fact is that these people can be held for a limitless time. That cannot be right under any circumstances. People are held in pretty unsavoury conditions, which certainly lead to mental health problems. They are held without hearing the evidence against them and they can be held for an interminable time. That is completely unsatisfactory and it goes against the grain of all our ancient liberties and constitution. It should be, and can be, rectified.

We accepted that the Government should publish the report of the noble Lord, Lord Carlile, a month before renewal to allow for information to be put in the public domain and for a better debate to take place. The noble Baroness, Lady Miller, raised the issue of people who absconded—four or five of them, I think. They just went absent and we heard no more about them. Have they gone back to play with the ungodly? Have they gone back to doing things of which they were suspected, or have they just vanished? If they can just vanish without any further damage, they were not really doing very much damage; otherwise, they should have been prosecuted.

Finally, they must, must, must be prosecuted. If I were my noble friend Lady Neville-Jones, I would have said to Her Majesty's Government, "This time you can get it, but not next time". Next time I would support an amendment moved by the noble Baroness, Lady Miller, or even move one myself, that the regime should not be renewed, because it is unsatisfactory, it is against our traditions and the Government are being idle in allowing it to carry on.

Baroness Butler-Sloss: My Lords, for all the reasons that have been expressed, control orders are in principle objectionable. They may also have an adverse effect on the children of detainees in such minor ways as the children being unable to use, or have very limited use of, computers, which of course all children nowadays have to use at school. It is perhaps a small matter, but it could be alleviated for the children of these suspects.

I also agree with the criticisms of the Government's failure to deal with intercept evidence. It really is time that it was looked at properly and that something was done about it. The Government should seek other methods in addition to control orders.

However, the Minister tells us that among the 15 suspects, intercept evidence, if it had been put forward, would not have been relevant to the trials of some of them. One has to bear that in mind if that is the case. The Government should be looking at alternatives to reduce the number of control orders, but, with the greatest possible reluctance, I recognise that if one

balances the importance to the public of security against the tension of control orders for this number of people, with the provisos that have been mentioned, I cannot see how we can legitimately oppose today's order. It extremely important that the order should be renewed and that the criticisms made today should be met by the Government before this time next year.

12.30 pm

Lord West of Spithead: My Lords, I thank all noble Lords who have spoken for their important contributions. I have thrown away my detailed speaking notes because to go this through point by point again and again—I did a lot of that in my introduction—would be meaningless. Do we like control orders? The answer is no. They are a least-worst option. That is reflected in the numbers involved. Fifteen people are on control orders and yet we are monitoring more than 2,000 people, many of whom, as we know from intelligence, intend us harm. These are the people who are really capable of doing us harm. We would much prefer, as a number of noble Lords have said, to go through the courts. It is unfair to say that we do not try very hard to do that. The CPS and the police would be most upset to think that they are not seen as trying extremely hard to proceed against these people in court.

The problem is the difference between intelligence and evidence. The noble Baroness, Lady Manningham-Buller, spoke eloquently on that when we discussed control orders during proceedings on the Counter-Terrorism Bill. One of the issues, as she said, is that it is hearsay. That does not mean that there is not incredibly compelling intelligence. Can you imagine what the Government would face on the Floor of the House if there was an outrage such as 7/7? If one looks at some of the people involved in that, they were the most unlikely people. There might have been the odd strand of intelligence, but if there had been really serious intelligence against these people and we had allowed them to commit such an outrage, quite understandably we would be culpable and I would be hammered and slapped around about it and so would the Government. We cannot take any chances; the issues are too dangerous.

We talked about deportation with assurances. Clearly, if the person is not British, it is a wonderful way of getting them out of here. It is amazing how people who hate us, our system and our way of life will fight so hard to stay in this country. I do not blame them because this country is amazing; it is a wonderful country and we bend over backwards to give all those freedoms to our people that we have to balance all the time in this. They may hate us but you try and get rid of them. We have put a lot of effort into dealing with a number of countries. Ethiopia was mentioned. I went there myself to do the final push to get an agreement with them. It is quite hard and we have to be careful which countries we get a DWA agreement with. There are some countries, I fear—I would not be so stupid as to mention them on the Floor of the House—which we would be very worried about sending someone back to because they would be far worse placed than they are in this country, living in their own home with certain restrictions.

To pretend that we are not doing anything is not correct. The Government are working extremely hard on this. We do not have control orders for some weird authoritarian reason. I do not particularly like having to keep coming here and talking about control orders, but the people involved with them have to work extremely hard. It is not an easy option. There is a lot of work involved in reviewing these things, making sure we get them right and going through the correct judicial procedures. It is a lot of extra work and it is not the easy way out. This is not political posturing; I do not do political posturing. This is something that we feel really has to be done to make the nation safer. If we did not have to do it, we would not, because it is not an easy option.

I want to reinforce the important difference between intelligence and evidence. As I said, the noble Baroness, Lady Manningham-Buller, spoke extremely eloquently on the issue and it would be worth looking back in *Hansard* at what she said. There is a huge difference and that is part of our problem with a number of these issues and with counter-terrorism as a whole. We know of threats and attacks that have happened because we have been very successful at putting people away—as I mentioned before, 51 people in 18 cases last year with 21 of them pleading guilty. We are using the Counter-Terrorism Act to do this and, as an aside, I should like to see a rationalisation of the Counter-Terrorism Act. The noble Baroness, Lady Neville-Jones, mentioned that and I agree with her. I should like to see a simplification. But we are using all those powers and we have been very successful in putting people away. That is a good thing because it is what we want to do. It has shown us clearly what evil these people want to do against us, which is sobering and very unpleasant.

We are using composite measures to look after the safety and security of this nation. When my right honourable friend the Prime Minister asked me to join the Government in 2007, he said, "I think you can do something to help the security of the nation". I was not big-headed enough to think I could but he thought I could, so I was willing to try. I can assure the House that every day since then I have thought about that safety and security and have looked at things like control orders. I was not happy with control orders. I have pushed extremely hard to make sure that the CPS and the police work to get a prosecution and I have pushed extremely hard on the DWA side. I have asked, "Are we sure we cannot get exactly the same surety by some other means if we throw resources at this? What if we were to put more Security Service, more Special Branch people, onto this? Could we get the same level of surety that we are getting from control orders? Because if we can, perhaps that is worth doing". That work is ongoing; I am still looking at that and prodding.

A certain number of people will be involved and there will be issues of prioritising because, as I say, we are looking at more than 2,000 people who wish to do us harm. The ones I really worry about are the ones we do not know about, because there will be people like that. If we can get the same level of surety by using 200 to 300 specialists to look at the 15 people on control orders in more detail, on top of what we

[LORD WEST OF SPITHEAD]
already have—because they have to be looked at around-the-clock in such a way that they do not know it is being done—then perhaps we should get rid of control orders. But you noble Lords imagine the impact. We have doubled the size of the Security Service but we would be taking that number of people away from other operations. As it is, we have a batting order; we look at this at the weekly security meeting. It is quite worrying but I can assure this House that I am pushing all the time to try to make a difference. We do not do this lightly; we do it for the safety and security of this nation.

There has been a certain amount of talk about intercept as evidence. It is naïve to think that it is a panacea for control orders or for anything else. I object to anyone thinking that we have not been taking this seriously and pushing it forward. There has been cross-party involvement. The Chilcot study came up with a number of conditions that had to be met. As I have said a number of times on the Floor of the House, one of the huge capability advantages we have is some of the techniques we use. Those techniques are not known by the people who wish to do us harm and that is very important for the safety of this nation. We must not lose that edge, as we move forward with the Chilcot report—and we want to be able to accept that and do it. For example, 15 years ago UBL used a mobile all the time. I know that because I was involved in the intelligence world and we knew that he did that. There is no way on earth that he would do that now or be anywhere near one that was being used. Why not? Because he has heard, because of court cases and other things, that would point to exactly where he was. We could get in and find out everything he said. If he was unlucky enough to be hit by a predator, by the Americans, you never know what might happen, but he knows that they pick these things up. We must not give that away. We have to be very careful about intercept as evidence. We want to be able to use it, but that has to be looked after.

I know from my involvement in Northern Ireland that you need people who have been listening for months if not years to the dialect and the words they use. I know from a particular incident there that even at the moment a man was about to kill one of our soldiers we could not tell from listening to that. When we looked back at it, we could work out that that was going to happen, but we could not tell at the time because you need such skill to do it. Juries are not going to be able to work that out, so we have to be really careful in this area.

On the loss of life, I was delighted that the noble Baroness, Lady Miller, paid tribute to our people in the agencies, in the police and in the OSCT who are doing very hard, detailed jobs extremely well. These are good people, just like us. They are not some evil, authoritarian bunch; they are good people who come from among us and do very hard work. I must just say, because it makes me so angry at times, that they have to work for about 20 years to earn the same amount of money as an incompetent banker gets in one year of his pension. However, that is an aside. They work extremely hard and we should be very proud of them.

I will write to the noble Baroness, Lady Stern. I have two pages on the Control Order Review Group and all the things that we go through. The things that the JCHR has picked up are absolutely right, and I agree that the input of the noble Baroness, Lady Stern, into the JCHR was extremely valuable. These things are very important. These restrictions are placed on people, although these people are in their own homes, so I do not necessarily agree with the noble Earl, Lord Onslow, that they are in particularly squalid conditions. Some of the homes are, I am sure, delightful. We are aware that these restrictions are there and that this is very important, so many things are checked. I will return to the noble Baroness in writing on that point, if I may.

'I do not intend to go into all the legal issues again; I touched on them in my opening comments. The Government remain very firmly of the view, as I said, that the order fully complies with the European Convention on Human Rights and that everyone will be fully aware after the debate of all the things that are being looked at by the Lords.

The amendment tabled by the noble Baroness, Lady Miller, is, I fear, misguided. I understand why she tabled it, but it is misguided if it goes through as it is. If this House votes for it, 15 highly dangerous men will be taken off the control order regime next Tuesday. The advice of the Security Service and the police force to me—this is also my judgment, because I have pushed and prodded them for 18 months about this—is that they will not be able to monitor these men as effectively as they have. We will be putting our nation and its people at risk, which is not what we should do. Indeed, I cannot imagine that that is the intention of this House. I urge the noble Baroness to withdraw her amendment. If she decides to press it to a vote, I strongly urge all noble Lords to vote against it.

Baroness Miller of Chilthorne Domer: My Lords, I thank all those who have spoken in this debate. The Government should take from it a very strong marker that, even if we do not win the vote today—should I push my amendment to a vote—this will be the very last time that this House will take that view.

The noble Baroness, Lady Neville-Jones, laid out very well the frustration felt by those on her Benches about some of the things that have not happened, such as progress on intercept evidence. There has also been very little progress on deportation. I am happy to share the Minister's two insults. I am sure that they were not intended as insults, but the noble Baroness was called naive by the Minister and I have been called misguided. I am in very good company with her if I am going to share the Minister's displeasure. He is in the difficult position of trying to defend the lack of progress that has been made in bringing in what the noble Earl, Lord Onslow, called the safeguards, which should arrive at due process. The Government could have moved the control orders regime towards that regime in the way that has been suggested before and has been spelt out again today in the Chamber, but they have failed to do that.

I fully appreciate what the Government are saying about the danger that might be posed next Tuesday if the regime is not in place, but I notice that the Minister

did not respond at all to the questions about all the absconded terrorists. That, to my maths, is almost a third of—

Lord West of Spithead: My Lords, all I will say is that no one has absconded since I took up my post.

Baroness Miller of Chilthorne Domer: My Lords, that is very good news. The Minister gave us some of the detail of his operational experience, for which I have tremendous respect, but we are talking here about a different choice in operational terms. He knows that other choices could be made.

In his winding-up remarks, the Minister used a very surprising phrase, which I will check later in *Hansard*. He said that,

"we bend over backwards to give all those freedoms to our people".

As we on these Benches see it, we have the freedoms and sometimes the Government take them away, with the consent of Parliament, when really necessary.

Lord West of Spithead: My Lords, if I did say that, I apologise, because I agree absolutely with the noble Baroness's perception.

Baroness Miller of Chilthorne Domer: My Lords, I am delighted that the Minister agrees, because it is an incredibly important point. We want to draw a line today and say that this is such an important issue and that the Government have failed in every direction to move towards due process in this case. For that reason, I beg to test the opinion of the House.

12.45 pm

Division on Amendment to the Motion.

Contents 48; Not-Contents 135.

Amendment disagreed.

Division No. 1

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Ashdown of Norton-sub-Hamdon, L.
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Barker, B.
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Motion agreed.

Immigration and Nationality (Fees) (Amendment) Order 2009

Motion to Approve

12.57 pm

Moved By ***Lord West of Spithead***

That the draft order laid before the House on 21 January be approved.

Relevant Document: 4th report from the Joint Committee on Statutory Instruments.

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My Lords, the Government are delivering the biggest shake-up of the immigration system for 45 years. Improvements and new services do not come for free, and our policy is that the burden of paying for them should not fall entirely to the United Kingdom taxpayer. In accordance with our legal powers, this order sets out new applications and services for which we intend a fee to be payable in future. The proposed fee levels have been published, and will be specified in subsequent regulations in the near future. The fees we intend to charge for each new service will be at or below the cost of delivering it.

We intend to charge a fee for the UKBA to issue a letter to confirm a person's status in the United Kingdom when, for example, that person has lost their initial grant letter or the passport in which their leave had originally been placed. Those are currently provided free on request, at cost to the agency. We believe it reasonable that the applicant, who benefits from the letter, should contribute to the costs. I would like to clarify the position on these status letters, as there was some concern in the other place about whether charging a fee for this service would cause people either to go to their MP, or to make a request under the Freedom of Information Act to avoid having to pay the fee. My right honourable friend the Minister for Borders and Immigration will shortly write to reassure Members on this issue, and a copy of that letter will be made available to both Houses.

I would also like to offer assurances to your Lordships that we believe there will be no adverse impacts on MPs. If the UKBA receives a letter from an MP requesting confirmation of a constituent's immigration or nationality status, the MP will be advised —without charge—of the new application process and will not be sent a status letter free of charge.

I can also confirm that a person could not receive this information through a freedom of information request, as such requests relate only to non-personal information. They could make a request for a subject access request under the Data Protection Act and would receive copies of what is held on file. If a status letter is on the file, they will receive a copy of it. However, this would only cover copies of historical documents on file and would not necessarily confirm current status.

The order also allows us to charge a fee when we provide one of the following optional services: attendance by a representative of the Secretary of State at premises other than at an office of the UKBA or Consular premises; or services provided by a representative of the Secretary of State outside office hours. These services are already charged for outside the UK. We want to be able to set a fee for this service in future within Home Office legislation, and also to have the enabling power to charge a fee for offering the same optional service within the UK. We will return to the House later this month to make further regulations specifying the actual fee levels, relying on the powers in Section 51 of the Immigration, Asylum and Nationality Act 2006 and Asylum and Immigration (Treatment of Claimants etc.) Act 2004, as amended by Section 20 of the UK Borders Act 2007. This will provide your Lordships with the opportunity to debate the actual fee levels the Government propose for the services and applications set out in this order. So there will be an opportunity to look at that in some detail. I commend the order to the House.

Baroness Neville-Jones: My Lords, as the Minister said, this order is in effect one of two parts. He said that we would look on another occasion at the actual fee levels to be paid; today we are looking at the question of the application and the services provided by UKBA, for which a fee should be paid.

We on these Benches have no objection as a matter of principle to the notion of payment for the use and benefit of the range of immigration and nationality applications and services; we believe that those who use the service should contribute proportionately to the costs of the system, rather than having the costs met entirely by the taxpayer. However, I should like to ask one or two questions about the effect of the application of the system.

The Minister has helpfully clarified some of the points that arose in another place, and I am grateful for the information that he has given. On the effect of the fee levels, Britain benefits from visitors and certain forms of immigration. Have the Government undertaken any kind of analysis to determine what effect implementing fees for these services will have on the number of general visitors or skilled migrants? If the number of applications for these services is reduced as a result of the charges that are applied, this money will also be available to contribute to the UK Border Agency's running costs, which is presumably part of the point of making charges.

The Explanatory Memorandum notes that fees and charges are reviewed annually, and that application trends are monitored by a cross-Whitehall fees committee to ensure that fee levels generate sufficient revenue to cover the UKBA delivery costs without adversely impacting on the economy. Can the Minister say more about how this committee makes these assessments and calculations? It will be crucial that we get the balance right and do not end up either with damage to the economy or a reduction in revenue such that there is damage to the revenue base of the service.

Finally, the Explanatory Memorandum notes two things about consolidating fees for immigration and nationality applications and services. It notes that the Government intend to,

"consolidate all previous changes should there be any further amendment to the Order",

and also that the Government are,

"working to consolidate the Fees Regulations which see fee levels in reliance of this Order, to improve understanding for stakeholders, customers, practitioners and officials".

Unless I have misunderstood what that means, why are not the Government currently consolidating all previous changes? It seems an opportunity to do so, so I should like to know why it is not being taken. If it is not, when will consolidation of the fees regulation be completed and when will the new fees for application services that they are considering at the moment be set, so that we have a final system in place?

Baroness Miller of Chilthorne Domer: My Lords, we have obviously benefited somewhat from the debate and questions raised in the other place. I am sure that MPs will be glad for the reassurances that the Minister was able to give today. As he says, the fee levels will be subject to a further debate, which we will work on when it arrives. In the mean time, when UKBA is holding the documents and is asked to provide a letter confirming someone's status, although it has all the other documents for various reasons, because it needs them, would the fee still be charged? If the person has to have letters because their status is not confirmed, because of delays, the UKBA would seem to be making money out of its own delays, which would be an immoral position. The Complaints Audit Committee noted that for 2007-08, there were 1,875 complaints about delays in decision-making. That is five a day, which is a very high rate.

We are discussing in the House—as we were last night and will again next week—the Borders, Citizenship and Immigration Bill. In Part 2 of that Bill the Government have been quite clear on their intention. The Minister himself said:

"We want to integrate migrant workers into the country in a way that benefits both the migrants and the communities that they join".—[*Official Report*, 11/2/09; col. 1130.]

It would be a very unfortunate start to that process if there was a feeling of unfairness about it. While we entirely recognise that charging a fee is reasonable, it has to be in reasonable circumstances and not because of the one that I outlined, for example. It will have to be at a reasonable level, which is an issue that we will address when the matter comes back before the House.

Lord West of Spithead: My Lords, I thank the noble Baronesses for their useful input to this debate. As I said, I am sure that we will be able to take advantage of further opportunity to discuss these matters when we return to them in the near future. So there is an opportunity for further discussion.

The concerns raised around charging for status letters will be addressed in a published response from my right honourable friend the Minister for Borders and Immigration. There is a cost to the UKBA for providing the service and, just as we charge for other applications and services, I believe that it is entirely right that we charge for the provision of these letters, which greatly benefit those who apply for them. Having used a lawyer for some private business, I know that the cost of these letters is dramatically less than the lawyers' letters that have been provided to me.

The noble Baroness, Lady Neville-Jones, asked a number of questions, which I shall try to tackle. On the effect of the fees on numbers, we do not assess the impact of our fees on numbers when we set them. It is based on price estimates and market research and comparing our prices with those charged in other countries. It is a very interesting point that she raises, however, because these measures could clearly have an impact as she describes. I shall go and ask a few questions about that, because it would make sense to do so, even if done in only a rudimentary form, without putting too much effort and cost into it. I thank the noble Baroness for that point.

In setting the fee levels, we work and will continue to work within the strict financial limits agreed by the Treasury. Within that overall limit we set fees, bearing in mind the value of a successful application to the migrant themselves, while maintaining the UK as an attractive destination. We need to do a little more work on that last bit to see what impact it will have. We also take advice from the independent Migration Advisory Committee and the Migration Impact Forum and will continue to work extensively with our stakeholders in the education, employment and arts and entertainment sectors as we introduce these new fees. These issues are addressed. We are working separately to consolidate fees regulations, which set fee levels in relation to this order to improve legibility for all stakeholders, customers, practitioners and officials. They will all have an oversight and a view.

I might have confused noble Lords a little about the immigration status letters. If an MP sends a request on behalf of a constituent, asking for confirmation of their immigration status, information is provided to the MP. We are removing the involvement of the MP in such an inquiry, so that the request is made by the applicant directly to the UK Border Agency, which provides the response directly to the applicant. When the new system is introduced, we will no longer provide a status letter to the MP but will request that the constituent submits an application. I hope that this clarifies that point, with which I probably confused noble Lords.

I am afraid that I do not have the specific answers that the noble Baroness, Lady Miller, asked for, but I will write to her on those points. The proposals in this order are in line with our objective of recovering the costs of the Immigration Service from the users of the system, rather than relying on the UK taxpayer. I seem to have part of an answer for the noble Baroness. Where the UK Border Agency holds documents, would the fee still be charged as a result of any delays? No, these letters are optional and do not, in themselves, confer leave; they simply set out the current status of the applicant. We believe that the fee level is reasonable. I will get back to the noble Baroness on her other questions.

Lord Avebury: My Lords, I have a further question about consolidation, following that asked by the noble Baroness, Lady Neville-Jones. As the noble Lord has frequently told the Committee on the Bill, there is a consolidated version of the legislation on the web. Why can that not also be done with the fees regulations? The Minister also did not explain to the noble Baroness,

[LORD AVEBURY]
Lady Neville-Jones, why the consolidation that is planned for the fees regulations could not have been accomplished in respect of this order. Why could this order not have been consolidated with all the previous orders, instead of leaving it until some future date to achieve that purpose? My main question is about whether the existing regulations are consolidated on the web and where one might find them. Are they, for example, on the UKBA website?

Lord West of Spithead: My Lords, I do not know the exact answer to that question, but I will write to the noble Lord and to other noble Lords who have spoken in this debate. I imagine that the regulations are on that website, but I do not know for certain. I will check and come back on that. I commend the order.

Motion agreed.

Africa: Governance and Law

Debate

1.14 pm

Moved By ***The Earl of Sandwich***

To call attention to the strengthening of governance and the rule of law in Africa; and to move for papers.

The Earl of Sandwich: My Lords, today I want to portray Africa as a continent of hope and opportunity, where the UK retains considerable ties and influence. I greatly regret that conflict has so often taken over the headlines and even the debates in this House.

I would like this to be an Obama debate. Many noble Lords will be familiar with the President's *Dreams from my Father*, which I consider an outstanding work of literature. Africa and America make a powerful combination and it cannot be long before the President turns his attention from the Middle East to the country of his forefathers, which is always ready to welcome him home. Gordon Brown and the President have Africa in common and they will be aware of the serious effects of world recession on Africa. It is likely that they discussed it briefly this week. The noble Baroness, Lady Amos, in the foreign affairs debate last week, mentioned Africa's advances in economic growth and regulatory reform over the last decade. The Minister will agree that Africa should have increased representation at international level, well beyond the G20 meetings.

Today I will concentrate on governance, transparency, human rights and the rule of law. I thank all noble Lords who have signed on for this debate. I shall not, of course, blame them for focusing on some of the negative aspects if they must. I will highlight one country—Kenya—but much of what I will say could apply to other countries where we have substantial interests. I visited Kenya with a CPA delegation last November, mainly interested in the strengthening of Parliament.

I am just old enough to remember the zebras in Nairobi's streets, the last throes of colonial power and the feared Mau Mau. These themes are still echoed in the crossed spears and red-banded shield on the Kenyan flag. Post-election violence suddenly erupted in late December 2007 and January 2008. Hundreds died in Nyanza and other provinces. We visited Kisumu and met dozens of families still displaced in Naivasha, unable to return to their homes.

One year on, Kenya is still fragile under a power-sharing agreement between the major parties, brokered by Kofi Annan and a high-level panel last year. This involves, among other things, implementing recommendations by the Waki commission, which named culprits and demanded immediate investigations by a special tribunal of crimes committed during the violence. The problem is that this tribunal has still not met. Kofi Annan himself had to issue a statement last week that this failure could,

"constitute a major setback in the fight against impunity and may threaten the whole reform agenda in Kenya".

The UN special rapporteur on extrajudicial killings, Professor Philip Alston, last week even recommended, to the fury of Vice-President Musyoka, the sacking of the police commissioner and the Attorney-General for having condoned such killings over a long period. I hope that the Minister, who has been very concerned about these issues in Africa, will again urge Nairobi to press on with the Waki recommendations. It is vital that President Kibaki and Prime Minister Odinga now remove this stain on their joint Administration, which will remain if nothing is done.

We found a panoply of international experts and donors, including the UK, ready to assist. I especially commend the FCO and DfID for following through on a range of projects to reinforce the democratic process, in line with the recommendations of the excellent report of the Africa All-Party Parliamentary Group and the Government's 2006 White Paper. The capacity of MPs has been strengthened; the Kenyan Assembly has had a younger and bolder voice since the 2007 election; and the select committee process is beginning to make Ministers accountable. Some NGOs and the media are demanding greater transparency by, for example, calling for the taxation of MPs' expenses, which would not go down very well here, either. Citizens' groups are analysing MPs' constituency development fund projects to see whether they are really slush funds after all. Will the Minister confirm that throughout Africa our embassies are always looking out for African civil society organisations that can take a lead in governance and anti-corruption alongside international agencies?

One of the key elements of any democracy is an independent judiciary to enforce the rule of law. In that respect, Kenya can easily be faulted, but I would strike a note of caution. The Kenyan writer Binyavanga Wainaina said:

"We are often guilty of using words like leadership, government, parliament and institutions as if they represent solid realities ... But in truth, all these structures are about as solid as free floating gases ... we watch our government float above us like a helium balloon tethered by the flimsiest of strings".

Africans have to beware of constructing too many institutions, while we have to respect the power of family, tribal loyalties and traditions.

My noble friend Lady Stern, who has joined the debate, reminds me that governance must take account of African values and may not meet all the formal criteria. To help to support the rule of law in poor countries, she says, donors should be realistic about justice reforms. They should help Governments to develop more locally based and traditional systems for securing justice in everyday life, such as DfID has researched and pioneered very successfully.

We cannot blame ordinary people for corruption when the whole state is permeated with it and they have no alternative. According to a survey in 2005 by Transparency International, the police and legal institutions are the most fertile ground for bribery, accounting for nearly half of all bribes in Kenya. The police still have the worst ranking, followed by state corporations, local authorities, the prison service and the judiciary. In the private sector, the worst offenders are in the health and construction industries and, of course, foreign companies are often involved. Counterfeit medicines are a big problem, as is red tape. The Kenya Medical Supplies Agency was dismissed last July for holding up supplies to hospitals. Corruption goes right to the top and involves Ministers from all major parties. The former Finance Minister, Amos Kimunya, was implicated in a hotel deal, though he has now been reinstated as Trade Minister.

On the Orange side, there have been accusations against the Tourism Minister for overstated invoices and the Health Minister for millions of dollars missing from the global AIDS fund, which has serious repercussions for us. The Energy Minister has to explain why the Kenya Pipeline Company lost $95 million of petroleum from storage at Kipevu, with Triton Petroleum suspected of collusion. More recently, during the food crisis, the Agriculture Minister and Kalenjin leader, William Ruto, was suspected of allocating tenders for famine relief to his cronies.

Whatever the truth of those accusations, they do not give the Kenyan people confidence in their leadership any more than us. The media are vocal and there have been repeated calls from MPs for Ministers such as Ruto and Kimunya to resign—calls that we might not have seen two years ago. Yet they know that nothing will happen fast: the idea that you help your own people is firmly rooted in African traditions even if Europeans have forgotten it. Sociologists explain it with terms such as neopatrimonialism, clientelism and informality. It is a fact of life. Only when individual Ministers come out and demonstrate that they are not above the law can change be seen to happen.

In Uganda, where we also have a substantial aid programme, there have been some improvements. Uganda's score in the Transparency International index improved from 1.9 in 2001 to 2.7 in 2006 and 2.8 in 2007. The World Bank's global governance indicators showed a similar pattern.

An upbeat OECD report on Kenya last year also showed advances in governance and anti-corruption. There are many small but effective NGOs in Kenya. There is a strong Kenya Human Rights Commission, for example, which was the first to expose the offenders behind post-election violence. Gilbert Sebihogo, a Rwandan who co-ordinates with great skill the network of 32 African national human rights institutions, says that Kenya's commission is one of the most independent in Africa partly because it also represents civil society. From that point of view, Kenya scores high.

I wish that I had more time to refer to the growing influence of women in public life in Africa. For example, yesterday I was privileged to listen to someone representing the Council of Churches in Sierra Leone telling us about the extraordinary influence of the women's movement on the passing of legislation on gender and equality in the past couple of years.

I returned from Nairobi full of confidence. The Kenyan people have great energy and diversity. They deserve to succeed in governance just as they do in business. Incidentally, the newly elected US Administration is doubly popular in Kenya: while the Luo were supporting their very own Senator Obama, the Kikuyu were reportedly backing Mrs Clinton, so now they have been brought together.

I see Kenya as an example of what is going on in many African countries. It has huge obstacles to overcome and yet it shows what can be done through patient international co-operation in the truest sense. Our Government are similarly involved in countries such as Uganda, Rwanda and Mozambique, and I have seen some of the results in those countries, too.

I studied the UN General Assembly report last July on Africa's development needs and looked in vain for signs of progress in the much heralded New Partnership for Africa's Development, which was to be the policy framework for meeting the millennium development goals, as the Minister will well remember. There are 20 new regional infrastructure programmes that are of value. I hope that the Minister will help me because I could not find very much except mention of nine thematic clusters needing,

"to mainstream adequately the integration priorities of the African Union".

I know that the Minister will be familiar with that language from his past experience. I was once a supporter of NEPAD and I would be sorry if it were now seen to bite the African dust.

I turn very briefly to the topic of the moment, Sudan, where the comprehensive peace agreement between north and south still hangs in the balance. I cannot help feeling that this agreement, the product of painstaking diplomacy and considerable sacrifice, is imperilled by the warrant that the ICC has now issued against President Bashir. We must not forget that many others could have received such a warrant. There is something a little too theatrical about the whole proceedings, when the world sits in judgment on one head of state. The question is whether it will have any effect whatever. Meanwhile, I know that many who are working in Sudan have been directly affected and I am certain that our embassy is doing all that it can, as it has many times before, to protect humanitarian workers and get them the passes that they require to have access to places such as Darfur.

One important aspect of the CPA tends to be forgotten: reconciliation within the south. We must not forget the atrocities between southerners as well as

[THE EARL OF SANDWICH]

between north and south. One needs to have more reconciliation between Christians and Muslims, between the many tribes, and between the Government and the church. A friend of mine, Joseph Ayok, who was a parish priest in west Dorset, is the new director of the department of religious affairs in the Government of Southern Sudan. He has particular responsibility for reconciliation and I hope that the FCO and DfID are giving him every possible encouragement. Many of us in the Salisbury diocese are following events in Sudan closely and I am sorry that the right reverend Prelate the Bishop of Salisbury was not able to be here today.

Finally, I would like to take up a point raised in last week's foreign affairs debate. My noble friend Lord Wright was flanked by two ex-Foreign Secretaries when he said that he believed that it was time to correct,

"a serious imbalance between aid and diplomacy".—[*Official Report*, 26/2/09; col. 344.]

The noble Lord, Lord Hurd, wanted to look again at the 2002 Act. In general, they are of the school that aid means the relief of poverty and not diplomacy. I am interested to hear what the Conservative Front Bench has to say about that. I agree in principle, of course, but my experience of the growing range and advocacy of non-governmental organisations and expert bodies in development suggests that diplomacy now covers a much wider field and there are many informal areas where DfID can support it, including the subjects of this debate. I am sure that the Minister will agree privately with this but, as he missed the debate last week, perhaps he will seize this opportunity to reject these allegations. I much look forward to his reply.

1.30 pm

Lord Joffe: My Lords, I thank the noble Earl, Lord Sandwich, for introducing this important and timely debate with his customary passion and concern. There is no dearth of examples of poor governance and weak rule of law in Africa: from the south, where Zimbabwe as a state has all but collapsed, to the west where Guinea-Bissau has come to a standstill after the killing of President Vieira. Somalia is producing a generation of people who have never known of life under a Government and the Democratic Republic of Congo is now known as the "world war of Africa".

This is not to say that the continent is devoid of good governance and a strong rule of law. The new South Africa is a functioning government with a proud record, so far, of democracy. When the ANC lost its faith in former president Thabo Mbeki, he quietly stepped down from office. In 2003, Liberia entered its first period of relative calm in 14 years with the election of Ellen Johnson-Sirleaf to the presidency—the first democratically elected female head of state in Africa. The rule of law was further strengthened with the arrest of Charles Taylor and his extradition to the Hague where he is being tried for war crimes committed during the Sierra Leone civil war. Botswana remains a stable constitutional democracy.

The 2005 Commission for Africa report concluded that:

"without progress in governance ... all other reforms will have little impact".

Good governance, rule of law and development are interlinked and interdependent—without development, government and the rule of law are set to fail and without good governance and a strong rule of law, there will be no worthwhile development.

What distinguishes the stable states from those with weak governance and no rule of law? There are external factors, both in colonial times and now: Western corporate complicity in resource-rich developing countries; harmful trade policies; and, among internal factors, there is corruption and leaders more interested in enriching themselves than their people. The imposition of artificial boundaries and borders by colonial powers cut across ethnic divides, produced unequal access to resources and quarantined land-locked countries from development—as a result, competition for resources in many parts of Africa remain rife. The Cold War has also disrupted African development where realpolitik led western countries to support dictators.

UK corporations are powerful and many do a great deal of good for the African states in which they operate. However, there is a link between the activities of some of our corporations and the fragility of rule of law in some African states. We need to recognise and address that link. Resource-fuelled wars in Africa have caused the deaths of millions and destabilised entire regions. In Liberia, for example, Charles Taylor funded his political and military ambitions through the Liberian diamond and timber trade. It is essential to make all our multinational corporations partners in Africa's pursuit of good governance and the rule of law.

We also need to address the impact of European and USA trade policies on government and the rule of law in Africa. Trade tariffs, farming subsidies and commodity dumping have made it increasingly difficult for African states to generate healthy and stable economies. Many African states are not able to sell their produce even to their own neighbours who can import products more cheaply from Europe and the USA. This has a crippling effect on African economies and inevitably weakens development and with it good governance and the rule of law.

Many African states have to use international aid to subsidise their own agricultural markets, but even then, they cannot compete. In fact, the financial loss caused by farming subsidies is greater than the aid donated by the same subsidising countries. An intelligent reform of subsidies is required: reform that improves the economic viability, both for European and African farmers, and puts an end to the current artificial protectionist market. This was set out in the seventh report of EU Sub-committee D on the future of the common agricultural policy.

The UN defines "governance" as the exercise of political, economic and administrative authority in the management of a company's affairs at all levels. Corruption is an important part of the governance agenda and tackling the issue is key to improving the way governments in Africa function. Long-term good governance and the rule of law are the main ways to beat corruption. Domestic institutions that are transparent, representative and accountable are the key. These include institutions such as a functioning system of parliamentary

committees, a strong audit office and transparency of budgets to ensure that citizens can actively access information, as well as ensuring the participation of civil society, trade unions and parliaments in policy-making processes. Finally, a free and independent media and judiciary are essential.

Our Government can contribute to the fight against corruption through vigorously investigating and prosecuting contraventions of our anti-corruption legislation. There has been very little evidence of such vigour in the last few years. More generally, improved institutions will only work if based on a culture of accountability and if active citizens are aware of, and demand, greater transparency. Donors like the UK should provide more financial assistance to civil society groups and parliamentarians to hold their governments to account for decision making. There is no easy or speedy answer to Africa's many governancy issues and certainly not a simple blueprint of institutions that can be pushed on a country by outside agencies. Good governance took hundreds of years to be achieved in rich countries and is still far from perfect. When the UK was at a similar level of development to many African nations, only one in 10 men were allowed to vote, and these were the richer property owners, and schooling was a distant dream for the majority of children.

In Africa, institutions of democracy already are far in advance of this in the majority of the poorest countries. The African Union is moving into new areas which have the potential to augment the rule of law through the establishment of the first pan-African court—the new African Court of Justice and Human Rights innovates in important ways, including its ability to enforce socio-economic and "group" rights. We need to support this court as a nation and show our commitment to the strengthening of the rule of law in Africa. One African country recently demonstrated how strengthening governance can lead to a peaceful transition of power and a more stable political culture. I am referring here to Ghana, a country that last year conducted elections in which the ruling party conceded defeat without violence in a knife-edge election. In Ghana, the steady spread of civil society organisations, along with other checks and balances on state powers such an independent media, is paving the way for a transition towards more accountable and effective government. Through strengthening civil society, taking action on corruption and improving the way donor countries provide development aid and remove obstacles to free trade, Africa will see the emergence of more countries like Ghana.

1.39 pm

Lord Sheikh: My Lords, I was born in Kenya and raised in Uganda, so the subject of this debate is close to my heart. I thank the noble Earl, Lord Sandwich, for securing today's debate. He and I have recently come back from a trip to Nepal, where, among other things, we looked at good governance in that country.

In 1960, Harold Macmillan said:

"The wind of change is blowing through this continent, and whether we like it or not, this growth of national consciousness is a political fact".

The speech, which was made in South Africa, signalled the British Government's intention to grant independence to many of the African countries.

When the British granted independence to these African countries, they hoped that they would establish a multiparty democratic political system. In 1989, 29 African countries were governed under some form of single-party or military rule, but by 1995, most of the countries on that continent had implemented a form of multiparty democracy and entertained the notion of holding democratic elections. This statistic shows that since the early 1990s there has been a significant change in Africa's political landscape. Between 1960 and 1992 only three heads of state voluntarily relinquished power, but from 1992 onwards that number has risen significantly, to over 40.

In the mid-1950s, Sudan and Ghana were the first two African nations to gain full independence. Their current plights, however, are very different. On 7 January 2009, Ghana inaugurated a new president, John Evans Atta Mills, who defeated the incumbent president in a run-off election on 28 December 2008. To ensure the integrity of the election process, several hundred election observers were deployed throughout the country. The observers were unanimous in concluding that the electoral commission had conducted the election in a credible manner that was peaceful, transparent and generally free of intimidation and other threats. Ghana has gone a long way to establishing a political system that is made up of multiple parties and holds free, fair and competitive elections.

The situation in Sudan, on the other hand, is not so positive. President Omar Hassan al-Bashir and his party have controlled the Sudanese Government since he led a military coup in 1989. There is also the ongoing conflict in Darfur, which is adding to the unstable political environment in Sudan. In fact, yesterday the International Criminal Court issued an arrest warrant for President Omar Hassan al-Bashir on charges of war crimes and crimes against humanity in Darfur. Elections are scheduled to take place in July 2009 but that is now looking unlikely. The UN Secretary-General, Ban Ki-Moon, has said that,

"delays in setting up the requisite infrastructure for elections may make this deadline hard to meet".

The current situation in Sudan is dire and the country will need a lot of international aid and assistance in order to try to implement a peaceful and democratic governmental system.

Zimbabwe is another country that has recently encountered political problems. President Robert Mugabe and Morgan Tsvangirai recently signed a power-sharing deal that aimed to resolve the political crisis in the country. While that was a major step towards restoring the rule of law, there have been problems. Prime Minister Tsvangirai has said that some political detainees are still being held, including a senior member of Mr Tsvangirai's party. He also said that the disruptions on white-owned farms in Zimbabwe were undermining efforts to revive the agricultural sector and restore investor confidence. He said that as long as these matters remain unsolved it will be impossible for the transitional Government to move forward. The UN

[LORD SHEIKH]

Secretary-General, Ban Ki-Moon, said that the UN is ready to help Zimbabwe, but he also said that there would be more support if there was political reconciliation.

The collapse of the Zimbabwean economy is another important issue that needs to be addressed. The Zimbabwean Government have asked for a $2 billion loan to try to restore Zimbabwe's economy and infrastructure. The humanitarian situation in Zimbabwe, with thousands of people dying from cholera, also needs to be looked at. I would like to hear the Minister's response to the current situation in Zimbabwe and ask him what our Government's plans are to provide support for the people of Zimbabwe.

Somalia is another country in crisis. A new president has recently been elected and his aim is to bring peace to the nation, which is promising. But we have to remember that there have been many failed attempts to bring peace to the region, and there has been no effective government in Somalia since 1991. There is no rule of law in the region at the moment and the issue of Somali pirates needs to be urgently addressed. What is the Minister's response on how best we can deal with the problem of piracy?

I turn to the situation in Kenya, the land of my birth. I was very pleased when the power-sharing agreement was agreed between Mr Kibaki and Mr Odinga. There is relative peace in the country, but Dr Kofi Annan has expressed his disappointment that the Kenyan leaders failed to pass a Bill that was to create a special tribunal to try post-election violence suspects. He stated that,

"failure by the Kenyan Government and Parliament to create a Special Tribunal would constitute a major setback in the fight against impunity and threaten the whole reform agenda, upon which Kenya's stability and prosperity depend".

I ask the Minister: what support and financial assistance are we providing to Kenya?

I turn to the issue of aid. Many countries that have pledged aid to African countries are falling short of their targets. Aid from foreign countries is essential to the improvement of conditions in Africa. Improvements have been made in many areas, including governance, and some economies are indeed a lot stronger. If the aid entering Africa slows down, all of the good work that has been done in the past decade is at risk of being undone. It is also important that we base our aid on the condition that certain reforms are met, something which the EU and the IMF are increasingly doing.

In 2005, under the chairmanship of Tony Blair, the G8 countries made a pledge at Gleneagles to donate an extra £12.5 billion to Africa by 2010. I ask the Minister: what were the pledges made by the United Kingdom, and to what extent have we fulfilled those pledges?

I turn to the involvement of China in Africa. The Chinese Government have been providing aid to African countries and have also written-off substantial debts owed by various African countries. China's intention has been to gain access to the continent's natural resources to promote its development. But unfortunately China's aid to Africa has been controversial as there are no political strings attached to the arrangements. The aid has therefore been granted without ensuring that there is good governance in the African states. This scenario is not desirable.

The issue of good governance in Africa is extremely important as without it development of African countries as a whole will suffer. Even though I have given statistics showing vast improvements in terms of democratic elections in African countries, there are still some major issues which need to be addressed: human rights violations, corruption, weak democratic institutions as well as the lack of transparency and accountability in the management of public resources in many African countries. These are the issues that we need to look into to improve the situation.

1.50 pm

Lord Steel of Aikwood: My Lords, we are all grateful to the noble Earl, Lord Sandwich, for raising this important topic. I agree with both noble Lords, Lord Joffe and Lord Sheikh, that one problem with these debates is that we tend to highlight the problems in Africa and do not pay enough attention to the good news. Unfortunately, our media do not pay enough attention to the good news, either. I am chairman of the All-Party Parliamentary Ghana Group and I welcome what has been said about the election in Ghana. It was not much covered in our newspapers. Nor was the presidential election in Zambia, held in the same month, which was equally good. Sometimes we have to remember that, among the troubles of Africa, there is some good and stable news.

I will raise two topics and then turn my attention to two countries. I am very critical of successive Governments for repeatedly cutting our representation in Africa. We are now represented in only 23 out of 53 African states, and that is a shame. It need not be an extravagance. More than 10 years ago, I visited what were then called "mini-embassies" in French West Africa. I went to one in Brazzaville that consisted simply of a bungalow, one accredited diplomat—the ambassador—and his wife, who was his secretary. It can be done on a shoestring in those countries that are not politically important to us. However, the steady erosion of our representation in Africa is a mistake.

My second observation follows what the noble Lord, Lord Sheikh, said. We have been told in a parliamentary Answer that:

"the UK and China have initiated a dialogue covering a range of issues important to conflict prevention and development in Africa",

and that the Government are,

"working to encourage the Chinese Government to endorse the Extractive Industries Transparency Initiative"—[*Official Report*, Commons, 13/6/08; col. 606W.]—

whatever that may be. Will the Minister say how often the parties to this dialogue have met, and what progress has been made? The influence of China in Africa is an important issue.

I turn to two countries with which I have been actively involved. The first is Kenya, my second home. I was looking back at the *Official Report*. I asked a Question in January 2007, a year before the election, about the appointment of the new electoral commission, made unilaterally by President Kibaki without any

representation from the opposition—the first time that had happened. I said that the outgoing chairman of the commission had been quoted in a Kenyan newspaper as saying that if the commission is constituted in a way that people are not happy with, they will not trust the election result. That is exactly what happened: they were not happy with the count and the result was the eruption of violence that we saw.

We welcome the initiative of Kofi Annan and the creation of the coalition, but I agree with the noble Earl, Lord Sandwich, who has, like me, been to Kenya recently, that the coalition has lost its way. First, it was too bloated. Instead of halving the number of Ministers from one party and appointing the same number from the other, the number of Ministers was doubled and each ministry was divided into two. The president presides over a Cabinet of some 40 people, which is ridiculous. According to a recent opinion poll in Kenya, 70 per cent of the population has lost confidence in the coalition.

It is not surprising. The noble Earl gave us a list of recent allegations of financial scandals. However, there are two major ones that have never been resolved: the Goldenberg scandal during the time of President Moi, and the Anglo Leasing scandal, which involved $100 million, during the time of President Kibaki. These issues must be tackled. I hope that Kofi Annan will accept the representation made to him to return to the scene and persuade the coalition to concentrate on the promised constitutional changes, and then lead the way towards fresh elections in Kenya.

The noble Earl mentioned the fact that the UN report talks about the police being out of control. The coalition Government seem not to have been able to do anything about that. More worrying is the recent legislation passed through the Parliament that resurrects the possibility of government intervention in the broadcasting media and newspapers. These are bad signs, and the coalition must be put back on the rails and brought quickly to an end once it has completed its task.

The second country that I draw attention to is Malawi, where elections are due in a few weeks' time, and where the omens are not good. Learning the lesson from Kenya, we need to be alert before the event and not during it. Former President Muluzi has been arrested on charges of corruption. He is alleged to have siphoned off $7.7 million of donor money during his presidency. If he did, they should have arrested him four years ago. Why wait until the eve of an election in which he is a candidate? I do not believe the charges for a second. I know him quite well. I do not think he is above criticism. I remember one dialogue that I had with him about the way in which he funds his political party. He goes around collecting large donations and then shells out bicycles and motor cars to various party branches. I was there on behalf of the Westminster Foundation for Democracy, giving some modest equipment to the party headquarters, and I said that this was not a suitable way to fund a political party. I am not saying that he is above criticism, but this is a trumped-up, last-minute charge, resurrected on the eve of the election. He is not the only person who has been arrested. Another party leader, Mr Chakuamba, has also been arrested. We need to say firmly to President Mutharika that Malawi is a poor country, heavily dependent on aid programmes, and we insist that there should be a proper, fair election, with everybody who wishes to stand being able to do so.

My last point is that when I was involved in the tail end of the life presidency of Dr Hastings Banda, what impressed me was the solidarity of the small diplomatic corps that we had in Lilongwe. Perhaps it was more effective because it was small. There were no more than half a dozen people and I remember going to their meetings. They spoke as one on behalf of the donor community, and that made their pressure effective, leading to the referendum and multipartyism in Malawi.

It is more difficult in a place like Nairobi, where there are more diplomats. However, if we are to avoid the charge of neo-colonialism that is always thrown at us, there must be concerted action by diplomats on the spot, to make sure that no one country tries to wave a big stick. We must also insist that, in return for our substantial aid programmes, the basic rule of law is adhered to, that the press and broadcasting media are free and that elections are fair. That is all. It is reasonable and we should do it together.

1.58 pm

Lord St John of Bletso: My Lords, I am grateful to my noble friend Earl Sandwich for introducing us to this important and topical debate. I will devote my comments to developments in southern Africa, specifically in Zimbabwe and South Africa.

I addressed a conference yesterday on realising Africa's investment potential. A core theme of almost all the speakers was that the precondition for investing in Africa was the achievement of good governance and respect for the rule of law. Good governance has several dimensions. It does not mean just political stability and respect for the rule of law, but also accountability, effectiveness of national and local government, regulatory quality and—just as important—the control of corruption, which has been mentioned by almost every speaker today.

The common denominator of many violent conflicts in Africa is unequal access to land and other natural resources. I welcome the inquiry by the Africa All-Party Parliamentary Group, which is looking at land reform in Zimbabwe. Land reform in South Africa is also an important point that will be one of the core issues that the next president will address. Increasingly, agricultural development is becoming a core objective of many African Governments in their quest to reduce extreme poverty and hunger, which is one of the millennium development goals. One of my concerns is that many African Governments are not sufficiently focused on either addressing or tackling the eight key goals set out in that document. Fresh impetus needs to be given to NePAD. I certainly hope that it will not be the case, as the noble Earl, Lord Sandwich, said, that we are seeing the death knell of NePAD.

Thanks to the noble Lord, Lord Blaker, Zimbabwe has remained a key topical issue in your Lordships' House. There have been many false dawns and some high expectations. Sadly, the situation in that great

[LORD ST JOHN OF BLETSO]
country has gone from bad to worse. I have always advocated the view in your Lordships' House that there should be African solutions for African problems, and that South Africa holds the key to achieving a sustainable solution for Zimbabwe. I have erred on the side of being overoptimistic, but I believe that now, at long last, we are seeing the first green shoots of a potential recovery, following the establishment of a Government of national unity. Just yesterday, I met a delegation of businessmen from Zimbabwe. Beforehand, they mentioned the speech of Morgan Tsvangirai in his inaugural address to Parliament in Harare. Morgan Tsvangirai called for an end to "brutal suppression" to allow the country to gain international aid. I refer to two quotes from his speech:

"Brutal suppression, wanton arrests and political persecution impede our ability to rebuild our economy".

He also said:

"I therefore urge the international community to recognise our efforts and to note progress in this regard, and to match our progress by moving towards the removal of restrictive measures".

I also noted that the new Government would form a national economic council that would include private business and civil society and which would take steps to revitalise the mining industry and stop the "wanton disruption" of productive farming. He also promised that security laws would be amended.

One of the points that I was quite taken with which was made by the delegation was that the supermarket shelves are being filled with produce at long last. Yes, it is expensive, but at least it is some start to the recovery. Petrol is also freely available. There is a real determination by the peoples of Zimbabwe to revitalise the domestic economy and be the masters of their own destiny, not allowing the "gang of six", as they call them, to continue to destroy their lives and their future any more.

Even though the judiciary has allowed itself to be corrupted in the past to survive, it was encouraging that a judge has now ordered the release on bail of Roy Bennett, after he spent nearly three weeks in prison on trumped-up charges.

The delegation's concern was that many of the new members of the Government of national unity from the MDC lacked political expertise and experience, and they were keen that Her Majesty's Government should assist in giving more guidance. I am delighted that my noble friend the Convenor has taken the initiative to try to get a group of Members of both Houses of Parliament to assist in this process.

Many of the mines in Zimbabwe stopped production last year, as they were forced to sell all their gold and other mining produce to the Reserve Bank, for which many of them were not paid. They accused the Reserve Bank governor, Gideon Gono, of massive corruption. Despite stopping production, the owners of many of the mines continued to pay their workers and provide them with food and medicines. Restrictions have now been lifted on gold mines having to sell their products through the Reserve Bank, resulting in the mines recommencing production.

Will the Minister consider a policy of retaining strict sanctions against the perpetrators of corruption, while supporting those companies and businesses in Zimbabwe that have consistently complied with good governance and accountability and which have supported the local community through the dark times? Despite the recent attempts of ZANU-PF war vets and activists trying to derail the Government of national unity by taking over 40 white farms, it is clear that the people and the leadership of the MDC are using their best endeavours not to rise to the bait.

This is a momentous year for election watchers in southern Africa, with elections in Angola, Malawi—as the noble Lord, Lord Steel, said—Botswana, Mozambique, Namibia and, on 22 April, South Africa. With Jacob Zuma, in all likelihood, being the next President of South Africa, many are questioning whether this will lead to a major shift in the country's economic and political strategy. Having met Jacob Zuma on several occasions in the past year, I believe that he has the character to build on the remarkable transformation and reconciliation of South Africa that even the most optimistic of observers did not anticipate 15 years ago. He is one of the few people who can reconcile the diverse elements of the ANC. Despite his somewhat chequered past, the first test of his leadership will be the appointment of his key Ministers in the new Government.

I also welcome the emergence of Cope as another official opposition party in South Africa. This augurs well as a check and balance to ensure good governance and accountability. Clearly, Jacob Zuma will have some major challenges to tackle, including job creation, improvement in education, reduction of crime and taking a much stronger line on trying to ensure a sustainable solution in Zimbabwe. I believe that he has the qualities of strength of character and strength of leadership and the ability to execute his agenda.

There is no doubt that Africa faces many challenges, many of which have been articulated today. Time restricts me from speaking about the important role of women in the governance of Africa. I wholeheartedly support the African Charter on Democracy, Elections and Governance, which was adopted by the African Union in 2007. I shall end as my noble friend Lord Sandwich started his excellent speech: Africa is indeed a continent of hope and opportunity.

2.07 pm

Lord Anderson of Swansea: My Lords, I, too, congratulate the noble Earl, and I thank him for giving us some signs of hope, or green shoots, as the noble Lord just said. I intend to speak a little about the contribution of Parliaments to good governance, particularly looking at the work of the Commonwealth Parliamentary Association. First, I have some random reflections.

As the noble Lord, Lord Steel, said, Africa is so often marginalised. Few of our newspapers nowadays take any notice of Africa; in respect of South Africa, perhaps only some sniping comments. There are few experts in our newspapers on Africa generally. The FCO strategy, as published in April 2008, states:

"We will continue to shift our resources to Asia and the Middle East".

When there is news, it tends to be bad news, of natural disasters, human disasters and failed states. Good

news is often disregarded, for example the good news of Ghana, as the noble Lord said, or the good news of Liberia.

Yet there is much cause for concern. The old excuses or scapegoats of colonialism, neo-colonialism and apartheid have gone. The terms of trade, certainly with commodities, until recently have improved, although agricultural protectionism still reigns. There is corruption, and there is too much milking of assets. This week, we have been reminded by what one ECOWAS spokesman called, "the assassination of democracy"—the fate of the President of Guinea-Bissau—of what happened in Mauritania last summer and the problems of Guinea-Conakry at the end of last year.

There are indeed many self-inflicted wounds. The African Union reached its compact with the rich world in NePAD, to promote good governance. Of course, there have been many failures. The peer-review mechanism has not been as good as we had hoped. On Zimbabwe, equally it has shown pusillanimity. As the Minister will be aware, since he was there, last month the African Union elected Colonel Gaddafi as its president, which is not the best signal of democracy and good governance. Yet the African Union is there and it needs our support. It needs the help of everyone with its capacity-building. Some claim that the problems of Africa are likely to worsen because the cuts in public expenditure are likely to encourage coups; and that Western aid, the millennium development goals, will be under pressure. The US National Intelligence Commission's report published last November suggested there would be increasing vulnerability in Africa. One asks, given the failures, how one can expect to attract the FDI, which is so relevant. Yes, Africans need our help as partners, and there is much support obviously and a constituency for aid in the West. It should be both a moral imperative for us and clearly in our interest in our globalised world, because if we ignore their plight their problems will come to us, in the form of migration, drugs, and crime.

The challenges of Africa are contained in many reports, some gathering dust; for example, the Brandt report. The scale of the task was well documented in the Commission for Africa's report in 2005, in which the head of the commission secretariat said that governance was the main stumbling block to development. Effectively he was saying that the build-up of capacity, the rooting out of corruption and improving the way that Governments can deliver are absolutely vital for the well-being of Africa. This point was well made in an article by our high commissioner in Ghana in the current edition of *The World Today*, in which he stressed accountability, transparency and balance, as he called it, as essential elements.

How, then, do we best help in remedying the weaknesses of governance? Only recently, in my judgment, has the importance of the parliamentary dimension been recognised. This perhaps is the value-added aspect of us as parliamentarians, in that previously the aid agencies concentrated only on the executive branch: making tax inspectors more efficient and so on. As an example of this, between 2003 and 2006, DfID spent just over £1 million annually on parliamentary strengthening, out of a budget of over £5 billion. The changes in DfID came perhaps with the 2006 White Paper, emphasising the important role of parliaments in delivering good governance, while acknowledging that parliaments in many countries tended to be weak and ineffective. The 2007 DfID White Paper *Governance, Development and Democratic Politics*, and the excellent ODI report of the same year, *Parliamentary Strengthening in Developing Countries*, emphasised this same theme. The APPG report, which the noble Lord, Lord Chidgey, contributed to, on strengthening parliaments in Africa, was in my judgment also an excellent contribution to the debate. The ODI recommended that the Foreign Office and DfID should engage more with UK-based institutions such as the CPA, the IPU, the overseas clerks association and the Westminster Foundation for Democracy in parliamentary capacity-building.

I give as an example the work of the Commonwealth Parliamentary Association, internationally and in the UK, relating to legislatures in sub-Saharan Africa. The bilateral programmes are important: seminars, workshops and exchanges. Last month, for example, there was the outward delegation to Zambia, which involved discussions on a partnership basis, with scrutiny and accountability as the key themes. In February there was the parliamentary strengthening seminar in Uganda, which the noble Lord, Lord Chidgey, mentioned in our debate last Thursday, and in which he participated. Currently at Westminster we have the 58th parliamentary seminar, with 16 parliamentarians from sub-Saharan Africa and six Clerks from Africa. This is an exciting new development, as is of course the Westminster Consortium, a five-year programme involving CPA UK, FCO, DfID, the Westminster Foundation for Democracy, the Overseas Office of the House of Commons, the NAO, the International Bar Association, Cardiff and Essex universities and the Reuters Foundation. They are targeting several countries, including two African countries, Mozambique and Uganda. I look also at the way that the partnership between the European Union and the African Union, which was agreed in Lisbon a year ago, is making progress, on a partnership basis, in many key sectors. My only plea is perhaps over the greater need for co-ordination among the several bodies which are involved in this field.

I make one final reflection, on the linkage between development, governance and security. I was saddened to learn of the Government's decision to withdraw the vast majority of police seconded for reconstruction projects abroad, and possibly next year to slash our contribution to civilian conflict resolution. Where, where is joined-up government, between DfID and the FCO? I accept that these matters, the reconstruction, are easy targets because much of it is discretionary, not compulsory as with other sectors. But there is a key linkage between the basic need for security and development. Can there be additional support for DfID for this work? I would urge my noble friend and the Government—although I suspect he is on side in any event—to think again about this. I join with others who feel very strongly about this matter, including the noble Lords, Lord Hannay and Lord Jay, in urging the Government fundamentally to rethink this failed and wrong decision.

2.17pm

Lord Hannay of Chiswick: My Lords, my noble friend Lord Sandwich is to be congratulated on obtaining this debate at a time when it is much needed. As news floods in of continued financial crisis and of sharper economic retreat worldwide, it is all too easy to allow it to drown out the needs of Africa and our own responsibility in helping to meet them—all too easy, but, I would argue, all too wrong. Short-sighted, too, in terms of our own medium and long-term prosperity and security, not to speak of the moral repugnance of turning our backs on a major part of that bottom billion of the world's population who live in Africa.

Nor do self-serving arguments about coming back to Africa's problems once we have sorted out our own economic and financial difficulties make much sense. Africa will not sit patiently by as we do that—urgent challenges will go unmet, individual country situations will slide out of control, and as we have seen in the case of piracy off the horn of Africa, the continent has the capacity to nip our ankles quite painfully and damagingly if we neglect its problems.

In addressing these problems today I suggest we need to avoid two traps. The first of these is to see the whole continent through the prism of Zimbabwe. It is inevitable that we in this country should, for historical reasons, focus strongly on developments in that unhappy country. It is right for the Government to pursue a "wait and see" policy for everything except humanitarian aid, while events in Zimbabwe demonstrate whether the coalition Government represent real change, and a move away from the tyranny of Mugabe, or just tragically more of the same. But we should not regard Zimbabwe as some awful paradigm of Africa as a whole; it is not. There are plenty of African countries that have, with strong international support, made the transition, or are making the transition, from conflict and tyranny to stability and better governance. Look at Namibia, Mozambique, Sierra Leone, Liberia, and look at two countries such as Botswana and South Africa, which have achieved stability by their own largely unaided efforts.

The second trap is to generalise too much about Africa, and to neglect the fact that the continent is composed of more than 50 independent countries, each with its own problems and each with its own need for its own solutions. This is a trap into which even the title of this debate risks leading us but which surely needs to be avoided.

It is hard to avoid beginning any analysis of what needs to be done to strengthen governance and the rule of law in Africa by addressing the problem of conflict. Where conflicts are raging, or are barely suppressed, as they are in Darfur, the Congo and Somalia, among others, it is pretty academic to talk about good governance and the rule of law, just as it is pretty academic to hope that you can achieve economic development and prosperity in such countries. So we need to strengthen international efforts to prevent or resolve conflicts.

The whole burden of that cannot simply be thrust on the UN, which is already reaching the limits of the number and scale of conflicts it can handle at one time. Therefore, Africa's own peacekeeping and peacemaking capacities will need to be expanded and supported far more purposefully and far more effectively than has been achieved so far. That cannot just be done by Africans themselves, important though their contribution and that of their regional and sub-regional organisations will be; it will need finance, logistical back-up, training, specialist military and civilian capacities, and unswerving political support from outside.

Clearly, there is a role here for the European Union, which has already done a good deal. Can the Minister give the House some idea of future EU plans? Can he say whether consideration is being given to joint efforts in this field with the United States now that the election of President Obama offers the prospect of a US Administration which will be more fully and more sympathetically engaged with the problems of Africa than has been the case in the past?

In the same context, I join the noble Lord, Lord Anderson, by raising the context of our own contributions to conflict resolution and peacemaking, and I express the strongest dismay, occasioned by the report in the *Financial Times* of 2 March, that the Government have decided to cut back drastically their support for the civilian components of such operations—police, legal staff and so on. Can the Minister deny that the Government are even contemplating a step which is so completely contrary to their policy over recent years and which is so certain to undermine efforts to strengthen good governance and the rule of law?

That brings me to one of the international community's biggest failures in recent years: the failure to operationalise, to use an ugly but comprehensible word, the new notion of the standard of the "responsibility to protect" citizens of a state whose own Government are either unable or unwilling to perform that duty which every Government have to their citizens. Africa, alas, both before and since the agreement on the responsibility to protect at the UN summit in 2005, has been replete with examples of state failure. Indeed, it was an African case—that of the genocide in Rwanda in 1994—which triggered the international response that led to the adoption of the new standard.

Effective promotion of good governance and the rule of law, not simply external military intervention, is at the heart of this concept. Some African Governments seem to fear that it is just a recipe for military intervention. However, it is important that international efforts to stop countries sliding towards, and then into, state failure should be continued. Last year's review of the European Union's security strategy identified the responsibility to protect as a priority for the EU to promote. Can the Minister say what the Government and the EU are doing to follow up that conclusion? What steps are being taken to demystify the whole concept of a responsibility to protect and to gain wider acceptance of a multi-faceted approach to its implementation, and perhaps wider buy-in and regional support for it from the neighbours of countries at risk? What can he tell us, indeed, about the work of the UN Secretary-General's special adviser on the responsibility to protect?

I spoke earlier of the need to strengthen African peacekeeping and peacemaking capacity, but even more important, surely, is the need to back up with deeds

and resources, not just with warm words, the continent's own mechanisms for promoting good governance and the rule of law, most particularly the African Union's own African Peer Review Mechanism. What progress is the African Union making in persuading its member countries to accept application to it of the mechanism, and what is the track record of countries applying the remedies recommended in the reports made under the mechanism? What are we nationally, and the EU collectively, doing to reward countries that accept the mechanism and to help them to implement its recommendations? This must surely be an integral and sustained part of efforts to promote good governance and the rule of law in Africa.

In conclusion, I should like to raise two particular African cases. In one, Somalia, over a period now of two decades, both before and after the collapse of the Siad Barre dictatorship, both good governance and the rule of law have been almost totally absent. The lesson to be drawn from the present threat from piracy in Somali waters, with which the international community is trying to cope, is surely that such efforts cannot stop at the water's edge if they are to be genuinely effective. That neglect of a country such as Somalia is no solution, however painful the UN's earlier experiences may have been. What is being done now to stabilise this situation and to begin to bring Somalia back from the depths of anarchy and conflict into which it has fallen? What are the Government doing to support Somaliland, the one part of that country in which good governance and the rule of law are not just pious wishes and distant aspirations? How do the Government see the situation of Somaliland evolving in both the near and the medium-term future?

Finally, the second case is that of Sudan, which is in the headlines today because of the International Criminal Court's decision to endorse its prosecutor's view that President Bashir should be indicted for his responsibility for crimes committed in Darfur over many years. I think it is admirable that the court has resisted all the pressures put on it by the African Union, the Arab League and some members of the Security Council to allow politics to triumph over international law. It has thus shown its determination to be a genuine court of law and not a forum for diplomatic manoeuvre. If China or any other country now seeks to get the Security Council to suspend implementation of the indictment, I hope that the Minister can confirm that a very tough set of key performance indicators towards the people of Darfur will be required of the Government of Sudan before any such approach is even contemplated.

2.26 pm

Baroness Verma: My Lords, it gives me great pleasure to take part in the debate, and I join all noble Lords in congratulating the noble Earl, Lord Sandwich, on bringing this important region of the world to your Lordships' House.

My own remarks will be on the more positive progress made in Uganda. Of course, I agree that much more needs to be done. We know that Uganda has had a history of instability, particularly under Amin's Government following the expulsion of the Ugandan Asian population, but today it is among the most stable states in the region. It is very important that we build on the strong relations that we have with Uganda and Africa as a whole. I shall concentrate on only a couple of areas but I should like to say that the many friends that I have in my home city of Leicester who were victims of Amin's expulsion orders still hold a very warm spot for the country that had been home to them for many generations. They have often said that it is time to re-establish the links they once had.

Last year, I attended a conference in Kenya on good governance and the participation and empowerment of women in the decision-making process. Of course, empowerment of women is a global issue and the Kenyan conference made it abundantly clear that African women parliamentarians wanted very much to play an active role in their countries' decision-making. A number of African countries have decided to take affirmative action in ensuring that women can participate in politics, and the implementation of that action in Uganda is closely associated with the coming to power of the Government of the National Resistance Movement in 1986.

The Local Government Act 1997 has operationalised aspects of the provisions for affirmative action, dealing with representation of marginalised groups in local government structures. Implementation of affirmative action has resulted in a marked increase in the number of marginalised groups, particularly women, people with disabilities and youth in politics and decision-making, thereby changing the landscape of politics and decision-making in Uganda.

Women are the most visible beneficiaries of the policy. Increased visibility and effectiveness of women in politics and decision-making have challenged widespread patriarchal beliefs and practices, which in the past have excluded women from such positions. I have close ties with people from Uganda, who have informed me that the inclusion of women parliamentarians has gained promising momentum. I must congratulate such women MPs as Sylvia Namabidde who argue so passionately for free contraception to protect women from sexually transmitted diseases and unwanted pregnancies.

A report from the African quota project examines how the Ugandan Parliament has expanded to include 39 seats reserved for women, one woman from each district. Since its consolidation in the 1995 constitution, women have been guaranteed one-third of all council seats, and women currently hold 24 per cent of seats at national level. This marks great progress in the country when comparisons are drawn with neighbouring Kenya where only 8 per cent of total parliamentary seats are occupied by women. Conversely, it is also evident that neighbouring Rwanda has 48 per cent parliamentary women representation. These are figures that leave many western parliaments struggling to come even close to that sort of representation.

However, there has been concern that, in reality, women yield little power. They tend to be elected by male-dominated electoral colleges in the districts, and women elected through quotas tend to owe their allegiance to the men who elected them. Therefore, although there have been improvements, a great deal more needs to be done. A key lesson I took from the report

[BARONESS VERMA]
and research is that quotas alone cannot promise a democratic, non-sexist Ugandan society and are just one of a number of tools needed to dismantle patriarchal institutions.

Just to touch on education, Uganda continues to make significant strides towards achieving universal primary education. While there is gender parity in the first grade, in adolescence dropouts, especially adolescent girls, are unacceptably high and learning achievement for girls is low. Barriers to education are topped by poverty, socio-economic factors and the indirect costs of education. Girls are more often left at home to help the family. There are more than 800,000 orphans under 15 years of age and, so often, girls stay out of school to care for the sick and for younger siblings. Can the Minister say what is being done through aid funding to support girls who have to care for family members to continue receiving an education?

Making decisions about when and where to spend aid takes a great deal of local experience. One of the most worrying consequences of this Government's enormous expansion of the role of DfID has been the corresponding cuts to the Foreign and Commonwealth Office. The cuts in FCO staff throughout Africa have meant the loss of their local knowledge and expertise. The people who have replaced them might have a good academic understanding of development theory, but little understanding of the local situation and the unique pressures that people are under.

For Uganda and its neighbours to respond to the global challenges facing us all, we have to look very seriously at issues such as water preservation. During the past 10 years, steps have been taken under the Nile Basin Initiative to rationalise water resource management and development through a range of statutes, policies and action plans. They have provided the framework for the rational and sustainable management and use of water, the provision of clean water for domestic purposes to all, the orderly development and use of water for purposes other than domestic use and the control of pollution. The Government's strategy includes providing an enabling environment, with the Government as enabler, and regulatory control only in response to need, at enforceable levels, and combined with economic incentives.

Unfortunately, in Uganda, water resources are not evenly distributed in time and space and therefore large areas of the country are threatened by persistent periods of floods and drought and by uncertainties over the timing of wet seasons. Groundwater is limited in yield and extent, it is often corrosive and recharge rates are generally low. Management functions are currently being delegated to the lowest appropriate levels, and private sector involvement, women's participation and the development of water resources management capacities are being pursued. Can the Minister say whether we are supporting the Ugandan Government in building infrastructure programmes that will help conserve water supply?

Ugandan sugar companies are making significant capital investments to expand their sugar production capacities. Much of the expansion of cane supply is coming from increased cane cultivation by outgrower farmers. Kakira Sugar Works and the Sugar Corporation of Uganda are in the process of installing high-pressure cogeneration equipment, which will enable them to use bagasse—the fibrous waste residue from cane crushing—to produce green electricity for their own use as well to supply the national grid. This will not only help ease the significant power shortfall facing Uganda, but will provide electricity that is more environmentally friendly and significantly cheaper than electricity produced by diesel.

Uganda appears to be becoming more proactive in pursuing renewable energy, but climate change does not appear to be an immediate priority. Deforestation and rapid urbanisation are greatly contributing to the release of greenhouse gases. Currently, the Ministry of Water and Environment has prepared a national adaptation plan of action to address issues of climate change at national level. We must all agree that dealing with the problems of climate change is universal. Can the Minister say whether the Government have joint projects supporting the work on adaptation plans?

Uganda has made leaps in its encouragement of women into politics, particularly when comparisons are drawn with neighbouring African states. However, there remains a widespread challenge to water preservation and although action is being taken in response to climate change, its effectiveness is debateable.

We in the West must see that greater opportunity is provided for countries such as Uganda to be supported in education, skills and investment, and we must ensure that they can trade in equal markets.

2.37 pm

Lord Luce: My Lords, as it is customary to declare an interest, I suppose that I ought to announce that I was conceived in Africa and born in London. That probably gives me a foot in the continent of Africa and a foot in Europe. I, too, congratulate my noble friend Lord Sandwich on his excellent introduction. I find myself in agreement with almost all the views expressed today on this important subject and, above all, on why good governance and the rule of law are so important. They help to create a stable framework within which a country can grow economically and help to reduce poverty. Without that, Africa cannot make progress. Having said that, I agree with the view that it is essential not to be patronising. We must respect the traditions, history and culture of those countries and not expect to impose our systems on the countries of Africa.

If we are going to give assistance, we expect peace and security, about which my noble friend Lord Hannay spoke, proper systems of accountability and transparency, the rule of law, the freedom of the press, effective and impartial public service and many other factors. Some people seem to think that witnessing whether elections have been free and fair is a simple way to judge whether a country has good standards of governance. However, it is a continuous process and one must look for continuing accountability between elections. There has been a lot of discussion about whether there has been progress in Africa. Like the majority of noble Lords, I take the view that there has. We only have to look at the Ibrahim Index of African Governance, drawn up at Harvard University, to see that its analysis shows that in recent years there has been an increase in

democracy of some kind or another on the continent, that, interestingly enough, there has been less violence in the past few years and that there has been quite a lot of progress on standards of governance.

We should bear in mind that, according to the *Financial Times*, there have been no fewer than 90 coups in Africa in the past 50 years and 125 failed attempts. However, as many noble Lords have said, we have seen very encouraging progress in Ghana, Senegal, Liberia and Botswana, but, by contrast, we have seen disaster in Somalia, Zimbabwe and the Sudan. I hope that the Minister will feel able to say something about the Sudan. I agree with my noble friend Lord Hannay that we look to the Security Council to take a lead, but that we have to keep our sights above all else on helping the people of the Sudan. It is their future and their lives that are at stake. Already 300,000 people have been killed in Darfur, but, in the south, over a series of civil wars, 2 million people have been killed and 4 million people displaced. Will the Minister say something about how, however modest is the British influence, we can make sure that the comprehensive peace agreement in the south is implemented and that we facilitate, help and encourage that process.

However, we have to reconcile our concepts of good governance with the characteristics of many African countries—my noble friend Lord Sandwich referred to what are known as neo-patrimonial rules to politics in those countries. I suppose, to put it in one word, it means cronyism. It is based on tribal strength, which leads in turn to intense corruption—Kenya is a very good example of that. Some way has to be found to balance the traditions in Africa, based on tribal and ethnic groups, with the need for adequate systems of governance.

It is essential that both national and international aid donors are robust in ensuring that the money that we give for development—by "development", I do not mean humanitarian aid, which is important on its own, but development of the country—is not used for propping up unaccountable rulers. Here, DfID, I am glad to say, has quadrupled its UK development budget. That is fine if the money goes for proper development. It must therefore be conditional on progress on governance, and it must not make a country so aid-dependent that it removes its own incentive to spark its own development and expansion. We have to be realistic about this. We should at the same time take notice of the views of a growing number of Africans about how aid can be destructive as well as constructive.

I agree, too, with the view expressed today, not least by the noble Baroness, Lady Verma, that while we have seen the expansion of DfID, it has been to a large extent at the expense of the Foreign and Commonwealth Office. It is essential first of all to have a foreign policy framework for the continent of Africa and then to fit the DfID role within it. However, we have seen at the same time, as many other noble Lords have said, a substantial reduction in the role of the Foreign Office. If we do not have information about countries, how can we devise policies about them? We desperately need to restore more strength to the Foreign Office so that we have more knowledge about what is going on in Africa and can do our job more effectively.

It is worth noting that, in the past 50 years, $1 trillion of aid has come from the West to the continent of Africa, yet 600 million people there are still trapped in desperate poverty. We have to think about that very carefully. It is essential that the multilateral bodies, too, play a role. I shall touch on one—the Commonwealth. We should remind ourselves that the Harare Declaration in the early 1990s—Harare of all places!—was a commitment by the Commonwealth to good governance, democracy, the rule of law and the freedom of the press. It is up to the Commonwealth to have a continuous dialogue with its African members on standards of governance, because that is the commitment that all members of the Commonwealth make. A lot of work is going on through the Commonwealth Foundation, of which I had the privilege to be chairman in the 1990s, in fostering civic society, which is expanding in Africa. Civic society can play a prominent role in strengthening governance in Africa. The British Government should work very closely with the Commonwealth on that.

I end on an issue that I raised a year or so. One the most important ways in which we can facilitate improvement in governance in Africa is to encourage those in the African diaspora who live in Britain, America and Europe. They have lived here and acquired great skills, many of them highly professional, but they would like to contribute to their countries of origin if they had that opportunity. A good test case would be Zimbabwe, because, if in the course of time—not yet—we are ready to give it major reconstruction assistance, we should at the same time help to mobilise those in the Zimbabwe diaspora here, who have all the skills and want to contribute to Zimbabwe. I know that the Minister is sympathetic to that and hope that he can say something about it. An African solution for an African problem is to encourage those in the diaspora to go back to their countries of origin where they can.

2.46 pm

Lord Parekh: My Lords, I join other noble Lords in congratulating the noble Earl, Lord Sandwich, on securing the debate and thank him for introducing it with the wisdom and concern that we have come to expect of him. Although the subject of the debate is Africa, all noble Lords but two have concentrated on sub-Saharan Africa, as I, too, shall do in my nine-minute presentation.

Sub-Saharan Africa includes 48 countries and 920 million people. Of the 48 countries, 23 are authoritarian, 12 are democracies and 13 are hybrids. The 12 democracies have different degrees of stability and maturity. Apart from four of them, we cannot say that democracy is firmly entrenched, because one or two elections do not by themselves prove that the institutions are there to stay.

Africa presents a mixed picture. On the negative side, as I have just said, democracy has not taken root in more than half a dozen countries. Two-fifths of the population live on less than one US dollar per day. Seventy-five per cent of HIV/AIDS victims in the world are from Africa. Ninety per cent of malaria-related deaths in the world at large occur in Africa. And a

[LORD PAREKH]

continent with 12 per cent of the world's population has no more than 1 per cent of global GDP. It is also a continent which, happily, unlike Asia, does not have dynastic rule but has long periods of personalised rule. Omar Bongo in Gabon went on for 40 years; our good old friend Mobutu Sese Seko went on for 32 years; and I could mention many more, including Mugabe, who has been going for 25 years.

That is the negative side of the total picture, but there is much good happening, too, which is encouraging. There is a strong desire for democracy. Some of the latest public opinion poll surveys that I have seen show that 87 per cent of the African population is very keen on some form of democracy, and 70 per cent is totally opposed to any kind of personalised rule. Average growth in Africa has been at the rate of 5.8 per cent; low rates of inflation have helped; and external debt relief has released money for social expenditure. Civil war has ended in some parts of Africa such as Liberia and Sierra Leone, and there are also some remarkable success stories such as South Africa, Mozambique and Botswana.

Botswana is particularly interesting. Its GDP has risen one hundredfold since independence. It is the fastest growing economy in Africa. It is non-racial. Sensibly it did a deal with De Beers on its diamonds and used the royalties well. To its credit, it broke with the Washington consensus, which helped it enormously. It set up state-owned companies, nationalised mineral rights, steered the economy to six-year development plans and it is what one academic called "a free market economy that does everything by planning". Economic development is obviously important but not enough. We need to ensure that its fruits are evenly distributed and that it does not lead to plutocracy.

Given that the picture is balanced at one level but has dark signs on the other, what are the sources of Africa's problems? Can we do something about them? Some problems are a result of factors beyond its control, such as the global food crisis, climate change, external interference in various parts of Africa, and so on. Others are its own creation, such as weak state institutions, extensive centralisation, for which it need not have opted but did so, overly personalised rule and institutionalised corruption. There is constant violent conflict and tribalism that have led to a brain drain, the dismantling of infrastructure, constant plundering of natural resources and little climate in which foreign direct investment can flow.

In that context, what are we capable of doing? I have three or four suggestions on what we might do. First, in this kind of mixed situation there is constantly a danger of wanting to return to the 19th century kind of scramble for Africa in terms of energy resources, arms' sales in Tanzania or energy contracts in Nigeria and Angola. That temptation must be resisted.

Secondly, we should stop thinking in terms of China as our competitor or try to recreate conditions for some kind of cold war with China. China is welcome in that part of the world for obvious reasons; it does not have the legacy of European imperialism or the way in which Europeans divided up different parts of Africa and left it in a mess. China does not suffer from that handicap, although it has its own handicaps because of its ideology and lack of familiarity with the African tradition.

I was very interested in the internal debate in the Chinese Communist Party on its strategy in relation to Africa and developing countries in general. China rightly decided that it would stay away from political activities in the country—not favouring this candidate or that. It would not intervene for political or humanitarian reasons but would concentrate on building infrastructure and agriculture. Although that strategy has something to say for itself, it also has disadvantages. For example, we cannot expect China to help us out in the Sudan. But we must not at any cost enter into any cold war rivalry with China. It can be our partner; we can work with it; engage in dialogue and work out patterns of co-operation.

Thirdly, we need to develop new forms of aid partnership—the sort of thing initiated by Clare Short, and proposed by Tony Blair, such as aid related to projects. Something that I have been emphasising in relation to India and other countries is the idea of encouraging the diaspora to return. They will not return for good as they will have struck roots in other parts of the world, but nevertheless some kind of scheme could be devised such that they can go there periodically and co-operate in the construction of the country. It is also important to train African manpower and most important of all, as Botswana has shown, not to insist on a single model of economic development.

My last suggestion is of a more general nature. There is a tendency to think that Africa has a crisis of democracy, bad governance, and that somehow we can "export" good governance and democracy to it. The language of "exporting" democracy smacks of arrogance. It implies that Africa does not have its own traditions of consultation on which to build and which we can creatively adapt to modern times. It also implies that we have somehow perfected good governance and democracy. We have not. The catastrophic mess in which we are in shows that good governance of the economy is not our strong point. The way in which we panicked after 7/7 and 9/11 and imposed all sorts of drastic restrictions on civil liberties shows how easily good governance can be sacrificed in a moment of panic. We should remember that African countries live with 7/7 and 9/11 daily on a smaller scale. It is remarkable and striking that some of them have not succumbed to the kind of panic that we have. It is also striking that in our own country some of our brilliant scientists at our great universities have suffered at the hands of animal right activists, or what I call animal rights terrorists. Professor Colin Blakemore at the University of Oxford courageously stood up to them and paid both a visible and invisible price.

Let us approach Africa as we do other parts of the world, in a spirit of global solidarity, equality and humility, and let us appreciate that just as we have a good deal to teach African countries we might have something to learn from those that have managed to maintain a climate of civility and liberty despite suffering daily acts of terrorism.

2.56 pm

Lord Alton of Liverpool: My Lords, my noble friend Lord Sandwich has shown a remarkable sense of good timing in tabling this important Motion for debate today. It is good that we have been reminded of the considerable achievements in many parts of Africa, from South Africa to Ghana to Uganda. It is also true, as noble Lords have reflected, that considerable challenges remain.

On Tuesday, Raimundo Pereira, the Speaker of the Parliament in Guinea-Bissau, was sworn in as the country's interim head of state following the assassination on Monday of President Joae Bernardo Vierira. In addition to assessing the fallout from this killing, the African Union's Peace and Security Council had no shortage of other issues to discuss when it met in Addis Ababa later the same day. They could have included the civil war in Somalia and the piracy to which the noble Lord Sheikh and others have referred; cholera and instability in Zimbabwe; sectarian violence in Nigeria; and the security situation in eastern Congo. Lawless militias such as the Janjaweed, the Lord's Resistance Army and the Interahamwe have become synonymous with bloodshed and horrific atrocities.

My noble friends Lord Luce and Lord Hannay were right to remind us that it was yesterday's decision by the International Criminal Court to issue a warrant for the arrest of Sudan's President Omar al-Bashir on charges of war crimes and crimes against humanity, that gives an even more topical edge to our proceedings today.

Some 2 million people died in Khartoum's assault on Southern Sudan and between 200,000 and 300,000 people have died in Darfur. That region has seen 2.7 million people displaced, and 90 per cent of the homes there razed to the ground. These millions of lost lives represent a human catastrophe, and it is an indictment of our failure to protect rather than the duty to protect that my noble friend Lord Hannay was right to remind us about.

Darfur is the first genocide of the 21st century—a conclusion I came to when I travelled there in 2004 with Rebecca Tinsley who subsequently founded Waging Peace and provided some of the evidence placed before the International Criminal Court. I took evidence from some of those who had been the victims of the Janjaweed militia, the Government of Khartoum, the regional war lords and their agents. I also visited Southern Sudan four years earlier during the civil war.

I was reminded of some of the horrific personal accounts that I heard when listening this morning to Colonel Samir Jaja, a deserter from the Sudanese army. He described how he had abandoned the army after taking part in an attack on the villages of Korma, Ber Tawila and Sanj Koro in Southern Darfur in April 2003. They were ordered to,

"rape the women, kill the children, leave nothing".

They killed the villagers as well their livestock and the wells were poisoned. Oumba Daoud Abdelrasoul is one of 17,000 refugees in Djabal refugee camp in eastern Chad, which is 90 miles from the village in Darfur from which he fled. He said:

"My younger brother and my two uncles had their throats slit in front of me. I had to watch as others were thrown alive into fires".

He is one of the quarter of a million Darfuri refugees in eastern Chad, along with a further 18,000 displaced Chadians.

It is in this context that we must view the decision in July 2008 by Louis Morino Ocampo, the ICC prosecutor, to indict Omar al-Bashir and consider yesterday's momentous decision of the ICC judges in the Hague to issue a warrant for his arrest—the first against a sitting head of state.

The court spokeswoman, Laurence Blairon, said that Bashir was suspected of being criminally responsible for,

"intentionally directing attacks against an important part of the civilian population of Darfur, murdering ... raping, torturing and forcibly transferring large numbers of civilians and pillaging their property".

She said that the violence in Darfur was the result of a common plan organised at the highest levels of the Sudanese Government. In the 108 countries that recognise the ICC, Bashir is now a wanted man. Although the ICC did not, at this stage, issue a warrant for genocide, no-one should underestimate the importance of this sombre, considered and courageous decision.

A few weeks ago, as an officer of the Associate Parliamentary Group for Sudan, I chaired a meeting to which I had invited Mr Ocampo. We discussed the indictment of Omar al-Bashir and the role of the ICC. Mr Ocampo made it clear that his mandate was to examine the evidence and act accordingly, not to make calculations about politics or diplomacy. Some of those present at the meeting, and others commenting on yesterday's decision, have criticised the prosecutor and the court because of potential political repercussions, particularly on the 2005 comprehensive peace agreement. However, either we have a court that is capable of holding those who kill, plunder and rape to account, or we do not. Despots cannot be permitted to offer the pretext of state sovereignty or immunity to cover up the extermination of their actions against their own citizens.

Bashir's response to the court is also instructive. He contemptuously told the court it could eat its arrest warrant; and Salah Abdallah "Gosh", head of Sudanese security and intelligence, said that he will amputate the arms and cut of the heads of anyone co-operating with the ICC. It is people like this whom we are told we should accommodate. Bahsir's other response has been to demonise and expel humanitarian and aid agencies, which are a lifeline to his beleaguered people. For years, the daily reality for humanitarian aid workers in Darfur has been intimidation from the Government of Sudan, combined with open threats, interference, and randomly imposed restrictions.

Penny Lawrence, Oxfam's international development director, says that yesterday's decision,

"will affect more than 600,000 Sudanese people whom we provide with vital humanitarian and development aid, including clean water and sanitation on a daily basis".

She added that it will also affect 200,000 in eastern Sudan and Khartoum state. This morning, Ken Caldwell of Save the Children pointed out the implications for the 50,000 children it supports.

[LORD ALTON OF LIVERPOOL]

Bashir is a man who has to answer charges of war crimes, who vindictively retaliates against children and refugees, who threatens aid workers and charities, and who seeks to intimidate and blackmail the international community. Remember also that Khartoum has broken every peace deal it has signed in the past six years of violence in Darfur, often within 24 hours of making commitments to honour its pledges and responsibilities under international law. It is an absurd argument to suggest that you should not act against war criminals for fear of upsetting them. The ICC's actions offer long-overdue leverage against a regime that has defiantly persisted with the ethnic cleansing of Darfur, and we should strongly support the court.

I have not heard anyone who has actually suffered at the hands of the Khartoum regime suggest there is a conflict between pursuing both peace and justice. The response in the refugee camps is simply one of disbelief and incredulity that it has taken the West so long to recognise what has been happening in western Sudan since 2003. The Justice and Equality Movement in Darfur has supported the issuing of the indictments, even though it is well aware that some of its members are also being investigated by Mr Ocampo. Justice must be applied without fear or favour.

The exiled Sudanese bishop, Macram Max Gassis once said:

"Peace without justice is like building a house without foundations; it is a pseudo-peace doomed to collapse at the very first storm".

Leaders the world over, from Slobodan Milosevic to Charles Taylor, and now Omar al-Bashir, must understand clearly that if they order or collaborate in the killing of their own citizens it will not be met with appeasement or impunity.

Her Majesty's Government should consider how, with their international partners we can ensure that Bashir is actually brought before the courts. Although the Foreign Secretary, has welcomed the ICC ruling I am surprised that his statement made no mention of what practical steps will arise from it. We need to work with the United Nations Security Council to support targeted sanctions against those most responsible for the violence in Sudan and ensure that there is a concerted and sustained international response, including a comprehensive arms embargo against the Government of Sudan.

I hope that we will hear something from the Minister today about whether we can co-ordinate our actions with those of China. I recently met its special envoy on Darfur and was very impressed by his attitude.

What is being done to ensure that the UNAMID force will become an effective presence on the ground with a competent lead nation and clear command-and-control structures?

There is so much to do in Sudan, and our efforts thus far have not been extraordinarily successful. Millions have died in Africa's various conflicts. Even the Minister is entitled to feel occasionally daunted by the scale and complexity of situations like that in Sudan, but when he does he should take comfort from the words of Thomas Paine, who said:

"Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph".

I hope that that will be the case for the noble Lord. I thank my noble friend for introducing this important debate.

3.06 pm

Lord Chidgey: My Lords, the noble Earl, Lord Sandwich, has rightly received the unanimous congratulations of those who have spoken. It is extremely opportune that he should have secured the debate and given us his views on strengthening the rule of law in Africa. I particularly enjoyed his comments on progress in Kenya and in Uganda, from which I recently returned from an FCO/CPA workshop.

The noble Earl drew attention to the progress or otherwise of NEPAD, a matter to which I shall come back. The noble Lord, Lord Joffe, pointed out that Africa is not without good government and the rule of law and gave some telling examples to encourage us. The noble Lord, Lord Sheikh, gave an insight into his personal roots in Kenya. He was followed by my noble friend Lord Steel, who drew attention to the good news in Africa, in Ghana and Zambia. However, he raised his concerns about the cutting of UK representation in many African states and about where the UK-China dialogue over Africa was going. The noble Lord, Lord Anderson, kindly drew attention to my small attempts to bring this issue forward as part of the Africa All-Party Parliamentary Group's report on strengthening parliaments there.

Just over a year ago, in March 2008, the all-party group published its report *Strengthening Parliaments in Africa*. In July of that year, as the group's vice-chairman and an AWEPA council member in this Parliament, I was fortunate enough to secure a short debate on the report. The issues highlighted in its overarching recommendations are as valid and pertinent now as they were then. In particular, I stress the importance that the report put on the understanding of parliaments in their political context; on engaging local demand and encouraging local ownership of parliamentary strengthening by local MPs, political parties and other local actors; on the co-ordination by development partners together, not operating independently, but working in step, who by their actions can ensure that parliamentary strengthening is evidence based; and on ensuring that development work does not marginalise or undermine local parliaments, which should be encouraged to play their full part in and take ownership of the process.

On more present issues, sub-Saharan west Africa is one of the most troubling regions of the African continent, particularly the cluster of nation states running from the Côte d'Ivoire in the south to Senegal in the north. While Liberia and Sierra Leone have come through bitter and brutal civil wars and have resolved the problems with displaced persons in the refugee camps on the borders—I saw that for myself just a few years ago—neighbouring Guinea and now Guinea-Bissau are capturing the headlines.

A military coup in Guinea in late December of last year and the assassination of the President of Guinea-Bissau this week have caused outrage and turmoil. Of

particular concern to us is that these west coast African states have in the past few years become a gateway for Colombian narcotics dealers, the drug barons, to import drugs on a massive scale bound for Europe in a way that has never been seen before. The United Nations Office on Drugs and Crime reckons that some 50 tonnes of cocaine, worth approximately £1.4 billion, pass through that territory on its way to Europe each and every year. The sheer value of this drug, transported through one of the world's poorest regions, dwarfs the entire economies of some countries and corrupts their security forces and politicians.

Just two months after the coup in Guinea, led by Captain Camara, immediately following the death of President Lansana Conté, the late President's son and his brother-in-law were arrested together with senior police officials on drugs-smuggling charges. There have been confessions by Colombian partners on television in Guinea. Evidence has been produced that drugs hauls, seen and apparently burnt before the national television cameras, were switched at the last minute for a bogus white powder by corrupt officials who then sold the real drugs on in the open market. This is corruption at the highest level. That will, I hope, now stop with this new regime.

Do the Government recognise the extent of this drugs threat and do they have plans to combat it? Can the Government provide us with an update on the arrests made by the military junta in Guinea? We should note the success of officials from the UK's Serious Organised Crime Agency in working with Sierra Leone police to secure the arrest of some 17 suspected drug dealers, impounding a plane that was disguised with false Red Cross markings and carrying over 700 kilograms of cocaine. Thanks to the intervention and guidance of our officials, these people were arrested. Given that success, do the Government have plans to provide similar levels of assistance to other west African countries battling against the international drugs trade?

The reaction to these events within Africa shows that African institutions are now active in seeking to resolve conflicts and strengthen democracy and the rule of law. The African Union has condemned the coup in Guinea and formed a contact group with ECOWAS, the Mano River Union and others to press for early democratic parliamentary elections. That style of outcome follows routes envisaged in the New Partnership for Africa's Development, which was created by the African Union in 2001. The project's key goals—creating political climates rooted in equity, justice and good governance, and developing transparent and accountable democracy based on the rule of law—are part of that process. Eight years on, even ardent supporters are questioning the slow pace of progress.

Nevertheless, NEPAD's key component, the African Peer Review Mechanism, to which the noble Lord, Lord Hannay, referred, is widely acknowledged and accepted. The APRM indicates the steps that can be taken to secure high standards of political and economic practice—the standards that are needed to attract investors in development partnerships. An impressive list of some 29 nation states signed a memorandum of understanding to formally join the APRM, but the danger is that the MOU becomes merely an expression of interest. To date only three countries have been able to complete all the phases of the APRM. Progress has clearly been slow, but we should not let pessimism stifle a project that has so much to offer Africa in terms of producing measures within the APRM that can be taken to establish accountability, transparency and free and fair elections.

Since 2001, NEPAD programmes and priorities have been implemented in many respects. African leaders are now managing conflicts, championing democracy, embracing human rights, adopting sound economic policies and nurturing civil society's role in their countries. Although only a few countries have been reviewed under the APRM, the mechanism provides a platform to evaluate each nation's efforts at productive and representative governance. An important spur to engage more robustly in the APRM process comes from essential development partners, such as the G8 and the African Development Bank. These institutions are making it clear that the seriousness with which they will take the commitment of individual African countries to reform will be guided by their APRM score sheet.

There are good reasons for the African Union to give NEPAD more teeth. At present, however, there appears to be mounting criticism of NEPAD's declining profile among Africans. Since President Obasanjo and President Mbeki left the scene and President Wade and President Bouteflika have had to face other challenges, NEPAD has ceased to be a talking point in political fora. There is now a call to produce new champions of NEPAD. The editorial of 23 February 2009 in Nigeria's *ThisDay* said:

> "In an era of harsh global economic realities, Africa cannot afford to expect any largesse from donor countries and agencies. It is time for African leaders to reposition and face squarely NEPAD's priority areas of market access and tourism, environment, education, health, science and technology, agriculture, infrastructure and political and corporate governance".

This is a clear call from the editor of the leading African newspaper for politicians to be accountable to their people through their parliaments. Who are we to disagree, except to add that the people of Africa expect and deserve nothing less?

3.16 pm

Baroness Rawlings: My Lords, I, too, congratulate the noble Earl, Lord Sandwich, for introducing, to use his words, his "Obama debate". I look forward to talking to the noble Earl another time about aid and diplomacy. A few minutes here would not do that justice. I add my sadness that my noble friend Lady Park is not here to contribute, as her knowledge of this area would have enriched our debate. I am sure that the House will wish to join me in wishing her well and a speedy recovery.

Her Majesty's Government have, over the past 10 years, made international aid to Africa, delivered through DfID, a figurehead policy. Their praiseworthy aims, however, have had mixed results. A long-term trend of slow improvement until 2006 has taken a notable downturn in the past two years, as noted by Freedom House. Nowhere is this more marked than in Zimbabwe. One of the prized examples of the Government's aid recipients, it has degenerated in recent years into one

[BARONESS RAWLINGS]
of the least free and most impoverished African states: just think that its copper mines alone, in 1955, had an output of £130 million, earning the country £40 million. There are lessons to be learnt even from Zimbabwe's most depressing of case studies. My noble friend Lord Sheikh and the noble Lord, Lord Hannay, made important points on Zimbabwe, and it was good to hear a little bit of good news from the noble Lord, Lord St John of Bletso.

It is vital that we do not succumb to the myth that the "big man", however impressive he seems, is the answer. This Government have been willing to compromise too much to establish working relationships with individual development partners who, in return for allowing aid agencies and foreign companies into their countries, take control of much of the dissemination of the funding. Of course buy-in is essential to the success of development projects, but we think that too little care has been taken to make certain that aid does not then support corrupt patronage networks or political elites at the cost of wider political engagement.

The political and economic integration of African citizens should be this Government's primary concern. The corruption and inefficiencies that mean that aid is as likely to end up in offshore bank accounts or in a western company's profit statements as in the wage packets of health workers or teachers can be rooted out only from within. The example of John Githongo, the Kenyan whistleblower who had to struggle for so long to bring the Anglo Leasing scandal in Kenya to the appropriate authorities, is both a sign of the way forward and a warning about how much more there is to do to encourage more like him.

African NGOs and other civil society watchdogs have an enormous part to play in encouraging the accountability and transparency of their Governments, but the successful investigation and prosecution of high-level corruption depends on properly resourced and politically impartial legal systems and police forces, as the noble Lord, Lord Luce, quite rightly said. Until western Governments are willing to cut off aid to people and institutions that perpetuate corruption in these institutions, nothing will change. Of course, making decisions about when and where to spend aid takes a great deal of local experience, as my noble friend Lady Verma so rightly said. She also stressed the importance of support for women's participation in society. A Conservative Government would seek to encourage this by making sure that all DfID staff, on starting a new post, undertook an intensive immersion in the communities that they are there to help.

Much more could also be done to improve transparency about where DfID actually spends its money. There will always be a temptation to focus on grand, impossible schemes that are launched with a fanfare, but it is the small, restrained and realistic projects that often make the most difference. It is not only UK government funding that is currently far too opaque; western companies have been equally guilty, if not guiltier, of perpetuating and even encouraging corrupt methods of governance in the hope of high returns. This Government could do much more to make certain that British companies in particular behave responsibly when investing in Africa—for example, by working with countries such as China and by trying to impress on them that the long-term benefits are often more valuable than the short-term profits.

I have concentrated mostly on institutional failings rather than on the total breakdown in the rule of law that has recently occurred in so many countries—the noble Lords, Lord Hannay and Lord Alton, drew our attention to the latest developments in Sudan—but it is clear that the wars that still blight so much of the continent have been exacerbated and even triggered by the failings and corruption of their Governments, so ably described in the recent outstanding book on Africa by Richard Dowden.

In my few remaining minutes, I will add a piece that I found recently, which I feel is poignant to our debate today:

"Africa is an important depository of raw materials, and the surface has scarcely been thumbed as yet. It produces something like 98 per cent of the diamonds of the world, 55 per cent of its gold, and 22 per cent of its copper, as well as large quantities of various strategic minerals, like manganese, chromium, and uranium. Africa produces about two-thirds of the world's cocoa, three-fifths of its palm oil, and has immense reserves of water power. It could grow every crop on earth. But if Africa is rich, it is also poor. This is one of the overriding paradoxes. Africa is not only vital for what it already has, but is incomparably the greatest potential source of wealth awaiting development in the world. No continent has ever beckoned with more fruitful opportunities".

That is from *Inside Africa*, written in 1955 by John Gunther. How sad to have so little progress after $1 trillion in aid has been made and so little learnt in the past 53 years towards fulfilling this extraordinary opportunity. We heard from several of your Lordships of a few green shoots; I wish that I could be as optimistic. I look forward, as always, to the Minister's reply.

3.24 pm

The Minister of State, Foreign and Commonwealth Office (Lord Malloch-Brown): My Lords, I, too, thank the noble Earl, Lord Sandwich, for raising this subject. His views were wide-ranging and erudite, as always, and he showed tremendous judgment in all that he touched on. He described this informally as the Obama debate, since it took America to elect a Luo President when Kenya seemed quite unable to do so. I was clearly not the first to ask Raila Odinga, a Luo, "What is it about Kenya that America elects a Luo President first?", as he quickly responded, "No, no, no—Kenya was the first to elect a Luo President; America was the first to seat one". Many would recognise the accuracy of his complaint.

I want to echo the point made about the Mo Ibrahim index, which shows that the quality of governance in Africa, the prevalence of civil wars and the rates of economic growth by country are, indeed, all going in the right way. There is more democracy, less war and rather more growth in recent years than there has been for a long time. Nearly everyone in our debate is an Afro-enthusiast and an Afro-optimist. Nevertheless, listening to this debate, we have heard a series of problems raised that indicate just how far we feel that our friends in Africa have to go in the quality of governance and rule of law on that continent.

For a long time, I have felt that we have, perhaps, been at fault in the amount of money that we put into democracy and elections in Africa. It has reduced good governance to having an election every four or five years. In doing so, we have unintentionally created elected dictatorships, where presidents win at the ballot—they often get re-elected time after time there—and can point to an election that has met reasonable rules of competition, and where there has been support for the contest from ourselves and from others. Yet, as soon as the election is over, the Opposition are, too frequently, locked up again or barred from meaningful participation in the political process.

Minority rights are continuously trampled on or overlooked. All too frequently, there is no robust or free media—perhaps the most significant way available to curb corruption, by exposing it when it is found. Instead, too often the solution to corruption seems to borrow from Western notions rather than more indigenous ones, perhaps. Kenya was raised: an example of a country where, I think I am right in saying, MPs are paid more than MPs here, because of a misplaced notion—borrowed, I suspect, from the Singapore experience—that if you pay public servants well, they will not steal. Well, in Kenya they are paid well and they still steal, so it becomes enormously important to approach corruption through something broader than one poorly borrowed notion from elsewhere.

The noble Baroness, Lady Rawlings, has just referred to commodities and the great wealth in them that Africa enjoys, yet the very presence of those commodities has contributed so much to the corruption. The fight to control the diamonds, the oil, the gold and even, at times, the cocoa has led to so much of the continent's bad governance and corruption. Many wiser African leaders have almost cursed that natural wealth, because it has frequently appeared to inhibit and impede good government. The exceptions are few: for example, in Botswana, which was mentioned, diamonds have contributed to a broad-based development and growing incomes. Yet take a similar presence of diamonds in west Africa, and one sees that they have, until recently, only contributed to a history of bad governance in, say, Sierra Leone or Liberia. The fight to build governance must take account of the nature of the African economy and the nature of African societies, and encourage Africa to find solutions. As so many noble Lords said in the debate today, so many Africans want solutions. Perhaps the most encouraging thing of all is the growth of a civil society which deliberately places itself outside parliamentary politics, because it feels in too many cases in Africa that those are corrupt politics, and instead presses for transparency. It presses against corruption and for accountability of both Parliaments and the Executives. It is a very encouraging development.

I have always felt that the case for democratic governance in Africa cannot and must not be separated from the case for reducing and fighting poverty in the continent. The two must be linked; it must be the case that by giving people the vote one is giving poor people the means to hold government to account, to demand from government the basic services of education and healthcare, as well as the basic opportunities of jobs and employment and a decent living for themselves and their families. In too many places, poverty and the accountability for growth has become completely separated from Parliaments and Governments. The two need reconnecting, so that democracy is not a way for elites to renew their power every four or five years and renew their corrupt access to government resources. Instead, democracy must be a means for the poor to demand a better share of their countries' resources and demand that their rights are met. That retooling of democracy to that second objective underlies everything that we would want to see done in this area.

Mention was made of NePAD, which is the economic vehicle that Africa has established for poverty reduction. My right honourable friend the Prime Minister has invited the current chair of NePAD, Prime Minister Meles Zenawi, to come to the G20, accompanied by Jean Ping of the African Union precisely to ensure that, at that G20 meeting, the views of Africa and the poorer parts of Africa are fully reflected and we use the G20 as a vehicle to ensure that an action plan for Africa at this time of global economic crisis is a part of the conclusions of the London summit.

Before turning to the different country situations, let me say that we understand that to establish good governance and the rule of law in Africa needs actions at different levels—the individual level, the state level, the regional level and the global level. I have in a sense spoken about the individual level; we need to see Africans empowered, men and women alike, to be able to demand their rights and to demand access to the limited economic resources of their country. DfID has many programmes, some of which have been commented on today, to strengthen states, their human rights machinery, their legal framework and there parliaments. That is usefully supported by the regional level, where we are working with the African Union to try to support its institutions, some of them new and exciting—from the Pan-African Parliament to its own human rights institutions, as well as a strengthened African Union Commission, with commissioners dealing with many of the areas that touch on today's debates. Beyond that is the role of the international community, of which we are part, to keep pressure on Africa through our aid partnerships and our diplomatic efforts, to continue moving forward as Africans themselves wish towards an era of better governance.

I turn to the many countries' situations that were raised in today's debate and which, in their different ways, are manifest expressions of the challenges that governance still faces in the continent. The noble Lord, Lord Sheikh, and others mentioned Zimbabwe and the call from the new Government for $2 billion of resources to meet the immediate needs of economic stabilisation. Although the noble Lord, Lord St John of Bletso, one of the House's most well-informed observers of Africa, said that he can see "green shoots of recovery", I imagine that, in using that phrase—which is currently somewhat controversial in Britain—he implied a degree of scepticism on his own part about how real such recovery yet was. Therefore, he will not, perhaps, be surprised if I say that we will need to see those shoots grow a little more before we are willing to engage in any broad-based economic support for the Government.

[LORD MALLOCH-BROWN]

We have set very clear tests, including the release of political prisoners; the end of violence; a timetable towards elections; and, perhaps most relevant, a serious economic plan run by honest men. While Gideon Gono remains governor of the central bank of Zimbabwe, there is no confidence on these Benches—or, I suspect, anywhere in the House—that any money handed over would be properly and honestly used. We will continue to support the humanitarian needs of the country as generously as we can. Reference was made to cholera victims growing in number. Here, we are not only providing medical supplies, but supporting the salaries of health workers to make sure that the healthcare system does not collapse.

I turn to Zimbabwe's neighbour, Malawi. As the noble Lord, Lord Steel, says, elections are imminent. It is most unfortunate that one of the candidates—a man well known to the noble Lord, Lord Steel, and myself—has been arrested this week. I have intervened several times with both the current President and his predecessor about the need to make sure that the intense political dispute between the two sides in Malawi does not undermine the multi-party democracy that has been so preciously recovered there. We will be very engaged during the election period.

On Somalia, the fight against piracy is certainly critical. As noble Lords know, we are very much involved in the piracy taskforce; its command centre is here in the UK. Beyond that, we are engaged onshore in Somalia, in the work to stabilise the political situation. There is important progress at the moment and we have been encouraging that with a new President, who has now succeeded in forming a broad-based Government, who have returned to Mogadishu. While there have been ups and downs in security, the basic trend towards a more inclusive politics in Somalia seems to be on course as an outcome of the Djibouti process.

We have had contact with the President of Somaliland, and the Foreign Secretary will meet him. Our position remains the same: first and foremost, the leaders of Somalia and Somaliland must sit down to try to resolve their differences. Beyond that, it is for Africa to take the lead in any change of status that might follow. We certainly cannot overlook the fact that Somaliland is the one part of broader Somalia where there is, at the moment, some reasonable government and development progress. Indeed, some 60 per cent of our development assistance is applied to Somaliland because of the success that is possible there.

I turn to Sudan, Darfur and the ICC, where we welcomed yesterday's decision by the judges of the court to proceed with an indictment. We welcomed it solely on the grounds that we respect the independence of the court and its power to hold people everywhere to account for war crimes and crimes against humanity. The court was established to end the impunities that had allowed these mass human rights crimes in the past to go unpunished. Therefore, we are absolutely committed to that independent judicial process. That does not make us calm about the likely political consequences of this in Darfur and the broader region and we will stay acutely focused on them. The fact that aid workers of non-governmental aid agencies over the past 24 hours have been asked to end their operations in Darfur is a matter of great concern. We hope that that situation will be resolved.

I assure the noble Baroness, Lady Verma, that we announced in 2007 a £70 million, 10-year programme for Uganda. DfID also announced a contribution of £15 million over five years to UN programmes aimed at improving gender equality. Uganda is one of those countries where girls, I am pleased to say, are as likely as boys to enrol in primary school. Participation rates of six to 12 year-olds have risen to 84 per cent from 62 per cent in 1992. A lot of that is as a result of debt relief, which has freed more funds.

I acknowledge that the countries of West Africa have become entrepôts and points en route for the global drugs trade. The Colombian presence in Guinea-Bissau, Guinea and other small countries of West Africa is a desperately serious development and is undermining the governance of those countries. That is reflected in the deaths of the President and the Chief of Defence Staff in Guinea-Bissau in recent days.

I shall hide, as did the noble Baroness, Lady Rawlings, behind the absence of time rather than get into the relationship between the Foreign Office and DfID. Similarly, I fear that I will not be able to address the issue of police and other conflict resources in Europe. I will also plead that that is perhaps a little outside the scope of today's debate. The noble Lord, Lord Hannay, knows that I am extremely concerned to make sure that our discretionary conflict funds remain as strong as ever. While inevitably these economic times require cuts across many areas of government, it would be an absolute anathema to those of us committed to poverty reduction and development if our contribution to the security sector, which is key to stability in so many countries, was inappropriately cut.

I close with a word on the responsibility to protect. Although it is a controversial concept in Africa and things such as the ICC indictment only increase the suspicion of it among many African and other Governments, nevertheless we press ahead because it is an absolutely indispensable concept in today's world. In that sense, the UN report prepared by the Special Adviser to the UN Secretary-General and published recently in New York stresses, we think sensibly, that the responsibility to protect is not just about military intervention: it is more about upstream interventions intended to pre-empt conflict before it occurs—such as Kofi Annan's mediation in Kenya before the situation there turned to wider violence.

Noble Lords will forgive me because I have not done justice to many issues raised, but the time is up and, as with Africa, we will no doubt return to this again.

3.45 pm

The Earl of Sandwich: My Lords, as usual we have swallowed up all the available time. We have not solved all the problems and many paradoxes are unsolved. I thank all speakers who have such a wide range of experience and the right reverend Prelate the Bishop of Chelmsford for his silent witness during our proceedings. I beg leave to withdraw the Motion.

Motion withdrawn.

Economy: Skills Development

Debate

3.45 pm

Moved By ***Baroness Greengross***

To call attention to the case for maximising the talent and skills available to the nation to ensure its future economic prosperity; and to move for papers.

Baroness Greengross: My Lords, I am delighted to have secured this debate on what the Prime Minister has called the "talent challenge". The Leitch review describes this as,

"next to national defence, probably the most important task and priority for the nation".

I declare an interest as chair of the All-Party Parliamentary Group on Corporate Responsibility. We held an inquiry and issued a report last December on this issue. It covered the challenge and the response from many businesses, from which we took a huge amount of evidence. We were excited by many of the positive actions that are being taken to maximise the talents and the skills of our workforce. However, very much more still needs to be done if we are to restore the economic health of the nation when the current economic downturn comes to an end. The Prime Minister, speaking to senior business leaders in December 2007, said:

"British businesses need to do more at greater speed to unlock the talents of our people".

I believe that they do. They understand that they are key levers for change, but they need the support of the Government as well if they are going to succeed.

Some 75 per cent of the people who will be in the workforce in 2020 are already in work. Our education system must therefore deliver people of all ages who are capable of contributing effectively to the future prosperity of our country. Devastating figures have been made available. Business in the Community points out that more than one in six young people still leave school unable to read, write or add up properly. With these figures, is it surprising that 5 million adults in this country lack functional literacy and 17 million adults in the UK have difficulty with numbers? That costs the UK economy about £10 billion each year in lost productivity. This is not surprising, but it really is a national disgrace and the Government need to give us assurances that they have adequate policies in place to address it. As well as better basic skills, schools, colleges and universities must deliver a more work-related agenda to prepare people for employment.

The City of London Corporation, in its report *Skills in the City*, made many points and echoed a lot of this. It said among other things that students should be signposted to further education institutions with established employer links, even if outside the area. Opportunities to improve the levels of local recruitment should be enhanced.

A lot of people argue that in the current dire economic situation neither public expenditure nor business overheads can sustain continued investment in education, apprenticeships, training and talent management. However, Universities UK points out that as a country we lag behind our competitors in the proportion of our population with higher-level skills, and in the medium and longer term our economy is likely to continue to need more, not fewer, graduates. Already the OECD has worryingly reported that, of its 30 members, the UK is 17th on low skills and 20th on intermediate skills. This is very serious. Neither the Government nor business can afford not to invest in the skills and talents of the workforce. If we do not have a solid bedrock of skilled and talented people, we will not be in a position to compete effectively in the lean, mean world that will emerge from the current recession.

Despite the onset of this recession, we have to realise that there are some sectors of our economy where skills shortages have persisted. By 2014, the demand for people to fill science, engineering and technology-related jobs is expected to increase by 2.4 million. Our inquiry report highlighted that one of the Government's priorities has been to focus on key skill-shortage areas. In the light of those figures, I ask the Government what action they are taking to address this issue.

I have already made it clear that for the talent challenge to be faced successfully we need an effective partnership between the Government, local government and business. Our all-party group inquiry concluded that one action that the Government could take to help employers would be to simplify the accreditation route for the development of work-based skills and competences and qualifications, which need to be transferable across employers. This will be very important in an employment market where employees may well be seeking new work involving a change of skills. Employers have to understand what qualifications job applicants bring with them, and employees must have the opportunity where necessary to retrain.

The December 2008 report *Re-skilling for Recovery: After Leitch* said that there should be greater emphasis on reskilling and providing people who are already in the workplace with opportunities to re-enter education regardless of prior qualification. The Select Committee's conclusion echoes one of the conclusions of our all-party group inquiry—that additional training for employees to enable them to enhance their skills and talents is so important that employers should be required to provide a written reason for refusing any employee's request for time off work for training. In an article in the spring 2009 issue of the journal *Ethos*, Chris Humphries says,

"sharpening skills, not neglecting them, is the best way an employer can assist the people it might lose—as well as the people it is retaining".

I could not agree more.

The *London Bulletin*, having drawn attention to the difficulties that its members face in recruiting suitably skilled staff in some areas, goes on to report what some London local authorities have done. The London Treasurers' Graduate Finance Scheme is an example that has already attracted more than 100 graduates to finance roles across participating boroughs. The co-ordinator of the scheme said that the scheme was started,

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"to increase diversity and make our profession more representative of London as a whole".

That is exactly the positive sort of initiative that we need to see taking place in all sectors of our economy. However, I should like to ask the Minister what action the Government propose to take on our inquiry's recommendation that they should require employers to give written reasons for turning down requests from employees for time off for training.

On a discordant note, Universities UK believes that in-work training and retraining have actually been made more difficult because of the funding that has been lost from equivalent and lower-level qualifications. I suggest that the Government have a real responsibility in this regard and I ask the Minister to tell the House what they intend to do to address this important issue.

We know that some businesses are already responding very well to the talent challenge and that Business in the Community and others are doing a fine job. However, what we really need is a high-impact campaign to raise awareness of the scope and urgency of the talent challenge facing the United Kingdom. I hope that this debate will help to draw some attention to the issue. The involvement of so many influential noble Lords should indeed help to achieve that objective.

We must also take on board the fact that our economy will be not only leaner and meaner but also greener: it must use less carbon and be more sustainable. This reflects the views of the majority of our population and is to be warmly welcomed. However, to change societal norms we will need people with new, green talents, and not just in the field of carbon capture and storage. All desk-based workers in offices will face terrific changes in their working practices. There might be more teleworking, as well as lower-energy PCs, networks and servers. We will need more skilled people in the fields of science, technology, engineering and maths—the STEM subjects—and we must invest in those subjects now.

Perhaps the most surprising of the many witness statements to our inquiry came from McDonald's, the restaurants. We do not think of McDonald's as incredibly intellectual, but it has a good story to tell. It has a scheme for apprenticeships that it plans to roll out nationally. The scheme combines continuous professional development with maths and English GCSEs and key skills. Communication and organisation skills are learnt on the job. Maths and English components are learnt online, in the employees' own time. As they develop skills, they are awarded stars and get higher pay. Completing the scheme provides them with a qualification equivalent to five GCSEs, and the management development course has a clear path through four stages, from running a shift to managing a restaurant. These qualifications are becoming nationally recognised. There are many examples like this of splendid initiatives. We need to draw them together, publicise them and get more people involved.

The all-party group welcomed the creation of a single National Apprenticeship Service from April 2009, but recommended that clear accountability for apprenticeship provision should rest with one Minister in one department. I hope that the Minister will respond positively to this recommendation.

We heard powerful evidence about the importance of making the business case for education programmes. Our many examples included BAE Systems, the National Grid and Siemens Industrial Turbomachinery, which have all benefited from such programmes. They organise school visits where children become more aware of STEM-type subjects, because they understand that these subjects will probably lead in future to jobs for them. It was interesting to hear from National Grid, which realised that 40 per cent of its skilled workforce will reach retirement age in the next 10 to 15 years. It is vital for the company to have a reservoir of talent from which to appoint new staff.

We must do something for businesses—in particular small businesses—that set up apprenticeship schemes only to have their apprentices poached. Will the Government consider rewarding firms that train young apprentices who then go off to somebody else, so that in effect they are training for the benefit of the wider community? I hope that the Minister can do something about that.

It is important that we in the UK turn this global slowdown to our advantage. If we invest now in skills and talents, we will be the ones who survive. If we do not, we will face a skills shortage and an uncertain economic future. We have to learn from the companies that are already turning workers with no qualifications into successful managers. We must tackle the lack of investment in vocational training and the related snobbery that we are noted for in this country. Recessions are a time when employers feel most need to make efficiencies and cut costs. However, corporate social responsibility demands that we invest in our workforce now, so that we will be in a position to power our way out of the recession. I beg to move.

4 pm

Baroness Wall of New Barnet: My Lords, I am delighted to be taking part in this debate, which was introduced by the noble Baroness, Lady Greengross. It is always a pleasure to speak in a debate that she is involved in, but following her opening speech is a little nerve-wracking. I thank her for giving us this opportunity to debate this important issue. It is one that is very close to the Government's heart and one to which the Government are committed. I am delighted to be involved in the first debate that my noble friend Lord Young will be replying to; he is doing a tremendous job in his role as Parliamentary Under-Secretary of State for Skills and Apprenticeships.

There are many initiatives out there to encourage and support individuals to maximise their potential by acquiring or upgrading skills, which not only enhances their employment opportunities but gives them additional confidence and improves their skills for life. Many employers, large and small, are taking advantage of the support that the Government are offering to ensure that their workforce has the opportunity to upgrade their skills, often supported by their trade union, in particular by the union learning reps. In many businesses, they work closely with management to ensure that the skills required by the business are made available to their members.

The case for maximising talents and skills is being made to a great extent by sector skills councils, whose role is to support employers to increase UK productivity through skills. Critical among these sector skills councils is Semta, the sector skills council for science, engineering and manufacturing technologies. I declare an interest, as I work with a number of SSCs and Semta in particular. Semta's footprint includes 76,000 companies and a 1.9 million workforce. UK engineering and science turnover was £204 billion in 2006. UK engineering and science exports were £145 billion in 2006, which is some 40 per cent of the total. Business R&D spending is driven by UK manufacturing; more than three-quarters of total business R&D expenditure is carried out by manufacturing businesses. The UK is a world leader in scientific R&D. Semta sector companies provide more than 8 per cent of UK gross value, equalling £67 billion every year.

The importance of these sectors has been highlighted recently by the Government, as Britain looks to industries which will help recovery and ensure that UK plc is up and running as soon as possible when we come out of the downturn. The Government's manufacturing strategy was launched in 2008, with the majority of the commitments to be delivered by the end of 2009. This strategy contains actions to help businesses to exploit new technologies and innovation, making the most of the opportunities that are available.

However, as the noble Baroness, Lady Greengross, said, even before the current recession, science and engineering industries were struggling to develop the skills needed by them to ensure that their businesses thrive and prosper. Among engineering and manufacturing companies, hard-to-fill vacancies in engineering are costing the UK economy £823 million every year; 17 per cent of engineering companies have hard-to-fill vacancies; 21 per cent have skills gaps in the existing workforce and 70 per cent of these are technical skills. Only 11 per cent employ any apprentices or recognised trainees. Among bioscience and pharmaceutical companies, the situation is even more difficult. Some 39 per cent have hard-to-fill vacancies, 22 per cent have science skills shortages, and 29 per cent have skills gaps in the current workforce.

There is also a demographic issue that is worrying. Some 31 per cent of bioscience and pharmaceutical employees and 42 per cent of the engineering and manufacturing workforce are aged over 45. Forecasts prior to the recession estimated that engineering alone needs 38,000 new skilled employees to be recruited every year for the next five years. Many of us recognise that, unless we maximise talent and skills in line with the needs of these businesses, we will stay in recession longer and fail to take growth opportunities when recovery comes.

There is evidence that companies that do not invest in skills during recession are two and a half times more likely to fail than those that do. That is where Semta, using its sector expertise and credibility, can get involved, working with the employers to identify what their skills needs are, how they can get them and how to ensure that the skilled workforce makes a difference to the bottom line. This is now a one-stop shop, and I am sure that the noble Baroness, Lady Greengross, will be pleased to know that a lot of things are happening in the areas she has been expressing concerns about.

Fortunately those that get help to develop a wide and flexible skills base will be well placed to adapt to changing conditions and to respond to future opportunities. Help is at hand, through Train to Gain, and the Compact, which Semta and a couple of other sector skills councils in England now have in their toolkit. They enable employers to access support and funding for a wide range of skills needed by their sector. These include apprenticeships as well as management and leadership for companies with between five and 250 employees.

I ask my noble friend to consider more flexibility around the availability of this qualification, so that it could be extended both to larger companies, so that they have the opportunity to access it, and in terms of the number of employees in any organisation that can take advantage of this valuable and necessary qualification. Businesses are pushing for these two areas. I hope that my noble friend will look at this, particularly in this downturn, when many employers are using downtime in production to support their employees in gaining this qualification. This is a great approach, which has been taken by the unions and management in many, many companies.

Business improvement techniques are also part of the compact, at either level 2 or level 3 NVQ, with the opportunity for funding level 4 currently being negotiated with the Learning and Skills Council, along with, importantly, Skills for Life qualifications such as literacy, numeracy and English as a foreign language—all mentioned by the noble Baroness, Lady Greengross.

Hundreds of companies are already taking up the offer and almost £25 million has been committed to ensure that businesses have the right people with the right skills at the right time. The National Skills Academy for Manufacturing is supporting these initiatives through its network of approved training providers, which are delivering programmes such as business improvement techniques and other key skills to support the businesses.

Last year alone the Skills Academy programmes helped companies to achieve a £12 million benefit for a £2 million investment in skills. That is a 6:1 return on the investment—I would suggest that is real value for money. That is fairly typical of the return on investment from productivity and competitiveness programmes.

Semta-run pilots in the West Midlands showed that for government funding of £18,000, companies got an average of £94,000 in profit in a single year. Just roll this out over 50 companies in each English region, and we could reap a £42 million sustainable improvement and provide 2,400 business improvement qualifications.

Let me share a couple of examples of real life practice that is going on. Wedge Group Galvanizing, which employs 850 people in the West Midlands, by investing in management and team leader development between 2006 and 2008, increased its output by 18 per cent, increased productivity by 7 per cent and customer satisfaction by 20 per cent. Jackson Keay, which employs 70 people in Nottingham supplying gas cylinders and other pressured containers, as a result of doing B-IT

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and leadership and management NVQs, brought delivery lead time down from three weeks to five days, boosted productivity by 40 per cent and increased its turnover from £2.3 million in 2006 to £3.5 million in 2007.

Two weeks ago I visited automotive suppliers PP Electrical Systems in the Midlands. It employs 154 people and has improved its quality from 93 per cent to 99.8 per cent, with Semta support for its productivity improvement programme and its training schools.

I realise that I am running out of time but I want to make a big plea for what we should be doing with regard to young people. I refer to the apprenticeships that have been designed and had targets set for them following the Leitch review. Those targets have been exceeded by 12 per cent but we must not take our foot off the gas.

In conclusion, the Big Bang Fair, held yesterday and today at the Queen Elizabeth II Conference Centre, was attended by 6,000 enthusiastic and energetic young people looking at 14 to 19 diplomas. They were absolutely inspiring. Let us not forget that, when we come out of this recession, it is today's young people and businesses with the right skills that will shape the country's economic future. By maximising the available talent and skills, we will ensure the UK's future economic prosperity.

4.10 pm

Baroness Verma: My Lords, I, too, congratulate the noble Baroness, Lady Greengross, on what is of course a most timely debate. I dare say that I will repeat some of her remarks. As a nation, we face some serious challenges, as well as the difficulties confronting the global economies. I declare an interest as the employer of a small business in the care sector.

It is paramount, especially in the current climate, that we look seriously at how we nurture existing talents and skills and how we ensure that those who require assistance with retraining and reskilling find the process easy and as free from stress as possible. The Leitch report identified an urgent need to tackle the lack of skills in the United Kingdom in addressing the need to become a knowledge-based and skilled workforce. We all know that by 2020 30 per cent of the working population will be over 50 years old, and so there is an even greater urgency not to detract our attentions from the very important need to revisit learning, training and flexibility in achieving qualifications.

As an employer, it is of course in my interest to see that my staff receive the right tools to equip them to carry out their duties properly and to add self-worth to what they do and that, wherever possible, I assist them in acquiring skills outside their job role so as to help the community at large. I imagine that most good employers seek the same sort of return. However, it is increasingly frustrating when the qualifications demanded as mandatory by the Government add very little value to the work that is carried out but are a simple tick-box exercise so that the Government can announce how many NVQs have been delivered. Can the Minister say how NVQs delivered by providers are monitored and assessed? In my own business, the delivery of level 2 and level 3 NVQs has been inconsistent and poor.

Knowing that by 2020 30 per cent of our working population will be over 50 and that jobs are currently being lost across all sectors, will the Government now consider not cutting ELQ funding, as this will impact hugely on those desperately trying to reskill? In fact, 1.44 million adult-learner places have been lost in the past three years. Turning to those who will be our future workforce, surely it is unacceptable that more than 350,000 children did not achieve five GCSEs at A to C grades, including English and maths, and that 128,000 did not even achieve a single GCSE at grade C. We are failing these young people. We also need to look at why 40 per cent of our children still leave primary education having failed to meet the accepted minimum standards in literacy and maths.

To be a knowledge-based and well skilled population, it is essential that we look closely at the quality and depth of the subjects that we teach. It is crucial that, whether young people are taking on vocational education and training or preparing for higher education in FE colleges and universities, our educational systems are rigorous and challenging. STEM subjects will play an increasing part in the development of research and new industries, and in building on our strengths as leaders in the fields of engineering and the development of new technologies. A declining number of pupils have been taking A-level science subjects. Can the Minister say what measures the Government are taking to ensure that more pupils take science at A-level?

If we are to ensure that we retain a leading edge in the world in developing new technologies, the Government must ensure that universities do not have to spend valuable resources providing remedial support to students who arrive poorly equipped in the standards expected of those entering higher education. The Government have trumpeted the benefit of apprenticeships. Apprenticeships are an extremely useful way of providing young people with the tools to enter the world of employment supported by employers and local educational institutions. However, the Government have fallen short of the target they set. I am sure the Minister is aware that employers are keen to support apprenticeship programmes, but they find the process complicated. What are the Government doing to support employers, particularly small employers, to offer apprenticeships? Does the Minister accept that in this difficult economic time some employers may struggle to do so? Is he aware that just 7 per cent of employers are aware of the national apprenticeship scheme? Can he say what measures the Government are taking to ensure that employers and industry are aware of training initiatives?

The Government are obsessed with concentrating all their efforts on one end of the age scale. We are an ageing population. I do not detract from the importance of ensuring that our children and young people receive the best possible start in life, complete with a good education and the opportunity to achieve their best in employment and civic life. However, people lose their job at all ages, and we need to respond to the different challenges that people face in middle age and when approaching retirement. What are the Government doing to help individuals who are not at the start of their working life but more towards its end? Does the

Minister agree that an all-age careers service is crucial and that learning new skills must not be limited to young people?

My final remarks will be on the retraining of women. After the Women and Work Commission produced its report, the then Chancellor, now the Prime Minister, Gordon Brown, in his March 2006 Budget allocated £40 million for retraining and upskilling programmes for women. There are more than 500,000 fewer women in further education or skills training now than in 2005, and an estimated 500,000 women across the UK who want to return to work cannot find part-time jobs. Women returners are not identified as a specific group in the Government's unemployment figures. How many women have applied for retraining since March 2006 and how many have received it? Where has the £40 million been spent? How are the Government monitoring the success of their investment?

This debate is extremely important, particularly in these difficult times. There are many talented and skilled people in our country; if we are to be world leaders, not just average, and to compete with the emerging economies of China, India and other countries and to strengthen our systems at every level, the Government have a lot more to do.

4.18 pm

Baroness Walmsley: My Lords, this is a timely debate, and I congratulate the noble Baroness, Lady Greengross, on initiating it. Since my brief is children, schools and families, I intend to concentrate my remarks on business and enterprise education in schools because if the noble Baroness's objectives are to be fulfilled, we must start at the bottom with young people.

One might ask why children should be taught this subject. There are two main reasons. First, employers tell us so. They complain that school leavers are not "job ready". I do not think they mean just that young people's basic skills—important though they are—or even subject knowledge, are inadequate. I think they are also referring to the soft skills: being able to work in a team; being self-motivated; having an open attitude to learning from experienced people; being able to keep accurate records; being able to relate well to other workers; and even such basic things as attending regularly, being on time, reliable and conscientious. They also complain that young people have no idea of the realities of the world of work: the fact that nothing happens unless you do it; that you have to take responsibility; and that a company has to make a profit or everybody loses his job, a matter which we have all come to realise very clearly recently. Good business and enterprise programmes can teach all these things, engage young people and help them to have fun and enjoy school. The second reason is that we have a responsibility to children to prepare them for life in the real world, which they will enter when they leave.

There are many ways in which young people can learn basic skills and subject knowledge, and schools are addressing the soft skills in a number of ways. Personal, social, health and economic education is now a statutory part of the curriculum, which is right because it is really education for life. There is also the SEAL programme: social and emotional aspects of learning. This develops emotional literacy: how to negotiate in conflict situations, cope with stress and understand other people's feelings. All those are useful every day in the world of work.

However, without these soft skills and some understanding of business, young people leaving education will find life in the workplace very hard and employers will not be happy. So the Government ordered in 2003 a review by Howard Davies of business education in schools, and, as a result of its findings, allocated £60 million to secondary schools every year. That means roughly £17,000 per school, depending on size.

The schools can spend the money in many different ways but, before they start, there are certain basics to consider. Ofsted recommends they develop enterprise learning as part of a coherent programme of vocational and work-related learning, establish a clear definition of "enterprise learning" and ensure that it is understood by staff and pupils alike, identify the learning outcomes that they are seeking, recognise that enterprise learning has implications for teaching and learning styles, and develop effective methods of assessment.

Pathfinder projects show that the most effective schools take an inclusive approach: providing in-school training for staff, who then include enterprise learning through changes to lessons in other curriculum subjects, as well as through specific enterprise activity. At key stage 4, students now have to do five days of enterprise activity. It is a pity if schools feel that the only thing to do is find work experience placements for them. Apart from the fact that this can be very difficult for schools, some of the placements are pretty meaningless. I have had a number of students working with me during their work experience week, so I know that it can take up a lot of one's time finding suitable and useful experiences for them.

However, schools can do other things, such as business or community projects, mini-enterprises or attending enterprise days and events. A good example comes from a school in Hertfordshire and was targeted at year 10 vocational education students. The aims were to develop entrepreneurial skills, create links with community partners, open up vocational routes into FE, produce resources to share with other schools and publicise their success. An outside training provider delivered a three-day inset course to the staff called "Nurturing the Entrepreneurial Spirit", which helped staff plan and develop a number of small-scale vocational enterprise projects and create a choice of learning opportunities.

In a short time, the mixed group had a horticultural enterprise project linked to a BTEC course and accredited by a local FE college. The first venture produced bulb and plant bowls for sale, but the project expanded from there and enhanced the young people's self-confidence as well as leading to qualifications.

There are many successful examples of this kind, but Ofsted reports that they all have in common the fact that they gave staff sufficient time to develop the programmes. A technical college in an inner London borough had a particular interest in entrepreneurship following a visit to secondary schools in the USA. In particular, the staff on the visit looked at the National

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Foundation for Teaching Entrepreneurship (NFTE) schemes of work and decided that they could be adapted for use in their own school. Staff were sent to Massachusetts to receive NFTE training and a pilot programme was set up with disaffected year 10 students, which was very successful.

However, there is no need to go to the USA since the NFTE programme is now available in this country under the banner of the Enterprise Education Trust—which brings me to the subject of partners. This organisation is one of many partners working effectively with schools to deliver business and enterprise education.

The trust now reaches up to 90,000 pupils a year and works with more than 2,000 companies that provide managers to go into schools to inform, involve and inspire young people about business and enterprise. NFTE trains teachers to deliver its BTEC accredited personal development programme and it is currently negotiating a place in the new scheme of diplomas. Students are taught practical enterprise skills and run their own businesses to make real money, which is a great motivator. Real business people come in to help. NFTE has a particular focus on social disadvantage but an evaluation of the programme by the University of Warwick found that it was used effectively across the ability range, engaging the very able as well as less able students. I think that this is very important, since we should not be seeing programmes such as this solely as a way of engaging the disengaged, although they do. We need the brightest and best to go into business and not to see academia and the professions as their only career options. Our country needs very bright people to take up careers in business.

The trust also runs Business Dynamics which runs one or two-day programmes in which business people come into schools and talk about their jobs. Young people can get first-hand information right from the horse's mouth about career options, what skills they need to go into different careers and on the financial side of business. The trust's Achievers International programme gives students the opportunity to trade online with schools overseas, developing their entrepreneurial, ICT, communication and modern language skills all at the same time. So, there are lots of options.

The £60 million of Davies funding for business and enterprise education is not ring-fenced but relies on inspection by Ofsted. The result in practice has been that a lot of the money has not been spent on B&E education but on other school requirements, as shown by the DCSF's own research. The use of this money for other things is particularly marked in schools in disadvantaged areas which are under acute financial pressure. However, it is exactly those schools that the Government wanted to help by giving them the money in the first place.

The consequences of this are twofold: the Learning and Skills Council and related agencies have largely stopped their funding, which was once very significant; and private companies are now less likely to fund enterprise education because they have the impression that the Government are doing it. I am a supporter of devolving management of funding to schools to let them make their own decisions and I am not usually in favour of ring-fencing. However, this situation requires some sort of action. I can quite understand schools that do not have enough funding to provide for pupils with special needs diverting the Davies money in that direction. Of course, under the Liberal Democrat policy of the pupil premium, schools would not be in that position. However, there is plenty of choice of willing and able partners in the marketplace to help schools with B&E education and it is important in the interests of all their pupils that this work is done somehow. I finish by asking how the Government plan to address this difficult situation.

4.28 pm

Baroness Warnock: My Lords, I am very grateful to my noble friend Lady Greengross for securing the debate. I am sure that there is no one who does not agree that there is a very strong case for maintaining skills and talents, and fostering them. At present, it is not just an obvious fact but an urgent need in this country. It calls, as my noble friend said, for a campaign across government departments so I very much hope that the Minister is on close speaking terms with his colleagues as this will involve much more than one ministry.

I want to address not the general question but to concentrate particularly on the question as it relates to adults, many of whom are newly unemployed and seeking to increase their skills and acquire new qualifications to help them to look for work. Although I do not intend to address the general question, I have three small points, so it is very much a matter of the trees rather than the woods.

First, it is essential that jobseekers should have flexible access to further education and training and should be entitled, as far as possible, to free further education, subject perhaps to means tests. I hope that the Minister can assure the House that the Government will take a new look at the whole question of fees for mature students and part-time students, because they are a great disincentive for someone who has been recently made redundant to believe that they cannot get financial support if they want to retrain or train for employment for the first time.

I beg the Government to take the question of part-time and mature students extremely seriously and not create an obstacle whereby they incur huge debts that will simply exacerbate the terrible position that many people are in as they face unemployment for the first time. This is a very important point and the whole question of jobseekers and jobseeker's allowance should be clarified and simplified so that it is possible for people to count as jobseekers and be paid jobseeker's allowance while engaging in one or two years' training or in part-time training and courses. At the moment, the situation seems unclear. I ask the Minister to assure the House that a new look will be taken at our newly dire situation.

Secondly, my sadly missed friend Lord Dearing invented the concept of the language ladder up which talented students at school or college could climb fast, according to their ability rather than age, gaining progressive qualifications as they went regardless of

age, on the model of the long-established Associated Board of Music examinations, which people can take after approximately a year's work—less if they are very talented. Schoolchildren and grown-ups should be able to work together to take these recognised qualifications. This works well for languages, and the proposal was welcomed by the then Minister, the noble Lord, Lord Adonis.

The language ladder is in place in a lot of schools and colleges. The scheme should be extended to encompass more than schools and colleges, including adult learners who could join classes wherever they were held locally, and either brush up their rusty language skills or start to learn a new language alongside their juniors. I know that this would require a certain amount of negotiation at local level between individuals who wanted to join a class and the school or college that was providing it, but this kind of thing has been going on in community schools and colleges for a long time, it generally works well and is to everyone's advantage, including young people who benefit from having adult classmates. That is also very much appreciated by teachers, who like teaching this kind of mixed group of people at different stages of maturity.

It is important that the concept of the ladder should be extended beyond school and college, but it should also be extended beyond languages, because many technical subjects, such as IT and others, could well be taught whereby talented people could increase their skills and climb up the ladder fast, alongside their younger classmates. I hope someone can take responsibility for ensuring that this ladder approach to step-by-step qualifications is extended beyond school and music or languages. People seeking qualifications, such as the newly unemployed, could latch on to diploma courses originally designed for 14 to 19 year-olds. Having adults latched on would be beneficial for everybody. Many people, particularly women now facing unemployment, left school with very few qualifications and this would be a chance for them to catch up.

Thirdly and lastly, the Government's commitment to inclusive education generates a vast and largely under-filled demand for teaching assistants, many of whom bear the greatest part of the burden of supporting children with various disabilities in mainstream schools. It is essential that these people are properly trained. Access to proper training for teaching assistants, which might in some cases lead on to full teacher training but need not necessarily do so, ought to be widely available to people facing unemployment, whatever their age and sex. We urgently need teaching assistants if standards in schools are to be raised. They would fulfil two functions: first, they would be learning how to do something which they did not perhaps know they had the skill to do but found that they have, and secondly, they would be supporting a large number of children who are struggling at the moment, often largely in the hands of untrained and inexperienced young teaching assistants. This is, in a way, the creation of a new profession, which would be extremely well adapted to those now facing a future without employment, not knowing what they are going to do. These training courses should be widely advertised and offered to the newly unemployed, both men and women.

I hope the Minister can promise that such a scheme will be looked at. Advertising these courses is an important part of what the noble Baroness, Lady Greengross, said about the need for a campaign. We need to face our dicey future with the knowledge that a lot of people need help now but will willingly take on training and new learning and should be encouraged to do so.

4.38 pm

Lord Cotter: My Lords, at a time of financial and economic crisis, it is understandable that businesses cut back. Difficult as it is, this is not the time to neglect training and skills. It is more urgent than ever to provide our workforce with the skills they need. I quote here from a report by the All-Party Parliamentary Group on Corporate Responsibility:

> "As the economic situation facing the UK and the rest of the world becomes more difficult, the talent challenge becomes more not less critical".

And I pay tribute to the noble Baroness, Lady Greengross, and the All-Party Parliamentary Group on Corporate Responsibility for its effective and instructive inquiry.

Our debate today is important. Only through government, employers, educationalists, the workforce and parliamentarians working together can we meet this challenge on skills. When we learn from OECD statistics that our 45 to 54 year-olds are rated 17th in the world for their level of education, and workers in their 20s are judged to be 25th in the world, we know we have a problem. The corporate responsibility report put the challenge neatly:

> "The need for a high level campaign on skills and talent must become as familiar and urgent as the issue of climate change".

I will talk about the issue from a business perspective. Before becoming a parliamentarian, I was in small business, latterly as managing director of a 30-employee plastics manufacturing company. I can truly say that in my time in business some years back, I cannot claim to have really put training at the top of my agenda. Therein lies the problem. In a small business, be it a shop, a service or a manufacturer, you have to deploy many skills, particularly because, as an owner or owner-manager, time is your enemy. That is why I welcome the culture in which we operate today, with its emphasis on skills, vocational education and stepping up apprenticeships. The message needs to be strong on training, and bureaucracy must be kept to a minimum. Wherever possible, financial help must be available to the small business sector.

Again, in my time in business, one area which I considered very important and in which I tried to influence my workforce—I did so in other areas as well, of course—was management, so my key plea today is that there should be awareness that quite often our management skills in this country are very low. I had to address this when I took on my business, and it was one area in which I managed to have some success. Management is a talent and a skill which not every business provides.

When talking from a business perspective, we need to listen. Strong messages go out, such as, "Businesses not only should but must invest in skills or they will not survive". I agree, but the powers that be need to

[LORD COTTER]
know that small businesses can easily agree but not so easily achieve. There have, over the years, been placements of civil servants in companies such as BP and many big businesses, but I recommend to the Minister that the legislators, be they civil servants, Ministers or parliamentarians, are released to work not only in large businesses but in the small business sector, whether in a garage, a shop or wherever. I guarantee that, in a short time, the people involved would see just what challenges small businesses face.

At this point, I am indebted, as I am so often, to the Federation of Small Businesses, which is working effectively to promote the interests of this sector. In a recent report on apprenticeships—to return to the need to help the small firm—it says that microbusinesses in particular struggle with the administrative burden of setting up an apprenticeship, organising training and securing financial support. It is said that 99.3 per cent of all businesses in the UK are small businesses, so it is important for the small business sector to be engaged. It must therefore be enabled to be involved as easily as possible. The Federation of Small Businesses called for the greater use of group training associations. Such associations can help to remove the burdens of bureaucracy involved in taking on apprentices, but I strongly suggest that they should be well represented by those with experience in the small business sector.

As part of a campaign to help small businesses to participate, the financial help that is available needs to be publicised. Following a recent survey, it emerged that 95 per cent of businesses were unaware of the wage contributions that were on offer to train an apprentice. However, there are problems with the finance on offer; it is too bureaucratic to obtain, too difficult to understand, and when firms take up the opportunity they say that the money does not reach them for as long as three months. We need more publicity about what is on offer and more efficient payment procedures. Why can we not have payment within a month? I hope that the Minister will take account of that point, and others pertinent to the small business sector. Another recent finding, from a survey of 9,000 SMEs, was that only one-fifth of respondents indicated that they expected to increase actual expenditure on skills and training over the next two years, so there is still much work to be done.

I thank the noble Baroness, Lady Greengross, again for this debate and for the work done within the corporate responsibility group. Many other organisations are showing great commitment in this field, be it the IoD or all sorts of others concentrated there. That kind of concentration was not there when I was in business. It is impressive to see how much effort and enthusiasm is going into this, and how many organisations are involved. We somehow need to keep up and increase training, so that we can fully take advantage of opportunities when we reach better times once again.

4.46 pm

Lord Broers: My Lords, I, too, congratulate and thank the noble Baroness, Lady Greengross, on introducing this debate. I also congratulate her on her excellent and comprehensive opening speech and work in this area. This subject has become especially important now that the huge sums of money that we earned in recent years in the financial sector are likely to be much reduced, and more of our workforce will have to turn to making things to sustain our gross national product and, perhaps more importantly, to contain our ballooning trade deficit. We will only succeed in that by increasing the fraction of our workforce who are capable of making things, whether they be physical objects, works of art, entertainment or culture, rather than merely being able to profit from handling other people's money.

I will leave it to others to extol the virtues and needs of the creative industries, as they are called; I hope that someone does that today. As an engineer—and I declare my fellowship of the Royal Academy of Engineering, and my membership of the national academies of the United States, China and Australia—I will concentrate on some of the skills needed to create and manufacture new products. Several ingredients are needed to create successful new products. First, we must understand what people need and want, so that we produce popular things. Secondly, we need ambition and leadership. Perhaps most importantly—along with needing a strong science base—we need innovation, underpinned by excellent design and engineering. Finally, we need adequate and efficient funding. All of these will require talented people with a rounded education across a range of skills.

It is not sufficient to have a strong science base—which, of course, we do—we must also have a good understanding of the needs and desires of the market, and the engineers to put science into practice and produce the manufacturing systems that will get the products to the marketplace before our competitors. I shall talk about the breadth of our education system and the distribution of talent across that range of activities, first, as regards technicians—as many of your Lordships have already done so excellently—and, secondly, as regards research engineers: those, like me, who have spent their lives attempting to design high-technology products that never existed before, or to use new ideas and science to improve existing products. The engineers who do this must have a thorough knowledge of the science that underpins their subject and a practical knowledge of finance and manufacturing. But it is also important that they are supported by expert technicians, who are practised in the latest art of their subject.

Traditionally technicians have been trained through apprenticeship programmes that involve on-the-job training coupled to more formal study at colleges and universities. Regrettably, many of these programmes were abandoned in the recessions of the 1970s and 1990s, at least by the less successful engineering companies. As we have heard, many companies are unaware of national apprenticeship schemes today. Companies that sustained their training programmes have in general benefited and flourished. Expert technicians are a precious resource that should be protected at all costs, especially in a recession. Government support for technician training has been essential in good times, and should be extended now to help in the current crisis.

It is also important to train mature workers, as well as those leaving school. There are many working as electricians, plumbers, builders, et cetera who are capable of being trained and taking on more complex tasks, for example in the aerospace and energy industries. There are also technicians in fields that are no longer relevant, who will be eager to be retrained if the resources are available. Finally, there is a crucial need for more technicians to run teaching laboratories in schools. The poor state of school laboratories was a major factor, identified by the report of the Select Committee on Science and Technology in 2006 in its inquiry, which I chaired, into science teaching in schools, as explaining the fall-off in the number of students wanting to study science. Will the Minister confirm that the Government are doing as much as they can to support the training of technicians of all ages for industry, and for schools?

I turn to the creative professional engineers. In many, perhaps most of our competitor nations, especially the emerging economies, the career of choice for young people who have the ability to excel in science and mathematics is engineering. Many of these talented young people will also have the ability to excel in the arts, humanities and social sciences, but they will choose engineering, because they see it as being the most effective way in which to change the world. In the UK, the exceptionally talented are more likely to be advised to pursue careers in law, medicine, science, the arts, the Civil Service and even the media. This will be reinforced by what they see around them in terms of recognition and reward. Fortunately, this situation has improved somewhat, particularly in our top universities where engineering applicants are as highly qualified as any other group of students, but we would be deluding ourselves if we thought that the fraction of our most brilliant young people wanting to be engineers is comparable to that of our rivals.

We need to do more to allow young people to learn about the excitement of careers in engineering if our nation is to prosper. Part of the problem is that our secondary education system that relies on A-levels in practice forces young people to choose between the arts and humanities and science and engineering at a very early age when they do not have sufficient information themselves to make a decision. They are forced in effect to accept what their teachers and parents say rather than wait until they can judge for themselves. By the time they have the information it is often too late as they do not have the breadth of subjects needed to change. This is especially the case for engineering, for which many universities are only interested in mathematics and physics. For this reason, I prefer the broader curriculum of the international baccalaureate, but I realise that I am in a very small minority in wanting this and that our universities are unlikely to give up wanting students to be highly specialised so that they can handle specific courses.

What we can do, and what we are doing, which I strongly support, is to develop programmes and events for young people that will tell them about the excitement of careers in engineering and science. As the noble Baroness, Lady Wall, told us, just such an event is going on at this very moment only a couple of hundred metres away in the Queen Elizabeth II Conference Centre. This is the Big Bang UK Young Scientists and Engineers Fair, organised by the Engineering and Technology Board and the Science Council, and supported by all of our engineering and science academies and institutions. It is a landmark event, celebrating young people's achievements in science and engineering, which includes inspirational shows, workshops and presentations—covering the entire science and engineering community—to stimulate young people, ensuring that this talent is nurtured for the future. This is just the sort of thing that we should be doing.

I end by asking the Minister for reassurance that the Government recognise the importance of attracting the brightest people to creative engineering, and are doing what they can to ensure that young people are aware of the excitement of careers in creative engineering. If we are to sustain our gross national product, let alone balance our trade, we need the brightest engineers we can find.

4.56 pm

Baroness Garden of Frognal: My Lords, I, too, thank the noble Baroness, Lady Greengross, for initiating this debate. It is always timely to discuss raising the profile of skills and encouraging practical achievement, but it is particularly timely when set against the current financial situation.

In this country we have, for generations, held academic and intellectual achievement in high regard, and the UK retains internationally renowned universities that compete with the best in quality of teaching and research. We applaud this success, but regret that it has been at the expense of, rather than alongside, our regard for work-based skills. As noble Lords have pointed out, we face a shortage of people with the higher-level skills required for 21st century jobs. The latest report from the UK Commission for Employment and Skills asserts that prosperity depends on jobs and productivity, and both depend on skills. The commission was set up to maximise UK economic competitiveness and social cohesion through world-class employment and skills. It is sobering to see that the latest analysis of the workforce indicates that 33 per cent have higher-level skills, against the Leitch aim of 40 per cent. At the bottom end, there are 28 per cent at the lowest level, against Leitch's aim of 10 per cent. Hard work will be needed on all fronts to reach these targets.

The credit crunch has certainly sharpened the focus on building foundations for future economic success. It has become more urgent that we look for all possible opportunities in all parts of the workforce. It is interesting that this debate has attracted attention from many different quarters, including manufacturing and technology, the service sector, finance and education. I, too, will refer to the first of these, success in manufacturing and technology and the STEM subjects. As the noble Lord, Lord Broers, and the noble Baroness, Lady Wall, have already mentioned, it is a curious coincidence that we are having this debate at the same time as, across the road, people are taking part in the newly established National Science Competition, competing to become the UK Young Scientist or UK Young Technologist of the Year. This is alongside the Young Engineer for Britain competition.

[BARONESS GARDEN OF FROGNAL]

Such skills are fundamental to our economic recovery, whether as part of innovation in manufacturing, IT or finance. If we are to generate enough young people to work in these sectors, it is a high priority that their interests should be stimulated by effective and enthusiastic teaching in schools and that their achievements should be appreciated by parents and valued by society. I suggest that competitions can play a powerful part in motivation, in raising the profile of the skills and in raising standards. There is ample evidence of this in the work of UK Skills, which runs national competitions aimed at developing skills and training. Winning a training award or a skills competition brings considerable benefits and prestige to the winners. It raises morale in the industry and attracts business.

Preparations are under way for the biennial WorldSkills Competition, to be held in London in 2011. If we are to maximise skills and talent, we have to showcase them and produce role models to inspire further effort, but we need not wait two years to put resources into training those who will represent the UK against the cream of the world's skilled young people in 2011. I seek reassurance that the Government will indeed support UK Skills and WorldSkills in the run-up to 2011. The following year, of course, we have the 2012 Olympics where we will see sporting skills, but in preparation, the Olympic site is already offering training and apprenticeships across a wide range of industries linked to construction. That is high-profile work, and will, I hope, encourage people into the sector.

To turn to the service industries, when I first joined City & Guilds many years ago, I spent more than a year assigned to the division which administered vocational qualifications for hair and beauty, retail, health and social care. In hairdressing qualifications, the demands were high. They called for science, design, creativity, customer service and therapy. The work has low pay and the hours are long, but it has one of the highest happiness levels, with great job satisfaction. It is also an industry where the UK has an international reputation, including an array of East Londoners who have led and inspired—names known world wide such as Vidal Sassoon, Joshua Galvin and Trevor Sorbie.

The care sector is in greater and greater demand. Better health awareness and medical advances mean survival for the very young, very old, very ill, very disabled, very damaged: people who would previously not have survived, but who now, with the help of those who care, live fuller and more productive lives. Retail is going through as hard a time as any, but retail and selling skills will play a key part in our recovery. This country has been branded a nation of shopkeepers—by Napoleon, allegedly, although I do not think that it was his comment originally. Going even further back, Tacitus in 98AD wrote that London was,

"a busy emporium for trade and traders".

That continues within the City of London today, with the skills and resources that have brought major economic benefits to the country. Of course, some of that prosperity has now been shown to be unsound, and trading and financial institutions are having to concentrate resources on reviewing and rebuilding. There is of necessity more energy behind the work of the City of London Corporation, to which the noble Baroness, Lady Greengross, referred, to ensure that school leavers are enabled to develop employability skills. But the City also needs access to a workforce already skilled and flexible if it is to maintain its position as the leading global financial centre, which has apparently been confirmed today.

One by-product of the recession could and should be an increase in the value of vocational qualifications. There is real evidence that parents, teachers and students are looking with greater respect at vocational pathways. They realise that acquiring skills is the route to employability with better opportunities for fulfilling and rewarding jobs as unemployment rises. The Government are turning to apprenticeships as the vehicle of choice for tackling unemployment and skill shortage. We on these Benches support the lifting of age restraints to enable adults to acquire new skills. We note the £1 billion apprenticeship budget, which is to be boosted by an additional £140million, and the aim to get more than 250,000 apprentices starting their training in the next financial year. That is ambitious: it will not be easy to find all those work placements, either in the public or the private sector, but it shows how much value is being placed on practical learning.

In this House, we have spoken before of the crucial work of further education colleges, not only in the education and training of 16 to 18 year-olds, but in offering new skills and training to adults. Colleges need to be allowed flexibility and assured funding, to use their expertise to best effect to meet local needs. By harnessing their resources to those of employers, benefit will be more rapidly felt by individuals, communities and the economy of the country.

I am grateful that this debate has provided your Lordships with the opportunity to add support from this House to all those who are working to see us through the recession, in order to emerge a stronger and a better country.

5.04 pm

Lord Puttnam: My Lords, I, too, thank the noble Baroness, Lady Greengross, for initiating what we would all agree is a timely debate. Bearing in mind what I am about to say, I should declare my interest as Deputy Chairman of Channel 4, President of the Film Distributors' Association and as a former chair of Skillset.

I emphasise the timeliness of this discussion because I think we have entered one of those periods in history where we need to review a whole set of fundamentals. We have to ask ourselves what we see as the principal drivers of a sustainable economy over the coming years, and maybe even the coming decades, and how best we might prepare for the opportunities and the challenges that lie ahead.

A few weeks ago, in a debate about the current state of the economy, I drew your Lordships' attention to the fact that this country's present ratio of debt to GDP is around 47.5 per cent, which in historical terms is not at all unmanageable. Without doubt that ratio will, over the next few years, rise to 60 per cent or maybe a little more. The great economic debate this country should be engaged in is exactly what that

additional, say, 15 per cent is to be spent on. Do we simply "bail out" the present or do we thoughtfully invest in the future? This is territory in which the great clash of conflicting ideas should be taking place.

Listening to the Prime Minister speaking yesterday in Washington to the joint session of Congress, it sounded to me as though he, at least, has already made up his mind. As he put it,

"we must educate ourselves out of the downturn, invest and invent our way out of the downturn and re-tool and re-skill our way out of the downturn".

He went on to say:

"Every time we build a school we demonstrate our faith in the future. Every time we send more young people to university, every time we invest more in our new digital infrastructure, every time we increase support for our scientists, we demonstrate our faith in the future ... We cannot merely plan for tomorrow today. Our task must be to build tomorrow today".

That is pretty heady stuff. I would be surprised if there were a single member of your Lordships' House who would wish to other than echo his words or support his purpose.

To help turn those words into deeds I should like to offer a couple of suggestions. This very morning, HEFCE announced a list of changes to the level of grants accorded to higher education institutions. Among the 15 institutions undergoing cuts are the Institute of Education, Goldsmiths College, the Royal College of Art, the University of the Arts, London and Ravensbourne College of Design and Communication. Were I asked to make a list of the 10 institutions in this country most likely to deliver the type of creative future the Prime Minister would appear to be describing, then these same five institutions would unquestionably be on my list. As *Private Eye* might say "shurely some mistake", but happily it is not too late to correct it. I very much hope that my noble friend the Minister will use his influence to do so.

I also add my voice to that of the noble Baroness, Lady Verma, when she mentions the hapless decision to scrap ELQs. That is a hopelessly inappropriate decision to have made and at this point in the employment or unemployment cycle it should be revisited.

It has long been my contention that any sustainable vision of the future must be built on maximising the talents and the skills of our people. I mean all of our people: whatever their age, whatever their background, and wherever they happen to live. I have spent the past couple of decades arguing with just about anyone who would listen, and indeed many who would not, that investment in our talent and skills base remains the only viable way to build a future for us as a successful and economically coherent nation.

By investment, I am referring not simply to the public sector investment, but to the private sector investment as well. Along with a relatively small band of fellow travellers, I have remained a strenuous and entirely unapologetic advocate of compulsory levies to support statutory levels of investment and training — modest levies of the kind the film production sector pays to support investment in the Danny Boyles and the Mike Leighs of the future—people who can deliver both economic value and cultural confidence to a country very hungry for success.

However, at every turn those of us who dared to argue for the logic of training levies were dismissed as the enemies of the free market. We were told by supposedly wiser heads that our modest proposals would simply drive up costs, while driving away investment. Put more bluntly, we were swatted away with arguments emphasising the overwhelming importance of light-touch regulation, arguments that in hindsight amounted to little more than assertions of self-interest and private gain. In fact, it is my contention that creating secure sources for continuing investment in training has quite the opposite effect. Investment in training is the best possible antidote to cost inflation. The larger the talent pool the more viable the cost of employing that talent is likely to be. Over time the talent pool itself starts to act as a magnet for investment both from within the UK and indeed overseas. This in turn serves to increase the capital available for re-investment in training and something really quite close to a virtuous circle has been created.

My noble friend Lord Carter, the Minister for Communications, Technology and Broadcasting, is currently in the midst of his final report on Digital Britain. I welcome his strong commitment to the importance of education and skills. Just a few weeks ago, in his interim report, he said that,

"we cannot afford to treat education and training for digital technologies as just another 'vertical' subject area. It underpins everything we do in the 21st Century".

I completely agree with him. An abundance of talent of every kind is the only certain way of ensuring a bright future for the whole of our creative industries, and if you combine that with a consistent supply of world-class skills, and you have held down costs, you will be creating an unbeatable combination. Maybe it is because this is so self-evident that it gets remarkably little attention. But that being the case, why do I get the strong sense that many private sector employers, who honestly should know better, seek to evade or sometimes even avoid their very obvious responsibilities? Were he not constrained by his responsibilities on the Front Bench, I would certainly ask my noble friend Lord Davies to support me in the belief that the involvement of the private sector in training has been at best a marginal success.

If you need evidence of what I am saying, look no further than the fact that one of the very first acts of ITV on being released from a slew of seemingly onerous PSB obligations was to all but walk away from its long and previously entirely honourable commitment to training. In his chairman's statement accompanying yesterday's financial results, Michael Grade said:

"Our priorities are being aligned to the changed economic context ... when the cycle turns and the economy comes back—and it will—ITV will be in good shape".

Michael Grade is an experienced businessman and a much admired friend of mine. He is also sufficiently experienced as a programme maker to know that the possibility of losing a generation of skilled professionals could all too easily be the death knell of those sectors of the creative industries in which he has spent the best part of his life. Is it possible that in its newly found freedom ITV believes that it will have no further need of programmes made possible by the talents and

[LORD PUTTNAM]
skills emerging annually from the National Film and Television School and the training schemes supported by Skillset, the sector skills council for creative media? Or is it that in withdrawing from its commitment to training ITV is tacitly acknowledging the possibility that it will just not be around long enough to require the services of the next generation of talent? That is bad enough news for the talent but it throws a huge question mark over the company's belief in its own future.

Personally, I would be surprised if Ofcom or the Secretary of State anticipated that the removal of this vital underpinning of our national talent base would be the first unintended consequence of what at first glance must have seemed a pretty rational series of decisions. Well, now they have been warned; and, once again, it cannot be too late for the Minister and his colleagues to put things right.

Perhaps I may finish with an anecdote. I had a meal yesterday with an ex-colleague who runs the largest post-production house in the UK and maybe one of the largest in the world. It employs 800 people at an average salary of £60,000 a year. He is finding it absolutely impossible to hire skilled people from the UK. Most of his new hirings, as this business grows, are coming from France and Germany. How could we possibly have allowed this situation to occur? At the very high end of technology, where technology meets creativity, we are having to import technologists and creative people from France and Germany. It is very bad news indeed.

It is my most sincere hope that the final report of the noble Lord, Lord Carter, will help to usher in a significantly increased investment in this critical area, thereby helping to contribute to an economic upturn in which the Prime Minister's ambitious vision for tomorrow's Britain will at last be realised.

5.13 pm

Lord Hastings of Scarisbrick: My Lords, I should like to add my voice to the expressions of appreciation for the tireless work of the noble Baroness, Lady Greengross, who has not only championed this report and debate so effectively this afternoon but striven throughout the years to push the argument for corporate responsibility in the political and business spheres. I am appreciative, too, that in the introduction to her report, *The Talent Challenge Facing the UK*, the noble Baroness has so wisely linked the issue of skills and talent development to what she calls social cohesion and social justice, terms that we use frequently in this House but do not frequently connect to the issue of learning. The report says:

"It accords with the UK's vital national interest in avoiding the conditions in which rising crime, political extremism and violence may flourish".

It goes without saying that an underskilled workforce, a young and uninspired school leaving group and those who lack the capacity for work provide the seeds for social unrest.

The report goes on to address the issue that I will focus on in my few short remarks. Section 3.1.1 of the report, under the heading "Supporting Secondary Education", states that it is vital to look at skills as more than just a technical issue. I quote again from the report of the noble Baroness, Lady Greengross:

"These include not simply the technical skills and formal qualifications traditionally required, but broader cognitive and interpersonal skills such as the ability to think creatively, to communicate effectively, to work in teams, to solve problems and to be able to take calculated risks".

Speaking in January of this year at the financial services sector conference on skills, Speak up for Skills, Roy Leighton, chairman of the Financial Services Sector Council, talked about the future of the financial services industry, which as we know has been much challenged if not criticised over the past few weeks. He said that it was necessary to create an industry that was investing in,

"the people, culture and values that the industry needs, at all levels".

He went on to say that the council had identified that the future financial services sector would be reliant first and foremost on getting the correct leaders and managers who were client-facing and who had been trained and developed through what he called "soft skills programmes", alongside a continued investment in the upskilling of entry-level jobs in subjects such as financial literacy to workplace skills.

In the light of everything that noble Lords have said about the necessity for technical, apprentice-related and entrepreneurial skills, what soft skills are needed for the financial services industry to survive and succeed? I declare an interest as a director of the audit, tax and advisory firm KPMG. Last Sunday, to our delight, our firm received the *Sunday Times* best large employer award for 2008. Also on Sunday, KPMG won the *Sunday Times* lifetime achievement award for being one of the top three employers in each of the past five years.

Why has KPMG managed to succeed at this level? In the financial services industry, it is essential to be driven by values. It is through the values of integrity, responsibility, transparency, fairness, prudence, what I call a culture of fiscal duty or, in other words, saving, and a culture of fiscal loosening—in other words, generosity and philanthropy—that people learn the soft skills of an appropriate commitment to their communities and not just to their technical expertise. Some of those skills will have to be built into the training that we will require in the future.

One other dimension is mentioned consistently in the report. I shall quote from the briefing provided by Business in the Community, which has also displayed its passion for ensuring not only that we think about these things well, but that the nation thinks about them well, too. It says that it is vital to raise aspirations,

"in both the classroom and the workplace".

Why do we need raised aspirations alongside exceptional technical, vocational, values-based and intelligence skills, as well as the values that are necessary to build competence back into our financial services industry? We need aspirations because our young men and women need a vision of their value and place in society, and their contribution to it, to end the drain on our economy of the continuous take and the waste of laziness, so that we empower people to become

contributing givers and empower the rest of our world to work towards equality of opportunity in both economics and employment.

How do we raise aspirations? Every teacher struggles to find both the time and the emotional energy to do it. I am married to a teacher and therefore I witness virtually day in, day out the strain that all teachers live with. I have one challenge to the Government in this debate, which is that they should think about making an economic investment change. Instead of continuing with what I see as the important school building programme, which was initiated under the previous Prime Minister and carried on under this one, why not recognise that the most important skill that children can have is to gain relational empowerment through getting alongside aspirational and inspired teachers?

Buildings are fantastic—all of us love to be trained and to work in high-quality, modern and well equipped buildings—but they do not provide inspiration; people do. I feel that it is more important to empower teachers to be exceptional individuals, which means resourcing them to have the time to learn, to think, to be fresh for one-to-one interactions and relationships, to have the time to get alongside young men and women and to inspire them onwards to the next steps of their development. They should also themselves have the time to take account of issues in the world and think about how to respond to them. Capital programmes are fantastic, but they are not the same as people development. In that area of investment, we would spend our money more wisely.

I have some personal experience of this. I shall not name the person involved, but next Monday one of the people visiting me here is a young lady whom I taught when I was a teacher in 1980. At that time, she was 13 and she was one of the more troubled young ladies in my class. She was not necessarily one of the most able in the class, either. Now, with three degrees to her name and the leadership of a significant NGO, she is visiting me for the third time, after my having taught her 29 years ago. That necessity to inspire and to give aspiration is vital for young men and women to feel that they have a place as contributors in our society.

Having mentioned my firm, KPMG, I should like to add one further dimension to my remarks. We have participated in the Prime Minister's Global Fellowship alongside HSBC, Tesco and Tata. The four major international corporations last year supported 120 young men and women from not necessarily the top schools, but reasonable to good schools in the UK. We supported them to gain training experience internationally. We ourselves took on 30 of those young people to work in our businesses in Brazil, India and China over six months. It was a huge encouragement and joy to witness all 120 of them gathered in our headquarters last December and to see how much their lives had changed by being motivated by their capacity to work in effective businesses such as HSBC, Tata, Tesco and KPMG around the world. That is what business can do to help to drive this with energy and passion. I am delighted to be part of encouraging us all not only to step forward but to hold on to the values that are necessary for making young men and women the bright leaders of the future.

5.23 pm

Baroness Sharp of Guildford: My Lords, I join other noble Lords in thanking and congratulating the noble Baroness, Lady Greengross, on introducing this very important and timely debate. I declare an interest as a member of the corporation of Guildford College, which is a further education college.

In some senses, this debate has been something of a reprise of a debate that we had last year on the Leitch report. The report, to which the noble Baroness, Lady Greengross, referred, by the All-Party Parliamentary Group on Corporate Responsibility, *The Talent Challenge Facing the UK 2008 to 2020*, reminds us of the challenge and the very ambitious targets set by the Leitch report which the Government have taken up. In some ways, the Apprenticeships, Skills, Children and Learning Bill, which was introduced in the House of Commons last week, picks up the challenge of the Leitch report and carries it forward.

The report by the all-party group also reminds us that today we face different circumstances. The Leitch report was written at a time when Britain was looking forward and expecting continuing growth. We are now in recession, and the all-party group reminds us that in a period of recession achieving those targets is all the harder but all the more important. As the report and many of those speaking today have reminded us, as we emerge from that recession, we need to be in a position to seize the opportunities presented for new enterprise. In order to do this, it is essential to make the most of our talents.

This debate about what Britain should do when it emerges from recession takes me back almost 30 years to when I was working in an organisation called the National Economic Development Office at the end of the 1970s and the beginning of the 1980s. I was working in the central secretariat of Neddy at the time and watching the indices of production, of sales and of inventories dropping through the floor in much the same way as today. We were confronted in that central secretariat by this whole question of why Britain's productivity was so low compared to our competitors. The answer was then, as it is today, that we were on the cusp of a technological revolution, that we were using equipment that was often 20 years out of date and skills that were often 30 years out of date, and that we needed desperately to upgrade our education and training programmes, as well as to invest in new technologies.

If you think through that period, the message was that the future lay with brain not brawn and that a massive investment was needed to upgrade and improve our skills profile. In those days, only 14 per cent of the age cohort were going through university, and over 40 per cent of young people left school when they were 16. Massive investment was needed, in particular in science and technology, in the STEM subjects that we still come back to. So in a sense the problem was exactly the same as the problem we have today—that we have far too many people with low or no qualifications, and not nearly enough with the intermediate and the higher-level qualifications. In particular, we needed to concentrate on the STEM subjects, the technicians and the supervisors and down the lines, the teachers who were so important in growing that new generation.

[BARONESS SHARP OF GUILDFORD]

Much has happened over the last 30 years. We saw all kinds of initiatives—the YTS, the YOP, the TOP, the Manpower Services Commission, the GNVQs and the TVEIs. Significantly perhaps, until 1997, the proportion of GDP invested in education remained at or below 5 per cent. The proportion of GDP going to R&D fell from 2.5 per cent to 2 per cent. Since 1997 we have seen—I am glad to say this—a very considerable investment in education and training. We are now closer to somewhere in the region of 7 per cent of GDP. Sadly in R&D we have failed to raise it above that 2 per cent. Although the Government—and I have to say this—have done a good deal to put money, through the research councils, into academic science in particular, we have seen a continuing poor performance on the part of industry in relation to R&D. The exception has been—and the noble Lord, Lord Broers, mentioned this—a number of key manufacturing industries such as pharmaceuticals and aeronautics that continue to lead at the front. But many other industries have a very disappointing record in this particular area.

While we may have invested, the world has moved on very fast. As many of those who have participated in this debate have noted, Britain may have moved on, but other countries have moved on even faster. Our productivity still lags way behind our competitors. The OECD tables show us 17th among 30 OECD countries in terms of low skills and 20th in terms of the intermediate skills. Although we now have somewhere in the region of 35 per cent of young people under 30 holding degrees, we have fallen behind countries such as Singapore, Taiwan, South Korea and Finland, which have overtaken us and moved ahead of us. There is a continuing problem with productivity, and the answer remains that we need to invest in education and training. That should be, and in many senses has been, top of the agenda.

The report of the all-party group brings out a lot of very important issues which have been referred to today, including the continuing need for emphasis on the science and technology, engineering and mathematical subjects. Those are absolutely crucial to the taking up of new technologies, not only in the electronics field but in the creative fields as well. The marriage or fusion of the digital technologies and the creative arts is vital, and it is essential that we make this investment.

There is also a need to put emphasis on enterprise education in schools. My noble friend Lady Walmsley told us what is going on in schools, but we also need to bring in the soft skills mentioned by the noble Lord, Lord Hastings. It is important that we train our young people in those soft skills. There is a need to strengthen vocational training initiatives and especially apprenticeships. That was raised by many speakers, including the noble Baroness, Lady Wall, and my noble friend Lord Cotter, and I want to come back to it in a moment. There is a need for incentives to encourage both employers and individuals to invest in training and to recognise the benefits obtained from training. The noble Lord, Lord Puttnam, was absolutely right to say that in industries such as the film industry, which he knows, but also in the construction and construction engineering industries, a levy system helps to promote training, and perhaps we should look at that more seriously. The noble Baroness, Lady Verma, mentioned the need for incentives for employers in small and medium-sized enterprises to invest in apprenticeships.

The importance of good and impartial careers advice was not mentioned by many speakers, but it is significant that in a recent IAG survey only 24 per cent of teachers saw apprenticeships as being a good route. The noble Baroness, Lady Warnock, spoke of the need to rethink the benefits training equation and to recognise that, rather than penalise those who seek to retrain while on benefits, we should encourage them to do so. Perhaps, above all, there is a need to maintain these training initiatives through the recession.

I want to talk briefly about two things. The first is apprenticeships. For young people, going through an apprenticeship—the noble Lord, Lord Hastings, gave an example of this—is the most satisfying and fulfilling way of learning the skills that they need. Therefore, it is absolutely vital that the apprenticeship scheme goes forward and is successful. However, I want to raise one or two questions. Why does the new Bill that we have before us make life so complicated? Why does it require the sector skills councils to be reaccredited and revalidated? Why are the Government not backing the 14 to 16 young apprenticeship scheme? Why have they muddied the field by introducing the diploma as a third way between the academic GCSE and A-level and the work-based learning route of apprenticeship, establishing no clear pathway or progression route from the diploma into the apprenticeship? Why have they created the divide between the under-19s and the over-19s? At a time when we are anxious to see older people upskill and reskill, why do employers have to pay fees for those in their workforce who are over 19, whereas they are subsidised if they go through the Train to Gain route? All kinds of anomalies and complications have been introduced here which we need not have.

Finally, I should like to say something about the gender gap. It is a scandal that, for example, only 2.6 per cent of the apprenticeships in engineering are taken up by women. Women succeed at GCSEs and A-level and go on to universities, at many of which they top the degree lists, yet they do not fulfil themselves in the workplace. Why is that? All kinds of issues arise here but I pick up again the need for impartial careers advice. The hair and beauty industry mentioned by my noble friend Lady Garden is very important, but why do we see such a vast number of young ladies going into hair and beauty and the health and social care industries but not into the manufacturing and engineering industries? It is very important that they get proper impartial advice at the right age: 13 or 14. Other points put forward by the all-party group were the continuing need for flexibility in work patterns, in terms of the right to ask for flexible hours, to recognise difficulties that parents face in juggling young children and working and the difficulties of being reabsorbed into the workplace. The noble Baroness, Lady Warnock, suggested making it much easier for people to study part time. Women have been hit by the nonsense in the ELQ regulation. I hope that the Minister can give us some good news on that. I am sorry, I have gone over my time. I beg the House's pardon. I wanted to make some of these points.

5.35 pm

Lord De Mauley: My Lords, this has been a fascinating debate. There have been so many enlightening and helpful contributions from around the House. I am sure the Minister will agree that it is clear and encouraging that we are united in our belief that education, skills and training are key to our future, now more than ever. I take this opportunity to join other noble Lords in thanking the noble Baroness, Lady Greengross, for securing this important debate. I congratulate her and the All-Party Group on Corporate Responsibility on its report and apologise to her for arriving a moment after she started speaking.

I should declare an interest as a shareholder in an information technology support company, which has a deep interest in the highest level of skills in its workforce, as the result of the sale to it of a similar company that I ran and of which I was a substantial shareholder. I very much appreciate the words of the noble Lord, Lord Cotter, about the importance of the small business sector.

As unemployment escalates, we must invest in the most efficient and practical ways to ensure that people have the opportunity to maximise their talents, skills and employability. As the noble Baroness, Lady Greengross, said, we must improve on the current situation. It is vital that employers pull in the right direction. I am glad that my noble friend Lady Verma and other noble Lords were helpfully able to give us the perspective of the employer. Nevertheless, as the noble Baroness, Lady Greengross, also said, the Government must set the framework for this and help rather than hinder that process. Between 2001 and 2007, £7 billion was spent on basic skills courses. Despite this enormous investment, the Public Accounts Committee skills for life meeting on 29 January reported that large numbers of the adult working population are still functionally illiterate and innumerate. The noble Baroness, Lady Greengross, and my noble friend Lady Verma both mentioned this. The noble Baroness, Lady Sharp, referred to our poor position in international productivity league tables.

This is all the more galling when one learns that, in certain cases, the Government have had to find solutions from overseas to plug the skills hole. The noble Lord, Lord Puttnam, gave us a shocking example. Another is that immigration rules were recently relaxed because the nuclear power industry needed to fill 60,000 jobs and there was a national shortage of people with the right skills. Perhaps the Minister can explain what action is being taken to make sure that the right skills training and education is being implemented so that in this time of economic crisis, we will have the workforce with the necessary skills to fill the nearly 200,000 posts that are expected to be required for the 2012 Olympics, to which the noble Baroness, Lady Garden, referred. Lack of training has meant that, as the UK Statistics Commission discovered, up to 80 per cent of new jobs since 1997 have gone to migrant workers. Indeed, whatever would we have done without them?

In further education, we see a deteriorating situation. Between 2005-06 and 2006-07, the number of learners over 19 in all publicly supported provision fell from 3.1 million to 2.4 million, a decline of more than 20 per cent in a single year. A significant part of the problem here is that, as Sir Andrew Foster reported,

"a galaxy of oversight, inspection and accreditation bodies",

controls further education, meaning that the system is at risk of strangulation. Recognising this, the Government have pledged to replace the bureaucratic Learning and Skills Council. They propose, however, to bring in three new bodies: a skills funding agency, a national apprenticeship service and a young people's learning agency. Concerns have been raised by some of those responsible for running the system that this will exacerbate some of the existing problems of bureaucracy. My noble friend Lady Verma and the noble Lord, Lord Cotter, referred to that. How much will the new bodies cost?

The Government have recently told us that participation in the apprenticeship system as a whole has increased; indeed, the word "renaissance" has been used. But of course this must be taken in context. The Government claim that the number of apprentices in learning has increased dramatically; indeed, the Minister argued that when answering a question that I asked a few days ago. However, the reality is that the number of people being trained to the vital level 3 is now lower than it was a decade ago. The Adult Learning Inspectorate has warned that,

"some apprentices can potentially achieve the full requirements of the apprenticeship framework without having to set foot in a workplace".

This is echoed by Ofsted, which has recently confirmed that many of the new apprenticeships created by the Government are merely virtual. I hope that the Minister will be able to explain that.

At the beginning of this year, the Prime Minister announced a new target of 35,000 apprentices for next year. We welcome that, and hope that the Government will be able to meet it. However, this scheme must be quality-driven as well as target-driven. Do the Government have any plans to help to increase the provision of level 3 apprenticeships? As my right honourable friend David Cameron said in a speech on 10 February, we need a change both in jobs and in training. Our current training system is based on the assumption of a growing economy and a system delivered by big bureaucracy and top-down targets. We need more front-line skills building and to do much more to help those who have been made redundant to get back into work as soon as possible.

We must look to the future. It is vital, as several contributors to the debate, including the noble Baroness, Lady Walmsley, have said, that our young people are given all the support that they need to achieve their potential at school. The noble Lord, Lord Hastings, spoke of inspiring aspiration. They should also be given high-quality careers advice—the noble Baroness, Lady Greengross, and the noble Baroness, Lady Sharp, quite rightly emphasised that—to help them start their working lives.

In 2004, the proportion of 16 to 18 year-olds not in education, employment or training was 9.6 per cent. Despite a government drive to reduce this proportion to 7.6 per cent by 2010, it had increased to 10.5 per cent by the end of last year. What are the Government doing now to make sure that this percentage falls?

[LORD DE MAULEY]

As my noble friend Lady Verma rightly said, it is crucial that we not only support young people about to enter work but also pursue a policy of lifelong learning to help those already working. Once again, this was mentioned by the noble Baroness, Lady Greengross, as well as by the noble Lord, Lord Broers, who gave us a fascinating insight into the technical and engineering area, so vital to our future success. What are the Government doing to help people retrain, reskill and develop their talents to maximise their employability? Has any consideration been given to bringing back funding for ELQs, which the Government cut in June last year and which were designed to address exactly this problem? The noble Baroness, Lady Greengross, my noble friend Lady Verma and the noble Lord, Lord Puttnam, among others, raised that. What do the Government think about the Conservative idea of a community-based, all-age careers advice service? Do they have any plans to implement such a proposal?

We are all in this boat together and we all want to win in the drive to upskill and reskill to put us in the best possible position to emerge from the downturn. We must do that. I ask the Minister to take on board all the ideas raised in the debate and use them to ensure that in future we achieve real success.

5.45 pm

The Parliamentary Under-Secretary of State, Department for Innovation, Universities and Skills (Lord Young of Norwood Green): My Lords, I, too, extend my grateful thanks and appreciation to the noble Baroness, Lady Greengross, for initiating this debate and for presiding over the all-party parliamentary group report. It is an excellent report, which gave us a lot of food for thought and raised issues in a very constructive way. In thanking the noble Baroness sincerely for that report, I shall try to touch on a number of the issues that it identified. We have had a wide-ranging debate and if I had an hour or so to spend I could touch on every point that was made; if I skip lightly over one or two, it is not because they were not valuable and interesting but because I am time-limited and conscious of not only the time but the day, so I hope that noble Lords will forgive me.

The Skills for Life strategy has been mentioned by a number of contributors to the debate. The importance of making progress on literacy, numeracy and other skills was first identified by the noble Lord, Lord Moser, who drew our attention to the problems in his report. It was then identified once again by the noble Lord, Lord Leitch, in his report. Clearly, there is no room for complacency but, in times as difficult as these, we ought to acknowledge the progress that has been made. I prefer to see the glass as half full rather than half empty. If we do not make what I call a contextual analysis, there will be a feeling of, "Why bother, as we will never make any progress at all?". That is not the case. We have massively increased investment in education and training and we are seeing some returns.

We spend £1 billion a year on Skills for Life. The Leitch report set out our targets: 95 per cent with functional literacy by 2020, which reflects the standards of the top 25 per cent of OECD nations. To reach that level by 2020 would be a huge achievement. Our public service agreement to improve the literacy, language and numeracy skills of 2.25 million adults by 2010 was met in June 2008, two years early. Without by any means being complacent, I should have liked some acknowledgement of the real progress that has been made. For the next three years, we are talking about an additional nearly 600,000 people of working age achieving a first level 1 or above literacy qualification and an additional 300,000 people of working age achieving a first entry level 3 numeracy qualification, which will take us to 81 per cent numeracy. We know that we still have more work to do, but there has been real and significant progress.

An enormous number of people have contributed to that progress, such as those in FE and schools. My noble friend Lady Wall drew to our attention the huge role that union learning reps have played in encouraging adults back into learning, often tempting them with the bait of IT skills when we know that some of the skills that they lacked were not just IT but literacy and numeracy.

The noble Baroness, Lady Greengross, asked about requiring employers to give written reasons for turning down requests from employees for time off for training. I listened carefully to the points that my noble friend Lord Puttnam made on training levies. We are where we are on them; where they are working in the construction industry, as the noble Baroness, Lady Sharp, reminded us, they work well. We are trying to change the climate, culture and behaviour.

I draw noble Lords' attention to two important changes. First, the education Act that we only recently passed raised the participation age and meant that every young person between the ages of 16 and 18 cannot go into that terrible vacuum of joining an employer who provides no training at all—if we assume that that person enters the world of work. That was an important step change. Another change was on the right of employees to request time for training. Yes, it is a cautious step forward, but it is a step forward. I assure the noble Baroness, Lady Greengross, that we will ensure that there is a written response to employees' requests for time off for training. We are not yet in the state that I would like us to be in, whereby we could guarantee that every employer participated in training, but we are making progress towards that essential goal.

Lord Puttnam: My Lords, I am sorry to interrupt my noble friend's flow. I do not think that he will have an answer, but he could write to me. We are in new and uncharted territory. I, and I am sure the House, should like to know under what circumstances the Government would be prepared to revisit the issue of statutory levies, or are there no circumstances whatsoever under which that will be revisited?

Lord Young of Norwood Green: My Lords, all that I can say is that I will take away that question. I would not say that there are no circumstances in which that would happen, and I take the point that my noble friend makes about the uncharted territories that we are in. However, we are spending more than we have ever done before; look at what we are spending on

apprenticeships alone. These are huge amounts that require the participation of employers. Look at the progress that we have made on things such as the Skills Pledge and Train to Gain. These are huge investments that are sucking in more employers than we have ever had previously participating in training.

In my maiden speech, I took the time to muck up the Latin for "There is more than one way to skin a cat", although I cannot remember it now. I would never say never, because that would be imprudent at this rostrum. All that I would say to my noble friend is: look at the whole panorama of what we are doing on training. The debate on "to levy or not to levy" will continue, and I have no doubt that it will be continually assessed, but I draw his attention to the significant overall efforts that we are making on training.

I cannot resist attempting to respond to the contribution of the noble Baroness, Lady Garden. First, her speech was excellent; anyone who can quote Tacitus in this debate is pretty good in my book. The noble Baroness, Lady Sharp, lamented the fact that so many young women choose hairdressing and beauty. I was at an FE college in Crawley recently, where all the auto trade apprentices were, of course, male. When I turned my head to look at the catering group, I noticed that every single student was female. We know that we have a gender gap; we have plans, and we have addressed the issue in a publication that I recommend to noble Lords if they have not had the chance to look at it, *World-class Apprenticeships: Unlocking Talent, Building Skills for All*. That was our response to the Leitch report and it made real attempts to address our gender gap in apprenticeships through developing critical masses of people. It addressed not only the gender gap but, as someone else mentioned, the ethnicity gap. The LSC is embarking on work to address those issues. I agree with the noble Baroness on that.

I could not help smiling in relation to hairdressing. While we have not solved all the problems, it is still an occupation which does not pay people what they deserve. We made some strides when we introduced the minimum wage. That had a profound effect on that occupation and was an important step forward.

We have been pressing to get more apprentices and training in the Olympics, trying to draw in people from surrounding boroughs, including people we need to take off that NEET register—the difficult to employ. Many people are having some success and we are driving hard on that.

I draw your attention to another important policy change. We have now ensured that there are no legal hurdles for writing into public procurement contracts the right to specify numbers of apprentices and training. That is another important step forward.

Baroness Sharp of Guildford: My Lords, the Minister says that there are no legal obstacles to writing this in. Are the Government insisting that on all public procurement contracts the contractors take on apprenticeships?

Lord Young of Norwood Green: My Lords, it is certainly our intention to write that into public procurement contracts. We are on a journey here, constructing guidance. In many areas, people are not yet aware of their ability to do that, but that is the direction that we are intending to go. Our first task was to ensure there were no legal obstacles to doing that and we have completed that task.

A number of noble Lords drew our attention to the benefits of competitions in raising people's awareness of the importance of skills. The noble Baroness, Lady Walmsley, drew our attention to the Big Bang competition taking place across the road as we speak in the QE2 conference centre, and the noble Baroness, Lady Garden, drew our attention to the WorldSkills championship which we are investing in. We have an organisation working on that, so I hope that it will be a great precursor to the Olympics, which itself is committed to having a skills legacy.

The noble Baroness, Lady Verma, said that we were obsessed with one end of the age scale on apprenticeships. That is not true; we used to be but we have changed that. Last year we had 27,000 adult apprenticeships. It is a huge growth area, 50 per cent up on the previous year.

Baroness Sharp of Guildford: My Lords, I apologise for intervening again. Can the Minister clarify whether, except in exceptional circumstances, for anyone over 25 who signs up for an apprenticeship, the employer, or the apprentice themselves, has to meet 50 per cent of the fees?

Lord Young of Norwood Green: My Lords, fortunately it is not the apprentice but the employer. Why do we make the distinction? We do not have unlimited funds. We take the view at the moment that the adult apprentice brings to the employer a bit more experience than the 16 to 18 year-old. I am not saying it is a perfect solution but that is why we did it. It certainly does not penalise the apprentice and it has not stopped the massive increase in adult apprenticeships. I am not denying the distinction or claiming that it is perfect, but given that politics is the language of priorities, we have to decide where we are going to focus. As keen as I am to create adult apprenticeships, I am even keener to ensure that we meet our 16 to 18 targets, where there has been a bit of a decline. We are making a huge effort to increase the number of apprenticeships with £140 million announced for a further 35,000 apprentices —21,000 in the public sector and 15,000 in the private sector. That is a challenging target, as someone has already remarked.

I make no apology for describing apprenticeships as a renaissance, as I did in the previous debate. Again, we would be doing ourselves and this country an injustice if we did not acknowledge that apprenticeships were nearly dead in 1997. We had only 65,000 apprenticeships in that year, just over a quarter of which were completed. However the noble Lord, Lord De Mauley, juggles the figures, he cannot fail to acknowledge that 250,000 apprenticeships this year, with a 65 per cent completion rate—nearly two-thirds of them—is a massive leap forward. I do not deny that we need to do more to ensure that we push up the level 3 apprenticeships—we will work hard on that—but that is a massive achievement. That is acknowledged throughout. We need to build on that, and we are doing so with the £140 million which I mentioned.

[LORD YOUNG OF NORWOOD GREEN]

Not only that, we recently announced the idea of overtraining: asking employers whether they would take on more apprentices to provide their supply chains. We put that out to competitive tender and had a superb response. The exact figure will be announced soon. It has created thousands more apprenticeship opportunities. I say sincerely and genuinely to this House that every apprenticeship opportunity that we create is a beacon of hope, either to a young person or to an adult. It really is. It is making a contribution to social cohesion, which was mentioned in this debate, and to social mobility. Again, I ask noble Lords to look at the progress that has been made.

The noble Lord, Lord Cotter, made an interesting contribution. He was candid enough to admit that he may not have devoted as many resources to training as he should have done, and I welcome his candour. What are we doing for small businesses? We have focused £350 million specifically on SME training: not on the training that we think they need but on the training that they told us they need, such as in business improvement techniques. That has been a success. We are seeing a significant take-up.

People ask how we get these small and medium-sized employers to buy into the idea of recruiting apprenticeships. We do it, as the noble Lord, Lord Cotter, reminded us, through group training associations. There are some really interesting models out there, including a number of generic models. We are encouraging all sorts of progress in that area, and we will invest more money in GTAs. We think that that is the way forward for SMEs. I can give noble Lords a number of examples. In one training association, something like 360 employers shelter under its umbrella. They offer real employment placements.

I have to part company with the noble Lord, Lord De Mauley, on apprentices. It is true that there used to be doubt about what constituted an apprenticeship. We have taken away that ambiguity about apprenticeships by saying that it is absolutely clear that there must be a work placement with it. You cannot complete an apprenticeship with only college-based experience. It must have a work placement with it. We have made that absolutely clear in the apprenticeship Bill. The completion figures that I gave are genuine. In the past, we have had learning apprenticeship programmes, but they do not count towards apprenticeships. We might have young apprenticeships which, I might add, are a very good example of encouraging young people to understand the nature of apprenticeships through work experience one day a week.

Very briefly, because I am running fast out of time, we have the huge task of raising people's awareness of apprenticeships and the value of things such as engineering, which the noble Lord, Lord Broers, mentioned. We know that we must raise the status of that. It is unfortunate that, whenever I meet young apprentices, I have yet to meet one who tells me that they were encouraged by their teachers at school to go for an apprenticeship. Last week, when I went back to the floor, I met some young apprentices in a telephone exchange—not one that I had worked at, but one that I knew well. One young apprentice remarked, very perceptively, "Wouldn't it be good if schools celebrated their young people who achieve apprenticeships as much as they celebrate those who achieve a university place?".

Given that I have run out of time, I will endeavour to answer any other points made in writing. I thank again the noble Baroness, Lady Greengross, for introducing this vital debate.

6.05 pm

Baroness Greengross: My Lords, I start by thanking every noble Lord who has taken part in this debate. I am most grateful to them, and my gratitude extends to the other members of the all-party group. I know that those who could not be here—including those from another place—will read the report of our debate with much interest. We have covered a huge amount, from small children to very mature adults, from assistant teachers to management training, and all the different skills, both hard and soft, that are needed.

I thank the Minister for displaying both his personal commitment to what we have been talking about and the commitment of the Government, which I do not think is in question. There is an acknowledgment that, if we are to get out of this recession, we must all work together through a political as well as an economic consensus on what needs to be done. We wanted to highlight, partly, that the role of business is essential and, with the Government's help, we have to facilitate that in order to achieve what we all want on behalf of the future of our country. While thanking everyone most sincerely, I beg leave to withdraw the Motion.

Motion withdrawn.

House adjourned at 6.07 pm.

Grand Committee

Thursday 5 March 2009

Health Bill [HL]

Committee (4th Day)

2 pm

The Deputy Chairman of Committees (Lord Faulkner of Worcester): If there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

Clause 12: Innovation prizes

Amendment 71

Moved by ***Baroness Tonge***

71: Clause 12, page 9, line 30, at end insert—

"( ) The innovation prize shall not be paid for by monies deducted from existing research, training and education budgets."

Baroness Tonge: Before I speak to the amendment, I would like to make a few general points and seek a bit of clarification on innovation prizes. Of course, everyone thinks that they are a good idea. They are one of those things that you could not possibly oppose, because we all want innovation in the health service. However, there is a slight worry among health professionals to ensure that the prizes cover everyone working in the health service, not just eminent consultants and leaders of clinical teams—that if it is to be an innovation prize, it should cover doctors, nurses, professions allied to medicine, managers and all other people working in the health service who want improvement in the way healthcare is delivered. There is also concern—I am certainly concerned—about what body will decide who gets innovation prizes, and who will decide on the composition of that body. It is important to make sure that there is a general membership that reflects the whole health service, not just the clinical side.

Having worked in the health service—not as a consultant—I worried about and saw the competition and machinations that went on about the old merit awards in the past, and saw how unfair they were seen to be. Everyone was glad to see the back of them and to see the clinical excellence awards put in their place. However, there is still a nasty taste in people's mouths about those things, so we need to make very sure that innovation prizes are separate from clinical excellence awards and that the two do not cross over. I would be grateful if the Minister would elucidate that point for me.

It would be useful to know whether the prize will be a reward for work done, or an award in the form of a grant for a good idea that someone needs the money to implement.

The subject of our amendment is that the money for innovation prizes must clearly not come out of existing research, training or education budgets.

The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham): The amendment, jointly tabled by the noble Baronesses, Lady Barker and Lady Tonge, seeks to ensure that innovation prizes will not be funded from a topslice of existing research, training or educational budgets. The issue was raised by the noble Baroness, Lady Barker, at Second Reading. I am happy to reassure the noble Baronesses that funding for innovation prizes will be met from the overall resource envelope allocated to the Department of Health for the implementation of the commitments in the next-stage review, so it is new money as part of the next-stage review. As such, the funding available for innovation prizes—including that for administration—is all new money and will come on stream in 2010.

At Second Reading, the noble Lord, Lord Turnberg—he is not in his seat—pointed out an ambiguity in the Bill's Explanatory Notes regarding the proportion of the budget given over to administration. I am pleased to have this opportunity to put the facts on the record. The Government intend to allocate a prize fund of £5 million per year for three years from 2010, totalling £15 million. There will also be an allocation of £1 million towards the administration, spread over the three-year period.

The noble Baroness, Lady Tonge, asked who the prize covers. It is open to everyone working in the health service and many honorary appointments—people working in the health service but not necessarily employed by it. We are aware of many people with university appointments who do full clinical work in the health service on honorary contracts.

It is expected that the expert panel will have 10 members, consisting of leading medical scientists, people in hospital management, economists and other academic representation. The panel will recruit dedicated selection committees for each prize to undertake the initial sift of entries and put the best candidates forward for that assessment. As I said on Second Reading, we are working closely with the Academy of Medical Sciences and other stakeholders at a national level in identifying the expertise required in setting up the panel as well as its sub-committees.

As I said on Second Reading, there are two types of prizes. The one in the Bill is the achievement prize, but there are also challenge prizes, which the law permits the Secretary of State to award in the form of a grant. The expert panel and the sub-committee will decide, for example, what the challenges should be in the future. We have heard numerous ideas, including how to tackle childhood obesity. The achievement prize pays towards an achievement already established or a scientific discovery that has had a huge impact on the NHS and patient care.

The prizes are very different. The distinction or merit awards are personal bonuses for a clear establishment of a scientific discovery that has had a major impact on healthcare. If you look at the history of the NHS over the past 60 years, as most of us remember during

[LORD DARZI OF DENHAM]
the NHS 60 celebrations, there are many things we should be proud of that contributed not just to well-being and healthcare in this country but also globally.

I believe that I have answered most of the issues raised. I hope that I have reassured the noble Baroness sufficiently for her to withdraw the amendment.

Baroness Tonge: I thank the Minister very much for that reply and apologise if he had to repeat some of the things he said at Second Reading. He must know that this sort of thing can cause a lot of feeling and debate among people who work in the health service and it is terribly important to get it clearly stated as many times as possible. In view of his response, I beg leave to withdraw the amendment.

Amendment 71 withdrawn.

Debate on whether Clause 12 should stand part of the Bill.

Earl Howe: I should like to spend a few minutes looking at Clause 12 in the round and, more especially, its policy rationale. Let me say immediately to the Minister that I have no difficulty accepting the argument made in the impact assessment that the NHS currently lacks an enterprise and innovation culture and that something needs to be done about that. The impact assessment advances a number of possible reasons for that situation: for example, a risk-averse mentality running through the NHS; short-termism in the way that priorities are set; a lack of the necessary leadership to support innovation; and little in the way of reward for either the innovator or the body for which he or she works.

It is thought that a series of innovation prizes may make all the difference in turning that situation around. Once people know that there is a pot of money on offer, so the thinking goes, and once there is visible evidence that innovation is regarded as being important to the NHS, people will get excited and innovative thinking will be stimulated. The idea, as we have heard, is for an expert panel to devise specific health challenges for which the prizes will be awarded and to recommend the winners to Ministers. We are led to understand that at the moment there is a legal bar to a prize scheme of that kind, which is that, although the Secretary of State has the power to award money prospectively, as with a research project, he may not do so retrospectively for work that has already been done.

I would very much welcome a more detailed explanation of that point. The impact assessment states that the Secretary of State's existing powers enable him to award grants "to backfill costs" in a research project. I am not sure what the difference is legally between backfilling costs and awarding a retrospective prize, but there clearly must be one. We are also told that it is intended to launch the first tranche of prizes during 2009,

"within the Secretary of State's existing powers".

If a prize competition for innovation can be launched in the absence of the clause being enacted, the natural question that arises is what practical difference the clause will make to a scheme of that kind. Why, precisely, is it needed?

I have a difficulty with the general principle of public money being used to reward people retrospectively for having done something. My difficulty is the impossibility of demonstrating value for money. It is bound to be a completely hit and miss affair. You cannot know in advance of awarding the money what you are going to get for it. I know that that sounds like rather a purist view, but it is why, up to now, Treasury rules have prevented such a thing happening. In this case, at the point where the terms of the competition are set, there can be no way of knowing how many will enter or whether any of those who enter will be able to deliver innovation to a value at least equal to the value of the prize. If they do, that will be fortuitous.

We must remind ourselves that we are dealing with public money. It is not the same thing as a private individual using his personal money, which he would be entitled to splash around as liberally as he wants, regardless of whether he gets value for it.

My other doubt is whether the existence of a prize will of itself incentivise people in the health service sufficiently to imbed a culture of enterprise and innovation. I am not sure how many prizes there will be; that is to say, whether the money will be spread across several winners, in which case the amounts involved may be quite small, or whether there will be one or two bonanza wins. In either case, the degree for incentivisation of large numbers of NHS staff to launch themselves into innovation mode does not seem that great. The impact assessment talks about the prestige and kudos attached to winning and the attraction of associated publicity. I have no doubt that the Alan Johnson prize for innovation will indeed bring with it a lot of prestige and kudos, but will it imbed a culture of innovation? To my mind, much more is needed to do that than simply an annual prize.

To be fair, I acknowledge that Ministers themselves have made that point and mention is made in the impact assessment of the regional innovation funds held by strategic health authorities, and the setting up of NHS Evidence. We need to register that there still does not appear to be an agreed Memorandum of Understanding in place for the health innovation challenge fund—the Minister may correct me on that—let alone any money distributed. Equally, one has to wonder about the Health Innovation Council, whose creation was announced in October 2007. According to the DoH website, the council has met only twice and the last time was in April 2008. Personally, I still feel that the introduction of quality accounts is an opportunity to start creating the necessary culture in a way that would reach all levels of the health service very rapidly.

2.15 pm

I have expressed my fears about demonstrating value for money and the risk of disappointing levels of incentivisation arising from the new innovation prize, but let us set aside those fears for a minute. The bottom-line question we need to ask the Minister is this: if the evidence is correct and compelling that innovators need to be celebrated and recognised for their achievements, and that by this means management and staff need to understand that innovation in the NHS really matters, why do we need public money to

do this? Has the Minister considered private sponsorship for an innovation prize? If he has, and if for any reason that is not a possibility, has he considered whether any money at all is needed to achieve the desired results? Is it money that people are really looking for? In asking that question, I take my cue from paragraph 19 of the impact assessment, which argues: "The quantum of investment—

in innovative projects—

"may far exceed the cash value of the prize itself ... competitors (in other sectors) have been collectively willing to spend up to 10-16 times the cash value of a prize ... to meet the objectives".

The document continues:

"This may be due to optimism bias; but it may also speak to the value of kudos in stimulating and rewarding effort".

Is not that the central point? Are not the recognition and kudos what people really value, and is it not that which prompts them to invest what some would see as irrational amounts of time and effort in a project relative to the financial reward on offer? It is the contest itself that fires people up. If it were possible to create a national award whereby a number of award winners were celebrated and feted for their achievements, would the existence of a pot of money make the crucial difference to the uptake? I shall be very interested to hear the Minister's comments.

Baroness Murphy: I add my note of scepticism to the notion of innovation prizes. I particularly want to ask the Minister about the timeframe. Major health innovations are often developed over many years. As regards the award of the Nobel Prize for chemistry, physics and medicine, over 10 or 15 years an innovation becomes gradually understood as constituting a fundamental change. An obvious example of that was the award of the Nobel Prize to Peter Mansfield for his MRI innovation, which has transformed the whole of imaging over the past 20 years. However, during the 20 years before he made the discovery for which he got the prize, he slogged away in a laboratory in Nottingham with nobody taking much notice of him at all. Is Peter Mansfield eligible for one of these innovation prizes? I hope so.

Many innovations in medicine have been actively opposed by colleagues in the NHS; for example, in my own field, the newer anti-psychotic medications have made a fantastic difference to a certain group of seriously ill psychotic people who were resistant to the old drugs. However, because they were so much more expensive, for many years there was massive resistance in mental health services to their being prescribed.

Are people going to apply for these prizes? I am trying to imagine myself as a consultant and my team applying for one. How much would the prize money be? Would it be enough to help us develop the service? Alternatively, would the prize be for me or one of my staff as an individual or for the whole team? I do not really understand how it is to work. However, I am interested in the timeframe. Like the noble Earl, Lord Howe, I have great difficulty in conceiving how the money attached to these prizes would be an advantage over the kudos that you are likely to experience within your peer group—your professional colleagues—as some years down the line your innovation gains recognition as a major contribution. The timeframe will be an important element in terms of changing services, and I am sceptical about whether a proposal for specific prizes can really change the culture of the NHS, although again I am not against the award of prizes for various other things.

Baroness Tonge: I think that both noble Lords who have spoken are being a bit curmudgeonly about this. Prizes are much sought after, and it is a matter for debate whether for the kudos or the money. However, I do not think that anyone in the health service who wins such a prize would put the money into an offshore bank account or book a holiday to go around the world. They would plough it back into their research into what they want to do.

I have to have a little go at the noble Earl, Lord Howe, because for years the Conservative Party railed against ideas such as that children should be equal, that nothing should be competitive, that everyone must be given the same level of recognition and that it is bad to be a loser or a winner. Come on, here we are saying to people working in the health service, "Be a winner. Do something great. Think of something different"—if they have the time, that is. What I have not mentioned is that we need to have a bit of slack in the health service so that people have enough time to think of new ways of doing things. Let us be a bit more visionary about it.

Earl Howe: The noble Baroness will not hear me speak one word against the idea of a contest and having winners. My question revolved around the use of public money.

Lord Darzi of Denham: I am grateful for the contributions made by noble Lords. Let me start by reminding the Committee of our debate at Second Reading, when I clearly said that the next-stage review, *High Quality Care for All*, made a significant commitment to changing the culture of the NHS by stating that quality will be its organising principle. We should also recognise that quality is a moving target, and the reason it is constantly moving is because of the innovations made by both those who work in the health service and those outside who translate such innovations into patient benefits. This policy is one of many set out in *High Quality Care for All* through which we are trying to address the challenges referred to by the noble Earl when it comes to the culture of the uptake of innovation in the health service. I believe that it is one of the most important enablers in the effort to ensure that quality remains in a state of constant improvement. Indeed, perhaps I may share an example over the past eight years where innovation has had a huge impact: the area of cardiovascular disease.

Post the NHS Plan and during the passage of the Health and Social Care Bill in 2003, many of our debates concerned the long waiting lists for patients requiring coronary artery bypass graft procedures. I see that the noble Lord, Lord Crisp, is here; at the time, we were trying to ensure that we increased the workforce, or at least the number of surgeons who were able to perform coronary artery bypass grafts, because we had an 18-month waiting list and many patients were dying while on the list.

[LORD DARZI OF DENHAM]

It is fascinating to see what happened in the following five years. I shall go through them one by one. First, the major innovation, which was taken up in the NHS fairly quickly, was the concept of angioplasty and stents. A number of drug-eluting stents came in, and that is a fantastic example of innovation. Secondly, at the same time the statin trials were published. I am delighted to say that the bulk of those trials were carried out in this country on NHS patients, and they showed the benefits of statins. Thirdly, and I am sure there will be another debate on this, there was the ban on smoking in public places, which I am sure we will see the fruits of when it comes to cardiovascular disease. I have given the Committee three areas of innovation in five years that have reduced the overall mortality rates of cardiovascular disease in this country by 46 per cent to 47 per cent. That is why I talk about a moving target; innovation comes in, and the NHS needs to be ready for it.

I shall describe the package in *High Quality Care for All*. Innovation prizes are only a small part of our enablers in the system—the nudgers—to transform that culture. One of them, which the noble Earl referred to, is the innovation fund that we are about to launch through the strategic health authorities, which is, if I am correct, up to £200 million.

At the same time we are introducing a number of innovation vehicles into the health service with the creation of the academic health science centres. The Committee may be aware that this week a number of organisations have come to be interviewed by an international committee that is assessing their applications to become such centres, which are a vehicle by which universities and NHS providers can be brought together into a different type of governance structure, ultimately driving innovation in the health service. In addition, I have made reference to the health innovation and education clusters that we will be launching in due course.

I hope I have given a flavour of what innovation will be all about in the NHS in the next decade. I shall move on to Clause 12 and describe some of the specifics of the prize, how we see it being administered and some examples of the NHS's contribution historically to innovation. Under existing legislation, the NHS Act 2006, my right honourable friend the Secretary of State for Health can currently award grants for future research purposes. That is clear. In terms of awarding prizes, the power is limited and does not extend to awarding money retrospectively to recognise and reward work that has already been completed.

I am grateful to the noble Baroness, Lady Murphy, who raised the issue of Peter Mansfield. I know something about this subject because imaging is an area of research that I have an interest in. She could not have picked a better example. It was 1967 in Nottingham when Peter Mansfield built the first MRI device. I think the point being made was that he was recognised as a Nobel laureate, but he was not recognised until 2005 for that achievement, and even then not in this country. The noble Baroness has made the case for such a prize being given to people who have made huge scientific contributions in this country. I am sad to say also that the fruit of Mansfield's discovery did not happen in the NHS; there were more MRI machines and more patients being imaged with MRI across the pond, as they say. That is the culture. I am very grateful for the noble Baroness's intervention. I do not think that we recognise our major contributors in this country, whether they are scientists or NHS workers, and this is our attempt to do so.

2.30 pm

I could make many other references. We have had a tradition of medical innovators. I shall mention three people who have had a huge impact on the surgery as we know it today. They include Florence Nightingale and Alexander Fleming. Penicillin was discovered accidentally, I know; the individual happened to work in my organisation, went on holiday and when he came back he saw the fungus. That had a huge impact. Again, that individual was not recognised in this country. Joseph Lister introduced asepsis into surgical techniques. The NHS has a proud history of innovation and innovators. We are trying to encourage that and acknowledge these achievements.

Baroness Tonge: I thank the Minister for giving way, because I cannot resist intervening. While we are on the subject of innovation prizes, perhaps we could give a prize to every person working in the health service. The book *Notes on Nursing*, by Florence Nightingale, would help them tremendously in their fight against cross-infection.

Lord Darzi of Denham: I am grateful for that suggestion and I would be more than happy to look into it. I could not agree more that we should look at anything that will recognise the big contributions made by many people in this country in relation to clinical care—for example, nursing, midwifery and so on. I could go on and share with the Committee the innovations that have happened over the past 60 years.

To address some of the issues raised by the noble Earl, Lord Howe, in relation to private sponsorship, I cannot see any reason why, by establishing these prizes, we will not just work in partnerships in future but even attract funding. The distinction of these awards could be so great that people in the private sector and other sponsorships may wish to work with us. Many competitors in other sectors have previously been collectively willing to spend 10 to 16 times the cash value of a prize on relevant research to meet the objectives. The best example would be the X PRIZE Foundation in 2007.

I remind the Committee that the NHS has started to recognise its staff. We have the health and social care awards, which recognise achievement in the NHS. There are prizes to recognise a significant challenge and a significant achievement, such as the example of Peter Mansfield's achievement. On many occasions we have debated the challenges that the health service will face over the next decade. Most of us are fully familiar with the ageing population, long-term conditions and lifestyle diseases. There are many challenges out there. If we can encourage our innovators to think about solutions for those major challenges, that will be money well spent.

I will return to backfill. Historically, most researchers who have received sums of money of this type have invested that money in further research. There are many examples of this. The seven Nobel Prize laureates for physiology and medicine who worked in the NHS are a good example of how that funding maintained and continued their research.

I have addressed how the expert panel will be constructed. As I said, we need expertise from outside to help us determine who these experts are, but not just to do the assessments. Let us not forget that the challenges need to be decided. It is not for me and the Department of Health to do that. It is for the expert panel to decide the challenges that will have the biggest impact on the health service. I believe that I have answered most of the issues raised by the noble Earl, Lord Howe. I very much hope that I have reassured him and that I have the support of the Committee in pushing this culture of innovation in the health service.

Earl Howe: I thank the Minister for his reply. I know that I am a miserable old Tory Scrooge—I am sure that the noble Baroness, Lady Tonge, is right to berate me on that score—but the Minister gave me an entrée into something that I was going to say anyway when he talked about the need to ensure that innovation was adopted. That is the challenge that the noble Baroness, Lady Murphy, spoke about as well. It says to me that innovators really desire not so much a pot of money to reward them for their work but to see their innovations used widely in the NHS and quickly to improve patient care. In fact, it is as well to recall a passage from what the Health Committee in another place wrote in 2005:

"The UK is a world-leader and centre of excellence for the development of new medical technologies, but it lags behind many countries in the implementation of these innovative products".

Therefore, we need better incentives designed to encourage the uptake of those innovations.

The noble Lord will know that, even today, there remain a whole host of innovative treatments, tools and therapies that the NHS is not adopting rapidly enough. I have a number of examples. One is new therapies for rheumatoid arthritis, where the UK lags behind other countries in adopting new drug treatments. Another is a tool called C-PORT, a wonderful innovation that improves access to cancer medicines and enables services to be planned better but at present not all hospitals with chemotherapy centres have taken advantage of it. There are all sorts of new diagnostic tests where the UK has been held up as a bad example among European countries for the rate at which we adopt them.

I am not sure—I would be delighted to be proved wrong—that the prize scheme will make a difference to those sorts of things. The noble Lord mentioned a number of government initiatives in this area, and I note all that he said. I could add one or two more in the review that he published that could do a good job of encouraging uptake, such as the CQUIN schemes. CQUIN is nominally designed to incentivise innovation, and could be used to encourage the system-wide uptake of innovative treatments and therapies. Were one to mandate the national adoption of CQUIN schemes, if they were specifically designed in the way that I have described, you could have a big impact on encouraging innovation across the health service.

I do not propose to draw out the debate any longer. At heart, there is a fair degree of agreement among us. I still have a number of niggling doubts about the prize fund. It could lever in some private money on top, which could be very positive, but I note from the impact assessment that the Government regard it very much as an experiment, the results of which they will evaluate in due course. Let us leave it on that basis and wish it all the best.

Clause 12 agreed.

Clause 13: Trust special administrators: NHS trusts and NHS foundation trusts

Amendment 72

Moved by ***Earl Howe***

72: Clause 13, page 10, leave out lines 14 to 26

Earl Howe: We move to Part 2 and the clauses relating to trust special administrators. I am moving Amendment 72 and speaking to Amendment 76, and it will be apparent from these amendments that I am not happy with the provisions in this part of the Bill as they relate to foundation trusts.

When foundation trusts were established, it was made clear by the Government that they would be a completely different sort of entity from a standard NHS trust. Although remaining part of the National Health Service, they would cease to be subject to performance management by strategic health authorities; they would be granted considerable operating and commercial freedoms; their governance would be totally different from that of an NHS trust; they would not be subject to the Secretary of State's powers of direction; their fixed assets would be transferred to independent trustees; and they would be regulated by a dedicated new body quite separate from the Department of Health. The regulator we now know as Monitor would be responsible for authorising foundation trusts in the first instance, and would remain responsible for the oversight of their finances and performance from then onwards. The whole raison d'être of foundation trusts was therefore to distance the management of health services from Ministers and devolve decision-making to a local level, to transfer risk and to set NHS management free from top-down political diktat.

The Bill which passed these provisions into law became the Health and Social Care (Community Health and Standards Act) 2003. At that time, Ministers were quite open about the fact that the failure regime for foundation trusts represented unfinished business and that further legislation would be needed once the mechanisms for a suitable regime had been devised. It was expected that these mechanisms would dovetail with the arrangements set out in the 2003 Act; in other words, that the responsibility for implementing the failure regime for foundation trusts would rest with Monitor.

[EARL HOWE]

It has taken the Government the best part of six years to come forward with their final proposals, and what they have come up with is, frankly, a cop-out. The proposals in the Bill overlook the fact that within a very few years the vast majority, if not all, NHS providers will be foundation trusts. Once this happens, as night follows day, there will be no role for the NHS chief executive as regards running hospitals and no role for strategic health authorities as the performance managers of hospitals. Almost the entire provider arm of the NHS will consist of autonomous enterprises subject to independent regulation under Monitor.

Yet what do we find in the Bill? It is as if none of this is even recognised; the tape is being wound back to the beginning. Monitor is being told to surrender its authority back to the Secretary of State, who will then take over. The message that this gives is that Monitor, as the economic regulator for foundation trusts, cannot be trusted to manage the failure regime, nor can it be trusted to fulfil its statutory duty to secure the assets of foundation trusts to maintain services for the NHS. That is a dismal state of affairs. The essential feature of a failure regime should be that the assets that are required for the maintenance of NHS services should continue to be available after insolvency has been declared. Therefore the regime should enable the regulator to step in and control those assets and services. It would do this while ensuring that the rights of creditors were recognised.

That broad procedure is consistent with a good deal of public service regulation in other sectors and other countries. It does not risk hospitals being closed because of financial failure but, crucially, it preserves the transfer of risk from the Department of Health, which these proposals seem to nullify, by offering what amounts to a government guarantee for all debts of all foundation trusts. If the Government now underwrite all the debts of foundation trusts, we need to consider what effect this will have. It is bound to affect, however subtly, the quality of decision-making on the part of management and governors of trusts simply by virtue of the way that they view business risk. Tight and prudent management and the disciplines that go with it, I contend, will be compromised by the existence of this failure regime. If we want to see foundation trusts using their freedoms ever more effectively and creatively, this is definitely not the way to do that.

I said that these proposals were a cop-out. They are also a far cry from what we were being told in 2002. The document published by the department in December of that year called *A Guide to Foundation Trusts* strongly implied that it would be the independent regulator who would be given powers to intervene in failing foundation trusts, and that in extremis a special administrator would be appointed to wind up the trust. At the Second Reading of what became the Health and Social Care (Community Health and Standards) Act 2003, John Hutton said:

"The new financial and operational freedoms for NHS foundation trusts will not be gained at the expense of other parts of the NHS because that would not be fair or equitable. There will therefore be no unfair advantages for some for which others pay. Peter will not be robbed to pay Paul".—[*Official Report*, Commons, 7/5/03; col. 794.]

That is precisely what is happening with this Bill. Unfair advantages are being granted for which others will pay. Peter is being robbed to pay Paul. That is because the freedoms and independence which foundation trusts enjoy are now to be underwritten by the taxpayer. If the taxpayer were ever to end up settling the totality of the bill, it would be other arms of the health budget that would suffer.

I do not expect to get any change from the Minister on this. I very much hope I am wrong, because I view this as a seriously bad wrong turning on the part of the Government. I should make it clear that in making this case, I have not been prompted in any way by Monitor which—the noble Baroness, Lady Murphy, will I am sure be able to confirm—has stood back from the issue. It is not really a matter for Monitor; it is a matter for Parliament, and therefore I beg to move.

2.45 pm

Baroness Murphy: I have no support from Monitor, although I am a member of that regulatory body, to speak on its behalf. Instead, I speak purely for myself today. This represents a terrible back-pedalling, and it is not the first time that it has happened over the past few months. For the chief executive of the NHS to intervene seems to represent a clawing back of powers yet again to the Secretary of State, where we had hoped that we were moving away from that position. I am surprised that the Treasury has espoused this plan because if a foundation trust with joint capital ventures were to go bust, it would expose the Exchequer to considerable risk. I am rather surprised that when we had provisions that would have moved away from such a risk, this returns us to it.

I am very disappointed. After many months of negotiation, Monitor has stood back because it felt that it was getting nowhere. It is prepared to work within the framework set down in the Bill, but in my view it is a sad day.

Lord Campbell-Savours: What would happen if the noble Baroness had her way? If a trust got itself into trouble, who would fund its liabilities?

Baroness Murphy: I am not sure I can talk about who would fund the liabilities, but certainly we would propose another scheme. In effect, you would intervene to ensure that services to be maintained were probably maintained by someone else. Indeed, Monitor has intervened in this past week in an unsatisfactory hospital to support the change of leadership in a trust where things were going wrong. It has used its powers of intervention far more willingly—though sparingly—than the NHS chief executive uses his powers. An organisation that has its finger on the performance of these organisations, is trusted with widespread intervention powers and is expected to rescue the organisations as we go along, trying to pick up on a compliance basis when they are likely to fail and intervening before they do, should then at the point of failure have to hand over to another system, back to the Secretary of State, for the final administration and interventions. I am surprised by this regime; it is unsatisfactory. I wholeheartedly agree with the noble Earl.

Baroness Cumberlege: I support my noble friend and the noble Baroness, Lady Murphy, on this. I have a key question: what has changed in six years? Why are we rowing back? My perception of Monitor is that it has been a very effective regulator—as the noble Baroness has said, probably because it has used its powers sparingly but effectively. There has been minimal disruption but we have seen standards improve. When one compares foundation trusts with other trusts, there is no doubt that they excel. What has changed?

Baroness Meacher: I am not sure that anyone other than the taxpayer in the end can bail out a hospital, whether you call it a foundation trust hospital or an NHS hospital. My concern is about procedural matters—the systems and the apparent unawareness on the part of the people who drafted the Bill of the way that things are done for foundation trusts. It is remarkable that under new Clause 65B(2), which is a slightly different bit from the lines the noble Earl referred to:

"An order may be made under subsection (1) only if the Secretary of State considers it appropriate".

Why the Secretary of State? The Secretary of State has no role in relation to the foundation trusts. Before making the order, the Secretary of State must consult the strategic health authority. Why? It has no relation—

Lord Darzi of Denham: This is not for foundation trusts.

Baroness Meacher: Not for foundation trusts at all? Then that is fine. Maybe the Minister can assure me that it will be Monitor that decides about systems for FTs. I thank him for the clarification.

Lord Darzi of Denham: I will spend a bit of time going through this group, Amendments 72 and 76, tabled by the noble Earl, Lord Howe, and the noble Baroness, Lady Cumberlege, and the question of whether Clause 14 should stand part. However, before I address these issues in detail, I shall set out some of the wider context behind these proposals, which will help frame this debate.

The majority of hospitals and trusts are performing well, providing high-quality services to patients and managing resources effectively. In the few cases where they are not, however, action must be taken. The first step to improve performance should be at a local level through the commissioners, the strategic health authority or, in the case of foundation trusts, through Monitor. In the rare cases where these interventions are unsuccessful, patients and staff rightly look to the Government to take action. It is therefore essential that we have a transparent process in place to resolve failures. The regime for unsustainable NHS providers, set out in Clause 13 and in the subsequent three clauses, is, in practice, the very last step for a provider which has been subject to these previous actions aimed at recovery.

The amendments would have the specific effect of disapplying the whole regime to foundation trusts. Let me be clear at the outset, as I have been saying throughout the Committee's proceedings, that the process outlined in the Bill upholds the independence of foundation trusts and of Monitor. Indeed, the lack of a completed regime to tackle failure undermines the terms of authorisation that all foundation trusts have, as there is ambiguity about how any instance of failure would be dealt with. The Bill completes the final stage and demonstrates that the foundation trust regime is serious and enforceable.

As a Government, we are committed to the concept of foundation trusts. This is demonstrated by the fact that we have laid down an explicit timetable for strategic health authorities to support eligible trusts to become foundation trusts. Acute and mental health trusts that are capable of achieving NHS foundation trust status are expected to have applied to the Secretary of State by 31 December 2010 to go forward to Monitor to be considered for authorisation.

The process set out in the Bill does not remove any of Monitor's powers. The same test is used to apply this regime as exists in the current legislation governing the dissolution of foundation trusts. Only Monitor can trigger the regime and request that a foundation trust is de-authorised, and that will remain the case. This would only happen if and when it was satisfied that a trust had failed to comply with a notice under Section 52 of the NHS Act and that a further notice would be unlikely to secure the provision of those services it is required to provide by its foundation trust authorisation. It is Monitor that will trigger the process and say, "We have done everything".

I will now move to the specific points on insolvency. The Health and Social Care (Community Health and Standards) Act 2003, now consolidated into the National Health Service Act 2006, envisaged an insolvency procedure for NHS foundation trusts, drawing on aspects of the Insolvency Act 1986, but we have never found an appropriate way to take these plans forward. After careful consideration, we have concluded that it is not appropriate to apply an insolvency process to NHS foundation trusts. Fundamentally, insolvency would place financial failure above other considerations such as quality and patients' interests when the cause of the organisational failure may well relate to a broader clinical issue. We are concerned that an insolvency-based approach, even in a modified form, would not be in the best interests of patients and would not meet the public's expectation that the Government should step in and assist a failing NHS organisation.

The regime that we have outlined in the Bill allows consideration to be given to the most appropriate long-term outcome for the organisation. This is unlike the existing insolvency arrangements; they present dissolution of the organisation as the only option, which may not be the best outcome for patients and the public locally.

The regime also gives clarity to staff and patients about the process that will be followed, when decisions will be made, and how they can input into the process. Unlike in the insolvency provisions, staff and patient involvement in this process is guaranteed in the legislation. In addition, the process ensures that the Secretary of State's final decision on the future of services is informed by an independent process involving evidence-based judgments, underpinned by accountability to the public and patients. I believe that this is a better approach.

[LORD DARZI OF DENHAM]

The majority of respondents to our recent consultation on this approach agreed that it would not be appropriate to apply an insolvency regime to a state-owned healthcare service. For example, the Audit Commission commented:

"An insolvency regime is unlikely to protect the interests of either taxpayer or patient, but we do consider it right that there is a clearly identified regime for unsustainable NHS organisations".

3 pm

Finally on these amendments I turn to the issues raised on the incentives and risks. It is worth reiterating that the measures outlined in the Bill would apply extremely rarely and only in cases that Monitor could not solve using its existing interventional powers. We are in a different position from that which applied when the Health and Social Care (Community Health and Standards) Act was passed in 2003. We are now in a position where we can see the positive effect that Monitor's compliance framework has had and the financial rigour that it has introduced into the system. The measures that Monitor has in place are widely recognised as being successful in identifying risks at an early stage, and its interventions give foundation trust boards a strong incentive to address poor performance. Even though there are now 115 foundation trusts, Monitor has needed to use its formal intervention only on three occasions since foundation trusts were first authorised in 2004.

I do not agree that the measures in the Bill diminish the incentives for foundation trust boards. In the same way that board members would not want to be responsible for an organisation becoming insolvent, they are unlikely to want to be responsible for a foundation trust having its licence revoked or being de-authorised and having its independence removed.

There will continue to be regulation of borrowing. As required in the NHS Act 2006, Monitor sets a prudential borrowing limit in each foundation trust's terms of authorisation. This limits a foundation trust's cumulative long-term borrowing and is designed to keep it at an affordable level with an acceptable risk. Monitor's compliance regime assigns a financial risk rating to every financial trust. The financial risk rating is intended to reflect the likelihood of a financial breach of the terms of authorisation and is reviewed regularly. There is a strong incentive for foundation trust boards to maintain their trust rating at an acceptable level, as a poor rating is likely to result in Monitor using its interventional powers, which include dismissal of the board.

Given these safeguards, we do not expect that the regime will change the incentives on NHS foundation trusts' behaviours in their investments and borrowing decisions. But this is uncharted territory and so, if and when the regime is implemented, we will work with Monitor to observe the effects on foundation trusts' incentives and behaviour, particularly with regard to borrowing.

I hope that I have been able to reassure the noble Earl that Monitor's independence in regulating foundation trusts will be maintained. We are addressing what the process, if Monitor decides that an organisation is no longer viable for any reason, should be to deal with that challenge. It is the Government's view that an insolvency regime is not the appropriate way to deal with such failure. I hope that I have reassured noble Lords and given some clarity to these provisions.

Earl Howe: This has been a useful debate and I thank all those who have taken part in it. I am grateful to the Minister for his reply.

I was not concerned that the independence of Monitor was being interfered with within the framework of its current responsibilities; that was not the focus of my remarks. I am concerned that the Government have not looked creatively enough at the alternatives. I do not know what has led them to conclude that an insolvency regime would be less likely to deliver good value for money for the taxpayer than the alternatives—perhaps we can go into that—but for those who do business now with foundation trusts it is clear that there will be no such thing as an unsecured creditor.

Lord Campbell-Savours: Perhaps I may ask the noble Earl a question in order to assist people when they read *Hansard*. In the insolvency regime, to which he referred, what would happen where suppliers of services at a local level had outstanding invoices that had not been paid? Is it that as suppliers they may not be paid? What about wages in the trust? What about property liabilities, such as rentals or property held by the trust? Are the outstanding borrowings of the trust at risk in the insolvency regime to which the noble Earl refers? Alternatively, am I completely misunderstanding him and there would be no risk?

Earl Howe: The noble Lord does not misunderstand me. There would be risk for some people. One would certainly hope that there would not be risk for the employees of the trust, who would be regarded as preferential creditors. But there would be some risk, which should be priced into leasing contracts and other arrangements that the trust makes currently. That is part of the whole idea of creating this new entity called a foundation trust. I do not think that it is healthy that doing business with a foundation trust should be regarded as a risk-free exercise. That was never meant to be the case.

Part of the significance of all this is the message that it sends out to the independent sector. Not only will it envy the fact that foundation trusts are to be 100 per cent underwritten by the taxpayer, it will also realise that the Department of Health's view of what constitutes core NHS services does not include it. A medium secure mental health unit run by the private sector is every bit as integral to the delivery of core services as a foundation trust, yet the failure regime applicable to it would be quite different. How confident will the independent sector now be that it has a realistic long-term prospect of playing a significant role in the provision of NHS services? Not very.

Part of the context of the creation of foundation trusts was the desire of the Government to create a plurality of health provision under the NHS umbrella, with providers competing on level terms. I say to the Minister again that the measures outlined in the Bill undermine that aim. Nevertheless, I rather suspected

that I was not going to make much headway with these arguments. I note that the noble Lord, Lord Campbell-Savours, is relieved about that. I beg leave to withdraw the amendment.

Amendment 72 withdrawn.

Amendment 73

Moved by ***Earl Howe***

73: Clause 13, page 10, line 33, after "it" insert "necessary and"

Earl Howe: Amendments 73 and 75 deal with two separate but important issues. New Section 65B(2) of the National Health Service Act 2006, to be introduced under Clause 13, covers the trigger for the appointment of a trust special administrator. It states:

"An order may be made under subsection (1) only if the Secretary of State considers it appropriate in the interests of the health service".

What does "appropriate" mean in this context? Does it mean that the Secretary of State does not have to consider and reject alternatives before deciding to make an order? One could imagine circumstances in which several options were open to the Secretary of State, administration being one. Most of us, I think, would agree that administration should be a last resort after eliminating other possibilities. Unless the pros and cons of all available options are examined thoroughly and unless administration is seen as not only appropriate but also necessary, I do not think that we will have a recipe for achieving the best outcome either for the NHS or for patients.

Putting an NHS trust into administration, were it ever to happen, would be a highly charged decision in terms of its local politics. I would like to see the Secretary of State legally bound to consider all options before going down that road. I do not say that I know of any case where local party politics have influenced a Secretary of State in a decision surrounding service reconfiguration. But once in a while suspicions of this sort arise and I believe that it is important to take steps to avoid them arising.

It is worth noting that new Clause 65B(5) obliges the Secretary of State to lay a report before Parliament stating the reasons for making the order to appoint a trust special administrator. I welcome this but it is important to ensure that the mechanism, which is designed to promote transparency, is used to demonstrate that the logic of the Secretary of State's decision was inescapable rather than merely persuasive.

Sentiment in a not dissimilar vein underlies Amendment 75: trust special administrators must be independent of Ministers. They must be allowed to act professionally and not be subject to direction, or even the threat of direction, from those who may have a political agenda to fulfil in relation to the failing trust. The trust special administrator must act in the best interests of the NHS, patients and the taxpayer, and he must take his decisions objectively, so far as possible, while taking into account the views of all those whom he has consulted. I repeat that the closure of any NHS hospital is going to be highly politically charged, if it ever happens, and we must protect the process from the possibility of gerrymandering and party-political bias. I hope that the Minister will look carefully at the amendments. I beg to move.

Baroness Cumberlege: I support my noble friend in stating that administration would be the last resort. That goes without saying. I welcome the fact that in the event of administration a very specific timetable is laid out in the Bill. That is very helpful. My problem with the timetable, though, is that it takes a long time for the Minister or the Secretary of State to reach a final decision. If one takes it in terms not only of the working days but of weeks, which would include weekends and bank holidays, it could take up to five months. That is a long time before a final decision is made, and the people who are working in the trust and those who use it are left dangling, not knowing what that decision will be.

The Bill also states that at the end of those five months the Secretary of State may say to those people, "I'm very willing to reinstate you". If I was a chairman or a member of the board and after five months was offered a return to my job, I would say, "Stuff your job". I would be very upset about it.

I can see that this is very unlikely to happen, but we need to ensure that the legislation is precise. Will the Minister consider whether there are any methods to shorten the timescale so that it is not as long as five months? That would mean reducing some of the consultation and so on in terms of working days, but it would be preferable.

When there is a reconfiguration issue, the independent reconfiguration panel is brought in. We know that on some occasions the panel has overturned the proposals put forward by the strategic health authority. So the Secretary of State will have two sets of advice, one from the independent reconfiguration panel and one from the special trust administrator. I wonder whether that is a clear way forward or whether it could cause quite a bit of confusion. Perhaps there needs to be something in legislation to clarify the roles of each so that the Secretary of State is not left with conflicting advice, which would be unhelpful for those who were subject to administration.

3.15 pm

Lord Darzi of Denham: Amendments 73 and 75 seek clarification on how the powers will be used in relation to triggering the regime and the powers to direct the trust special administrator. Amendment 73 seeks to limit how the Secretary of State could use the provisions outlined in the Bill.

In drafting the legislation, we have drawn on the existing text in the National Health Service Act which relates to orders dissolving NHS trusts, where the test for making the order is that the Secretary of State considers it,

"appropriate in the interests of the health service".

The amendment removes some of the flexibility that exists in the application of the regime. Using "necessary" rather than just "appropriate", as the amendment proposes, imposes a higher standard before the Secretary of

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State can appoint a trust special administrator. This means that if there were other options for addressing a trust's problems that were deemed to be appropriate, the appointment of a trust special administrator could not be said to be necessary, even if doing so might offer the best outcome. The noble Baroness, Lady Cumberlege, mentioned that in terms of timings and appointments. We do not want to be prevented from using the regime where it is most needed.

Let me clarify what we mean by "appropriate". The established term, used in existing legislation, is,
"appropriate in the interests of the health service".
In making the decision, the Secretary of State will be guided by the principles of the regime, particularly that patients' interests must come first. That is a judgment that the Secretary of State will take into account with other relevant factors.

As I have said, the vast majority of hospitals and trusts are performing well, providing high-quality services to patients and managing resources effectively. Where they are not, interventions will have to be made through the NHS performance framework or Monitor's compliance framework. In the very rare cases where these interventions are unsuccessful or the strategic health authority is not able to get plans agreed on how to address the situation, that may include recommendations from the independent reconfiguration panel, which I believe comes well before a trust reaches the stage when a trust special administrator might be appointed.

Let me also reassure noble Lords that these provisions outlined in the Bill will not simply be used to tackle management issues; earlier stages of performance intervention will address such issues. They might, however, be applied to address fundamental, perhaps systemic issues, where local interventions have not been successful.

Amendment 75 attempts to make it clear that the Secretary of State is not able to direct the trust special administrator with regard to the preparation of the draft report, the consultation process, or the final report. Let me reassure the noble Earl, Lord Howe, and the noble Baroness, Lady Cumberlege, that I understand their concerns. For this reason, I would like to place it on record that although the Secretary of State has general powers of direction in the 2006 Act, this applies only to direct the trust itself and not to direct the trust special administrator. The Secretary of State has no powers of direction on the outcome of the trust special administrator's final report.

The Secretary of State will issue guidance under new Section 65N, but this will act as an aide to the trust special administrator. It will cover general issues in relation to persons to be consulted, the factors to be taken into account and relevant publications to consider when preparing reports and information on the publication of notices. It will not be an instrument for dealing with specific cases, as trust special administrators will be required to use their judgment to adapt to the individual situation.

The noble Baroness, Lady Cumberlege, referred to the independent reconfiguration panel. That panel plays an extremely important role, as we know, in advising the Secretary of State. I acknowledge that many local reports have ended up with the independent reconfiguration panels, and some have been rejected. The trust special administrator's guidance will make that information available if the independent reconfiguration panel has carried out a review and that review has not been implemented, as a result of which the trust has ended up in the failure regime.

I hope that I have been able to give sufficient explanation and background to allow the noble Earl to withdraw the amendment.

Earl Howe: I thank the Minister for his reply; I shall have to read in *Hansard* the first part of it, which I did not totally follow—the part that referred to the difference between "necessary" and "appropriate". I must admit that I got confused when listening to him. That is not his fault, but it is important that I totally understand what he is saying.

However, I cannot help observing—I hope that the Minister will take this point away—that he mentioned that the wording in this part of the Bill is modelled directly on the wording of the 2006 Act. It is worth noting that although the Secretary of State needs only to consider it "appropriate" to make an order appointing a trust special administrator, Monitor under new Section 65D must be "satisfied" that the foundation trust is failing and likely to continue to fail. I suggest that that is a much stiffer test for Monitor. I wonder why the Government have not put the two on an equal footing.

I shall just pick up one other point that the Minister made. He said that the Secretary of State did not have power to direct an individual, only the NHS body. In that case, I wonder why new Section 65H(7) refers to the Secretary of State directing the administrator. I am not taking issue with that provision, because if there are people whom the Secretary of State believes that the administrator should consult, he should consult them, but it does imply that there is a power of direction.

Lord Darzi of Denham: The Secretary of State can direct the trust special administrator on how to consult. That is only a power of direction rather than a power over the trust or the report of the trust's special administrator. The Secretary of State has no power over the report itself, but he has power to direct the trust special administrator on issues of consultation and process.

Earl Howe: I understand and I am grateful to the Minister for that clarification. I beg leave to withdraw the amendment.

Amendment 73 withdrawn.

Amendment 74

Moved by ***Earl Howe***

74: Clause 13, page 10, line 38, at end insert—
"( ) staff of the trust,"

Earl Howe: I shall speak at the same time to Amendments 77, 78 and 80. The amendments can be dealt with very simply. They are all to do with who is consulted on what and when. In new Section 65B(4),

before making an order to appoint a trust special administrator, the Secretary of State must consult a number of people. He must consult the trust, any SHA in which the trust has facilities and the trust's customers.

No mention is made there of the staff at the trust, and I ask the Minister why that is. No one would deny that the most important people in this equation are the service users—the patients—but we need to remember that there are others with important rights here, and those are the people who work for the trust and provide the services which, in the circumstances envisaged, would be under threat of closure. Those are the people whose jobs are at risk. There is a strong case for putting the staff in the Act as statutory consultees. For the same reason, the staff of a foundation trust deserve to be consulted by Monitor before it gives the Secretary of State a notice that would serve to put the administration process into motion.

Again, later on, when the trust special administrator prepares his draft report, provision is made in new Section 65F for him to consult any relevant strategic health authority and the service users, but no mention is made of the staff of the trust. That is wrong. The employees have a highly relevant interest in what the report recommends and their views should be heard.

There is another dimension to the consultation issue, which relates to foundation trusts. In new Section 65D we find that, before giving a notice to the Secretary of State that a foundation trust is failing and is likely to continue to fail, Monitor must consult the trust, any relevant SHA and the trust's service users. I have already mentioned the absence of staff in that list, but in the context of a foundation trust there are surely others with an extremely important set of interests who are not referred to here.

The first group is the board of governors—in other words, the group of individuals who are elected to represent the members. We should remind ourselves that the members of a foundation trust are its local owners. The second group not referred to is the trustees of the fixed assets used by the trust. Again, we need to remind ourselves that under Section 51 of the NHS Act 2006 provision is made for trustees to hold trust property on behalf of the foundation trust. We would surely wish to say that these people would have a relevant interest if ever there were a question of their fiduciary duties being affected by the appointment of a trust special administrator. I hope that the Minister will at least wish to give careful thought to these amendments, and I beg to move.

Lord Darzi of Denham: The effects of Amendments 74, 77, 78 and 80, tabled by the noble Earl, Lord Howe, and the noble Baroness, Lady Cumberlege, would be twofold: Amendments 74, 77 and 78 would add requirements to consult staff, governors and trustees prior to the trust special administrator being appointed, while Amendment 80 would require the trust special administrator to consult staff when preparing the draft report. I understand why the noble Earl and the noble Baroness have tabled the amendments and I could not agree more with the sentiments behind them. Having worked in the NHS for many years, I passionately believe that achieving high staff morale through effective engagement is central to obtaining high-quality care in the NHS. I also believe that many of the staff have the solutions. That is why staff engagement is one of the essential principles of this regime.

My understanding is that when a trust becomes unsustainable it will, understandably, be an extremely unsettling time for the staff. To help address that point we have designed the regime to produce a swift resolution while ensuring that staff are engaged throughout that process. I want to place on record that the staff should be engaged through the process, and that essential principle will be further strengthened in the statutory guidance that we will produce.

Amendments 74 and 77 would require staff to be consulted prior to the appointment of the trust special administrator. It is important to consider who would be the most appropriate person or body to engage with staff at that stage. The Bill includes a requirement for the Secretary of State for the NHS trust, or Monitor for a foundation trust, to consult the trust prior to the trust special administrator's appointment. In turn, we would expect the organisation in question to engage its staff prior to that appointment. It would be most appropriate for the individual trust or foundation trust to do so. The Secretary of State, or Monitor, should not bypass the existing leadership of the trust or foundation trust at that stage, which is probably quite a sensitive stage. We have built in a delay of up to five working days between the announcement of the trust special administrator and them taking up their post to allow time for staff in the organisation to be briefed on the issue, to understand how the process will work and to understand how they will be able to engage with and influence it. Once the trust special administrator is appointed, they will communicate to the staff about their role and, again, will set out how individuals can input into that process.

3.30 pm

Amendment 78 seeks clarity on how foundation trusts and their governance arrangements fit into this regime. Boards of governors play an integral role in foundation trusts and, because of this core role, foundation trust governors should be aware of performance issues within their foundation trusts. They should also be aware of any previous performance interventions that Monitor has taken. Because of this role and the established relationship they will have with the board of directors, we would expect governors to feed directly into the response that Monitor requests from the trust in new Section 65D(4). Foundation trust members have an important role in influencing the strategic direction of a foundation trust. They will also be able to input into the formal consultation process at new Section 65H. In our response to the consultation on the policy we recognised that both the governors and the members would be able to provide a valuable contribution to the process and agreed that we should provide details on how a trust special administrator should engage with them in the statutory guidance.

The trustees of a foundation trust are appointed to hold its charitable funds. As such, trustees will have an interest in the trust special administrator's

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recommendations, particularly with regard to the future of the organisation, but I do not think it is appropriate for them to have a specific role in deciding whether Monitor should take action which results in the de-authorisation of a foundation trust. Trustees, along with any interested party, will, however, be able to input into the consultation on the trust special administrator's draft report outlined in new Section 65(H).

Finally, Amendment 80 seeks to insert a requirement for staff to be involved in the production of the draft report. I have already set out the importance that is given to engaging staff in this regime. There is already a requirement for the trust special administrator to hold at least one meeting with staff and their representatives to seek their responses on the draft report. Of course, individual staff and staff representatives will also be able to respond formally, in writing, to the consultation on that draft report. This valuable input will help inform the trust special administrator in compiling their final report. There is also a requirement for the trust special administrator to produce a summary of all responses to the consultation with the final report itself, which will include responses from meetings with staff. This means that the views of staff will be represented in a clear and transparent manner when the final report is submitted to the Secretary of State. Given these steps it will not be necessary to specifically require staff involvement in the draft report. As I said earlier, tremendous engagement will have happened and the opportunity to contribute is there.

I hope these explanations reassure the noble Earl, Lord Howe, and the noble Baroness, Lady Cumberlege, and that they will feel able to withdraw the amendment.

Earl Howe: I welcome the Minister's reassurance as to what he expects to happen prior to and during an administration as regards who is consulted and when. Nevertheless, it still seems a little odd that some of the key groups which he recognises are important are not mentioned specifically in the Bill as consultees. I hope that the words he has just uttered will be noted. If ever there is a time when, sad to say, an NHS trust is put into administration, I can only trust that this will happen and that Ministers at the time will ensure that the good intentions the noble Lord has outlined are carried through. For now, however, I beg leave to withdraw the amendment.

Amendment 74 withdrawn.

Amendment 74A

Moved by ***Baroness Cumberlege***

74A: Clause 13, page 10, line 38, at end insert—
"( ) the Care Quality Commission,"

Baroness Cumberlege: Continuing with the theme of consultation, the three amendments in this group would include the Care Quality Commission within the scope of the Secretary of State's consultation, first, for the appointment of a trust special administrator; secondly, for the giving of a regulator's notice by Monitor in the case of a foundation trust; and, thirdly, in the preparation of a draft report by a trust special administrator which recommends the appropriate remedial action to the Secretary of State.

There is a strong argument that as the main regulator of quality in health and social care, the Care Quality Commission needs to be included in the list of those to be consulted. If the trust is failing on grounds of the quality of the services it provides, which is likely to be the case in most instances, the CQC needs to be consulted in order to advise on the decision to appoint a trust special administrator. The CQC, in carrying out its duty to make an assessment of the current quality of services, will have important information which may be critical in reaching the very important decision. The CQC is likely to have been involved in the earlier stages of managing the failure through its duty of registration, which may be followed by enforcement action. Again, it will have information to inform the decision.

The processes of registration and of managing serious failure through appointing trust special administrators are inextricably linked and this escalation needs to be smooth and co-ordinated. To enable that, the CQC needs to be involved in the whole process, which I think needs recognition in primary legislation. Once the trust special administrator is appointed and has published a draft report stating the actions he or she recommends to the Secretary of State, there is a 30-day consultation period of the plan. While a number of other relevant organisations must be consulted—we have already discussed staff—I find it really surprising that it does not include the Care Quality Commission. The CQC should be included on this list because any changes made to services would involve it in varying the registration of those services. We could easily land ourselves in the unfortunate position of a trust special administrator proposing a reconfiguration which the CQC found to be unregistrable.

I can understand that the Minister may wish to argue that if this exception is made it may open the floodgates to many other organisations which wish to be a statutory consultee. However, in my mind, none would seem to be quite as relevant as the CQC, with its special duties and the information it possesses. Alternatively, the Minister may argue that the CQC would be consulted as a matter of course. However, given that the CQC will be inextricably linked in these processes, it seems sensible to eliminate doubt and to make it clear in the Bill. I beg to move.

Lord Darzi of Denham: Amendments 74A, 78A and 80A laid by the noble Baroness, Lady Cumberlege, would require the Care Quality Commission to be consulted before a trust special administrator is appointed and in the production of the draft report. Let me begin by making it clear that the CQC will play a vital role within the overall quality framework and in our reform agenda more broadly. The CQC, through its statutory functions, has a key improvement role in terms of demonstrating solid improvement in the safety and quality of care over time. Done well, the CQC's registration and assurance roles, which demonstrate that providers are getting the essentials right and taking independent enforcement action to bring them

back into compliance where they are not, have very real potential to shift the improvement bell curve on a permanent, sustained basis and to drive real local ownership and leadership for quality.

Amendment 74A and 78A would add a requirement for the Secretary of State in the case of NHS trusts and Monitor, in the case of foundation trusts, to consult the CQC in advance of the trust special administrator being appointed. The CQC will be aware of any quality issues that result in unsustainability from its ongoing assessment and registration process. In the case of NHS trusts, discussions are currently under way between the Department and the CQC on how registration and assessment can feed directly into the NHS performance regime.

The decision to enter an organisation into an unsustainable provider regime is a performance management issue. Any quality assessment made by the CQC is likely to affect that decision, but the decision to trigger the regime is a performance management one. This is why the Secretary of State and Monitor consult only the strategic health authority and relevant commissioners. It is likely to be the last stage in a long stream of interventions, some of which, in terms of quality, may actually have been made by the CQC.

It is important to be clear that at the moment of appointment, the trust special administrator makes no decision about the organisation's future and existing services are all maintained. A decision will not be made until approximately six months later, after the trust special administrator has had an opportunity to research the issues and consult on the proposals, and has made a recommendation to the Secretary of State. The appointment itself has no impact on the provision of services or on quality so there is no need for the CQC to be directly involved before the trust special administrator is appointed.

If the CQC has concerns about quality of services at any time, it will be able to raise these with the Secretary of State through powers in the Health and Social Care Act 2008. The provisions do not change this.

Therefore, I am happy to offer reassurance that, were the regime to be triggered, my right honourable friend the Secretary of State, in addition to laying a notice in Parliament, would also notify the CQC of this action.

Amendment 80A places a requirement on the trust special administrator to consult the CQC when preparing the draft report. I recognise the concerns that have been raised, highlighting that unsustainable organisations are likely to have quality issues, particularly as there is often a link between poor quality and financial problems, but this is not always the case. Indeed, the Healthcare Commission's annual health check identified several organisations that scored "good" on quality of services and "weak" on the use of resources. This demonstrates that it is possible that some organisations may fall into the unsustainable provider regime for solely financial reasons. In these situations it may not always be appropriate for the trust special administrator to be required to consult the CQC in producing a draft report.

Baroness Young of Old Scone: I know that this is probably infringing the Addison rules yet again, but so be it. The point that needs to be drawn out on Amendment 80A is not necessarily that of the CQC's role as the quality regulator but the fact that it has to register the pattern of services to be permitted to operate. If the pattern of services proposed by the special administrator was one that the CQC did not find registrable, it would therefore be at odds with the special administrator's proposals. It seems to me that the amendment of the noble Baroness, Lady Cumberlege, avoids the risk of the special administrator coming forward with something that the CQC did not find registrable. It would be unfortunate if the special administrator put a proposal to the Secretary of State that was challenged by the quality regulator during the consultation period on the ground that he considered it was not sustainable.

I am trying desperately to think of an example. A special administrator could come forward with a proposition to dissolve the services of a trust and reconfigure them into a different configuration with other trusts that the regulator did not feel were capable of being carried out at the requisite level of quality because it already had doubts about the trust or felt that the guidance given by a particular professional body, or by NICE or other independent source, militated against the proposed configuration being a good one. It is better to avoid to avoid that sort of debate arising after the special administrator has put forward his proposition rather than before. Indeed, the noble Baroness, Lady Cumberlege, has rightly pointed out the issue.

3.45 pm

Lord Darzi of Denham: I am grateful for the intervention of the noble Baroness in relation to the CQC's role after a draft report has been issued by the trust special administrator. New Section 65N makes it clear that the guidance will make reference to,

"(a) persons to be consulted;

(b) factors to be taken into account;

(c) relevant publications".

I expect the trust special administrator to engage directly with the CQC where appropriate, and the guidance will support that. However, the issue is whether the trust special administrator should consult the CQC before the report is published. The noble Baroness makes the important point about the service in question being registered; I cannot see the logic of the administrator not consulting the CQC while the draft is being put together to ensure that it at least has the buy-in of the regulator before the report is published.

I think that I made it clear that once this is triggered, it is a performance rather than a quality issue, but if the report concerns reconfiguring services, no doubt bodies such as the independent reconfiguration panel will have more information about how services should be run. I hope that through the process itself, a high regard will be given to the registration requirements of the regulator before the draft report is put together—not only the regulator, but also the commissioners involved in issuing it.

I hope that my explanation about the operation of the scheme reassures the noble Baroness. I have no doubt that we shall debate this further, but I hope that she will feel able to withdraw the amendment.

Baroness Cumberlege: I thank the Minister for that response, and I thank the noble Baroness, Lady Young, for her intervention. I am also grateful for the information about the notification issue. I understand the noble Lord's reluctance concerning the appointment of a trust special administrator, and that may be something I need to reconsider. In return, perhaps the Minister will take away his last thoughts on the registration issue. It would be a good idea to get that clarity into the Bill so that we all know where we stand. I beg leave to withdraw the amendment.

Amendment 74A withdrawn.

Amendments 75 to 78A not moved.

Amendment 78E had been retabled as Amendment 78A.

Amendment 79

Moved by ***Earl Howe***

79: Clause 13, page 12, line 14, leave out "a National Health Service" and insert "an NHS"

Earl Howe: In moving this amendment, I descend once again and with some apologies into the realms of drafting. I do not understand why throughout new Chapter 5A of the 2006 Act, an NHS trust is referred to as an "NHS trust" except on line 14 of page 12, where suddenly it is referred to in its unabbreviated form as a "National Health Service trust". I hope that the Minister can enlighten me on why this should be, and I beg to move.

Lord Darzi of Denham: This is the lawyers at their best. Amendment 79 is a technical amendment to replace the words, "a National Health Service" with the words "an NHS" when referring to de-authorised foundation trusts. The drafting of the Bill and the use of the full title is intentional, as new Section 65E of the National Health Service Act 2006, to be introduced under Clause 13, creates an entirely new type of National Health Service trust; that is, a trust that used to be an NHS foundation trust and was not established in the usual way by order of the Secretary of State.

In these circumstances, the full National Health Service trust title is used in new Section 65E(4) for two reasons. First, the term "NHS trust" is just a shorthand way of referring to National Health Service trusts, so I am advised that it is appropriate that the first time we refer to this new species of National Health Service trust, we use the full designation and not the shorthand title. Secondly, Section 25 of the National Health Service Act 2006, which provides for the Secretary of State to establish National Health Service trusts by order, uses the full designation. New Section 65E(4) will do a similar job for the new type of National Health Service trust to the job done by Section 25 of the Act for ordinary trusts. They both provide for the creation of a type of National Health Service trust and the full designation is appropriate.

I should also point out that Clause 16(9) amends the interpretation provision of the 2006 Act. This is so that the shorthand references to "NHS trust" elsewhere in the Act include both trusts established under Section 25 of the Act and those created by new Section 65E. This ensures that the provisions of the Act governing NHS trusts apply to the de-authorised foundation trusts.

I hope that that careful, complex explanation will allow the noble Earl, Lord Howe, to withdraw his amendment.

Earl Howe: I am glad I asked that question. We have discovered a new species, which must always be a good thing. I am grateful to the Minister for enlightening us as he has. I beg leave to withdraw the amendment.

Amendment 79 withdrawn.

Amendments 80 and 80A not moved.

Amendment 81

Moved by ***Earl Howe***

81: Clause 13, page 15, line 9, at end insert "with a report stating the reasons for the decision"

Earl Howe: I mentioned earlier that when the Secretary of State makes an order to appoint a trust special administrator, he must lay before Parliament a report stating the reasons for making the order. In the same way, I believe that there is a strong argument for insisting on transparency when the Secretary of State takes a decision in the light of the report that he receives from the trust special administrator. That report will contain a recommendation for certain action to be taken. The Secretary of State will either accept that recommendation or not accept it. In either case, I believe he has a duty to explain his reasons.

New Section 65K obliges Secretary of State simply to publish a notice of his decision and lay a copy of the notice before Parliament. I stand to be corrected on this, but I believe that the notice will say nothing of the rationale that lies behind it. Of course, the administrator's final report will already be in the public domain, as we see from new Section 65I. If the Secretary of State decides to follow the recommendation in that report, he need only cite as his reasons for doing so those which the administrator has himself given. If on the other hand the Secretary of State decides to follow a different course, what then? Are we to fall back on the Freedom of Information Act before being able to discover why? That does not seem satisfactory when one considers what a highly charged decision this will be in political terms.

I would be grateful if the Minister could tell us why in this part of the Bill there is an apparent lack of transparency in the sense to which I have referred. I beg to move.

Lord Darzi of Denham: Amendment 81 requires the Secretary of State to lay a report before Parliament along with the notice of his final decision. Having listened carefully to the concerns raised, I hope that I can assure the noble Earl and the noble Baroness that the amendment is not necessary and set their minds at rest.

First, the Secretary of State has a duty to take into account the report of the trust special administrator when he makes his final decision. In making the decision, the Secretary of State is under a duty to act reasonably and to take into account any relevant information in doing so in accordance with the ordinary principles of public law. He will have to have good reasons for departing from the trust special administrator's recommendations.

The Bill requires the Secretary of State to publish the trust special administrator's final report and lay both the draft and final reports before Parliament. It also requires the Secretary of State to lay the decision before Parliament, which means that Parliament will of course be able to scrutinise this decision through its usual mechanisms. I hope that I have been able to reassure the noble Earl and the noble Baroness that there is a duty on the Secretary of State to lay the draft and final reports of the trust special administrator as well as the decision before Parliament.

Earl Howe: I thank the Minister for that reply, which partially reassures me. I am always anxious to spare Ministers the prospect of judicial review. If we can arrange things so that the law obliges Ministers to be as transparent and open as possible about the reasons for their decisions, it will avoid unnecessary heartache, effort and expense for those who object to those decisions. I take the point that Parliament will be able to scrutinise the decision. It would be helpful to Parliament if there were an explanation of the Minister's decision published at the same time as the decision itself. Nevertheless, I note what the Minister has said; I do not think that there is anything more I can add, and I beg leave to withdraw the amendment.

Amendment 81 withdrawn.

Clause 13 agreed.

Clause 14 agreed.

Schedule 2 agreed.

Clauses 15 to 17 agreed.

Schedule 3 agreed.

3.58 pm

Sitting suspended.

4.08 pm

Clause 18: Prohibition of advertising: exclusion for specialist tobacconists

Debate on whether Clause 18 should stand part of the Bill.

Earl Howe: We move now to Part 3, the provisions relating to tobacco control, and I raise a question in relation to Clause 18. The Tobacco Advertising and Promotion Act 2002 included an explicit exemption for specialist tobacconists from the legislation banning advertising. It did so subject to three conditions: that the advertisement had to be inside or fixed to the outside of the premises; that it could not be for cigarettes or hand-rolling tobacco; and it had to comply with regulations governing advertising in specialist tobacconists. Clause 18 removes this explicit exemption by giving the Secretary of State the power to decide whether the exemption should remain. In other words, it removes the existing certainty for specialist tobacconists under the 2002 Act. Questions need to be asked about why the explicit exemption currently in place needs to be removed and why the existing power to make regulations under the 2002 Act is insufficient. The Explanatory Notes shed no light on these issues.

Lord Naseby: I support my noble friend on the Front Bench. I do not want to be repetitious but if you are running a specialist tobacco shop you must have a degree of certainty about the future. The one thing you cannot have when taking a new lease, extending a lease or entering into contractual arrangements with anyone else is a situation where it is entirely at the whim of the Secretary of State to amend the regulations. As it stands in the existing tobacco Bill, the matter is quite clear and such forward planning is possible. Under what is proposed here, it is not possible, and that is desperately unfair to anyone trying to run a business.

Baroness Thornton: The clause, together with Schedule 4, replaces the automatic exclusion for specialist tobacconists from existing legislation on tobacco advertising currently provided by Section 6(1) of the Tobacco Advertising and Promotion Act 2002. It instead enables the Secretary of State, Welsh Ministers and the Department of Health, Social Services and Public Safety in Northern Ireland to make separate regulations on when and where tobacco specialists, as defined by the Tobacco Advertising and Promotion Act 2002, may be exempt from the prohibition on tobacco advertising.

The current provision in the Tobacco Advertising and Promotion Act 2002 provides an automatic exemption for specialist tobacconists from all the prohibition on advertising specialist tobacco products on their premises. That means tobacco products other than cigarettes or hand-rolling tobacco, such as cigars and pipe tobacco.

In line with the proposed prohibition of tobacco displays, the Government's overall aim is to remove all promotion or advertising of tobacco that is regularly accessible to children. It would be inconsistent to remove tobacco displays from all other shops but to allow specialist tobacconists to continue with a blanket exemption, but we are mindful of the need to take a proportionate approach.

The clause will allow the Government to extend existing rules on tobacco advertising to specialist tobacconists, while still being able to exempt them where that is deemed appropriate. The Government's intention is to maintain the general exemption but the power would enable us, for example, to prohibit advertisements outside specialist tobacco shops or in shop windows where these are in view of the general public, including children and young people.

Our intention is that specialist tobacconists will still be able to advertise tobacco products other than cigarettes or hand-rolling tobacco and display tobacco products inside their shops. We understand from our contact and discussion with the specialist tobacco industry that approximately 50 shops in England fall into this

[BARONESS THORNTON]
category. We also understand that many specialist tobacconists have voluntary policies in place not to admit persons under the age of 18 on to their premises. That is a highly responsible practice that the Government would encourage across the specialist tobacconist sector. We also understand from the industry that the majority of customers of specialist tobacconist shops, a very stable customer base, are aged between 36 and 60 years of age, and generally have already decided to purchase specialist tobacco products, such as pipe tobacco or cigars before entering the shop.

We will work with representatives of the specialist tobacco retail trade to develop the detail of how the powers will be used in practice. Any requirements would be introduced with a long lead-in time and would not come into effect until 2013, in line with display requirements for smaller shops. We intend that regulations made under this new provision will help to ensure that children are effectively and comprehensively protected from the promotion of tobacco, while ensuring that any restrictions on specialist tobacconists remain proportionate to the problem.

For these reasons, we consider Clause 18 to provide a vital element of the new tobacco controls proposed in this Bill, without which the overall package on removing tobacco displays would be incomplete. I therefore recommend that Clause 18 stand part of the Bill.

Earl Howe: I thank the Minister for her reply. I still do not quite understand why the existing provisions in the 2002 Act, which enabled Ministers to make regulations, are not sufficient for the purposes that she outlined.

Baroness Thornton: I think that I have given a reasonable explanation. We intend to consult and are indeed in discussion with the Association of Independent Tobacco Specialists. We want to be sure that the prohibition of tobacco advertising intended to protect children and young people from the promotion of smoking is comprehensive. Therefore, we need to consider the regime that covers independent tobacco specialists, but we are doing that in consultation with them. The clause would still allow advertising outside of their shops.

Lord Naseby: That is nonsense. There is an existing provision; we have 50 outlets; the age group who go in to the outlets are in their mid-30s or beyond, into their 70s. In any case, the ministry is consulting. No young people go into those shops. I suppose someone sitting in the ministry wants to achieve this for pure tidiness, but it is nonsense and I hope that the Government will think about the provision once again before Report and perhaps withdraw it.

4.15 pm

Lord Stoddart of Swindon: There are only 50 shops. Did I hear that right?

Noble Lords: Yes.

Lord Stoddart of Swindon: Are we not taking a rather large hammer to hit a very small nut? It seems absurd that the Government are legislating in this form for 50 shops. Is that 50 shops in England, in England and Wales, or in England, Wales and Scotland? This really is absurd and brings the legislation into disrepute.

The Earl of Listowel: Having spoken with newsagents, what comes across to me is their concern about the amount of bureaucracy involved in their work. It would be helpful to minimise that bureaucracy as far as possible, which might make newsagents more sympathetic to the necessary regulation in regard to, for instance, children.

Baroness Golding: How is the consultation with the 50 shops proceeding? Is it proceeding slowly or quickly? What is under discussion?

Baroness Thornton: We have had a series of discussions with the whole of the tobacco industry and retailers. The 50 shops are in England only. We propose to take regulation-making powers to restrict advertising on the outside of the shops that might be seen by children. For very many shops, nothing may change at all.

Baroness Golding: I beg the noble Baroness's pardon but she has not answered my question. What is under discussion? Does it involve anything different from what is already being done?

Baroness Thornton: When we make regulations there will be a formal consultation process, as the noble Baroness will know. As I said, we have had several conversations and consultation with the specialist tobacco industry, partly to reassure it that, as long as it is fulfilling the overall aim not to have tobacco products visible to children, nothing will necessarily change at all.

Lord Stoddart of Swindon: We are talking about 50 shops. How many children will see these advertisements, or whatever they may be, in those 50 shops? Where are they? I do not know how many towns there are in the country. There must be hundreds, if not thousands, if you include hamlets and villages. I do not know why the Government are putting further burdens on specialist tobacconists—they are already covered by the law anyway—through a clause in a health Act. I simply do not know what the Government are about. I hope that they will agree to take the measure back and have another look at it.

Earl Howe: This has been a useful short debate. I am grateful to the noble Baroness for her Answer although I share the scepticism of the noble Lord, Lord Stoddart, as we are dealing with a very small number of outlets. I say to the noble Earl, Lord Listowel, that we are not dealing with newsagents in this part of the Bill but with specialist tobacconists, which comprise a very different sort of outlet. I shall read the noble Baroness's reply in *Hansard* before deciding what more should be done about the clause. However, in the interests of expedition, it is time to move on.

Clause 18 agreed.

Clause 19 : Prohibition of tobacco displays etc

Amendment 82

Moved by ***Earl Howe***

82: Clause 19, page 23, line 16, leave out "requested"

Earl Howe: I shall speak also to Amendments 83 and 84. These amendments are designed as a means of asking the Minister how she believes the proposals for so-called "requested" displays of tobacco products will work in practice. A "requested display" is defined in new Section 7B as being,

"a display to an individual following a particular request by the individual to purchase a tobacco product, or for information about a tobacco product".

The individual concerned must be 18 years old or over.

All kinds of questions rear their heads in this context. For example, in the regulatory impact assessment, the Government have suggested that a curtain could be used to hide tobacco products. If a parent requests to view tobacco products at a supermarket but is accompanied by their child, is the retailer allowed to comply with the request? If a customer asks for a tobacco product in a small shop while schoolchildren are present, what should the retailer do? In a busy supermarket it is also likely that requests for tobacco will be made every minute, or even more frequently at peak times, and displays will therefore be almost permanently on view, unlike in small shops. Would that be legally acceptable? If a retailer were to employ someone aged over 18 whose job it was to peruse products over long periods, would this be a means of circumventing the legislation? How long would a reasonable period be for viewing products prior to purchase? In thinking about questions of this kind, I cannot help feeling that the provisions here are a nonsense; they will be unworkable.

Another aspect is the underlying principle involved. Part of the Government's aim is to denormalise smoking and thereby to denormalise adults who choose to smoke. I hate the word "denormalise" but that is the one that is bandied about. How reasonable is it in pursuit of that aim for an individual to be forced to request to view a product which they can legally buy? Can the Minister cite an example of any other kind of product where this rule applies? We have to keep reminding ourselves that the buying and selling of tobacco is perfectly legal. Why should someone who wants to buy a legal product have to make a special request to view it? We will come on to the wider principles at play in Clause 19 in a moment, but the whole idea of wanting to humiliate smokers—which is really what this amounts to—is neither civilised nor proportionate. Before we go any further, the Minister needs to explain to the Committee why this odd device of a requested display has been put into the Bill. I beg to move.

Lord Borrie: I fully understand the points made by the noble Earl, Lord Howe. I hope the Minister has got an answer—goodness knows what—to the difficult points that he has made.

Sir Liam Donaldson, in his report last year, *Smokefree England—One Year On,* said that the ban on smoking in enclosed public places, which began in 2007, had been a great success in terms of both compliance and improved health. That is one of the most basic reasons, especially when there is going to be a review next year, for asking the Government a number of questions on this part of the Bill, including what is the basis for at this point going further and requiring restrictions of some kind.

On the matter raised by the noble Earl, surely his example of an adult and a child together at a supermarket is illustrative of how fantastical it would be if Clause 19 went through without any amendment. The business of trying to distinguish between adults and those under 18 in deciding whether a display should be permitted is fantastic and unworkable. However, I am not in favour of the noble Earl's amendment in the sense of wanting it to be passed. I think the best way of dealing with this matter, with arguments that I hope to deploy later but which it would be premature to use now, is through a clause stand part debate.

Baroness Thornton: My noble friend and the noble Earl are right: we will be discussing the substantive issues on clause stand part.

Amendments 82 to 84 would fundamentally change the legislation so that the prohibition on tobacco displays would apply only to those displays seen by children. Displaying tobacco products to children would remain an offence, but display to adults would not be. Although I appreciate that this appears to acknowledge our primary aim of protecting children, it would fail to tackle the secondary aim of helping adults who wish to quit.

The amendments would create an unworkable and ineffective prohibition on tobacco displays. They effectively require that retailers who wish to display tobacco allow only adults on to their premises. That is clearly impractical, as many retailers who sell tobacco, whether corner shops or supermarkets, also sell other products, such as sweets, for which children and young people are major consumers, or are where the whole family shops, as was mentioned by the noble Earl. On the other hand, if the retailer made sure that no child were in his shop at the time, he could display tobacco products, only covering them once a child entered the premises. Clearly both those options raise practical difficulties in enforcement—we have acknowledged that. How could local authorities be sure that a shop was only accessed by adults? What about covering windows through which children could view tobacco displays? What about premises accessed by children but which, when no children are present, display tobacco products to their customers?

That may sound like a more proportionate, targeted approach, but it would be totally impractical to implement or enforce. Our approach is proportionate and effective, only adding burdens to local authorities and business that can be justified by the gain to public health. For the reasons outlined above, I cannot accept the amendment. Regulations under new Section 7B(3) will contain the detail of when requested display seen by someone other than the individual who made the request is or is not an offence. We will cover that in more detail under the Clause 19 stand part debate.

[BARONESS THORNTON]

The Government are not seeking to humiliate smokers. It is surely only right—we will discuss this in more detail with evidence that we can present to the Committee—that we should protect children and young people and support adults who want to quit by removing tobacco promotion. We will discuss that further under Clause 19 stand part, so I hope that the noble Lord may feel able to withdraw his amendment.

Earl Howe: So we are no further forward at all. The purpose of the amendment was to ask the Minister how on earth these provisions will work. They are unworkable in my view. We have not had an answer from the Minister in any way, shape or form. She took the amendment as being literal, which is a trap that we often fall into in Committee. I would not dream of pressing the amendment or even wanting it to be agreed. The point of it was to probe the intent behind the provision. I am very sorry that the Minister was not better briefed to give me a reply.

Baroness Thornton: It might help if I went into slightly more detail.

As the Bill is drafted, a retailer may display tobacco products to individuals aged 18 or over without committing an offence, provided that the individual has requested that display. The term "requested display" has a specific meaning defined in new Section 7B(8) as a display to an individual following their request either to purchase a tobacco product or for information about such a product. It is only sensible, therefore, as it allows a customer, as is perfectly reasonable, as we have discussed, to handle the product before deciding whether to purchase it. My point was that the amendment would remove the need for an adult to ask to see the product. The Bill effectively enables retailers to sell tobacco in a practical manner. That is our intention. Furthermore, under new Section 7C, we would allow a full price and availability list to be displayed, including what products the retailer carried, allowing the customer to be fully informed.

Section 7B(3) provides regulation-making powers for the appropriate Minister in England, Wales and Northern Ireland to make further exemptions to the prohibition on display. We could use that power to exempt particular businesses if, for example, we were satisfied that they could never be entered by someone under 18. As we have discussed, I understand that specialist tobacconists may fall into that category. I hope that that may help the noble Earl.

Lord Stoddart of Swindon: I must confess that I am more confused now than when we started the debate. It is difficult legislation to follow. What happens when someone goes into a corner shop near a school at lunchtime to buy tobacco, but a whole crowd of children are already in there wanting to buy sweets, chocolate and other things that make them fat and obese, which is not acceptable these days? If someone asks to see which cigarettes are in stock, does the shopkeeper have to refuse the request or should he say, "Out, children, until I have served this customer". He would not be allowed to mention cigarettes. It seems that the retailer has either to say to the customer, "I'll have to serve these children first, although you were here before them", and for the next quarter of an hour he must dish out sweets and chocolates before he can return to the adult customer who wants to buy cigarettes. He then says, "I can show you what I've got now". Can the noble Baroness explain that to me?

4.30 pm

Baroness Cumberlege: Can I take the comments of the noble Lord, Lord Stoddart, a little further? It is controllable in a corner shop, but not in a supermarket. In my local Tesco, the cigarette counter is near the door, where people constantly go in and out with their children, and just beyond it is where the newspapers are laid out. People do their shopping, pay at the tills and then come to the cigarette counter. But it is also the counter for exchanging and returning goods. On a practical level, I cannot see how this is going to work. My noble friend Lord Howe said that you would have to have curtains, but you would be for ever pulling the curtains back and forth in case a child came to the counter. My supermarket is very busy, so in practical terms I cannot see how this would work.

The Earl of Listowel: I, too, have been thinking about how what we have been discussing would work in practice. I imagine that only infrequently would a customer ask to see a packet of cigarettes or tin of tobacco because they had not decided what they wanted. It may happen, but I imagine that it is quite rare. If I have understood the Minister correctly, will there be these difficulties in practice? What we are worried about and what the Bill addresses is the daily occurrence of children going into a newsagent to buy their confectionary and seeing in front of them displays of cigarettes. I am trying to think through what the Minister has said.

Baroness Thornton: The noble Earl has expressed it better than I could myself and he is absolutely right. The majority of adult smokers will simply ask for their usual brand. They will not need to ask either for a display or for prices. The regulations are likely to define the maximum area or number of packets that can be seen, so instead of a huge, brightly lit display of literally dozens of packets of cigarettes of the same brand, a much smaller area will be given over to them. We have included "request to display" in the Bill because it is right that customers should be able to see and handle a product before buying it. For example, in Canada, retailers open a small flap to show tobacco products on request. They can have a small display even if it is seen by other people, including children, because that is permitted under the legislation. The point is to not have what the advertisers call a power wall display. That is the point of this part of the legislation. It recognises the need to show the tobacco product to the potential purchaser, should they so desire. These issues will be discussed as the regulations are developed.

Lord Naseby: I imagine that the Minister must have been to Canada and seen Saskatchewan. I have had the privilege of going there. Will she tell us how many brands are normally on display in Canada and what the size of the displays is there?

Baroness Thornton: I have not been to Canada, but I do not think I need to have been there to understand what its policies are, any more than I need to have been to South Africa to know what its policies are. We will be discussing the size of displays later, so I will not be drawn into discussing specific details; they will be discussed when we talk about the regulations on how to remove the huge flashing walls of cigarettes and tobacco products that all our children see.

Lord Naseby: The Minister cannot get away with that. I did not introduce Canada, the size of its displays and the allegedly limited number of brands in that country. How can the Committee come to any considered viewpoint on what the Government are proposing if we do not know with regard to the base condition—which, apparently, is Canada—what size its displays are or what brands are allowed there?

Baroness Thornton: I promise the noble Lord that I will go into greater detail about Canada under clause stand part. He will be satisfied—indeed, he will be bored—by hearing about Canada and the size of its displays by the end of this Committee.

Earl Howe: We cannot tell in advance how frequently this procedure will take place and it is idle to speculate how often it will occur, but occur it will. The points that I raised earlier were designed to throw up what I see as severe practical problems in the implementation of this legislation. We have not had any answers to those. We may get some answers as we proceed but it is unlikely that we will get any if we stay on this group of amendments, so it behoves me to beg leave to withdraw the amendment.

Amendment 82 withdrawn.

Amendments 83 and 84 not moved.

Amendment 85

Moved by ***Baroness Barker***

85: Clause 19, page 24, leave out lines 1 to 15

Baroness Barker: Amendment 85 and the consequential Amendments 108, 110 and 111 are intended to probe what the Government mean in new Section 7C in Clause 19 about the display of prices. I crafted the amendments some weeks ago before several trees' worth of briefing from all sides descended on my desk; they are not the product of any lobby group. Before I talk about the intention behind them, I want to point out to the Committee that in the space of half an hour the words "impractical", "enforceable", "proportionate" and "effective" have been bandied around by all sides. That is not surprising; for many of us, the largely regulatory powers set out in this part of the Bill are so vague that we are not able to come to an assessment until we hear more detail from the Government about the extent to which they are practical, enforceable, proportional and effective, in pursuit of the policy that the Minister rightly set out: to protect children from advertising. We all share that aim.

The reason for moving this amendment was to ask the Government what their intention is. What is their reason for seeking to remove the display of a fact—that is, a price for a product that, at the moment, is legal to buy? Can the Minister help me by citing another legal product that is sold not under restricted licence and is treated in the same way? I have been trying to think of an equivalent and I cannot. This is not a sinister set of amendments; they genuinely seek to probe what the Government are trying to achieve by banning the display of a small fact. I beg to move.

Baroness Thornton: Amendment 85 is the lead amendment of this group. The amendments would remove the power for the appropriate Minister to regulate price lists. I assume that the concern behind the amendments is to avoid burdensome regulation and to minimise the potential impact on business of removing tobacco displays by allowing shopkeepers free rein to display price lists. However, from previous experience, we consider that there is a very real risk that if displays are removed, the tobacco industry will next turn its attention to exploiting price lists as a means of promoting tobacco products. It has a long record in this respect—when one avenue of advertising is closed down, it opens up another one with huge imagination and very large resources. It is therefore vital that we are able to regulate price lists in order to avoid them being used to undermine the effectiveness of removing tobacco advertising and display.

I can confirm that the Government will enable retailers to display a price and availability list detailing the tobacco products they carry. I can also confirm that we are committed to involving all the stakeholders in the development of regulations in order to minimise new burdens on business, as far as that is compatible with protecting public health.

Department of Health officials are already talking to stakeholders such as the Association of Convenience Stores and the British Retail Consortium. We will conduct a full three-month formal public consultation on draft regulations after Royal Assent. The regulations will be subject to approval by affirmative resolution by Parliament, the National Assembly for Wales or the Northern Ireland Assembly, as appropriate.

The aim is to have clear, plain price lists which will ensure that retailers are able to continue carrying out their business efficiently while protecting children and young people from the promotion of tobacco products and supporting those people who smoke but wish to quit. For these reasons, I am not able to accept the amendment and I hope that, with my assurances, the noble Baroness will withdraw it.

The Earl of Listowel: The Minister mentioned the concern that shopkeepers have about this new regulation. What steps have the Government taken to reassure small businesses, specifically newsagents, about the impact of these provisions? The newsagents I have spoken to have expressed concern about the impact; they have talked about having to reach underneath the counter to reach cigarettes in future, giving children or adults an opportunity to steal from the shop. They have raised concerns about the great cost they understand

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there to be in this new display prohibition. These are misperceptions, and I wonder what the Government are doing to address them.

Baroness Thornton: I am happy to answer that point. We will probably discuss those issues in more detail as time goes on. From the countries that have removed cigarettes from display, we have not had any evidence—and we have asked—of increases in staff injury or crime. We have no intention of dictating that tobacco products have to be located in a particular place, such as under the counter. Currently shop assistants often need to turn their back on customers momentarily to reach cigarettes or other products. Depending on the solution chosen, prohibiting the display of cigarettes would not necessarily increase the time it takes to serve a customer.

We are working with the Association of Convenience Stores and the British Retail Consortium to develop straightforward regulations that would avoid imposing any solution or create unacceptable risks to staff, health or safety. The lead-in time for small retailers for this legislation is considerable, as it will not come into effect until 2013.

Lord Naseby: Is it not a fact that under the 2004 point-of-sale regulations, there was a definition of a point of sale and, furthermore, that no regulations have ever been tabled by the Government in relation to that? In 2006, the trading standards organisations, in conjunction with the industry, carried out a survey and found very good compliance. An invitation was made to the Department of Health to make suggestions for any amendments that should be made, and none was forthcoming.

The noble Baroness says that the tobacco industry is very prone to thinking up ingenious new ideas, and one of them will be to do with price lists. It is not good enough that, particularly when prices change at every Budget—inevitably so, and I suspect that they will continue to do so—price lists will now be viewed as point-of-sale material. The Government will presumably define type size and maybe even which type should be used. The consumer—who is, after all, the key person—simply wants to know what the price is.

4.45 pm

Baroness Thornton: The plain truth is that following the Tobacco Advertising and Promotion Act 2002, the tobacco industry put enormous imagination and resource into the point of sale, product and advertising. On this occasion we are trying to find a balance between price lists not being used to promote or advertise tobacco products and the reasonable requirement that price lists should be available, seen and easily comprehensible. That is what we will discuss with the retail industry.

Lord Monson: In replying to the noble Earl, Lord Listowel, the Minister suggested that there would be no question of compelling retailers to keep cigarettes under the counter in order to sell them. However, in replying to Amendment 82, moved by the noble Earl, Lord Howe, she said that in practice retailers would no longer be able to take cigarettes from a display cabinet mounted at a relatively high level and hand them to the purchaser. The display cabinets would be much smaller and show perhaps only one packet of each type, and the cigarettes would have to be obtained from somewhere else. If they are not going to be kept under the counter, will there be a parallel drawer or something mounted at a high level from which the cigarettes can be taken?

Baroness Thornton: LACORS approached the tobacco industry for its 2006 review of point-of-sale displays. It seeks to reduce what have become known as the "power walls" of cigarettes that greet people and it believes that covering that up by gantries will be perfectly straightforward.

Lord Naseby: I will just make a point on trading standards and then I will sit down. The Minister said that trading standards suggested that it was perfectly possible to put a screen up or something. What is the reference for that? I cannot find anything from trading standards to that effect.

Baroness Thornton: As the noble Baroness, Lady Barker, indicated, large quantities of briefing material have been circulated. I have seen it and I would be happy to make available to the noble Lord illustrations of existing displays and how they might look if gantries were used. I shall also be happy to make available to the noble Lord the 2008 LACORS consultation response, *Tobacco Advertising Point of Sale Report*, so that he can see what I am talking about.

I appreciate that people feel strongly about this and do not agree with the proposal. I wish to be quite clear: I said that there is no intention of dictating that tobacco products have to be located in any particular place such as under the counter or overhead. The objective—which will be discussed, which will be part of the regulations and which will have a considerable lead-in time to allow retailers to achieve it—is that the advertising of tobacco products will not be visible to children and young people when they enter shops.

Baroness Tonge: This morning I called in to my local tobacconist/newsagent. He was standing outside the shop, smoking a cigarette and having a break and I discussed this with him. In particular we discussed the inconvenience and expense of putting up gantries or at least keeping tobacco out of sight. He said, "I have already got one. This does not bother me at all. I have got one that at the moment I use for security purposes. If I need to go out to the back for anything I pull it down, and at night I certainly pull it down. I cannot see what the problem is. It would not bother me".

Lord Laird: Coming from Northern Ireland, I am pleased to say that earlier this week the Assembly there passed a motion, supported by all parties, to adopt the non-display of tobacco and its prices at the first available opportunity. It is interesting to note that, probably because of the proximity of the Irish Republic to Northern Ireland, we believe that our thinking on this issue is ahead of the rest of the

kingdom. It is interesting to note that among the groups that support the ban—all the political parties do—are the retailers. The retailers in Northern Ireland have come to terms with this; why would they be different in any other part of the kingdom?

Baroness Barker: I think I would like to thank everyone who took part in the debate. I thank the Minister for her answer, but she was wrong. I was not concerned about the burden of regulation on shopkeepers; people will know from Second Reading that I have not found those arguments particularly compelling. My concern was about something different altogether: smuggling. It is entirely possible to go into shops in this country and buy cigarettes that are not on display and are not on any price lists. They come from abroad and there is a good reason why they are not on display: they are part of an illegal activity. My colleagues and I remain concerned that the more you move towards prohibition, the more you can open up opportunities for markets that are illegal.

It was helpful that the Minister explained that the intention is that prices will be visible but will not be able to be used as an advertising and promotional tool. That clarity is very welcome, and on that basis I beg leave to withdraw the amendment.

Amendment withdrawn.

Debate on whether Clause 19 should stand part of the Bill.

Earl Howe: With the opportunity of this clause stand part debate, we can now discuss what is undoubtedly the most contentious issue in the Bill—the Government's proposal to ban point-of-sale displays of tobacco products. I said at Second Reading that I did not regard such a measure as being justified. Since then I have made it my business to read extensively on the whole subject and have had a number of meetings with, among others, Ash and Cancer Research UK. On Monday I had a long discussion on the telephone with Professor Gerard Hastings, who has done a great deal of work on behalf of the Centre for Tobacco Control Research and who was kind enough to come and give a presentation to noble Lords a few days ago. I have to tell the Committee that not only have I not changed my mind but I am even more firmly persuaded of the opinion that I previously expressed. I shall try to explain why.

We are dealing here with a proposal that the Government justify with reference to public health objectives. I am not disputing those objectives; indeed, I am fully signed up to them. As with any proposal to extend the criminal law, though, we have to be clear about two things: first, that the evidence justifying the policy is robust and, secondly, that the collateral damage likely to be caused by the measure in question is proportionate to the good that we are trying to achieve. The proposal does not pass either test.

The principal justification for a point-of-sale display ban, in the view of the Government, is that it will remove an important influence on would-be smokers to take up smoking, more especially teenagers. What evidence is there that displays of cigarettes have that effect? We are told that since the passing of the Tobacco Advertising and Promotion Act 2002, tobacco companies have sought to get around the spirit of the law on advertising by encouraging retailers to install ever larger and more elaborate gantries to display cigarettes, and that these have in effect become a means of advertising. If that statement is to be believed, we need to show that that is happening on a wide scale and, moreover, that display gantries in themselves act as an enticement to people to take up smoking. Evidence for large gantries exists. Many of us have seen photographs of them. However, the Government said in their consultation paper at paragraph 31:

"Increases in size or prominence of display of tobacco products since TAPA came into force have yet to be confirmed by research".

I am not sure therefore whether we can say more at this stage other than that some examples of large gantries have been observed. We cannot say that they are typical.

However, more importantly, what actual effect are displays having? At the presentation attended by noble Lords last week—I shall paraphrase—it was said that awareness of new packs among the young has increased since the ad ban; that young people still know their brands; and that this must be a function of point of sale display. A greater leap of logic, especially from an academic source, is not often found. We are supposed to believe that young people never see a cigarette pack other than in shops. A moment's reflection should make us realise that that proposition is ridiculous. We need therefore to look more widely for evidence that point-of-sale displays influence the take-up of smoking.

There are various jurisdictions around the world where display bans have been implemented. The Department of Health place reliance on two in particular; namely, Iceland and the province of Saskatchewan in Canada. In neither of those places do the data, when examined, prove the department's case or go anywhere near showing that they may even have a ghost of a case. I am talking here about proving cause and effect. In Canada as a whole, smoking prevalence has reduced pretty steadily over the past 10 years. In Saskatchewan, where a display ban was first introduced in 2002, the rate of decline in smoking prevalence has been less steep than in a number of provinces where there has been no display ban in force. So I am far from convinced that Saskatchewan has anything useful to tell us.

Lord Faulkner of Worcester: Before the noble Earl leaves that point, has he consulted the Saskatchewan Government on that and asked their opinion on whether they think that the display ban in their province has made a difference? My understanding is that they are absolutely convinced that this has made a profound difference to the number of young people who smoke.

Earl Howe: I am aware that the Saskatchewan Government believe that this has made a contribution to the decline in smoking prevalence. On what they base that decision, I do not know.

The Earl of Listowel: I should like to ask a further question, but I ask the Committee to forgive me because I know very little about Canada except that my half-sister used to live in Alberta. It is possible that the states are different. Some states may be arable, while others are city-based. Therefore, that might help

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to explain this disparity in the reduction of smoking. What is the character of Saskatchewan that perhaps makes it more difficult to reduce the level of smoking? One might say that, from the level of smoking at which it started, it has moved a long way. It might not have moved as far as other states because they might have a different character. Perhaps we could have a discussion on this after Committee stage, because it is a point of detail.

Earl Howe: It is a very important point of detail and I am grateful to the noble Earl. I have a list of all the provinces in Canada, all of which show a decline in smoking prevalence over a 10-year period. The point I was seeking to make was that in a number of them, including Nova Scotia, British Colombia and Ontario—although that is not all—the decline in smoking prevalence has been steeper and in none of those places has there been, until very recently, a display ban.

Lord Naseby: I can help my noble friend on that. Saskatchewan is a province, not a state, in a rural part of Canada. Saskatoon is a normal town with a population, I would guess, of 150,000, and it is pretty poor. The most effective results have been in Ontario, which is very urban. I think that that validates totally what my noble friend has been saying.

5 pm

Earl Howe: Yes, my noble friend is right in that those are broadly the characteristics of that province. If one looks at some of the other provinces that I listed, the characteristics are rather different. But there are indeed others of a rural nature which have done better. I do not think that one can conclude much from Saskatchewan.

Baroness Tonge: I thank the noble Earl, Lord Howe, for letting me intervene. What we are discussing is important, but if we are going to take it seriously, we need to know about all the other factors that might affect smokers in those Canadian states. It is difficult to draw any conclusions without knowing about the other factors.

Earl Howe: The noble Baroness is absolutely right, and that point can be made with particular force in relation to Iceland. A display ban was introduced in 2001 and the evidence is pretty equivocal. There is some evidence for a decline in smoking prevalence amongst the young but, depending on what figures you look at, in my submission the trends are not conclusive. More to the point, though, what is not mentioned when people talk about Iceland is that, simultaneously with the introduction of the display ban, the Icelandic Government did three other things: they put up the price of cigarettes, they introduced restrictions on smoking in public places and they introduced a positive licensing system for retail sales. There is no way that anyone can say that the display ban has of itself influenced smoking behaviour in Iceland.

Lord Faulkner of Worcester: It has helped.

Earl Howe: You cannot say that.

Baroness Young of Old Scone: I have immense admiration for the noble Earl, but I find it quite difficult to understand where he is coming from. I should like to challenge him on the issue of evidence, and I want to say rather more about this clause at some stage.

If an environmental issue is so serious that it may cause lasting damage, everybody runs around and tries to gather as much evidence as possible to find remedies that might remove the risk. If sufficient evidence cannot be adduced to justify measures to reduce the risk because it simply does not exist, nevertheless measures that look as if they might help and make a contribution are put in place on the basis of the precautionary principle. There is an acknowledged global principle that says: if something is really so serious that one has considerable worries about it, one will try measures even if there is no cast-iron evidence—on the basis that you have to do something to try to tackle the problem. We are facing the real problem of children smoking, which is possibly made worse by point-of-sale advertising. Indeed, I find it difficult to understand why, in the face of something like this, we are demanding evidence that is so cast-iron that it is irrefutable when it is clear that the public and indeed many retailers, when asked about point-of-sale advertising, would be quite content for it to be removed.

Earl Howe: The issue is not point-of-sale advertising, it is point-of-sale display. As the noble Baroness knows, retailers may not advertise cigarettes. I am sorry that she does not understand where I am coming from. We are talking about an extension to the criminal law. To me that means that a policy has to be based on something substantive. I ask her to allow me to finish my speech because I think she will understand better where I am coming from when I have done so. I believe that the collateral damage that we are likely to inflict if we impose this policy is unacceptable. The noble Baroness will know from her experience in the environment field that decisions there have to be weighed up in terms of the benefit that they will do versus the unintended or adverse consequences of the measures.

Lord Naseby: Before we leave that point, if there is evidence from around the world where a ban has been imposed it is important that we evaluate it, not just turn a blind eye to it. My noble friend has analysed two examples given by Her Majesty's Government and shot them through. A third one has just come in from New Zealand: a call to ban tobacco displays from shops does not have the support of the national Government, says Prime Minister John Key. The reason is that there is no evidence that it actually works and it is hugely expensive to do. The evidence so far is that it does not work. That is what we in this House are charged with doing: looking at evidence and coming to conclusions.

Earl Howe: I am grateful to my noble friend. It is not just me who is saying this; the Norwegian Ministry of Health commented on the Icelandic data showing a reduction in overall smoking prevalence. It said:

"There are no indications to prove that this reduction is a result of the ban more than other tobacco preventive measures introduced at the same time".

Lord Faulkner of Worcester: In that case, why has Norway decided that it will impose a ban on public display by this November?

Earl Howe: That is a question for the Norwegian Government.

I now turn to the other part of the equation, the collateral damage that will be caused if this measure were approved. It is striking how little we hear from the Department of Health about commercial rights and freedoms. In the document called *Smoking Kills* in 1998, the Government referred to,

"the legitimate desire of retailers to display products for sale".

That is in paragraph 3.12. The same phrase was used in consultation on the 2002 Act. The Health Minister, Yvette Cooper, speaking in the other place in 2001, said:

"It is perfectly legitimate ... for products to be displayed, with prices, so that they can be sold because after all, tobacco is a legal product".—[*Official Report*, Commons, 13/2/01; col. 220.]

We need to remind ourselves of those words. To prevent a retailer from displaying a product that may be legally sold is a step that we should take only with the firmest of evidence that it is justified for overriding reasons. The supermarkets are big enough to look after themselves. The retailers that I am worried about are the small shopkeepers, the proprietors of corner shops. There are about 50,000 small corner shops in the UK. The organisations representing those small shop keepers have told me of their acute worry that a point-of-sale ban on the display of tobacco will do serious harm to their trade.

The level of concern is very high. A year ago, before the proposals were published, the Tobacco Retailers Alliance had 16,000 members; it now has 26,000. They are most worried about the effect that a display ban will have on the footfall in their shops. Tobacco sales represent the bedrock of a small shop's turnover. People who come in to buy cigarettes typically buy other things as well—often goods with a higher profit margin than tobacco. If those people cease to patronise small shops, first, because they cannot see the product and, secondly, because they believe that supermarkets are bound to carry a larger range of goods at lower prices, the effect on trade for many small shops could well be terminal.

What do the Government think they are doing in bearing down on small shops at a time when retailers are already under acute pressure from the economic downturn? From the start of this whole consultation, retailers have been consistently excluded. No Minister has met a representative of the National Federation of Retail Newsagents. The concerns of the trade and the evidence that it has produced for those concerns are simply dismissed.

Baroness Thornton: I am meeting them next week. I have been trying to meet them for about a month.

Earl Howe: That is good news. I know that the retailers have been trying to meet Ministers for a lot longer than the last month.

Lord Laird: Has the noble Earl discussed this with the retailers in Northern Ireland who support the ban? Has he discussed it with the political party in Northern Ireland which is now in a relationship with his political party, which also supports the ban?

Earl Howe: I have not done either of those things although I would be very willing to. I am always willing to listen to views of whatever kind on this subject.

The Minister's announcement is welcome but, for her information, I should tell her prior to that meeting that when the response to the public consultation was published, the department, in its eagerness to publish what it felt was the right answer, omitted to reflect the scale and volume of the retailers' responses. The whole exercise was conducted as if a point-of-sale display ban were a done deal. It is not a done deal because Parliament has yet to accept it.

The more I have examined the proposal, the more I am of the belief that it is both misconceived and disproportionate. By disproportionate I mean that if we consider the risks involved, the damage that we are likely to inflict by regulating in this area is unacceptably greater than the damage that we are likely to do by not regulating. I hope that collectively we can persuade the Government that they have made a serious error. I look forward to hearing what other Members of the Committee have to say.

Baroness Meacher: Does the noble Earl have any information about the impact of these display bans on small newsagents in other countries? He has referred to the evidence of its impact on young people smoking, but does he have any evidence that it really does have a major impact on newsagents?

Earl Howe: The representatives of Canadian small shops have asked to see me and I shall be meeting them in a few days. They have expressed the concern to me that since the display ban in a number of provinces, newsagents and small shops are closing. I want to hear further and better particulars about that.

Lord Borrie: I follow the noble Earl, who made an impressive and powerful speech. One can sum it up by indicating his view that an inadequate case has been made by the Government for the ban on the display of tobacco products. The Government's case ignores the fact that the display one sees—I hope no one is blind to this—contains the words "smoking kills", and each packet of cigarettes has rather unpleasant information on it, pictorial and otherwise, because only three months ago the Government devised regulations for these hard-hitting indications of what smoking can do.

The noble Earl's description of the evidence from Saskatchewan in particular, other Canadian provinces and Iceland, is surely correct. What one sees from those provinces and from Iceland is a coincidence between a fall in smoking and the ban on display at the same time as other things have been going on, including, of course, the rise in prices and the rise in taxes, let alone the perfectly good propaganda—I am sorry if that is a bad word—which other Governments indulge in, as indeed does ours.

[LORD BORRIE]

The noble Earl quoted most effectively from Yvette Cooper's statements in the early part of this decade at the time of the Tobacco Advertising and Promotion Act 2002. I repeat her point that it is perfectly legitimate for products to be displayed with prices so that they can be sold because, after all, tobacco is a legal product. I emphasise that it is a legal product. The Government must know that it would be ridiculous to try to use this as an undercover way of making it illegal.

We have to remember that 20 per cent of the population smoke. They surely have some expectation of consideration in what is being done by the Government in furthering their perfectly legitimate aim of reducing smoking among young people, if not among the population generally. That is a perfectly good objective. However, as I indicated on a previous amendment, we have a hugely successful ban on smoking in public places. I am not a smoker and I have benefited from being able to go to meetings, pubs and restaurants without having other people's unpleasant smoke affecting my enjoyment of the environment. There is to be a review next year and it seems to me entirely premature to start introducing new restrictions. Further to the powerful points made by the noble Earl, Lord Howe, I add that removing point-of-sale displays would have an adverse effect on manufacturers and retailers and are particularly damaging in a recession. Fancy introducing this when retailers, particularly SMEs, are in economic difficulty.

5.15 pm

In an attempt to claim that they are conscious of the damaging effects of the measure on smaller retailers, the Government have said that they will introduce the ban for large outlets in 2011 and for smaller retailers only in 2013. That, in itself, distorts competition between the big and the small. What do the Government think they are doing interfering in normal competition between different types of retailers in that way? In any case, there is little doubt that the restrictions on display will adversely affect competition generally, especially as display is one of the few ways left for the consumer to know what brands are available. As we have said, advertising and other forms of promotion have been banned for years. You may or may not call this advertising—that is a matter of choice—but it is different. Now it is sought to ban even display at point of sale. The Government are trying to go much too far much too quickly. I do not think that noble Lords will vote in favour of this part of the Bill on Report.

Lord Faulkner of Worcester: It would be hard for me to disagree more with what my noble friend has said. I should declare an unpaid interest as a trustee of Action on Smoking and Health and a patron of the Roy Castle Lung Cancer Foundation. I am rather depressed at the way propaganda from the tobacco industry seems to be repeated in this Committee. Back in the 1950s it attempted to deny Professor Doll's evidence that there was a link between ill-health and smoking. Then it attempted to deny that nicotine was an addictive substance. Then it attempted to deny that second-hand smoke was dangerous. At each of those stages it resisted legislation designed to deal with those issues. When it became impossible for it to advertise, following the legislation passed in 2002, it turned its ingenuity to new forms of marketing and promotion, of which displays in shops are probably the most spectacular examples. I am pleased that the noble Earl has had a conversation with Professor Gerard Hastings. If, like other Members of the Committee, he had attended the presentation, seen the pictures of the displays and realised how they have taken over as the most powerful form of advertising—cigarettes are on sale alongside chocolate and other confectionery, and look like an absolutely normal product to children who go into the shops—he would have realised that Professor Hastings' case is a substantive one.

The noble Baroness asked why tobacco is different from any other product and why it has to be treated in this way. The answer is very simple: it is the only product which, when used in accordance with the manufacturer's instructions, is likely to kill you. It is a dangerous product and it leads to ill-health. This House and the other place have a responsibility to dissuade young people from taking up the habit. I do not know whether these measures on point-of-sale display will achieve everything that the Government hope for them, but it is the case that 190,000 11 to 15 year-olds smoke. In Scotland, the Scottish Schools Adolescent Lifestyle and Substance Abuse Survey found that 47 per cent of 13 year-olds and 82 per cent of 15 year-olds had bought cigarettes in shops. That demonstrates that we have to do something about the problem of young people acquiring cigarettes from retail outlets.

I hope very much that when we consider this provision at later stages, the House will agree to pass the legislation. What we are doing is in accord certainly with what most provinces in Canada and Iceland have already done. It is also much more relevant than the case of New Zealand, where no definite decision has been taken to go back on the prohibition of point-of-sale display. The new right-wing Government are simply reviewing the decision. We have had a decision from Northern Ireland this week to which the noble Lord, Lord Laird, has referred, and we have had a decision from the Irish Republic; we have had a decision from Scotland and we have had a decision from Norway. We are in the vanguard with them in the same way as we were in the vanguard for introducing the ban on smoking in public places. I am very proud of what we did in this House and in this country in terms of making public places more pleasant and safer for people because they do not have to suffer the effects of second-hand smoke. This is a logical extension of that policy, and it is very important that we support it.

Lord Laird: I want to return to those points. I am somewhat surprised that the noble Earl, Lord Howe, seeks to talk on behalf of retailers in the kingdom, but has not sought any briefing or spoken to retailers in the area I come from, which is Northern Ireland. If anyone is going to speak against this ban, I would like them to tell me what they think is the difference between retailers in Northern Ireland and Scotland, and retailers in England. Why is it that the retailers of Northern Ireland support this ban? What is the difference?

I totally agree with the arguments made by the noble Lord, Lord Faulkner. The whole thrust of the tobacco industry since the removal of advertising has

been to get as many young kids as possible on to the idea of smoking because they are their future customers. I know a little bit about this topic, and it is not acceptable because it is like the drug pusher on the housing estate whose aim is to get as many children as possible on to his drugs. Tobacco manufacturers will use any means to get young people on to tobacco because they are their future customers. It would be terribly irresponsible of this Committee if we allowed this ban to be removed.

Lord Rea: The noble Earl and others have mentioned the legality of the product. Indeed, the noble Earl quoted Yvette Cooper saying that it is legal. But surely he is aware that if we had known of the damaging effects of smoking tobacco when it was first widely used, it almost certainly would not have been given a product licence. Now that we know about its lethal effects, is it justifiable to say that the profitability of small tobacconists is more important than reducing the take-up of smoking and the risk of becoming addicted to tobacco among young children? We have no evidence that the profits of tobacconists are going to go down, unless they sell only tobacco. However, most of them sell a lot of other products and they will have an opportunity to diversify.

I want to make one other point. A couple of years ago, Geoff Good, the global brand director of the Imperial Tobacco Group, speaking at a conference, described the UK as a "dark market" since the tobacco advertising legislation of 2003. He went on to say that new methods of maintaining sales and attracting young people to tobacco smoking must be devised. I think that the noble Earl would agree that since the tobacco advertising ban, the size and gaudiness of tobacco displays in tobacconists has increased. These gantries are very unpleasant to look at because I know what they are selling. There is absolutely no doubt that the size and prominence of the area where tobacco is sold in tobacconists has increased. The cost of those large gantries is, of course, met by the tobacco companies.

Earl Howe: To answer the noble Lord, we are in a situation where Parliament is clearly not going to outlaw tobacco. Given that that is the case, any measures to restrict what is still a legal product have to be weighed up in terms of the evidence for and against them. I make no apology for bringing the affairs of small traders into this. It is germane that we look at the effect that this measure would have on small businesses, and the noble Lord, Lord Borrie, was right to emphasise the points that he did. Unless Parliament is going to ban tobacco—let us have a debate about that if we want to—we have to have this kind of discussion.

Lord Monson: The Government's rationale for Clause 19 seems to be based on the curious assumption that teenagers are driven to a frenzy of craving by the sight of a small inert cigarette packet, which, as other noble Lords have pointed out, will still be seen all over the place, even if Clause 19 goes through, in the form of discarded packets in gutters, overflowing dustbins and so on. Surely what really turns teenagers on is the sight of attractive or glamorous people smoking, far more so than the sight of a cigarette packet. If the Government are really concerned, they will have to start censoring every film and television programme made before the mid-1980s, and even more recent ones such as the splendid new series "Mad Men", which is set in the New York advertising world of the early 1960s in which 90 per cent of the fairly glamorous characters smoke 90 per cent of the time. The programme has a tremendous cult following, or so I believe. That is the path down which the Government will have to go if they want to stop teenagers taking up smoking.

Lord Stoddart of Swindon: The noble Lord, Lord Laird, asked why some of us in England were opposed to this legislation. I can tell him that we have had representations from the National Federation of Retail Newsagents, which is very concerned about the Bill because it will affect its trade, and it believes that many of its members will go out of business. We have also had representations from the Tobacco Retailers Alliance saying exactly the same thing—that this is going to hurt its business. We have had the same message from the Tobacco Advisory Council and from the British Brands Group about the plain packaging of tobacco products, saying that that is going to hurt the industry as well.

5.30 pm

I wonder where on earth we are going. As the noble Earl and others have pointed out, tobacco is a legal product. Certain restrictions have been brought against it over a long period of time, some of them unjustified, but it is a legal product. We are here saying to people, particularly retailers, "You may sell this but you may not inform people that you are selling it. You are not allowed to display outside your business and now you are not going to be allowed to display inside your business". That is going along a very dangerous road indeed.

If you once establish a precedent, where do you go from there? Let us consider what is said in some of the newspaper cuttings that I have been collecting over the past few weeks. I am sorry to detain the Committee but we need to look at the road ahead. The first headline states:

"One drink a day raises cancer risk".

A few weeks ago they were saying that one drink a day helps to combat cancer.

Baroness Tonge: No.

Lord Stoddart of Swindon: Yes—heart trouble and cancer. Red wine was going to cure everything. That is why drinking went up. People thought, "I will live longer".

The second article is on the same page of the *Daily Telegraph* of 25 February and states:

"Obesity is as deadly as smoking, say doctors".

I repeat:

"Obesity is as deadly as smoking, say doctors".

It is not me but doctors who are saying it. The article continues:

[LORD STODDART OF SWINDON]

"Being obese as a teenager carries the same risk of premature death as smoking 10 cigarettes a day".

Baroness Tonge: So?

Baroness O'Cathain: So?

Lord Stoddart of Swindon: That is from the medical profession. There is another article in the *Daily Mail* of Friday, 27 February 2009, which states:

"Our lifestyles are killing us. Poor diets, drinking and lack of exercise blamed for 78,000 cancer cases a year".

There is nothing about smoking in that headline. That 78,000 cancer deaths compares to 87,000 smoking deaths, which means that other lifestyles are rapidly catching up.

So exactly where are we going? If we are going to ban the display of cigarettes because they are dangerous to lifestyles, are we going to ban all the things that make us obese? Are all those going to go under the counter? Are chocolates going to go under the counter? When I take my grandchildren, not very often, to the shops, they do not say, "Can I have a packet of cigarettes?". They say, "Grandad, can I have some chocolate?". So are we going to ban all the things that are said to make us obese? Are we going to stop eating certain things in public places? Are we going to ban the display of all the things which will make us obese? That is the question I am raising, and that is why I believe we are going along a dangerous road. If, as our doctors say, although I do not believe it, 78,000 people are dying because they are fat, then before long some ASH-ite organisation will come along saying that the Government ought to take greater action to put all these things under the counter and that we ought to close down all the McDonald's.

That is where we are going. We are saying to tobacconists, "You may not display a legal product". That is bound to lead eventually to restrictions on other trades. Take the drink trade: Scotland is going to put a minimum price on it. In my view, the most dangerous drug in this country—indeed, the world—is alcohol. I have to tell the breweries and the distillers that the Government will be coming for them next. They have already started. I have to say that Hitler was a rabid anti-smoker—worse than many Members of the Committee.

Baroness O'Cathain: Not possible.

Lord Stoddart of Swindon: I am being kind. The fact is, though, that he never did anything of this sort. It did not even enter his mind that the Germans would put up with not being able to display their tobacco products, particularly pipe products. That is what I am saying. Where are we going? If we start along this path, there may be a long and difficult road ahead.

Most of the arguments that I would have used have already been made so I will not delay the Committee any longer. I was intrigued to hear the noble Lord, Lord Faulkner, say that nicotine was the problem. I did not think that that was the case.

Lord Faulkner of Worcester: If I may correct the noble Lord, I said that one of the tobacco industry's great lies, after it had lost the argument that tobacco smoking is dangerous and kills you, was its attempt to argue that nicotine was not addictive. A great film was made about RJ Reynolds called "The Insider", in which a scientist at RJ Reynolds had convincing proof that the company knew that nicotine was addictive but covered up the facts. It is the addictive nature of nicotine that matters.

Lord Stoddart of Swindon: Yes, but it is not the nicotine that kills. Nicotine does not cause lung cancer. It may be addictive, but it is not the nicotine that is the problem. It is the materials in the smoke, as I understand it from the medical profession, that cause the problems with lung cancer and other respiratory diseases.

Lord Faulkner of Worcester: But if you are addicted to a product and you therefore use more of it, and you then have to suffer the ill effects of using the product, then the nicotine is indirectly leading you to become ill because you cannot get rid of the habit. Surely the noble Lord understands that.

Lord Stoddart of Swindon: I see now where the noble Lord is going. And of course the more chocolate you eat, the more addicted you become. There are many other—

Noble Lords: Drink.

Lord Stoddart of Swindon: Drink, indeed. Not only drink, but chocolate. I have to restrict my intake very firmly, otherwise I would quickly become a chocolate addict. So it is not only nicotine that is addictive; there are all sorts of other things, including, as my noble friend says, drink.

I am extremely worried about where we are going. I have to thank the noble Baroness, Lady Thornton, for sending me a letter on 24 February. I did say that I would go into some of these matters more deeply in Grand Committee, but the time is getting on so I had better not go through them in great detail. The noble Baroness provided smoking related mortality figures, and I have some things to say about them, but I am not going to say them now; I shall come back to them at the Report stage. She also sought to allay my fears that some retailers would go out of business because of the cost of putting up different displays. She said that it would cost only a couple of hundred pounds to do and would not put them out of business.

I remember our last debates about tobacco and the ban on smoking in public places. One of the points we raised was that it would have a devastating effect on public houses. The argument was pooh-poohed. We were told that people would use public houses more; that they would flock to them once we had got rid of the smokers. Well, they got rid of the smokers all right, and public houses are now closing at a rapid rate. Indeed, a parliamentary group called Save the Pub has been set up. What was predicted then has actually happened and the law of unintended consequences certainly operated in that area. We have to be careful about exactly what we are doing in this legislation.

When we banned smoking in public places, restaurants and pubs, in spite of the fact that there was an alternative and still is an alternative—that is, to separate the smoker from the non-smoker—we drove the smoker into his house, where he drinks more because it is cheaper than in the pub, and he probably smokes more in front of his children. What is the next step? Are we going to ban smoking in homes as well? Beware of unintended consequences because they sometimes go against what was actually intended. For those reasons, I am against this clause and the other clauses related to smoking in the Bill. No doubt we shall have more to say in Grand Committee and perhaps at length at the Report stage as well.

Lord Laird: As someone who was mentioned by the noble Lord, I should say that on most occasions I agree with him, and I enjoyed his interesting and entertaining remarks. The question I posed was this: what is the difference between Northern Ireland traders who support the ban and traders in the rest of the United Kingdom who do not seem to support it? That is quite important because, with respect, too many noble Lords who have spoken in this Committee have talked about the entirety of retailers, but they are not. Northern Ireland retailers support the ban.

5.45 pm

Again with the deepest respect, I think that the noble Lord has taken us up a cul-de-sac. I am totally opposed to smoking and I have mentioned a certain knowledge of this, but let me relate my most recent experience. Two years ago I spent four weeks in hospital with a serious heart attack. I did not fully realise the significance of smoking for heart attacks but I remember one night not being able to get to sleep on the ward because a guy of 23 on the other side of the ward was crying his eyes out. He had had a very serious heart attack and he was crying his eyes out because he wished he had never started to smoke. He told me that his family were very upset and that his chances for the future were very limited. He had had a serious heart attack at the age of 23 and he had been a heavy smoker. That has helped to form my opinion.

Incidentally, I do not mind if people smoke, but they have to smoke in their own time and in their own place and not involve me. This is a country where tobacco is legal and people can smoke, but that is not the issue. The noble Lord is getting slightly confused by suggesting that people can die of passive obesity or passive alcohol, but people can die of passive smoking and that is the important issue. I do not mind smokers smoking; they can smoke in the privacy of their own rooms and their own homes, but they do not have any right to try to kill me and my relations who do not smoke. That is the extremely important issue that makes me a dedicated anti-smoker—that, and the vision of the gentleman of 23 opposite me who felt that his life was terminating because at the age of 12 he started to smoke.

Lord Stoddart of Swindon: My father used to live in Northern Ireland; it is a great place with great people. I welcome the fact that they are of independent mind and that they will do things in their way rather than in our way. So Northern Ireland is different.

I do not smoke. I am a non-smoker and I ought to declare an interest as an auxiliary member of the Lords and Commons Cigar and Pipe Smokers' Club.

As to not being affected by second-hand obesity or second-hand drinking, by God, there are some second-hand consequences from drinking and alcohol abuse. The number of people who are killed, knifed or gunned down outside public houses is quite significant, and the number of women and children who are badly beaten as a result of drunkenness runs into many thousands every year. But, as I said earlier, the Government will be coming for the drinks industry anyway, so perhaps some of those problems will be solved in the future.

Baroness Meacher: I shall speak briefly on this issue, about which everyone in the Room obviously feels strongly whichever side of the argument they are on. I have an enormous respect for the noble Earl, Lord Howe, and the noble Baroness, Lady Cumberlege, but we part company on this issue. Albeit that I listened with great interest to the noble Earl's persuasive speech—I sat here thinking, "Well, yes"—I am hanging on to my position.

Before I looked into the amendment I was concerned about the possible impact of Clause 19 on newsagents but, on reflection, it is of course true that if someone goes to a newsagent to buy cigarettes, they will have made that decision before going in and the display will not affect them when they walk into the shop. Such people may then, if they wish, make other purchases. We know that a major part of the attraction of cigarettes for newsagents is that people come in, buy the cigarettes and then spot other things they want to buy. So, on that basis, I do not think this clause will have much impact on newsagents, but it is true that if people come in to buy other things, they will be less likely to make spontaneous purchases of cigarettes.

I know that the noble Earl is busy. However, I should like an assurance from him that he would regard it as a good thing if a person was to go into a newsagent to buy some pencils, but was less likely to spot some cigarettes and think, "Oh my gosh, I would really like some of those". There is a clear benefit in terms of stopping the spontaneous purchase of cigarettes.

I accept that for newsagents the more serious issue is that, if Clause 19 leads to a reduction in young people and teenagers smoking, over time, there will be an enormous drop in the number of smokers in general and in the demand for cigarettes from newsagents. Surely that is what we all want, which is why I am confused. The noble Earl has argued that this proposal will not have any effect, but other Members of the Committee have argued quite desperately that it will have a major effect. In a sense, one can have it one way or another. I know that in part the noble Earl was indicating that people might go from smaller newsagents to supermarkets. But my contention is that for every 100 young people who did not go into a newsagent, not all of that 100 would go along to a supermarket. There would be an effect.

Earl Howe: My case is that trade will be deflected from small shops to supermarkets, but also on to the black market. We have not talked much about that, but I am really concerned about it. On the noble

[EARL HOWE]
Baroness's point about spontaneous purchases, she is right that existing smokers often make impulsive purchases in shops when they see a packet of cigarettes. However, it is a far cry from saying that to saying that someone will impulsively take up smoking because they see a packet of cigarettes in a shop.

Baroness Meacher: In response to that point, I would simply suggest that I am not so confident about that when a group of young kids goes into a shop.

I am impressed by the point-of-sale evidence. The fact is that it has taken over as the main marketing tool for cigarettes. If it had no effect on demand, would tobacco companies really be so desperate for the Government not to introduce this change? That seems to be the best evidence that this is a good measure and will reduce the demand for cigarettes. I find the absolute horror on the part of the tobacco companies that this might happen quite impressive. There is now research to show that point-of-sale marketing influences young people. It is horrifying that 46 per cent of UK teens are aware of tobacco marketing at point of sale, which surely must influence what they are doing. I do not believe that it does not: I believe that it does.

Point-of-sale marketing also undermines efforts to quit, which I believe is a major issue. I know that that is not so much about the very young people. But we know about the terrific addictive qualities of tobacco. I have never smoked, but I have watched others who have. We all have friends and relatives who have tried desperately over the years to give up cigarettes and we do not want to make that more difficult, which is what these displays do. In my view, it is illogical to ban advertising and then to do nothing about point-of-sale marketing when they are exactly the same thing and aim to do exactly the same thing. There is logic here.

I shall end on a personal note. One of my daughters was enticed into smoking tobacco in her mid-teens. It took her 10 years to give up the habit. She tried and tried. In the end she cracked it. She is now a doctor and was horrified to find herself on a surgical ward treating a ward full of people, including amputees, almost every one of whom was there because they had been a smoker. If most tobacconists were taken on to those wards and saw those amputees and others dying, I believe that they would support Clause 19.

The Earl of Listowel: I thank the noble Earl, Lord Howe, for listening carefully to the concerns of small businesses. After all, many of them are family businesses, and the welfare of their children and their economic well-being is important too. It is quite right to listen very carefully to those newsagents. I listened very carefully to what the noble Earl said about the evidence in this matter, and it certainly makes me want to look again at it.

I also listened very carefully to my noble friend Lady Young, who spoke about priorities and what is at stake. I was grateful that the noble Earl had taken the trouble to talk to Professor Hastings, whose presentation I found very impressive. He said that 70 per cent of those under 20 who have a child are smokers and that 40 to 50 per cent of them are smokers while they are pregnant. That is an extraordinary figure, but it reflects the fact that most of those under 20 year-olds will be from the most deprived communities. Eighty per cent of smokers start before the age of 18; as a smoker, I started at the age of 15. So the preponderance of smokers start before the age of 18.

The most vulnerable young people are the most likely to be influenced into starting smoking. For instance, if a woman under the age of 20 smokes in the course of her pregnancy, her child may be born prematurely or underweight and there is a higher risk of disability. So we must weigh up the well-being of the small businesses involved and think carefully about the evidence. We have to think about the terrible consequences for children if they get drawn into smoking. My noble friend Lady Young made a strong point, but the evidence to which the noble Earl refers reminded me that in children's homes and provision for looked-after children, we often talk about needing an evidence base before we act and introduce new policy.

I was struck by an academic, a pedagogue from Germany who came to this country, who said to me, "It is wonderful that you have so much evidence here about the outcomes for children in care. You know so well how they end up; we do not have this evidence in our country". I thought to myself, "We know how poorly they do; and it seems that they do far better in your country". The situation is different in Denmark and Germany. Only about 20 per cent of staff in our children's homes have a degree-level qualification, which contrasts with 90 per cent in Denmark. They do not necessarily know how well those children are doing, but they seem to be doing the right thing by them.

One always wants as much and as robust evidence as possible when making policy decisions of this importance, but one also has to bear in mind the risks and the possible consequences. There are certain risks that one wants to avoid so much that one will take measures that one may not be 100 per cent confident in because the possible harm is so awful. I am not expressing myself very well; I apologise.

I shall probably save more remarks on that for another time, but, as I said, I am very concerned. I see this as an important measure to protect children. It is an important welfare measure. I recognise that it needs to be considered very carefully. From my point of view, I emphasise that this is an important step forward in child protection.

6 pm

Baroness Golding: I support the noble Earl, Lord Howe. I, too, have never smoked and have no desire to smoke. However, I consider that this measure infringes people's liberties to far too great an extent. I, too, have spoken to a small shopkeeper last weekend. I asked him what effect the measure would have on his business. He told me that five small corner shops had already closed near him in the past couple of years and that his shop was one of the few remaining. He said, "I challenge everybody who looks under 25 before I sell them cigarettes—not under 18, not under 21, but under 25. I am fed up with taking the responsibility that is put on me. My sons do not want to take over this shop". I told him that the measure would not affect him until 2013. He said, "I am not worried about it because I will have gone before then. I am not

prepared to put up with any more of this pressure. My sons don't want it. Another small corner shop will shut down". That is something we should worry about, especially in view of what is happening to shops at the moment.

Today, I spoke to a friend who works in the tobacco industry and who smokes. I asked him how the measure was affecting him and his friends. He said, "Some of them smoke, some of them don't, but I go outside the factory to smoke. I used to have a brief break and perhaps have a cigarette or just a cup of coffee. Now we go outside and we have two cigarettes quickly because we don't know when we'll ever be able to get outside again". It is a nonsense. It is not limiting the amount that people smoke.

I also had a young schoolchild come in this week on work experience. I asked her whether she wished to attend the Committee this afternoon and explained briefly what it was all about. She looked at me and said, "I couldn't possibly go in that Committee. I would have to stand up and tell them what rubbish they were talking. I am in school. Children bring cigarettes to school. They sell them to each other. They experiment. Most of them will give up by the time they leave, but to think that they go into shops and buy them at their age is absolute nonsense. They get them from home and from various places, but they don't go into shops and say 'I'm going to try it'". I said, "Well, they're going to put curtains up". She said, "Curtains, lovely. Something you can't have so you tell the child, 'No, you mustn't look at that. If you look at that, you'll be tempted', so the child is tempted and thinks, 'What a good idea. I'll have a go at that. Next time I'm in school and somebody offers me cigarettes, I'll buy them and try them'. It has the reverse effect. It is absolutely stupid. I wouldn't be able to sit there and think that adult people who are supposed to be protecting us are doing so". I replied, "Well, the thing is, the Government are very concerned that everyone dies healthy". She said, "Well that makes sense, but what they are trying to do is an absolute nonsense". She added, "I also know that many of my friends go on holiday, buy cigarettes abroad, bring them back, and sell them on to their friends, making a bit of pocket money. A lot of that goes on. As for covering up displays in shops, that is absolute nonsense. You really need to talk to young people before you do anything like that. You're just tempting us to go further down the road". She does not smoke and has no inclination to do so, but she said that lots of people felt the same way as she did.

Baroness Thornton: The Committee is supposed to wind up at six o'clock. It seems that we are unlikely to get through this important debate in that time; in fact, we are now over time. Therefore, I wish to move two Motions. I beg to move that the debate on the Question that Clause 19 stand part of the Bill be adjourned.

Motion agreed.

Baroness Thornton: I beg to move that the Committee do now adjourn until Monday 9 March at 3.30 pm, when we can resume this very important debate.

Motion agreed.

The Deputy Chairman of Committees (Viscount Simon): The Committee stands adjourned until next Monday.

Committee adjourned at 6.04 pm.

Written Statements

Thursday 5 March 2009

Bank of England: Monetary Policy Committee

Statement

The Financial Services Secretary to the Treasury (Lord Myners): My right honourable friend the Chancellor of the Exchequer (Alistair Darling) has today made the following Written Ministerial Statement.

In my Statement to the House of Commons on bank lending of 19 January, I announced the setting-up of the asset purchase facility. I noted that this facility could be used by the Monetary Policy Committee as an additional way for meeting the inflation target, and that I would inform Parliament if the facility were to be used for monetary policy purposes.

Following the meeting of the Monetary Policy Committee on 4 and 5 February 2009, the Governor of the Bank of England wrote to me on 17 February, requesting that the Monetary Policy Committee be authorised to use the facility to purchase eligible assets financed by central bank money. The Governor's letter set out that the Monetary Policy Committee had concluded that it might be necessary to use asset purchases at future meetings in order to meet the 2 per cent target for CPI inflation.

I replied to the Governor on 3 March, authorising the Monetary Policy Committee to use the asset purchase facility for monetary policy purposes. I also extended the range of assets eligible for purchase by the Bank of England Asset Purchase Facility Fund to include UK Government debt purchased on the secondary market as well as the full range of private sector assets previously specified in my letter to the Governor of 29 January 2009. And I also authorised an increase in the scale of purchases under the facility to up to £150 billion, but that, in line with current arrangements and in recognition of the importance of supporting the flow of corporate credit, up to £50 billion of that should be used to purchase private sector assets. These are maximum limits within which the Monetary Policy Committee will determine the scale of its purchases each month; the proportion of Government and private sector assets purchased will be kept under review.

These changes do not affect the objectives of the Government's monetary policy framework. The remit of the Monetary Policy Committee continues to be to maintain price stability and, subject to that, to support the Government's economic policy, including its objectives for growth and employment. The symmetrical inflation target is 2 per cent on the CPI measure, as specified in my letter to the Governor of the Bank of England of 11 March 2008.

The Government's debt management objective remains to minimise, over the long term, the costs of meeting the Government's financing needs, taking into account risk, whilst ensuring that debt management policy is consistent with the aims of monetary policy.

A copy of my letter to the Governor has been deposited in the Libraries of both Houses.

Department for Business Enterprise and Regulatory Reform: DEL

Statement

The Minister of State, Department for Business, Enterprise and Regulatory Reform & Foreign and Commonwealth Office (Lord Davies of Abersoch): My right honourable friend the Minister for Employment Relations and Postal Affairs in the Department for Business, Enterprise and Regulatory Reform (Pat McFadden MP) has made the following Statement.

Subject to parliamentary approval of the necessary Supplementary Estimate, the Department for Business, Enterprise and Regulatory Reform's DEL will be reduced by £1,905,574,000 from £3,367,913,000 to £1,462,339,000 and the administration budget will be reduced by £55,714,000 from £332,531,000 to £276,817,000.

Within the DEL change, the impact on resources and capital is as set out in the following table:

	Change		*New DEL*		
	Voted	*Non-Voted*	*Voted*	*Non-Voted*	*Total*
Resource (£000)	936,100	-1,646,469	438,114	1,008,411	1,446,525
of which:					
Administration* budget	-55,714		276,817		276,817
Near cash in Resource DEL*	885,423	-1,694,221	239,793	998,926	1,238,719
Capital (£000)	6,562	-1,201,767	-757,437	773,251	15,814
Less Depreciation* (£000)	2,444	3,872	-46,336	-20,812	-67,148
Total (£000)	945,106	-2,844,364	-365,659	1,760,850	1,395,191

* The total of the administration budget and near-cash in resource DEL figures may well be greater than total resource DEL, due to the definitions overlapping.

* Capital DEL includes items treated as resource in estimates and accounts, but which are treated as capital DEL in Budgets.

* Depreciation, which forms part of resource DEL, is excluded from the total DEL since capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

The change in the resource element of the DEL arises from:

RfR1

a Machinery of Government transfer to the Department of Energy and Climate Change of a net negative £992,321,000 voted near cash and £1,711,504,000 of non-voted near cash in respect of clean, safe and competitively priced energy and energy liabilities;

a Machinery of Government transfer to the Department of Energy and Climate Change of a net negative £2,980,000 voted non cash and £47,752,000 of non-voted non-cash in respect of clean, safe and competitively priced energy and energy liabilities;

a Machinery of Government transfer to the Department of Energy and Climate Change of £308,000 in respect of legal costs;

transfer of £40,000 from voted provision to non-voted departmental unallocated provision relating to the transfer to the Cabinet Office for the security monitoring and co-ordination centre made in the Winter Supplementary;

new awards announced in the Pre-Budget Report of £850,000 and £2,500,000 in respect of the national debtline and citizens' advice;

a transfer of £250,000 from the Department for Work and Pensions in respect of compensation for mesothelioma sufferers provided through British Shipbuilders' Liabilities;

a Machinery of Government transfer of £29 million to the Department of Energy and Climate Change in respect of their contribution to the regional development agencies' "single pot";

virement of £18,439,000 from voted to non-voted expenditure in respect of the regional development agencies reflecting reinstated contributions from the Department for Environment, Food and Rural Affairs;

virement of £1,196,000 from non-voted resource to non-voted capital expenditure in respect of the regional development agencies;

a non-cash reserve claim of £21 million for provisions for the enterprise finance guarantee scheme;

A non-cash reserve claim of £25 million for provisions for the automotive assistance programme;

virement of £7 million Insolvency Service underspend to the non-voted capital departmental unallocated provision to reduce the negative balance shown in the Winter Supplementary Estimate; and

additional non-cash of £1,700,000 resulting from reclassification under FRS26.

Also within the change to resource DEL, the changes to the administration budget are (RfR1):

a Machinery of Government transfer to the Department of Energy and Climate Change of £52,471,000 near cash and £3,000 of non-cash in respect of clean, safe and competitively priced energy and energy liabilities;

transfer of £1,240,000 to the Department for Communities and Local Government in respect of Government Office's restructuring costs; and

virement of £2 million administration underspend to the non-voted capital departmental unallocated provision to reduce the negative balance shown in the Winter Supplementary Estimate;

The change in the capital element of the DEL arises from:

RfR1

virement of £1,196,000 from non-voted resource to non-voted capital expenditure in respect of the regional development agencies;

virement of £7 million Insolvency Service underspend to the non-voted capital departmental unallocated provision to reduce the negative balance shown in the Winter Supplementary Estimate;

virement of £2 million administration underspend to the non-voted capital departmental unallocated provision to reduce the negative balance shown in the Winter Supplementary Estimate;

a Machinery of Government transfer to the Department of Energy and Climate Change of a net negative £14,582,000 voted and £1,248,183,000 non-voted in respect of clean, safe and competitively priced energy and energy liabilities;

a transfer of £200,000 from the UK trade and investment estimate, utilised to reduce the negative capital departmental unallocated provision shown in the Winter Supplementary Estimate;

a Machinery of Government transfer of £7 million to the Department of Energy and Climate Change in respect of their contribution to the regional development agencies' "single pot";

receipt of £35 million as part repayment of a capital loan made to the Department for Innovation, Universities and Skills in 2007-08, utilised to reduce the negative capital departmental unallocated provision shown in the Winter Supplementary Estimate;

virement of £20,000 from core departmental capital, utilised to reduce the negative capital departmental unallocated provision shown in the Winter Supplementary Estimate; and

virement of £1 million from the Insolvency Service, utilised to reduce the negative capital departmental unallocated provision shown in the Winter Supplementary Estimate.

We regret that in error this Written Ministerial Statement was not laid in the House on 12 February when the supplementary estimates were laid before Parliament (HC221).

EU: Education Council

Statement

The Parliamentary Under-Secretary of State, Department for Innovation, Universities and Skills (Lord Young of Norwood Green): Today my right honourable friend the Under-Secretary of State for Further Education Siôn Simon, made the following Written Ministerial Statement.

I represented the UK at the Education Council, on behalf of DIUS and DCSF.

Ministers adopted key messages to send to the spring European Council to be held on 20 March. These emphasise the importance of maintaining investment in training, the knowledge triangle of research, education and innovation, the establishment of partnerships between education institutes and employers, and the upgrading and development of skills in developing a knowledge-based low-carbon economy. We welcome these messages. I highlighted domestic best practice in tackling the economic crisis, including support for small businesses and increased apprenticeship places.

Over lunch and in the meeting itself, Ministers held an exchange of views on the establishment of an updated strategic framework for European co-operation in education and training post-2010. This will build on the work programme in education already in place. Ministers were enthusiastic about working together to share best practice and welcomed the four strategic objectives for the new period identified by the Commission. These focus on:

making lifelong learning and learner mobility a reality;

improving the quality of education provision and outcomes;

promoting equity and active citizenship; and

enhancing innovation and creativity, including entrepreneurship, at all levels of education and training.

However, there were reservations about the proposal to develop 10 education benchmarks to measure progress against the strategic objectives. These would build on existing benchmarks for the period up to 2010 that measure low achievers in reading, early school leavers, completion of secondary education, numbers of maths, science and technology graduates, and participation in lifelong learning.

Most member states were content with the extension of existing benchmarks but were reluctant to establish many new ones. There was some support for a benchmark on pre-school learning and some opposition to input based benchmarks on language learning and higher education investment. It was also generally felt that further work was needed to develop helpful and measurable benchmarks on mobility, employability, and innovation and creativity. Netherlands was the most negative member state on benchmarking in general. I and some other member state Ministers feel we can accept a few of the new topics proposed if there is further refinement of the measurement of the benchmarks. Further work will be required before agreement can be reached on this issue, expected at the next Education Council in May.

Under Any Other Business, the Commission noted that they had published the Communication "New Skills for New Jobs" in December 2008.

EU: Employment, Social Policy, Health and Consumer Affairs Council

Statement

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord McKenzie of Luton): My honourable friend the Parliamentary Under-Secretary of State for Work and Pensions (Jonathan Shaw) has made the following Written Ministerial Statement.

The Employment, Social Policy, Health and Consumer Affairs Council will be held on 9 March 2009 in Brussels. I will represent the UK, except for the agenda item on the pregnant workers directive where the UK will be represented by my honourable friend the Minister of State for Employment Relations and Postal Affairs. There are no health or consumer affairs issues.

The first and main item of the agenda is the preparation for the spring European Council which will be held on the 19 and 20 March 2009. A key messages paper will be adopted following a public debate on the economic crisis and the European economic recovery plan. The key messages paper identifies the main messages emerging from the various other reports for adoption at the March council. The presidency will also give information on preparation for the tripartite social summit. The tripartite social summit meets a minimum of once a year, including before each spring European Council. It is attended by the current presidency, the two future presidencies (Sweden and Spain), the Commission and the social partners.

The next item will be the presidency's progress report on the negotiations to amend the European globalisation adjustment fund (EGF). Member states can apply to the EGF for matched funding of measures to help back into work any people made unemployed through large scale redundancies. The Government believe that the EGF plays an important role and the UK is involved in negotiations to ensure that recently proposed revisions mean that it plays that role as effectively and efficiently as possible.

The council will also seek adoption of council conclusions based on the recent Commission communication "New Skills for New Jobs". The conclusions commit member states and the Commission to develop policies and services to address skills needs and labour markets mismatches. There will also be adoption of council conclusions on professional and geographical mobility and the free movement of workers. The conclusions rightly stress the importance of joined-up approaches to support professional and geographic mobility, in response to the economic downturn. The Government welcome both sets of conclusions.

There will be a policy debate on the draft proposal to amend an existing directive which sets out the minimum protections for pregnant workers, and new or breastfeeding mothers. The UK system of maternity leave and pay is in many ways more generous than the proposed minimum. The Government support the aims of the proposal but need to ensure that any proposed changes would be compatible with our own existing provisions.

Under any other business, the Commission will present its recent communication contributing to the spring European Council. In addition, the chairs of the Employment Committee and the Social Protection Committee will give an oral presentation to provide information on their 2009 work programmes. There will also be information on all conferences held under Czech presidency to date.

EU: Justice and Home Affairs Council

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The Justice and Home Affairs (JHA) Council was held in Brussels on 26 and 27 February 2009. My right honourable friend, the Home Secretary (Jacqui Smith), the Scottish Solicitor General (Frank Mulholland QC), and I attended on behalf of the United Kingdom. The following issues were discussed at the council:

During the mixed committee with Norway, Iceland, Switzerland and Lichtenstein, Ministers discussed progress in implementing the second generation of the Schengen information system (SISII) in light of the analysis which had identified problems in the central system. Both the Commission and the presidency recognised the importance of the SISII programme and the presidency reiterated that the repair phase would consist of two aspects, to be developed in parallel: an analysis and repair plan to resolve known bugs in the current SISII programme and a contingency plan. The presidency also stressed the need for agreement on a set of common

criteria against which both of these aspects could be assessed in the first half of 2009. The council subsequently adopted council conclusions confirming the action required in relation to the central SISII project and a set of criteria against which the SISII-based scenario and an alternative scenario, based on a SISI platform, would be assessed. They confirmed that a decision regarding the future of the project would be taken by June 2009 at the latest.

During the Interior Ministers' meeting the Commission outlined the plans for implementation of the visa information system (VIS), notifying member states that the final phase had been pushed back to December 2009. The UK does not participate in the VIS.

The council was presented with the draft report on the outcome of the Swiss air borders evaluation which will be considered by experts in March. Switzerland thanked the Commission and presidency for the help they had given in the months before the evaluation and indicated that it was happy with the conclusions of the draft report, taking note of its recommendations and undertaking to report regularly on progress. The presidency concluded by looking forward to 29 March when the Swiss were expected to join the Schengen area in full.

The Commission presented its proposal for a European asylum support office (EASO) to the council. The Commission explained that the EASO's aims would be to enhance practical co-operation; help member states under particular pressures; and ensure a common European asylum regime. It would not make case decisions and would be part-financed through changes to the European Refugee Fund. The Commission hoped that the proposal would receive political agreement by the summer and be implemented in 2010. The proposal was broadly welcomed by a number of member states. The UK thanked the Commission for its proposal, noting that it went to the heart of what European co-operation was about: making a difference on the ground. It emphasised its support for practical co-operation on asylum in order to provide protection for those who needed it. The UK stated that systems should be streamlined, to deliver fair decisions quickly and tackle abuse. The UK also argued for more work with countries outside the EU in order to stop asylum being the weak point in immigration systems and to stop refugees having to travel to the EU to find safety.

The presidency presented the Commission's report on implementation of the free movement directive. The Commission said it hoped to adopt guidelines on application of the directive by the summer. It confirmed that the guidelines would cover abuses of free movement rights, including marriages of convenience and persistent criminality: moving to another member state carried responsibilities as well as rights. A number of member states highlighted their concerns about abuses of free movement. The UK welcomed the Commission's work on guidelines and asked that they should set out consequences when these responsibilities are not met.

The council briefly discussed the issue of combating illegal immigration in the Mediterranean. The discussion highlighted the role of Frontex (the European Border Agency), readmission agreements and the need for further development of the EU's global approach to migration.

The council also discussed progress in resettling Iraqi refugees following the council conclusions adopted in November 2008 which set an EU target of 10,000. The Commission welcomed the fact that member states had notified their intention to resettle 5,100 refugees so far, improving the situation of refugees in Syria and Jordan. The Commission stated that additional funds (€20 million) would be made available to support member states' efforts.

During the working lunch Interior Ministers discussed the appointment of the Europol director, but no agreement was reached. The presidency said that it wanted to reach agreement at the next JHA Council meeting in April. The UK said that the recommendation of the Management Board, endorsing the UK candidate, should be followed.

The closure of the US detention facility at Guantanamo Bay was also discussed during lunch. Ministers agreed that there was a need to obtain more information and study all aspects of the issue. Following the previous discussion in the General Affairs and External Relations Council (GAERC) there was agreement that further discussion with the United States would be a good idea.

Under any other business, SWIFT was discussed, concerning the controls and necessary safeguards on data protection and use under the terrorist financing tracking programme. Judge Jean-Louis Bruguière commented that the US Administration had set up a particularly robust programme to ensure the protection of personal data for counterterrorism purposes, though there was still room for improvement. The Commission would be making available a report on state of play on SWIFT. On the EU's anti-drug policy, the presidency and Commission stressed the need for more and better supply side indicators. A report would need to go to council in June on this subject.

Ministers reached a broad consensus on presidency conclusions to steer negotiations on the proposed framework decision on prevention and settlement of conflicts of jurisdiction in criminal proceedings, in particular focusing the instrument on preventing situations where the same person is subject to parallel proceedings in different member states, and establishing flexible mechanisms for communication. The UK supported these conclusions. The presidency hopes to be able to reach political agreement on this proposal at the June JHA Council.

A negotiating mandate was also agreed authorising the presidency to open discussions with Japan for an EU agreement on mutual legal assistance. The Commission noted that in future it would be necessary to decide how to prioritise target countries for these agreements.

The presidency updated member states on progress in e-justice and asked the Commission about the financing of e-justice projects, particularly video-conferencing. The Commission reminded member states that there was already money available to fund e-justice projects and undertook to present all the available funding opportunities at the next JHA Council.

Under any other business the presidency provided a state of play report on negotiations on an amending directive on ship-source pollution and on the introduction

of penalties for infringements. It noted that the Transport and Tourism Committee of the European Parliament had proposed 19 amendments to the proposal. The presidency hoped that it would be possible to reach a first reading deal in April.

Sweden presented a paper on transparency in the EU, advocating the need to demonstrate a greater commitment to transparency, stronger protection of citizens' individual rights and better understanding of the citizens' expectations. Germany updated member states on the appointment of a new director to the Tribunal for the International Law of the Sea, which dealt with civil disputes. The Romanian delegation drew attention to the conference of prosecutors general that they will be hosting in Bucharest from 23 to 25 March 2009.

Finance: Parliamentary Accountability
Statement

The Financial Services Secretary to the Treasury (Lord Myners): My right honourable friend the Chief Secretary to the Treasury (Yvette Cooper) has today made the following Written Ministerial Statement.

The Government announced in its July 2007 Green Paper *The Governance of Britain* (Cm 7170) that it would simplify its financial reporting to Parliament, ensuring that it reports in a more consistent fashion at all three stages in the process—on plans, estimates and expenditure outcomes.

The Treasury submitted an initial memorandum to the relevant parliamentary committees in November 2008, outlining the Government's emerging thinking on how this commitment might best be delivered. I have sent a further memorandum to the committees this week setting out the Government's formal proposals for achieving better alignment between budgets, estimates and accounts. The proposals take account of the views expressed by the committees in response to the November memorandum, as well as the results of a consultation exercise with key stakeholders external to government carried out during autumn 2008.

The memorandum notes that the Government propose to begin implementation of the new, better aligned framework from April 2010. To achieve this deadline, the Government would welcome Parliament's agreement to its proposals by July 2009.

The memorandum is being published as a Command Paper and presented to the House, and copies have today been placed in the House of Commons Vote Office, to enable all Members to assess the Government's proposals.

Intelligence and Security Committee
Statement

The Lord President of the Council (Baroness Royall of Blaisdon): My right honourable friend the Prime Minister (Gordon Brown) today made the following Statement in the House of Commons

I have today laid before the House the Intelligence and Security Committee's annual report 2007-08 (Cm 7542). This follows consultation with the committee over matters that could not be published without prejudicing the work of the intelligence and security agencies.

I have also laid before the House today the Government's response to this report (Cm 7543). Copies of the report and the response have been placed in the Libraries of both Houses.

I am grateful to the Intelligence and Security Committee for its valuable work.

NHS: Charges
Statement

The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham): My right honourable friend the Minister of State, Department of Health (Dawn Primarolo) has made the following Written Ministerial Statement.

Regulations have today been laid before Parliament to increase National Health Service charges in England from 1 April 2009. There will be an increase in the prescription charge of 10p from £7.10 to £7.20 for each quantity of a drug or appliance dispensed.

The cost of a prescription prepayment certificate (PPC) will rise to £28.25 for a three-month certificate and to £104.00 for an annual certificate. PPCs offer savings for those needing four or more items in three months or more than 14 in one year.

Prescription charges are currently expected to raise some £435 million for the NHS in 2009-10. This figure excludes prescription charges collected by dispensing doctors, which are not collected centrally, but remain with primary care trusts.

Charges for elastic stockings and tights, wigs and fabric supports supplied through hospitals will be increased similarly.

Regulations have also been laid to increase certain NHS dental charges, and increase the value of NHS optical vouchers, from 1 April 2009.

The dental charge payable for a band one course of treatment will increase by 30p from £16.20 to £16.50. The dental charge for a band 2 course of treatment will increase by £1 from £44.60 to £45.60. The charge for a band 3 course of treatment will remain at £198.

Dental charges are expected to raise between £6 million to £700 million for the NHS in 2009-10. The exact amount will be dependent upon the level and type of primary dental care services commissioned by primary care trusts and the proportion of charge paying patients who attend dentists and the levels of treatment they require.

This annual adjustment to dental charge rates is intended to sustain the expected contribution to the overall cost of dental services from patient charge income.

The range of NHS optical vouchers available to children, people on low incomes and individuals with complex sight problems are also being increased in value. In order to continue to provide help with the cost of spectacles or contact lenses, optical voucher values will rise by an overall 2 per cent.

NHS charges and optical voucher values in Scotland, Wales and Northern Ireland are a matter for the devolved Administrations.

Details of the revised charges for prescription items, appliances, dental charges and optical voucher values are as follows.

Increases in prescription charges from April 2009

Item	*Current Charges*	*New charges*
Prescription per item	£7.10	£7.20
12-month PPC	£102.50	£104.00
3-month PPC	£27.85	£28.25
Surgical brassiere	£24.00	£24.35
Abdominal or spinal support	£36.30	£36. 80
Stock modacrylic wig	£59.20	£60.00
Partial human hair wig	£156.60	£158.90
Full bespoke human hair wig	£229.05	£232.45

NHS Dental Charges

Course of dental treatment	*Current Charge*	*From 1 April 2009*
Band 1	£16.20	£16.50
Band 2	£44.60	£45.60
Band 3	£198	£198

Increase in optical voucher values from 1 April 2009

Type of optical appliance	*1 April 08*	*1 April 09*
A: Glasses with single vision lenses: spherical power of = 6 dioptres, cylindrical power of = 2 dioptres.	£35.50	£36.20
B: Glasses with single vision lenses: spherical power of > 6 dioptres but < 10 dioptres, cylindrical power of = 6 dioptres; spherical power of < 10 dioptres, cylindrical power of > 2 dioptres but = 6 dioptres.	£54.00	£55.10
C: Glasses with single vision lenses: spherical power of = 10 dioptres but = 14 dioptres, cylindrical power of = 6 dioptres.	£79.00	£80.60
D: Glasses with single vision lenses: spherical power of >14 dioptres with any cylindrical power—cylindrical power of > 6 dioptres with any spherical power.	£178.40	£182.00
E: Glasses with bifocal lenses: spherical power of = 6 dioptres, cylindrical power of = 2 dioptres.	£61.40	£62.70
F: Glasses with bifocal lenses: spherical power of > 6 dioptres but < 10 dioptres, cylindrical power of = 6 dioptres—spherical power of < 10 dioptres, cylindrical power of > 2 dioptres but = 6 dioptres.	£78.10	£79.70
G: Glasses with bifocal lenses: spherical power of = 10 dioptres but = 14 dioptres, cylindrical power of = 6 dioptres.	£101.20	£103.30
H: Glasses with prism-controlled bifocal lenses of any power or with bifocal lenses: spherical power of > 14 dioptres with any cylindrical power—cylindrical power of > 6 dioptres with any spherical power.	£196.10	£200.10
I: (HES) Glasses not falling within any of paragraphs 1 to 8 for which a prescription is given in consequence of a testing of sight by an NHS Trust.	£182.70	£186.40

Planning

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Andrews): My right honourable friend the Minister for Housing and Planning (Margaret Beckett) has made the following Written Ministerial Statement.

Today I have published the Government's formal response to the Killian Pretty review. Our response sets out our proposals to take forward an ambitious programme of measures to create a more proportionate and responsive planning application process. This will help businesses, developers, councils and the wider community, particularly in the current challenging economic environment.

The review was commissioned jointly by the Secretaries of State for Communities and Local Government and Business, Enterprise and Regulatory Reform to consider how the planning application process could be improved for the benefit for all involved. The final report, with detailed recommendations, was published in November 2008.

We welcome the Killian Pretty report as a strong foundation for the next stage in reforming the planning system. In response to its recommendations, we propose actions to improve the planning application process from start to finish, grouped into five main themes:

reducing the number of small scale developments that require full planning permission;

making the planning application process more efficient and effective for all involved;

improving the quality of information available to users of the planning application system;

improving local authority capacity and performance in the process, and

streamlining the national planning policy framework.

We propose a phased approach to reform, with immediate priority given to consulting on detailed proposals to extend permitted development rights for businesses and public services and to streamline information requirements for applicants.

Clearly, successful development and implementation of further improvements to the planning application process requires the active involvement of key stakeholders, including local government, the profession and private sector. So a key part of the implementation programme is to work closely with stakeholders, in a range of ways, including the formation of a stakeholder sounding board, in addition to full public consultation on draft proposals, where appropriate.

A copy of the Government's response is available in the Libraries of both Houses and on the Communities and Local Government website at www.communities.gov.uk/publications/planningandbuilding/killianprettyresponse.

Written Answers

Thursday 5 March 2009

Apprenticeships

Question

Asked by ***Lord Low of Dalston***

To ask Her Majesty's Government what proportion of the 250,000 new apprentices who are projected to start their apprenticeships by 2020 they expect to be disabled people; and what plans they have to achieve that target. [HL1576]

The Parliamentary Under-Secretary of State, Department for Innovation, Universities and Skills (Lord Young of Norwood Green): The Government are committed to ensuring that all people with learning difficulties or disabilities have full access to apprenticeship learning opportunities and we provide extra funds for appropriate specialist support and equipment. The proportion of young people starting apprenticeships in England who have a learning difficulty or disability was 12 per cent in 2007-08, up slightly from 11 per cent in the previous two years. We have no plans to introduce specific targets for the proportion of disabled people starting or completing apprenticeships. However, we are in discussion with Jonathan Shaw, the Minister for Disability, on ways of increasing employment opportunities for disabled people which will include apprenticeships. We are implementing world-class apprenticeships plans to increase the take-up and completion rates of apprenticeships by learners who are currently underrepresented in the programme. Pilots starting later this year will aim to increase the critical mass of learners in non-traditional occupations to encourage more such applications; and mentoring trials will support atypical apprentices through their experience. The National Apprenticeships Vacancy Matching Service which went live in January this year will help match employers to prospective apprentices and provides the opportunity for learners with disabilities and difficulties to raise any needs they will require for an interview so that they have the opportunity of being fully supported. There will be support available for learners who are not being successful in their applications. In addition, more disabled people are being helped as a result of extending apprenticeships to older learners.

Armed Forces: Aircraft

Question

Asked by ***Lord Astor of Hever***

To ask Her Majesty's Government whether the C-17 has civil certification. [HL1738]

The Parliamentary Under-Secretary of State, Ministry of Defence (Baroness Taylor of Bolton): No.

Asylum Seekers: Darfur

Question

Asked by ***Baroness Miller of Chilthorne Domer***

To ask Her Majesty's Government whether the Home Office has authorised the redocumentation of anyone claiming asylum as a Darfuri in the past four months; and what their current policy is regarding the redocumentation of people claiming asylum as Darfuris. [HL1277]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The UK Border Agency has not authorised the re-documentation of any non-Arab Darfuris in the past four months.

On 9 July 2008, the Government announced the suspension of enforced returns of non-Arab Darfuri asylum seekers to Sudan to await the outcome of the country guidance case by the Asylum and Immigration Tribunal. The UK Border Agency's current policy is not to seek to re-document non-Arab Darfuris until the country guidance case has been decided. The case is expected to be heard between May and July 2009.

As this policy does not extend to Darfuris of Arab origin, it is possible that the re-documentation of individuals of this group has been authorised in the past four months. Due to the nature of the records kept by the UK Border Agency, to differentiate between such applications and those for Sudanese nationals in general would require detailed examination of individual records at disproportionate cost.

Banking: Fred Goodwin

Questions

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government why they allowed the former chief executive of the Royal Bank of Scotland, Sir Fred Goodwin, to receive a pension at the age of 50 when the normal retirement age for men is 65. [HL1832]

To ask Her Majesty's Government why they allowed the former chief executive of the Royal Bank of Scotland, Sir Fred Goodwin, to resign from the bank in October 2008, rather than being dismissed. [HL1833]

The Financial Services Secretary to the Treasury (Lord Myners): The Government were not involved in negotiating and did not give approval to or sign-off Sir Fred Goodwin's pension or the basis of his departure from the company. These matters were determined by members of the board of the Royal Bank of Scotland.

In response to questions raised in debate by Lord Smith of Clifton and Lord Howard of Rising on 2 March (*Official Report*, col. 583) I confirmed that no sum relating to Sir Fred Goodwin's pension was mentioned to me on 11 October 2008 and believed I was made aware of a sum a few days later. I can now confirm that I was informed of an estimate of the capitalised value of the pension late on 12 October 2008.

What I did not know—and only recently became aware of—was that the approval of the proposed pension arrangements by the Remuneration Committee of RBS was based on a decision to treat Sir Fred Goodwin as having retired early at the request of the company, and that this involved an element of discretion which had the effect of significantly increasing his pension. Investigation as to who at RBS was involved in this decision are continuing.

Banks

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether they vet the appointments of chairmen and chief executives of banks who (a) trade solely in the United Kingdom, (b) trade partly in the United Kingdom, and (c) are owned by a United Kingdom company and trade in the United Kingdom; if so, when the arrangement was put in place; and how the vetting is carried out. [HL1668]

The Financial Services Secretary to the Treasury (Lord Myners): Part V of the Financial Services and Markets Act (FSMA) provides the Financial Services Authority (FSA) with the power to regulate individuals exercising significant influence on the conduct of a firm's affairs in relation to regulated activities. The FSA requires both chief executives and chairmen of firms authorised by it to be approved. The FSA assesses applications for approved persons status against a "fit and proper" test which considers an individual's:

honesty, integrity and reputation;

competence and capability; and

financial soundness.

Since October 2008, the FSA has increased the scrutiny of candidates for significant influence functions (SIF). This scrutiny includes interviewing SIF candidates where appropriate and a greater focus on their personal accountability in post.

Belfast Agreement

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether Section 3 of the Declaration of Support in the Belfast Agreement of April 1998 means that the basis for all relationships on the island of Ireland is equality. [HL1717]

Baroness Royall of Blaisdon: As set out in section 3 of the declaration of support in the Belfast Agreement, the basis of all relationships within Northern Ireland, between Northern Ireland and Ireland and between the UK and Ireland is equality, partnership and mutual respect.

Civil Service: Muslims

Question

Asked by ***Lord Pearson of Rannoch***

To ask Her Majesty's Government what proportion of senior Civil Service staff of the Home Office, UK Border Agency and the panels which advise them are Muslims. [HL1751]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The proportion of Senior Civil Service staff in the Home Office and its agencies who have declared their religion as Muslim is around 2.5 per cent. Staff in the Home Office and its agencies have an option in our system not to give their religion when they are providing us with personal data.

EU: Galileo Project

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government what is the total expenditure on the European Union Galileo global positioning system to date; what is the present estimate of the final cost of the project; and how much of that cost will be met by United Kingdom taxpayers. [HL1616]

The Minister of State, Department for Transport (Lord Adonis): The European Union (EU) and member states of the European Space Agency (ESA) have jointly funded the design and development of Galileo. Approximately €1.6 billion (£1.1 billion) is committed spend on the design and development of the system. The deployment and operational phase, which follows, will see the Galileo programme achieve full operational capability (FOC). It is currently being procured by the ESA on behalf of the European Commission.

The total UK commitment to the ESA element of the programme amounts to €168.05 million (£116 million). By the end of 2008 the UK had paid €98.45 million (£68 million) of this. No further contributions are to be made to the project via ESA.

The next phase of the Galileo programme—the deployment and operation of the system (2010-13)—and all future funding for Galileo will be the responsibility of the EU. The EU funding of Galileo between 2007 and 2013 has been capped at €3.4 billion (£2.3 billion). The European Commission estimates a further £6 billion will be needed for operation and maintenance costs from 2013-30.

Discussions on how funding after 2013 might be sourced and what elements might come from private and public sources will not take place until the programme has advanced to a later stage. We expect the Commission to bring forward proposals for financing future phases of the programme in 2010.

Regarding the EU funding for Galileo: the position is that EU member states contribute to the Community budget as a whole and not to individual programmes within it. The UK contributes around 17 per cent of the Community budget or 12.6 per cent after abatement. There is therefore no specific UK contribution to the EU element of the funding for the Galileo programme.

The above figures are weighted to 2008 economic conditions.

Female Genital Mutilation

Question

Asked by ***Baroness Warsi***

To ask Her Majesty's Government what assessment they have made of the prevalence of female genital mutilation in Britain. [HL1652]

To ask Her Majesty's Government how many people have been (a) arrested, and (b) prosecuted for carrying out female genital mutilation in the United Kingdom in each of the past 10 years. [HL1653]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): In October 2007 the Department of Health funded the Foundation for Women's Health Research and Development (FORWARD) to undertake a study in collaboration with the London School of Hygiene and Tropical Medicine and City University Midwifery Department to estimate the incidence of female genital mutilation in England and Wales. The study reveals that nearly 66,000 women with FGM are living in England and Wales.

The Department of Health have commissioned FORWARD to undertake further research to update these figures.

To date, neither the Metropolitan Police Service nor the Crown Prosecution Service has a record of any arrests or prosecutions being commenced under either the 1985 or 2003 Acts.

First World War

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government how much they owe to the government of the United States for debts incurred in and around the First World War; and what are the arrangements for repayment. [HL1064]

The Financial Services Secretary to the Treasury (Lord Myners): At the end of the First World War the United Kingdom debt owed to the United States amounted to around £850 million. Repayments of the debt were made between 1923 and 1931. In 1931 President Hoover of the United States proposed a one-year moratorium on all war debts, which allowed extensive international discussions on the general problems of debt repayment to be held. However no satisfactory agreement was reached. In the absence of such an agreement no payments have been made to, or received from, other nationals since 1934.

I also refer the noble Lord to the Answers provided on 17 July 2002 (col. *WA 159*), 23 October 2002 (col. *WA 103-04*) and 11 July 2003 (col. *WA 66*).

Geert Wilders

Questions

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government further to the remarks by Lord West of Spithead on 12 February (*Official Report*, House of Lords, cols. 1232–36), what factors were taken into account by the Home Secretary in deciding whether the ban on Geert Wilders entering the United Kingdom would be in accordance with the European principle of proportionality. [HL1561]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): As required by regulation 21(5) of the Immigration (European Economic Area) Regulations 2006, the Home Secretary took into account the personal conduct of Mr Wilders, illustrated by his statements about Muslims and their beliefs. The Home Secretary considered that his statements were intended to incite racial and religious hatred and that his presence in the UK would, therefore, threaten community harmony and public security in the United Kingdom. As a result she took the view that Mr Wilders' presence in the United Kingdom would constitute a genuine, present and sufficiently serious threat to fundamental interests of public policy and public security.

She decided it was proportionate that Mr Wilders be denied admission, despite his position as an elected Member of the Dutch Parliament and the freedom of movement he would normally have as a national of a member state of the EU. The Home Secretary's views were conveyed to the immigration officer who decided to refuse Mr Wilders admission to the UK.

Asked by ***Lord Pearson of Rannoch***

To ask Her Majesty's Government whether they will allow Mr Geert Wilders to visit the United Kingdom in a private capacity. [HL1752]

Lord West of Spithead: Any attempt by Mr Wilders to seek admission to the UK in the future would be decided on its own merits and in the light of the circumstances at that time. Factors that would be considered would include the purpose of his intended visit and any impact on our public policy of preventing extremists intent on stirring up hatred and division from entering the UK.

Government Departments: Food

Question

Asked by ***Lord Hoyle***

To ask Her Majesty's Government whether the Department for Environment, Food and Rural Affairs is able to publish data showing the proportion of domestically-produced food used by government departments for the period from January 2007 up to the end of 2008. [HL1552]

The Minister of State, Department of Energy and Climate Change & Department for Environment, Food and Rural Affairs (Lord Hunt of Kings Heath): The second report published on the PSFPI website in November 2008 gives the proportion of domestically produced food used by government departments and also supplied to hospitals and prisons between 1 April 2007 and 31 March 2008. It can be seen at www.defra.gov.uk/farm/policy/sustain/procurement/pdf/psfpi_datareport081125.pdf.

Government: 30-year Rule

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government whether they or their predecessors have authorised the public disclosure of Cabinet papers by way of exception to the 30-year rule; and, if so, in what circumstances. [HL1719]

The Lord President of the Council (Baroness Royall of Blaisdon): Papers of meetings of the Cabinet and its committees are held by the Cabinet Office until they are ready for transfer to the National Archives under the 30-year rule, except in a very small number of cases where approval to withhold sensitive information for longer is given by the Lord Chancellor on the advice of his Advisory Council on National Records and Archives.

The Freedom of Information Act and Environmental Information Regulations require public authorities to consider on a case-by-case basis all requests for information, and to release requested information unless an exemption or exception applies. The Government believe that there is a very strong public interest in upholding the convention of the collective responsibility of the Cabinet and maintaining the confidentiality of its proceedings.

Under information rights legislation the Government have released some Cabinet and Cabinet Committee correspondence, and papers of Cabinet Committee meetings. In addition, two extracts from the minutes of Cabinet discussions following the devastating landslide in Aberfan on 21 October 1966 were released early at the National Archives on 2 January 1997 as the Government considered it would be in the public interest that all records relating to Aberfan should be released into the public domain together. The extracts in question would normally have been released in 1998 and 1999 respectively. Where appropriate, Cabinet papers have been disclosed to inquiries.

Guantanamo Bay: Binyam Mohamed

Questions

Asked by ***Lord Dykes***

To ask Her Majesty's Government what plans they have to offer financial and other assistance to Mr Binyam Mohamed to help his recovery from incarceration in the United States. [HL1671]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): Binyam Mohamed is currently in the UK on temporary admission while his immigration status is being considered. Whilst on temporary admission Mr Mohamed is entitled to the same financial and healthcare services as anyone entering the United Kingdom on that basis.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government what assessment they have made of the risk Mr Binyam Mohamed poses to national security in the United Kingdom. [HL1747]

To ask Her Majesty's Government whether they have been provided with the recent assessment by the Government of the United States of the security risk posed by Mr Binyam Mohamed; and, if so, whether they took it into account in their assessment of the risk Mr Binyam Mohamed would pose to national security when returned to the United Kingdom. [HL1748]

To ask Her Majesty's Government what steps they (a) have taken, and (b) will take, to ensure the safety and security of the public following the return of Mr Binyam Mohamed to the United Kingdom. [HL1749]

Lord West of Spithead: The decision to request the release and return of Mr Mohamed was taken in light of work by the US Government to reduce the number of those detained at Guantanamo with the aim of closing the facility and our wish to offer practical and concrete support to those efforts. I cannot comment on individual cases but, as my right honourable friend the Secretary of State for Foreign and Commonwealth Affairs made clear in his public statement of the 23 of February: "In reaching this decision we have paid full consideration to the need to maintain national security and the Government's overriding responsibilities in this regard".

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government what conditions were attached to Mr Binyam Mohamed's permission to (a) return to, and (b) stay in, the United Kingdom. [HL1750]

Lord West of Spithead: We do not discuss the immigration status of individuals. However, as with any foreign national, consideration will be given as to whether their presence in the United Kingdom is conducive to the public good and, as always, all appropriate steps will be taken to protect national security.

Human Rights

Questions

Asked by ***Lord Evans of Watford***

To ask Her Majesty's Government how they reconcile the fact that British nationals who are not British citizens do not have a right to enter the United Kingdom with the right of nationals to enter their country of nationality, set out in Article 3 of protocol four to the European Convention on Human Rights. [HL1300]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): Only persons with the right of abode in the UK under Section 2 of the Immigration Act 1971, being British citizens and certain Commonwealth citizens, are free to enter and remain in the UK without being subject to immigration control.

British nationals without the right of abode do not enjoy a right as set out in the Protocol four of the European Convention on Human Rights. This is because the UK has signed but not ratified Article 3 of Protocol 4 to the European Convention on Human Rights. The

protocol was signed in 1963 but not subsequently ratified because of the potential conflict with our domestic law in relation to the issue of British passports and the acquisition of a right of abode by categories of British nationals who do not currently have that right.

British nationals continue to be admitted freely to the United Kingdom on production of a United Kingdom passport issued in the United Kingdom and Islands or the Republic of Ireland prior to 1 January 1973, unless their passport has been endorsed to show that they are subject to immigration control. British nationals may also naturalise or register as a British citizen under the British Nationality Act 1981 and therefore acquire the right of abode in the UK under the Immigration Act 1971.

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government whether they can refuse to pay the compensation awarded by the European Court of Human Rights to Mr Abu Qatada and others; and, if so, whether they will. [HL1617]

Lord West of Spithead: Her Majesty's Government are obliged under the European Convention on Human Rights Article 41 (just satisfaction) to pay compensation awarded by the European Court of Human Rights. Failure to pay the full amount of any such compensation, without good reason, would be a breach of our obligations under the convention.

Internet: Broadband

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what plans they have to stimulate additional broadband networks beyond existing providers. [HL1670]

The Parliamentary Under-Secretary of State for Communications, Technology and Broadcasting (Lord Carter of Barnes): The UK has one of the most competitive broadband markets in Europe as a result of both infrastructure competition and, where appropriate, competition through regulatory intervention. Under Digital Britain, we will be looking to establish a government-led strategy group to assess the necessary demand side, supply-side and regulatory measures to underpin existing market-led investment plans, and to remove barriers to the timely rollout, beyond those declared plans, to maximise market-led coverage of Next Generation broadband.

Internet: Security

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government whether they will take steps to secure an acceleration in the growth of public key cryptography to enhance security in United Kingdom internet commerce. [HL1673]

The Parliamentary Under-Secretary of State for Communications, Technology and Broadcasting (Lord Carter of Barnes): The Government believe that the choice of security technologies is a matter for the companies concerned. Advice made available to those companies has emphasised the importance of good risk management and the selection of appropriate controls. Clearly, cryptography has an important role to play and public key cryptography has an increasing role to play in the authentication of parties in high value transactions.

The Government have passed legislation that enables the use of these technologies. The Electronic Communications Act of 2000 is part of the legislative framework, along with the Electronic Signatures Regulations and the E-Commerce Regulations (both 2002), intended to support electronic communications and transactions.

The Act led to the creation of tScheme (www.tScheme.org.uk) which is the independent, industry-led, self-regulatory scheme set up to create strict assessment criteria, against which it will approve trust services. BERR actively participates in the work of tScheme, particularly its efforts to promote wider take up.

Licensing: Lap Dancing

Question

Asked by ***Baroness Gould of Potternewton***

To ask Her Majesty's Government whether they will (a) amend the Policing and Crime Bill so that the new regulation of lap dancing and other sexual encounter venues is mandatory for local authorities; and (b) remove the exemption from that regulation for venues hosting lap dancing less frequently than once a month. [HL1645]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The Government are confident that the provisions in the Policing and Crime Bill to reclassify lap-dancing clubs as sex-encounter venues will give local communities the necessary powers to control the number and location of lap-dancing clubs.

However, in the light of concerns raised during the Committee stage in the House of Commons regarding the exemption and optional nature of the provisions, the Government have agreed to look into these issues further and are currently considering whether any amendments are required.

Ministry of Defence: Operating Costs

Question

Asked by ***Lord Astor of Hever***

To ask Her Majesty's Government whether they will break down, in near cash terms, the figures in the tables in note 24, Notes to the Statement of Operating Costs by Departmental Aim and Objectives, of the Ministry of Defence's annual report and accounts 2007–08. [HL1734]

The Parliamentary Under-Secretary of State, Ministry of Defence (Baroness Taylor of Bolton): The expenditure in the notes requested is expressed in total resource costs terms. Near-cash expenditure is not separately identified in the final resource accounts or the centrally held supporting records and could be provided only at disproportionate cost.

NHS: Pharmaceutical Services

Questions

Asked by ***Earl Howe***

To ask Her Majesty's Government whether they will make provision for pharmacy contractors to appeal against pharmaceutical needs assessments carried out by primary care trusts as set out in the Health Bill; and, if so, what form such an appeal process will take. [HL1785]

To ask Her Majesty's Government whether provision will be made for an appeal process where (a) a primary care trust has failed to identify a service need in its pharmaceutical needs assessment (PNA), or (b) a primary care trust decides that a particular pharmacy application will not meet the need for services as set out in its PNA; and, if so, what form such an appeal process will take. [HL1786]

To ask Her Majesty's Government what assessment they have made of the future role of the NHS Litigation Authority with regard to provisions in the Health Bill relating to pharmaceutical needs assessments. [HL1787]

To ask Her Majesty's Government what mandatory parameters primary care trusts will be obliged to take into account when determining their pharmaceutical needs assessments as set out in the Health Bill. [HL1788]

The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham): We do not consider it appropriate to award specific appeal rights to specific parties in respect of the pharmaceutical needs assessments (PNAs) carried out by primary care trusts (PCTs). Instead, the Health Bill proposes that regulations will set out specific matters to which a PCT must adhere when formulating its assessment. Such matters must include the information to be contained in these assessments and may, in particular, make provision requiring consultation with specified persons about specified matters, the manner in which an assessment is to be made and matters to which a PCT must have regard when making an assessment. Consequently, we do not consider that PCTs will usually fail to identify service needs in their assessments since the Bill already contains powers to enable the regulations to make particular provision as to the pharmaceutical services to which their assessment must relate and to consult as required.

If a PCT subsequently failed to identify a service need, did not adequately address how such needs were already being met locally or otherwise did not comply with the requirements of the relevant regulations then we would expect the PCT or strategic health authority to identify this and for the PCT to take appropriate action to correct the failure.

The Health Bill contains provisions to enable the Secretary of State for Health to set out in regulations the circumstances in which a PCT must make a new assessment. It would also be open to an aggrieved person to challenge the adequacy of a PCT's assessment of pharmaceutical needs through the courts by means of a judicial review application.

We would expect the regulations to set out the rights for parties to appeal decisions of PCTs not to grant pharmaceutical applications using the existing powers in the National Health Service Act 2006 and to follow the procedures currently used in such cases. The NHS litigation authority is constituted to hear appeals of such decisions and its procedures are well established so we anticipate that it will continue to hear appeals when the new test is brought into effect. Where the NHS litigation authority considers that the PCT's assessment of local pharmaceutical needs did not comply with prescribed requirements and that, as a result of this, the PCT would have been unable to undertake a proper assessment of whether or not to grant the application, then it would be open to it to make such a finding. In such a circumstance, the PCT would need to review its PNA and reconsider the application accordingly.

Further information about the likely content of regulations relating to PNAs is given in the Explanatory Notes and supplementary information on secondary legislation accompanying the Health Bill. In summary, the regulations must set out the minimum information requirements which each assessment must contain and the procedures for publication and undertaking a new assessment. For example, the regulations might stipulate that a PNA must contain information on the demography of the people in its area and any seasonal trends or variations, as well as longer-term population projections and age profiles. They might also stipulate, for example, that PCTs must undertake a new assessment where important new health data, trends in disease or evidence of the effectiveness or ineffectiveness of certain types of service emerge.

The regulations might also include the kinds of pharmaceutical services which the PNA must relate to, for example, the provision of certain services such as reviews of patient medication and clinical support for patients starting medication to treat a long-term condition.

Petitions

Questions

Asked by ***Lord Greaves***

To ask Her Majesty's Government whether any guidance is issued to central government departments on dealing with petitions submitted to them by the public. [HL1493]

The Lord President of the Council (Baroness Royall of Blaisdon): No central guidance is issued. Individual departments have responsibility for the handling of petitions submitted to them.

Asked by ***Lord Greaves***

To ask Her Majesty's Government further to the Written Answers by Baroness Royall of Blaisdon on 6 February (*WA 156–57*) and 9 February (*WA 168*),

whether they have any plans or have had any discussions about requiring central government departments and the No. 10 Downing Street e-petition scheme to comply with the requirements in Part 1, Chapter 2, of the Local Democracy, Economic Development and Construction Bill. [HL1494]

Baroness Royall of Blaisdon: This is a matter for individual departments that have responsibility for the handling of petitions submitted to them.

Asked by ***Lord Greaves***

To ask Her Majesty's Government how many petitions HM Treasury has received in 2007–08 and 2008–09; what steps they have taken to publicise them; and, if they have not taken any such steps, whether they will put the text of the petitions received and the number of signatures in the Library of the House. [HL1497]

To ask Her Majesty's Government what HM Treasury's procedure is for receiving, acknowledging, dealing with and responding to petitions that it receives from members of the public. [HL1498]

The Financial Services Secretary to the Treasury (Lord Myners): Information is not kept centrally and could only be obtained at disproportionate costs. There are no arrangements for generally publicising petitions.

H M Treasury deals with each petition, and other representation received, on a case-by-case basis as to receipt and processing and response.

Asked by ***Lord Greaves***

To ask Her Majesty's Government how many petitions the Department for Environment, Food and Rural Affairs received in (a) 2007 and (b) 2008; what steps the department has taken to publicise them; and whether they will put the text of the petitions received and the number of signatures in the Library of the House. [HL1547]

Asked by ***Lord Greaves***

To ask Her Majesty's Government what procedures the Department for Environment, Food and Rural Affairs has for receiving, acknowledging, dealing with and responding to petitions that it receives from members of the public. [HL1550]

The Minister of State, Department of Energy and Climate Change & Department for Environment, Food and Rural Affairs (Lord Hunt of Kings Heath): The ASK Defra section of the Defra website uses the No. 10 e-petitions system. Defra e-petitions are sent to the No. 10 website where they are logged and responded to. Open and closed petitions and the Government response can be viewed on the No. 10 website.

Electronic environmental petitions are publicised on the No. 10 website. Records show 602 petitions in 2007 and 833 petitions in 2008.

Defra does not hold central records of petitions received on paper. Petitions are received either by the relevant Minister or by policy units, as part of stakeholder engagement. The petition organiser will receive a response.

Increasingly. organisations are using campaigning postcards—these are received centrally. 70,000 postcards on 101 campaigns were received in 2007 and 125,000 postcards on 97 campaigns in 2008.

Asked by ***Lord Greaves***

To ask Her Majesty's Government how many petitions the Home Office received in (a) 2007 and (b) 2008; what steps the department has taken to publicise them; and whether they will place the text of the petitions received and the number of signatures in the Library of the House. [HL1624]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The Home Office does not maintain central records of the number of petitions received, and the information requested could only be obtained at disproportionate cost. No arrangements are made to publicise the information contained in them, and there are currently no plans to place details of petitions received in the Library of the House.

Asked by ***Lord Greaves***

To ask Her Majesty's Government what procedures the Home Office has for receiving, acknowledging, dealing with and responding to petitions that it receives from members of the public. [HL1625]

Lord West of Spithead: No special arrangements exist for receiving petitions from members of the public. All petitions received in the Home Office are acknowledged. Following receipt they are allocated to the policy unit best able to deal with the subject matter of the petition. They would normally reply direct to the petition organiser within 20 working days.

Asked by ***Lord Greaves***

To ask Her Majesty's Government how many petitions the Ministry of Justice received in (a) 2007 and (b) 2008; what steps the Ministry has taken to publicise them; and whether they will place the text of the petitions received and the number of signatures in the Library of the House. [HL1789]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The Ministry of Justice does not record the number of petitions it receives separately from other correspondence. There are no plans at present to either publicise the petitions it receives or to place copies in the Library of the House.

Asked by ***Lord Greaves***

To ask Her Majesty's Government what procedures the Ministry of Justice has for receiving, acknowledging, dealing with and responding to petitions that it receives from members of the public. [HL1790]

Lord Bach: Petitions may be delivered to the headquarters building of the Ministry of Justice or sent there by post. Correspondence is recorded on the department's management system, assigned to the most appropriate officials and monitored to ensure that a detailed response is sent within 15 working days.

Police

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government whether they will set up a review of single-issue organisations within the Metropolitan Police and other police forces to consider whether they affect the provision of unified police services where all staff are treated equally regardless of race, colour, creed, religion, gender or sexual orientation. [HL1677]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): An independent review of the national police diversity staff support associations (DSSAs) is taking place. The national DSSAs help the Home Office and key policing partners to deliver equality and diversity outcomes for the service. The main aims of the review are to identify the benefits of the national DSSAs to key policing partners; how the national DSSAs may be used to best effect; and the most appropriate level of support each of the policing partners can provide.

The focus of the review is on national DSSAs rather than the local equivalents.

Police: Discrimination

Question

Asked by ***Lord Ouseley***

To ask Her Majesty's Government how the discontinuation of national equality targets for the police service will affect efforts to eliminate unlawful discrimination and promote equality of opportunity; and how future progress will be monitored and measured. [HL1658]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The policing Green Paper reinforces the need to increase local responsibility for police performance. It will now be for each police authority to set race and gender targets, in conjunction with its force, and involve police officers, police staff and local communities. National oversight will be maintained in particular through the inspection of workforce issues in 2010 by Her Majesty's Inspectorate of Constabulary.

Police: Northern Ireland

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government further to the Written Answer by Baroness Royall of Blaisdon on 24 November 2008 (*WA 249–50*), how many prosecuting Police Service of Northern Ireland inspectors were replaced by the 220 extra Northern Ireland Public Prosecution Service legally qualified staff recruited between 2005 and 2008; and what the estimated extra annual costs are. [HL919]

Baroness Royall of Blaisdon: The figure of 220 refers to all additional PPS staff, both legally qualified and non-legally qualified, recruited over the period.

I am informed by the Police Service for Northern Ireland (PSNI) that the establishment figure for prosecuting inspectors was 22 inspectors and two chief inspectors. These were supported in the central process offices by a range of staff whose complement as set out during the criminal justice review was seven sergeants and 80 to 90 support staff.

Out of a current total of 572 staff in the PPS (and excluding the director and the deputy director), there are currently 171 legally qualified members of staff in the Public Prosecution Service (PPS) of whom 102 hold the grade of public prosecutor. It is this grade, currently B1 grade, of public prosecutor which is responsible, broadly stated, for carrying out the work previously carried out by the prosecuting police inspectors from the PSNI.

It is not, however, possible to make a direct comparison between the figures. The aim of the criminal justice review's recommendations on bringing all prosecutions under the aegis of an independent body, brought into effect in the Justice (Northern Ireland) Act 2002, was to ensure that decisions on cases at all levels of seriousness were made against consistently-applied criteria by legally-qualified staff. In addition to the responsibility for deciding on and progressing prosecutions, the Public Prosecution Service took on responsibility for tracking the progress of cases after charge or receipt of a report from the investigator, including requesting further information and investigations; and for providing advice to investigators at pre-charge stages of the process, for example on evidence needed and appropriate offences to be charged.

The criminal justice review also noted the increasing complexity of even less serious cases and the increasing significance of human rights issues, both of which have impacted on the resourcing of the PPS.

Prisons: Offender Managers

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government how many offender managers are in post in the Prison Service; and what are their maximum and average case-loads. [HL1584]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): Offender managers are Probation Service staff who are probation officers, senior practitioners, senior probation officers and professional development assessors. Latest available figures are that there are 508, full-time-equivalent, offender managers working within Prison Service establishments. Information on the maximum and average case-loads is not available and could only be obtained at disproportionate cost by means of a manual survey.

Railways: Disused Lines

Questions

Asked by ***Lord Greaves***

To ask Her Majesty's Government what progress has been made by the British Rail Residual Property Board in disposing of the disused railway line between Colne and the former West Riding County Council boundary; and whether they will protect the line for reinstatement in the future. [HL1817]

To ask Her Majesty's Government what advice and assistance they have given or will offer to Lancashire County Council about purchasing the railway line between Colne and the former West Riding County Council boundary (a) to protect it for reinstatement, (b) to maintain it in the meantime, or (c) to create a multi-user recreational route. [HL1818]

To ask Her Majesty's Government what discussions they have held with (a) Lancashire County Council and (b) the sustainable transport charity, Sustrans, on the future of the disused railway line between Colne and Skipton. [HL1819]

The Minister of State, Department for Transport (Lord Adonis): A consultation was undertaken in 2008 by BRB (Residuary) Ltd under the guidance issued to the company by Ministers on the disposal of its surplus property. The results of that consultation identified a number of local aspirations for the site, including the possible restoration of rail services or for use as a footpath or cycleway. These are local proposals and for that reason BRBR's Property Review Group concluded that the land should be offered to Lancashire County Council for it to decide the best use of the land.

Terms were quoted for the sale of the land to the county council on 31 July 2008 and it needs to respond quickly by engaging with BRB (Residuary) Ltd to discuss the nature of the structures on the route and terms for its acquisition, if its future use for community activities is to be secured.

Road Traffic Regulation Act 1984

Question

Asked by ***Lord Lucas***

To ask Her Majesty's Government further to the Written Answer by Lord Adonis on 24 February (*WA 73*), whether the Secretary of State exercised the power in Section 69(3) of the Road Traffic Regulation Act 1984 in Pontefract in 1984. [HL1755]

The Minister of State, Department for Transport (Lord Adonis): It is not the policy of the Department for Transport to retain records on such matters dating back as far as 1984. A search carried out by officials at the department confirmed that no records on this subject are held.

Royal Bank of Scotland: Entertainment Budget

Question

Asked by ***Lord Northbrook***

To ask Her Majesty's Government what is the annual entertainment budget for the Royal Bank of Scotland; what that budget is spent on; and how much of the budget is spent on sports personalities. [HL1827]

The Financial Services Secretary to the Treasury (Lord Myners): That is a matter for the board of RBS.

Serious Organised Crime and Police Act 2005

Question

Asked by ***Baroness Miller of Chilthorne Domer***

To ask Her Majesty's Government how many penalty notices have been issued to people taking photographs or filming within areas restricted under the Serious Organised Crime and Police Act 2005 in each year since that Act came into force. [HL1730]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): We are not aware of any penalty notices having been issued in such circumstances and would be unable to identify any separately from the statistics which are kept on penalty notices.

Sri Lanka

Question

Asked by ***The Earl of Sandwich***

To ask Her Majesty's Government whether, in the light of situation in Sri Lanka, they anticipate new applications for asylum from the Tamil community; and what new instructions they have given to consulates. [HL1542]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): All asylum claims received in the UK including those from Tamils are carefully considered on their individual merits in accordance with UK international obligations against the background of the latest available country information. If an applicant demonstrates a need for international protection, asylum is granted. If their application is refused, they have a right of appeal to the Asylum Immigration Tribunal. In this way we ensure that we provide protection to those asylum seekers who need it. We will continue to take Sri Lankan asylum decisions on a case-by-case basis in light of the most current situation.

Terrorism: Finance

Question

Asked by ***Baroness Warsi***

To ask Her Majesty's Government further to the Written Answer by Lord Bach on 12 February (*WA 237–38*), how the £2.7 million allocated by the Office for Security and Counter Terrorism for 2008–09 will be spent; and how its effectiveness will be monitored. [HL1655]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The Home Office's Office for Security and Counter Terrorism allocated £2.7 million to the National Offender Management Service in 2008-9 to support the delivery of a programme of work to address the risks associated with violent extremism and radicalisation. This programme includes improved intelligence gathering; training and awareness-raising for staff; support for chaplaincy teams; and work to research and develop appropriate interventions. The programme is reviewed by senior officials and by Ministers on a regular basis.

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