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PARLIAMENTARY DEBATES
(HANSARD)

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OFFICIAL REPORT

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

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House of Lords

Tuesday, 4 March 2014.

2.30 pm

Prayers—read by the Lord Bishop of Chester.

Japan: Dolphins
Question

2.36 pm

Asked by ***Baroness Parminter***

To ask Her Majesty's Government what discussions they have had with the government of Japan about the practice of capturing and slaughtering dolphins in Taiji.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): My Lords, my honourable friend George Eustice, the Minister responsible, wrote to the Japanese Fisheries Minister on 9 February to reiterate our opposition to hunting all cetaceans, except for limited activities by indigenous people for defined subsistence needs. Our ambassador had written to the Japanese Foreign Affairs Minister on 24 January to set out our position. The Japanese Government are in no doubt as to the strength of feeling here, nor about our policy against these hunts.

Baroness Parminter (LD): I thank my noble friend for that Answer. Are the Government seeking to co-operate with other countries and civil society organisations to evaluate what measures can be taken using international conventions to which we are signatories, in order to end the unnecessary suffering of this trade?

Lord De Mauley: My Lords, I agree strongly with my noble friend that working within international agreements such as CMS and CITES, and with the IWC, is the way to achieve our conservation goals. We already work closely with other like-minded Governments and civil society organisations, including on whale and dolphin conservation, in these fora and we continue to press for enhanced co-ordination and communication between them to ensure that they co-operate to provide an effective and long-term framework for the protection of cetaceans globally.

Lord Eden of Winton (Con): Has my noble friend had any response at all from the Japanese Government about this issue? Is there any indication on their part that they understand the strength of feeling and will now do something to stop this practice?

Lord De Mauley: It is premature to say that they are moving in the direction of stopping it, to be frank. This is something that we must and will continue to pursue.

Baroness Gardner of Parkes (Con): My Lords, is the Minister aware that the Australians have for many years been concerned by the fact that the Japanese use a loophole to argue that they do this hunting for scientific research? Can anything be done about that?

Lord De Mauley: My Lords, we regularly call for Japan to cease its so-called "scientific" whaling programme, as we consider there to be no valid argument for lethal scientific research on whales. As such, we therefore agree with Australian efforts to bring an end to these activities through the ICJ, and we look forward to the judgment in that case, which we expect this year.

Lord Grantchester (Lab): My Lords, what discussions has the Minister had with colleagues in other European Governments to ensure that dolphins trapped in this hunt and sold for entertainment do not find their way into European aquariums?

Lord De Mauley: My Lords, the issue is indeed of concern to a number of EU member states, and was discussed at the EU CITES management meeting in December. We continue to consider what measures the EU can take. For example, parties to CITES can place a reservation on a species, which means that they are not bound by the CITES controls relating to that species. We will, through the EU, continue to encourage countries such as Japan and others to withdraw their reservations on, for example, whale species.

Baroness Fookes (Con): My Lords, are the Government co-operating with the various animal welfare societies in this country, which feel very strongly about this, not least the Japan Animal Welfare Society, of which I have the honour to be patron?

Lord De Mauley: I pay tribute to my noble friend for all the work she does for animal welfare. I agree with her that the pressure which animal welfare organisations can bring to bear in situations such as these is often more effective, frankly, than that of Governments.

Lord Brooke of Sutton Mandeville (Con): My Lords, does my noble friend's department keep records of the degree of pressure it receives in the context of different animal species or other species from within our own society, in line with what my noble friend Lady Fookes has just asked him, so that it has some idea of what is the scale of the pressure from within our own society?

Lord De Mauley: Yes, my Lords, the pressure is maintained, consistent and considerable.

Welfare: Cost of Family Breakdown
Question

2.41 pm

Asked by ***The Lord Bishop of Chester***

To ask Her Majesty's Government what is their estimate of the cost of family and relationship breakdown to the welfare budget.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): My Lords, I am unable to give an official figure. A number of organisations have produced estimates—for example, the Relationships Foundation, at £45 billion-odd—but there is no consensus. The social security spend on lone parents and collecting child maintenance is just under £9 billion, but we must acknowledge that there are wider societal costs. Government have an important role to play in supporting families and working to ensure stable futures for children.

The Lord Bishop of Chester: My Lords, if the figure of £45 billion or £46 billion given by the Relationships Foundation is even remotely accurate, that illustrates the cost of family and relational breakdown, which cashes out at about £1,500 each year for each taxpayer in our country. What more do the Government propose to do to support and strengthen family life and relationships in our country, which must somewhere include supporting the institution of marriage?

Lord Freud: My Lords, the Government place the importance of sustaining relationships and families high up on their agenda and have a number of programmes to encourage that, which include extending childcare, tax-free childcare, and flexible working for both parents. We have worked on support for relationships and for parenting and have introduced a marriage tax break. We are looking at this whole area in our family stability review, which will be published later this year.

Baroness Lister of Burtersett (Lab): My Lords, I would like to turn the Question around and ask the Minister of his estimate of the cost to family relationships of cuts to social security, which are forcing some families to move, breaking up their family and social relationships, and of the cost to them of ever increasing punitive sanctions, which are driving more and more families to food banks. Both these trends are leaving families under more and more stress, leading, potentially, to the break-up of relationships.

Lord Freud: My Lords, on the issue of food banks raised by the noble Baroness, which we have discussed several times in this House, clearly nobody goes to a food bank willingly. However, it is very hard to know why people go to them. The Defra report said that there was a lack of systematic peer-reviewed research from the UK on the reasons or immediate circumstances that lead people to turn to food aid.

Baroness Deech (CB): Is the Minister aware that cohabiting relationships form a disproportionate amount of the relationships that break down and that cohabiting parents are three times as likely to split by the time their child is aged five as are married couples? Will the Government therefore refrain from further normalising or approving cohabiting relationships as a form of parenthood?

Lord Freud: There was a very substantial long-term jump in the number of cohabiting relationships. It went up over the last Government from more than 600,000 to 1.1 million. It is somewhat flattening now; it currently stands at 1.2 million. The noble Baroness is right in that the actual figure is that those couples are four times more likely to split when their child is under three than if they are married. However, there are some structural and major societal changes behind those trends, and it will take an enormous amount of effort to start putting marriage back into its rightful place. That is exactly one of the things that we are looking to do with the family stability review.

Baroness Walmsley (LD): My Lords, does my noble friend the Minister have a breakdown of the amount of funding that the Government give to those charities that help families in difficulty to prevent the partnership breaking down? Can he say whether there is a role for the Family Nurse Partnership in helping families stay together?

Lord Freud: We are running two immediate programmes. The first is to provide help and support for separated families, running in SR10 at £14 million, £10 million of which is spent on an innovation fund that tests various interventions, involving 17 different voluntary and private groups. The other aspect is the relationship support interventions, on which we are spending £30 million. There are three main areas—something called Let's Stick Together, marriage preparation and couples counselling.

Baroness Sherlock (Lab): I would like to return to the answer that the Minister gave my noble friend Lady Lister. If the Minister does not know why people go to food banks, I commend to him the "Panorama" programme shown on television last night about food banks. Among other people, they interviewed a mother who described the fact that her benefits had been wrongly sanctioned for three months and that they had so little to eat that her milk dried up while breastfeeding.

I have two questions for the Minister. What is the current success rate of appeals against sanctions on benefits? Secondly, what does he make of the pictures shown in the "Panorama" programme last night of the jobcentre that put up charts to show its staff how much money could be saved to the department by sanctioning people for a range of times?

Lord Freud: I must emphasise to noble Lords that we absolutely do not have targets for sanctioning. We have looked into this matter, and we do not have them—we do not run them. When there are exceptions, we stop it. That is not the purpose of sanctions; the purpose of sanctions is to run a system in which we provide some £85 billion to people who need it. It is our safety net to make sure that we give that properly and that people comply with the conditions required to receive that money.

Baroness Farrington of Ribbleton (Lab): My Lords, would the Minister care to inform the House why, in his opinion, the Government of whom I was a member were responsible in some way for the increase in

cohabitation? Would he be prepared to point out that many cohabiting couples make very good parents to their children?

Lord Freud: There seems to be a difference between the two sides of the House on the importance of marriage. This side believes that marriage is a valuable institution and we are going to support it with a marriage tax break.

Baroness Wheatcroft (Con): My Lords, I believe that the Government are increasing the work they are doing with the country's most troubled families, getting some of those families into work for the first time in generations. What does my noble friend the Minister expect that to do for family stability?

Lord Freud: My Lords, it is vital that people get into work where they can. That is the only way to solve poverty in the long term. We have managed to get more families into work—under this Government, 300,000 more have gone into work. I should also point out that fewer families with children are in poverty under this Government. That figure has gone down by 100,000 since we came in.

Baroness Symons of Vernham Dean (Lab): My Lords, in answering my noble friend Lady Sherlock, the noble Lord was unequivocal that the Government do not have targets on sanctions. Will he, therefore, instruct government offices which have charts on their walls, such as my noble friend Lady Sherlock described in asking her question, to take them down?

Lord Freud: If it is established that there are charts of that nature, I will instruct them to be taken down.

Lord Low of Dalston (CB): My Lords, would the Minister care to answer the other question asked by the noble Baroness, Lady Sherlock, about the rate of successful appeals against sanctions?

Lord Freud: My Lords, I will have to write to the noble Lord; I do not have that figure at my fingertips.

Lord Roberts of Llandudno (LD): My Lords, what contribution do the Government make to the work of Relate and similar organisations?

Lord Freud: We support a number of charities supporting marriage. I do not think that I have to hand the exact level of that support in monetary terms. However, the figure is available and I shall write to the noble Lord to provide it.

Intelligence and Security Committee

Question

2.52 pm

Asked by ***Lord Foulkes of Cumnock***

To ask Her Majesty's Government what changes they propose regarding arrangements for choosing the members and chair of the Intelligence and Security Committee of Parliament, following the commencement of the Justice and Security Act 2013.

Lord Wallace of Saltaire (LD): My Lords, Section 1 of the Justice and Security Act 2013 makes provision for the changes to the arrangements for appointing members of the ISC, to which the noble Lord refers. It provides that members of the ISC will,

"be appointed by the House of Parliament from which the member is to be drawn",

and that the chair of the ISC will be chosen by its members from among its members. Until this Act came into effect, members and the chair were appointed by the Prime Minister.

Lord Foulkes of Cumnock (Lab): My Lords, does the Minister agree that the idea of making the ISC a Joint Committee of both Houses of Parliament was to improve its independence and effectiveness? Surely, this is compromised with a former Conservative Foreign Secretary in the chair, only three Labour MPs and no Labour Peers in its membership. Therefore, will the Government enter into discussions with the Official Opposition to ensure that we get a better balance on the committee, including Labour Peers and an opposition chair, so that it can obtain some degree of credibility?

Lord Wallace of Saltaire: My Lords, I am conscious that for some time the only Member of this House on the Intelligence and Security Committee was indeed the noble Lord, Lord Foulkes, and then it expanded to two. There is no reference in the Justice and Security Act to the division of the current nine members between the two Houses. Noble Lords will be aware that yesterday Yvette Cooper made a speech on further reforms and that this morning the Deputy Prime Minister made a speech in which he suggested that we should move from the current nine members to a future membership of 11, as with other Select Committees. However, he made no specific reference to the division between the two Houses.

Lord Campbell-Savours (Lab): Would not greater accountability to the ISC and Parliament be provided if the chairman of the ISC was given unrestricted access to all operational material in the agencies, with the safeguard that, where such information exceeds what is currently permissible within the law, it is provided to the wider membership of the ISC committee by the chairman only with the permission of the agency chiefs concerned? That would really increase accountability to Parliament.

Lord Wallace of Saltaire: My Lords, there were a number of questions about increasing the capacity of the committee. The noble Lord, Lord Foulkes, as on previous occasions, mentioned the thinness of the staff assisting the committee. That is now being strengthened. In both Ms Cooper's speech yesterday and the Deputy Prime Minister's speech this morning, the suggestion was made to strengthen further the size and capabilities of the staff. The question of whether the chair should be drawn from the governing party or one of the opposition parties is also out there in the open. There is nothing in the Act that says whether the chair of the committee should be a member of one party or another.

Lord Strasburger (LD): My Lords, the Americans have been vigorously debating surveillance and the internet for more than six months. Yesterday the shadow Home Secretary joined in, and today the Deputy Prime Minister made an excellent contribution. When will the Home Office and the Foreign Office abandon their pretence that all is well and that there is nothing to discuss?

Lord Wallace of Saltaire: My Lords, the Justice and Security Act is less than a year old and was a useful step forward. I am conscious that the Snowden leaks, so to speak, and all the other questions about just how wide the collection of information by intelligence agencies across the world is, have stimulated a further debate. I have no doubt that that debate will continue, including within this House.

Lord Richard (Lab): My Lords, my noble friend Lord Foulkes asked what changes the Government propose. Do they propose any changes in relation to this matter or are they still waiting?

Lord Wallace of Saltaire: My Lords, we have only just commenced and set into effect the Justice and Security Act. The first public meeting of the Intelligence and Security Committee under the Act took place some three months ago, so we are still discussing the next stage. That is not particularly dilatory, given that we are moving in the right direction. We are looking at the current revelations about the sheer scale of internet surveillance, which perhaps raise further issues for discussion.

Lord Tugendhat (Con): My Lords, does the noble Lord agree that however the chairman is chosen, and from whichever party he might come, it would be very difficult to find a chairman better qualified and with more credibility and authority than Sir Malcolm Rifkind?

Lord Wallace of Saltaire: My Lords, I of course have to agree with that.

Baroness Royall of Blaisdon (Lab): My Lords, I have to preface my remarks by saying that I speak as a member of a party that values marriage but also values all stable relationships.

Sir David Omand, the former director of GCHQ, has said that,

"staff in the intelligence agencies would welcome deeper but more informed oversight, not least to protect their reputation".

Notwithstanding the new Act, it is clear that in this digital age the pace of technological change is so rapid that I am sure the noble Lord would agree that the ISC should be strengthened further in terms of digital and technological expertise. What plans might there be for those to be strengthened in the current circumstances?

Lord Wallace of Saltaire: There is the question of the size, scale and expertise of the staff of the committee. The 2011 Green Paper raised the question of whether the current two commissioners, the Intelligence Services Commissioner and the Interception of Communications Commissioner, might be combined into one and given rather greater authority. What we are discovering about the speed of change with the internet—not just the hoovering up of information on the internet by government agencies but the whole question of the hoovering up of our personal information by private agencies—is an issue that we all clearly need to discuss further. The Government have been developing a draft communications data Bill on which we will all have to consider how we move forward, probably in the first Session of the next Parliament.

Lord Foulkes of Cumnock: My Lords, I make it clear to the House, and particularly to the noble Lord, Lord Tugendhat, that I was in no way impugning the personal integrity of Malcolm Rifkind, who is a long-standing personal friend of mine, but stating the principle of having an opposition chair for such an important committee, as we have for the Public Accounts Committee.

Lord Wallace of Saltaire: My Lords, we are all quite clear that this is also partly a question of transparency, accountability and public trust, and greater transparency would help to improve public trust.

Schools: Academies

Question

2.59 pm

Asked by ***Baroness Hughes of Stretford***

To ask Her Majesty's Government, following the decision to remove 10 academies from the E-ACT Academy chain, what action they are taking to ensure that other chains are managing schools satisfactorily.

The Parliamentary Under-Secretary of State for Schools (Lord Nash) (Con): My Lords, within the Department for Education we have a very tough process of performance management for academy chains. The vast majority are sponsored academies—that is, schools which have in most cases previously been allowed to languish in failure for years. Sponsored academies are now improving at double the rate of local authority-maintained schools. In the small number of cases where an academy is not performing well, we hold the trust to account and challenge it to take decisive action. We have a zero-tolerance approach to failure. Since 2011, we have issued 41 pre-warning notices to underperforming academies and these have proved highly effective.

Baroness Hughes of Stretford (Lab): My Lords, the question here is not individual academies but chains that have been allowed to take over very large numbers of schools. In fact, it is reported that E-ACT, the subject of my Question, has now lost control of 10 of its 34 schools—a third after damning Ofsted inspections of those schools. Over the weekend, we heard that another big chain has claimed £1 million for so-called ghost pupils. Has not the Secretary of State been reckless in allowing big business to take over such

large numbers of our schools without any continuing oversight of its ability to do so? Will he now agree with us, with Ofsted and apparently also with his Schools Minister, David Laws, that to protect the interests of children, parents and teachers, Ofsted should be allowed to inspect not just the schools but these very big sponsoring chains?

Lord Nash: E-ACT was undoubtedly overambitious. It took on a lot of schools which were failing and in very challenging situations. Personally, I think that big business being involved in the academy programme is an excellent idea, and it was of course the noble Lord, Lord Adonis, who introduced this. As I said, this programme, which we are extending, is working extremely well, and we have extremely rigorous oversight of academy chains. We welcome Ofsted's batch inspection of schools in academy chains and the support that it gets from those chains. However, Ofsted has a lot to do and, given the very tight grip that we have on the central management of these chains, we do not think that it is necessary for it to go any further than that.

Lord Storey (LD): My Lords, my noble friend will be aware that academy chains are always catching up with some of the smallest local authorities in terms of the number of schools for which they are responsible. Local authorities' children's services and school improvements are inspected. Why does the Minister think that academy chains should not be inspected as chains?

Lord Nash: I think I have just said that I believe that the department has a very tight grip on the central management of academy chains, which, as I said, are performing extremely well by and large. That is not the case with local authorities, among which there are many unfortunate failures. Nearly 400 local authority schools are in special measures and 30 have been in special measures for 18 months. As my noble friend knows, a number of local authorities have, according to Ofsted, been performing particularly poorly.

The Earl of Listowel (CB): My Lords, does the Minister agree that it is a benefit that schools can work in partnership, whether through chains or other means? Can we look back at the London Challenge and the Greater Manchester Challenge to see what more can be done to help schools to work together in partnership, particularly with outstanding heads mentoring other heads?

Lord Nash: I entirely agree with the noble Earl. The school-to-school support model, which you could say was pioneered by the London Challenge, started by the previous Government, is one that we favour over other models. That is why we focus all academy groupings on a local and regional cluster basis, whether or not they are part of chains. We think that school-to-school support is the way forward.

Lord Forsyth of Drumlean (Con): My Lords, given the enormous success that the academies have achieved in turning round schools and offering opportunities to youngsters, why does the Minister think that we have so many Questions from the party opposite sniping at these very considerable successes?

Lord Nash: I think that I have in the past alluded to the fact—without wishing to rise to the challenge too much—that for many years many schools in this country have undoubtedly been allowed years to languish in failure. We now have many successful chains, such as ARK, Harris, Outwood Grange, REAch2, Greenwood Dale, Aldridge and Perry Beeches, which are turning round inner-city schools that were previously just written off. Some of their performance statistics are really quite miraculous.

The Lord Bishop of Chester: My Lords, I should like to return to the issue of inspection. In as much as the multichain bodies are involved in the governance of all the academies in their chain, and Ofsted inspects governance, why does Ofsted not also inspect the chains themselves?

Lord Nash: Ofsted looks at the support that chains are giving to their schools, and we have a very tight grip on the governance of all the chains. We have been in discussions with 50 chains to strengthen their governance arrangements and have a network of non-executive directors whom we have been introducing to chains to support them.

Lord Dykes (LD): To restore public confidence, should not these institutions be genuine, single, self-standing schools without these rather dodgy business connections where chains are using taxpayers' money which may not be properly audited?

Lord Nash: It is absolutely clear that anyone in any sort of governance arrangement with an academy or an academy chain cannot profit from their engagement. Any services provided from the connected party must be provided at no more than cost, and many of those philanthropists provide those services at considerably less than cost.

Transport for London Bill [HL]

Third Reading

3.06 pm

Bill passed and sent to the Commons.

Co-operative and Community Benefit Societies Bill [HL]

Order of Re-commitment Discharged

3.07 pm

Moved by ***Lord Newby***

That the order of re-commitment be discharged.

Lord Newby (LD): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript

[LORD NEWBY]
amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of recommitment be discharged.

Motion agreed.

Citizenship (Armed Forces) Bill
Third Reading

3.07 pm

Motion

Moved by ***Lord Trefgarne***

That the Bill do now pass.

Lord Trefgarne (Con): My Lords, as I ask your Lordships to pass this Bill, perhaps I may express my warm thanks to your Lordships for your support and to my noble friend Lord Taylor of Holbeach and his officials at the Home Office for their help and assistance. I beg to move that this Bill do now pass.

Bill passed.

International Development (Gender Equality) Bill
Third Reading

3.08 pm

Bill passed.

Leasehold Reform (Amendment) Bill
Third Reading

3.09 pm

Bill passed.

Ukraine
Statement

3.10 pm

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): My Lords, with the leave of the House, I shall repeat a Statement made by my right honourable friend the Foreign Secretary earlier today in the other place.

"With permission, I will make a Statement on the situation in Ukraine. The House will recall from my Statement last Monday that, on Friday 21 February, former President Yanukovych and the opposition in Ukraine signed an agreement to end months of violence. Shortly afterwards, the President fled Kiev, the 2004 constitution was restored, early presidential elections were called for 25 May, and an interim Government were appointed.

Last Wednesday, President Putin ordered military exercises involving a stated 38,000 Russian troops near the border with Ukraine, which they now appear to have concluded. By Friday, unidentified armed men had appeared outside airports and government buildings in Crimea. On Saturday, President Putin sought and received the approval of the upper House of the Russian Parliament to use Russian armed forces anywhere on the territory of Ukraine without the consent of the Ukrainian Government, citing a,

'threat to the lives of Russian citizens'.

Russian forces in Crimea went on to take control of Ukrainian military sites, including in Belbek, Balaclava and Kerch, and to establish full operational control in the Crimea. Helicopters and planes have been deployed. The Russian Government have not ruled out military action in other parts of Ukraine. Indeed, the Ukrainian Ministry of Defence has reported Russian fighters infringing Ukrainian airspace over the Black Sea.

Her Majesty's Government condemn any violation of the sovereignty and territorial integrity of Ukraine, which contravenes Russia's obligations under the UN charter, the OSCE Helsinki Final Act and the 1997 partition treaty on the status and conditions of the Black Sea fleet with Ukraine. Under that agreement, Russia is entitled to station troops and naval personnel on its bases in Crimea, but not to deploy troops outside those bases without the permission of the Ukrainian Government.

Moreover, Russia's actions are in breach of the Budapest memorandum, signed in 1994. In return for Ukraine giving up its nuclear weapons, Russia joined the UK and US in reaffirming their obligation to,

'refrain from the threat or use of force against the territorial integrity or political independence of Ukraine, and that none of their weapons will ever be used against Ukraine except in self-defence or otherwise in accordance with the Charter of the United Nations'.

The Russian Government have argued that there is no legitimate Government in Kiev, but the incumbent Ukrainian President abandoned his post and the subsequent decisions of the Ukrainian Parliament have been carried by large majorities, required under the constitution, including from members of the former President's party, the Party of Regions. The suggestion that a President who has fled his country has any authority whatever to invite the forces of a neighbouring country into that country is baseless.

Russia has also argued that Russian-speaking minorities in Ukraine are in danger, but no evidence of that threat has been presented. Furthermore, international diplomatic mechanisms exist to provide assurance on the situations of national minorities, including within the Organisation for Security and Co-operation in Europe and the Council of Europe. These mechanisms are the way to secure assurances of protection of the rights of minorities, not the breaking of international agreements and the use of armed force.

I commend the Ukrainian Government for responding to this extreme situation with a refusal to be provoked. The Ukrainian armed forces have been placed on full combat readiness, but the Government have affirmed that they will not use force, and I have urged them to maintain this position. However, there is clearly a grave risk of escalation or miscalculation, and a threat to hard-won peace and security in Europe.

The Government have been in constant contact with the Government of Ukraine, with the United States, with our partners in the European Union and

our allies in NATO and the G7, and indeed with the Russian Government themselves. Our objectives are, first, to avoid any further military escalation, and instead to see Russia return its forces to their bases and respect Ukrainian sovereignty; secondly, for any concerns about Russian-speaking minorities in Ukraine to be addressed by means of negotiations, not force; and, thirdly, for the international community to provide Ukraine, provided it is ready to carry out vital reforms, with urgent economic assistance. I will take each of these areas in turn.

First, we and our allies have condemned Russia's military intervention in Ukraine and warned against any further escalation. The Prime Minister has spoken twice to President Obama, and I have been in daily contact with my counterparts in the European Union, NATO and the G7. We have made firm representations to Russia. The Prime Minister spoke to President Putin on Friday and I spoke to Foreign Minister Lavrov on Saturday, when the Russian ambassador to London was also summoned to the Foreign and Commonwealth Office. We have urged Russia to meet its international commitments and choose a path out of confrontation and military action.

At our request, the UN Security Council held an urgent meeting on Sunday. Members of the council called for international monitors to be sent to Ukraine to observe the situation and stressed the importance of Ukraine's territorial integrity and the need to lower tensions. NATO's North Atlantic Council met on Sunday and called for Russia to withdraw its troops to bases and to refrain from any further provocative actions in Ukraine, in line with its international commitments. The NATO-Ukraine Commission was also convened.

Yesterday, at the Foreign Affairs Council, European nations strongly condemned Russia's act of aggression, called on Russia immediately to withdraw its forces to the areas of their permanent stationing, and without delay to agree to the request by Ukraine for direct consultations with Russia as well as under the Budapest memorandum. The council stated that, in the absence of de-escalating steps by Russia, the EU will decide about consequences for relations between the EU and Russia, such as suspending bilateral talks with Russia on visa matters and considering targeted measures. Heads of Government will now meet at a European Council on Thursday. As the Prime Minister and President Obama have said, there must be a significant cost to Russia if it does not change course on Ukraine.

EU member states have reconfirmed the offer of an association agreement with Ukraine, including a deep and comprehensive free trade area, and confirmed our commitment to support an international assistance package to support Ukraine, based on a clear commitment to reforms. The council also agreed to work on the adoption of restrictive measures for the freezing and recovery of misappropriated Ukrainian assets.

In terms of immediate steps to respond to Russia's actions and acting in concert with the G7, we have withdrawn the UK from preparations this week for the G8 summit in June in Sochi. We will also not send any UK government representatives to the Paralympic Games beginning this week, while maintaining our full support for the British athletes taking part.

Secondly, we are urging direct contact between the Ukrainian and Russian Governments. We are willing to pursue any diplomatic avenue that could help to reduce tensions, so we have called for urgent consultations under the Budapest memorandum, or the creation of a contact group including Russia and Ukraine. We urge Russia to accept the invitation to attend talks under the Budapest memorandum in Paris tomorrow, which I will attend. The UK supports the powerful case for the deployment of UN and OSCE monitors to Crimea and other areas of concern in Ukraine given the grave risk of clashes and escalation on the ground. We are taking part in urgent consultations in Vienna. We welcome the Ukrainian Government's support for such deployments and call on Russia to follow suit. The Prime Minister and I have both spoken to UN Secretary-General Ban Ki-moon to urge him to use the authority of the UN to bring about direct contact between Russia and Ukraine, and to urge the peaceful resolution of this issue. I welcome the fact that the Deputy Secretary-General is in Ukraine today.

Thirdly, we are working to support the Ukraine Government, who are facing immense political and economic challenges on top of the invasion of their territory. I returned from Kiev yesterday, where I encouraged Ukraine's leaders to make a decisive break with the country's past history of pervasive corruption, failed IMF programmes and poor governance. I urged acting President Turchynov and Prime Minister Yatsenyuk to continue to take measures which unify the country and protect the rights of all Ukraine's citizens, including its minority groups. I welcome the steps that have been taken, including the appointment of new regional governors in Russian-speaking regions, and the veto of recent proposed legislation affecting the status of the Russian language.

In return for urgent commitments and reform, it is vital that Ukraine receives international financial and technical assistance. The IMF should be front and centre of any programme of assistance, an approach I discussed with the IMF in Washington last week. The IMF sent key officials to Kiev yesterday. G7 Finance Ministers have issued a statement declaring our readiness to mobilise rapid technical assistance to support Ukraine in addressing its macroeconomic, regulatory and anti-corruption challenges.

The EU has also previously committed €610 million in loans to Ukraine, which could be made available once an IMF programme has been agreed. In the longer term, through the European Investment Bank, the European Bank for Reconstruction and Development, and neighbourhood funding, the EU will continue to provide significant support to Ukraine, including investment in infrastructure projects as well as intermediate loans to SMEs.

For our part, as I informed the Ukrainian Government yesterday, we will provide immediate technical assistance to Ukraine to support elections and assist with reforms on public financial management, debt management, and energy pricing. We are exploring the possibility of providing further UK expertise to assist with programmes to tackle corruption, reform the labour market and improve the investment climate in Ukraine, and a British team is already in Kiev to co-ordinate these

[Baroness Warsi]
efforts. We have also offered assistance on asset recovery, and I agreed with the Prime Minister of Ukraine yesterday to send a team to assist in providing the information we need to recover stolen assets, and to address this problem more widely.

Over the past four years, the Government have sought and secured an improved relationship with Russia, and we continue to work with Russia on immense global issues such as the nuclear negotiations with Iran and our efforts to make progress towards peace in Syria.

The UK's national interest lies in a free, democratic, unified, stable and peaceful Ukraine able to make its own decisions about its future. We will continue to do everything we can to support the diplomatic resolution of all the issues I have described, exercising our responsibilities as a permanent member of the United Nations Security Council and working closely with the nations of NATO and the European Union. We will continue to discuss the situation directly with Russia's leaders.

However, we also have a direct national interest in the maintenance of international law, the upholding of treaty obligations, the sovereignty and territorial integrity of independent nations, and the diplomatic resolution of conflicts that affect the peace and security of us all. For that reason, it is important that there is a clear response to these events, and that they are not repeated, and that is what we will pursue with determination in the days and weeks ahead".

My Lords, that concludes the Statement.

3.21 pm

Lord Triesman (Lab): My Lords, I thank the Minister for repeating the Foreign Secretary's Statement, and I appreciate the early sight that we had of it. I will say immediately that I think it is a very serious and very valuable Statement. We wholly subscribe to two of the concluding points, and to much else as well, but I will start with the two concluding points:

"The UK's national interest lies in a free, democratic, unified, stable and peaceful Ukraine able to make its own decisions about its future",

and,

"we also have a direct national interest in the maintenance of international law".

That is 100% common ground among us all.

Today we need, as I suspect we will need over the coming weeks and months, careful judgments and very careful words. The dangers of the position in which we find ourselves are plain to see, just as they were when we discussed this matter on 24 February. It is difficult to think of a greater threat to European security in the recent history of the continent. This incursion by Russia into the sovereign territory of a neighbour, far beyond the bases in Ukraine for which it has lease arrangements, breaks a raft of international laws and obligations. The Statement repeats them: it is contrary to the Charter of the United Nations, the Helsinki Final Act, the Budapest Memorandum of 1994 and the Russia-Ukraine bilateral agreement of 1997 on military bases. It breaks all the agreements guaranteeing Ukrainian territorial integrity.

The diplomatic efforts by the Foreign Secretary and his visit to the Ukraine are to be applauded. The visit to Paris tomorrow is also important for carrying the process forward. It is helpful that Secretary Kerry has been so directly involved, as is the EU generally, and of significance that Chancellor Merkel has taken a leading role. Efforts at NATO are also of the first importance. Security co-operation is now becoming a non-credible option as far as NATO and Russia are concerned.

Plainly, Russia should step back. I think we all fear that it will not. It has no justification for its actions. The justifications it purports to provide—a letter from a fleeing and discredited President and the ever more extravagant denigration of the people and the interim Government of Ukraine, using fanciful and, on occasions, grotesque language—are raucous and synthetic. It is language that I suspect is constructed largely for a Russian domestic audience, designed to arouse popular memories of what was indeed a terrible period of Nazi invasion of Soviet territory and the unspeakable loss of lives at the hands of the Nazis. But it is not a credible description of the present and it runs the manifest risk that all such exercises do: that a belligerent state gradually comes to believe its own rhetoric. If Russia continues its current line of approach, it must be viewed as a threat to the south-east of Ukraine as a whole. Precisely this trajectory was discussed in your Lordships' House last week.

First, this should not be allowed to drift, by accident or design, into armed conflict. The restraint of the Ukrainian people, state and forces is exceptional and commendable. I am sure that that will be felt right across the United Kingdom. It has been statesmanlike. As a result, there is no excuse for Russia to move from its current level of aggression to out-and-out violence. What we all need now is a process of de-escalation. All efforts at diplomacy must be made and the multinational institutions must step up to the mark—and quickly. It is clear that diplomacy has had little traction so far. However, appeals not to isolate Mr Putin have followed and, perhaps predictably, they have been unsuccessful. Nevertheless, nobody can be put off from making the effort.

I say the efforts have been unsuccessful. Chancellor Merkel found herself talking to a leader living, as she put it, in a parallel universe. Despite Germany's dependence on Russian gas, the chancellor appears to have pulled no punches in what she said and I applaud that. Mr Kerry encountered a policy mindset that reminded him of the 19th century in its attitudes of large states to smaller ones—I confess that I have reached back to study Bismarck to try to find parallel language. Beyond dispute is that discussions setting out what President Obama called the consequences of continued military intervention fell on deaf ears. President Putin disregarded them, as he did proposals for an internationally mediated process to ensure the rights of Russian speakers in the Crimea and a formal special status to protect them. Indeed, President Putin talked to President Obama having already secured a unanimous vote in the Duma for military intervention. The only conclusion it is safe to draw is that this is about retrenching the Ukraine inside Russia's sphere of influence rather than anything else. It goes further than securing

Sevastopol, which was not in any case under threat. The hurt that may be felt by a diminished global status is the target Mr Putin seeks to address. The risks of the consequences do not appear to be that great to him, and that should cause us concern.

What is needed now is a process of stabilisation. Russian leaders must be able to calibrate—and do so on the basis of clear statements from all the rest of us—the balance of diplomatic and economic risks they face; that is, what have been described as the consequences. Ukrainian leaders must also and clearly opt for inclusiveness. The rights of populations within the country, including those speaking Russian, must be protected and those peoples need to know they are protected. I welcome the assurances that the Foreign Secretary received about the status of Russian language legislation. That should be a very helpful step. That is a basis for both the Ukraine and Russia moving forward in some form of dialogue as soon as possible. A role in defusing the crisis must be seized with both hands. Did the Foreign Secretary raise other issues with the Ukrainians that might go in the same direction during the course of his talks this week?

As my right honourable friend Douglas Alexander said in another place, Russia needs to be clear and to understand the consequences of its actions. His main point was that the rest of us need to understand the consequences of inaction. What will the United Kingdom say at the emergency session of the EU Foreign Affairs Council on Thursday? I assume that is going ahead and that we will attend it. What was said by the Foreign Secretary at yesterday's EU Foreign Affairs Council? Is a process taking place of building from words about what the consequences may be to taking action? Are Her Majesty's Government able to clarify what they advocate as the "costs" and "consequences"? Again, I make no apology for repeating this point. When dealing with a state leader like President Putin, it is critical that he understands precisely what everybody intends so that there can be no mistakes about what follows.

Is it right to say that all diplomatic and economic options are on the table for this Thursday? I have deliberately not included the word "military", because I do not believe that anybody is looking in that direction; we are talking about diplomatic and economic options. Are those options on the table? If not, the Russian appetite for future military action will, in my view, have been whetted and we can expect to see more of it, to the detriment of the peoples of the region.

We are pulling out of the preparations for Sochi, and I am sure that that is right. Are the Government minded to pull out of the Sochi conference and to say so now? Is Russia now a legitimate member of the G8? Has it the status, does it meet the requirements, to take part in international bodies of that kind?

The financial support for Ukraine is obviously a matter of the first importance. We know that it needs $35 billion over the next 24 months to avoid a default. I think that the £10 million contribution from the United Kingdom is unquestionably helpful, but far more is needed and the IMF itself needs to take an important role. That role will be taken against a background, as the Statement says—again, I am glad that this is in the Statement—of dealing with poor institutions and ongoing corruption, but these are probably moments in which people will be more attentive to what is required of them than they might have been at some other points in their history when they saw less threat. The solvency issue is fundamental to any long-term prospects. If the country hollows out and falters, the prospect of ever reaching stability must be to that extent diminished.

I conclude by saying that all the direct contact that the Foreign Secretary, the Prime Minister and many of the other international diplomats have had must have been of help, and its continuation must be of help. There must be value in the formation of a contact group. It at least will set agendas, schedule meetings and try to ensure that people are around the table rather than simply working out where they can parade their troops next in somebody else's territory.

This is difficult, and it is a time for the House and those of all parties who regard the United Kingdom's interest as paramount to draw together.

3.32 pm

Baroness Warsi: My Lords, I start by thanking the noble Lord for his warm words of support and for his agreement on points of principle laid out in the Statement. I echo the sentiments that he expressed in his last sentence: this is a time for us to work together not just here as political parties in the United Kingdom but across the rest of Europe. Again, I echo the noble Lord when he says that this is a time for careful judgment and careful words. I hope that he will allow me to rest on those words in my answer. As I said in my answer to the Question that we had on Ukraine in this House early on Thursday of last week, it is an ever changing situation on the ground. Even at that stage, as I stood at the Dispatch Box I realised that things on the ground were changing.

I shall try to address a couple of the specific points that the noble Lord raised. I assure him that the issue of minority rights is one that we take incredibly seriously. It is right that we understand not just the rhetoric that we are hearing through some media channels in Russia but the sentiment behind some of those words. We must understand any concerns that there may be in relation to, for example, the Russian language. That was why the Foreign Secretary was quite explicit when he spoke to the interim president on his recent visit that there should not be any further measures which would be seen as an erosion of the Russian language; in fact, there should be some de-escalation around those matters.

The Foreign Affairs Council meeting on Thursday of this week is actually a heads of Government meeting, which the Prime Minister will be attending. The noble Lord asked a specific question about pulling out of the Sochi conference. These are all options which are currently being considered; unfortunately, I cannot give him a final response today.

Russia is part of the international community, and with that comes international obligations in ensuring that you adhere to treaty obligations that you have signed. Because of that, we feel that we have an interest—indeed, the whole of Europe has an interest—in making sure that those obligations are adhered to.

[Baroness Warsi]

In relation to the IMF programme, as I said on Thursday there is of course a need for a comprehensive economic programme. There is no doubt that that is one of the biggest challenges facing Ukraine, aside from the territorial challenges that it faces right now. However, I think we would agree that, if an IMF programme is to be put in, while not forgetting that there have been two failed IMF programmes in Ukraine in the recent past, it is important to have a stable and secure political environment. It is to that end that Her Majesty's Government continue to work, and I thank the noble Lord for his support.

3.35 pm

Baroness Falkner of Margravine (LD): My Lords, from these Benches, and though my noble friend, I thank the Foreign Secretary for this comprehensive and detailed Statement and for all the efforts that are being deployed on behalf of Her Majesty's Government to try to stabilise and resolve this situation. The noble Lord, Lord Triesman, mentioned Mr Putin's propensity to expand his reach with what is beginning to appear as a dangerous frequency. However, the lessons for him in doing this will impact not only on international peace and security in Europe and in Ukraine but across the world. We have territorial disputes in the South China and East China seas, which will be watched extremely carefully by the parties to those disputes, and by China.

My noble friend did not mention one specific point, which I wonder whether she could respond to. It concerns the status of the referendum in Crimea at the end of the month and, should that referendum go in the direction of independence, the danger of what will happen in humanitarian terms to people who wish to be on the Ukrainian side of that argument. Can she reflect—perhaps not today but the next time we come back to this, as I am sure we will—on whether the international community, through the OSCE and the United Nations, can offer protection and safe passage for Ukrainian military personnel deployed in Crimea to get back to Ukraine, and for those citizens who for whatever reason, such as disturbances, riots or violence, may need to be evacuated and relocated? Thought and contingency planning should be given to that within the international organisations, beginning here and now.

Baroness Warsi: I thank my noble friend for her words of support and for the specific issues that she raised. The Foreign Secretary made it clear in the other place earlier today that, all over the world, there are situations where individual communities in areas of a country feel that they have a right to self-determination. That is right within the parameters of the constitution of a country; indeed, this Parliament has passed legislation allowing parts of a country to have a referendum in relation to their future. However, we are talking here about a completely different situation, which to some extent takes away from what may have been planned for the future of Ukraine, and for Crimea as part of it. This is the violation of the territorial integrity of a sovereign nation and it is therefore important that, at this stage, we keep pressing to make sure that Russia recognises and respects that. It should certainly adhere to the statements that were made in the many conversations held between the Prime Minister and President Putin only last week, and between the Foreign Secretary and Foreign Minister Lavrov.

In relation to the second specific issue which my noble friend raised about safe passage, I am not sure what the particular situation is on the ground right now and what the strength of concern is in relation to the safety of those troops. However, I will certainly make sure that those words are fed back into any discussions that may take place on Thursday.

Lord Spicer (Con): My Lords, while accepting all that, it is the case that moralising alone is not going to work in these circumstances. Will my noble friend at least consider the reality of the situation—if it is the reality—that Ukraine splits naturally into two parts, and should it not be allowed to do so? That worked in Czechoslovakia and may have to work in this country, if Scotland votes the wrong way.

Baroness Warsi: I hear what my noble friend says, but I am not entirely sure that this is the kind of discussion that we should be having at the Dispatch Box at this time.

Lord Davies of Stamford (Lab): My Lords, there is a very widespread feeling in the world that Vladimir Putin's ultimate ambition is to restore the frontiers of the Soviet empire and the Tsarist empire. If he succeeds in de facto occupying—or even, one might say, de facto annexing—the Crimea, that surely will be a great encouragement to him to proceed with that agenda a bit further; in fact, he would probably become a great hero to nationalist sentiment in Russia. Against that background, is it not important that not only do we have the right sanctions to apply if it is not possible to achieve some diplomatic solution over the next few days and weeks, as we all hope, but also that we look again at the long-term signals that we are sending to Russia? We should review two things in particular: first, the dependence of the European Union on Soviet, or rather Russian, natural gas—surely as an urgent strategic priority we should try to reduce that—and, secondly, the deplorable signal that we, along with many other EU countries, have been sending in reducing our defence expenditure. Terrible tragedies have happened in history because the wrong signals were sent to a potentially aggressive party.

Baroness Warsi: My Lords, no doubt there is previous history in a very similar matter. We can draw parallels between Russia's intentions in what is happening now with what happened not so long ago in relation to Georgia. That is something that we are acutely aware of. Only last week we were talking about sanctions with regard to Ukrainian politicians and now here we are talking about sanctions of a completely different kind. That just shows how quickly the situation is moving on the ground. We have already seen some of the consequences of sanctions and economic costs in what is being felt within Russia in relation to both its currency and its stock exchange. As to what is now happening and the consequences of Russia's actions, it is important that we keep up that pressure. I do not

think that a military option is on the table—the noble Lord opposite was kind enough to refer to that—and therefore I do not draw any parallels in relation to defence expenditure.

Lord Hannay of Chiswick (CB): My Lords, I hope that the Minister accepts my warm support for the careful enumeration at the beginning of the Statement of the international obligations and breaches of international law that have taken place. That is absolutely vital. Since it is quite clear from the Statement that Russia has not fulfilled its obligations as a member of either the Council of Europe or the Organisation for Security and Co-operation in Europe, will the future position of Russia in those organisations be one of the areas under consideration? Would she also accept my very strong agreement with her that there is absolutely no parallel with the peaceful separation of the Czech Republic and Slovakia? Many years before, of course Slovakia had been the object of something that much more closely resembles what Mr Putin has been doing in the Crimea.

Baroness Warsi: I add my support to what the noble Lord has said, and I thank him for his warm words. I agree with him that Russia's membership of organisations has to be because Russia agrees with the values of those organisations regarding democracy and human rights. When it clearly appears to be violating the very values that it seeks to espouse in those organisations, then of course they have to consider whether such membership is appropriate. However, these are all matters that will be discussed and will be part of the package of options available to the international community. I return to what the intention is: it must be to de-escalate the situation and do whatever is needed to get to that stage.

Lord Howell of Guildford (Con): Does my noble friend accept that while she is absolutely right to talk about the potential significant economic costs to Russia, and indeed costs in other ways as well, we also need to keep it in mind that there could be major economic repercussions for western Europe as well, and indeed for the whole world economy, particularly if as a result energy prices suddenly begin to rocket even further than they have already? Can we be sure, in working towards establishing a more reasonable dialogue with Moscow, that we take into account the enormous British, European and indeed global investments that already exist in modern Russia, and the vast and intense integration of trade between Russia and the EU that exists today, and indeed with this country?

In the longer term, when we are beyond this crisis, we need closer relations with a prosperous and more democratic Russia. Does my noble friend accept that in the dialogue with Russia about stabilising the situation and the proper concern with what Mr Putin is apparently trying to do, these issues must be kept very clearly in mind and a sense of proportion maintained?

Baroness Warsi: I hear what my noble friend says. He always has wise words on these issues. It is because we accept that we have these interests in Russia and Europe that we feel it is important that it is in our interest, as well as Russia's interest, to de-escalate the situation and return to a politically stable Ukraine. Of course the EU and the United Kingdom need Russia, but it is also important to stress that Russia needs the EU as much as the EU needs Russia, and Russia has to be reminded of the cost of not being part of, and playing its role as part of, the international community.

Lord West of Spithead (Lab): This is an extremely dangerous world and it is a very sobering thought that if Ukraine were a member of NATO, we would be stepping towards a situation where we could actually go to war. I am not suggesting for a moment that we should use military force in this situation, but we could, and I share my noble friend's view about the dangers for Europe of having cut defence expenditure. My question relates specifically to so-called smart sanctions. Broad sanctions seem to me to cause real damage to Europe, ourselves and everybody, not least to ordinary members of the Russian population. What is the Government's view on so-called smart sanctions on leaders who have taken certain decisions within Russia, such as freezing their assets and stopping their visas, and do they believe that they would have an impact in making them think about what they are doing?

Baroness Warsi: The noble Lord makes an important point. Although Ukraine is not a member of NATO, it has a long-standing relationship with NATO and contributes to NATO operations, and has done so for many years. I am, with my wide portfolio in the Foreign and Commonwealth Office, responsible for sanctions and therefore have spent some time considering what we call smart sanctions: well judged and well targeted sanctions that have impact. Sanctions should not be to make us feel better; they should be put in place so that they work and have an outcome. It is exactly in that vein that we consider them.

Lord Stirrup (CB): My Lords, does the Minister accept that we should be cautious about being quite so dismissive about the military implications of what has happened in Ukraine? I am not referring to military intervention in Ukraine by this country or other members of NATO, but about current members of NATO. Some of our most recent members have a memory that does not need to stretch back very far to create a great shadow of fear of Russia. Having worked very closely with some of these nations, I can assure your Lordships that that fear is very real and very existent. Some of these nations have Russian-speaking minorities. Will the UK Government do everything within their power to ensure that in the ongoing negotiations and discussions, NATO takes every possible action to demonstrate unequivocally to Russia its commitment, its capability and its will to defend all of its members under Article 5?

Baroness Warsi: I think I probably dealt with some of those issues in answering a previous question. I understand the sentiments that the noble and gallant Lord expresses. I do not think I was being dismissive in relation to potential military action; I was trying to say that it is important that we do not hypothesise

[Baroness Warsi]
about whether certain things—for example, if defence spending had been done differently or a certain decision on another foreign policy issue had been taken differently—would have had an impact on Russia's intentions. I think it is probably better for us to try to understand the Russia psyche on Crimea and Ukraine, which may give us a slightly better perspective on the thinking behind Russia's actions.

Lord King of Bridgwater (Con): Is my noble friend aware of the speed of events out of a clear blue sky, when suddenly we find ourselves, as the noble Lord, Lord West, said, in an extremely dangerous situation in which there is a lot of fear on every side? It is important to remember that, since it is extremely dangerous. We need the greatest restraint on all sides, and we need the earliest possible meeting of Russia and Ukraine with the contact group to which the noble Lord, Lord Triesman, referred to make sure that we get contacts in this way.

As Defence Secretary I paid an official visit to the Soviet Union when it was breaking up. One thing that came across very clearly was that, while they regretted the passing of some other members of the Soviet Union, the one they really minded about was Ukraine. It has a particular sensitivity for them, and of all the bits of Ukraine which have a sensitivity, Crimea in particular is one, not least because of the Russian Black Sea fleet being based there. It is against that background that I hope we will recognise the need, obviously, to make it absolutely clear that invasion and infringing the territorial sovereignty of another country are quite unacceptable. There needs to be the earliest possible discussion of these issues, which are not going to be easy to resolve. The noble Baroness, Lady Falkner, referred to the referendum coming up which will raise further issues. We need to discuss it around a table, and with not bullets and guns in the streets.

Baroness Warsi: I fully endorse the incredibly wise and perceptive comments of my noble friend.

Lord Grenfell (Lab): My Lords, I sometimes think that we are living in a bit of a dream world here. If anybody listened to President Putin's press conference late this morning, as I did, they would have been left in absolutely no doubt whatever that he is unimpressed by all the threats that are being made against him. He may not in his heart of hearts believe that, but that is what he is saying. He is not impressed by sanctions, or by this or that with which we are threatening him. Is it not the truth that, as the noble Lord, Lord King, has said, Ukraine, and Crimea in particular, are extremely important to him and to Russia? He is not about to give in easily on this.

Would it not be far better if we stopped constantly saying that territorial integrity must be maintained when we know that it is very likely that it will not be, and that the solution will probably be that President Putin will get a lot of what he wants? In the end, Ukraine cannot exist if a part of that nation is in constant turmoil and being threatened by Russia. It would be far better, in my view, if an arrangement was reached whereby Crimea went back into the Russian Federation. Although there would still be problems in eastern Ukraine, you might then possibly have a united Ukraine which was capable of looking after its own affairs without further fear of Russia.

Baroness Warsi: The noble Lord makes important points. It was exactly these sensitivities to which I referred in answering the Question on Thursday and, indeed, in the Statement today. We recognise and understand those sensitivities, and the emotional connection to which my noble friend Lord King has referred between Russia and Crimea and Ukraine. However, we must also not forget that a sovereign nation has been violated, and this cannot be the way in which we conduct international affairs. Simply to stand by and say that we recognise the emotional connection and the history of the relationship between Russia and Ukraine, and must therefore to some extent accept and stand back from this situation, would not be the right approach. As my noble friend said earlier, there are territorial disputes all around the world. What kind of a signal would we therefore be sending?

Lord Anderson of Swansea (Lab): My Lords, is it not true that Russia also has emotional connections with other parts of its former empire, including Armenia and Georgia? One cannot rely on that. The sad reality may be, alas, that Crimea may already be in the course of being lost to Ukraine, and that all we can do is try to ensure that eastern Ukraine does not follow the same path—by, for example, ensuring that adequate guarantees of freedom, language and so on are given to the Russian-speaking inhabitants of that region.

Can the Minister indicate a little more about what sanctions, asset freezes and smart sanctions we have in mind? In terms of institutions, if there is no adequate response from Russia in respect of the pressures which we exert, are we considering, for example, seeking the suspension of Russia from the Council of Europe in the same way that the Conservative group yesterday withdrew from the European Democratic Group, where they sit with their Russian colleagues? What about the OSCE? What about the G7/G8? What consideration, if any, has been given to the UK taking the lead in calling for the suspension of Russia from these various international organisations?

Baroness Warsi: I hope that the noble Lord will forgive me if I do not go into a huge amount of detail at this stage. I will simply say that all options, whether diplomatic or economic, are on the table at this stage. However, as noble Lords will understand from today's debate if not from anything else, those actions have to be collective. Those collective discussions and options have to be discussed in the right fora, of which the Heads of Government meeting on Thursday is one. Therefore we may return to this matter, possibly next week.

Lord Maginnis of Drumglass (Non-Afl): My Lords, first, I thank the Minister for repeating what has been an unusually constructive Statement as regards what we have been hearing for the past month. Is it not a fact that Mr Kerry and our Secretary of State have

been sabre-rattling in a thoughtless manner for almost a month until we could not expect any other reaction from Mr Putin than that which we have?

Over the past 45 years I have run my life and other people's lives on the basis of planning and preparation, not on that of prejudice. After having listened to the prejudicial statements that we have heard for the past month, I ask: is it not true that it is time we grew up as regards the reality of international relations rather than the prejudice that we illustrate all too ineptly?

Baroness Warsi: I was incredibly heartened because the noble Lord started off in such a constructive fashion, and I thought that we would try to find a meeting of minds somewhere in his question or maybe even in his comments. Unfortunately, I disagree with much of what he has said. He may not be happy with that very simple and short answer, but I am sure that if he requires a more detailed answer, he will write to me, and I will respond.

Northern Ireland (Miscellaneous Provisions) Bill

Third Reading

3.56 pm

Clause 6: Reduction in size of Assembly to be reserved matter

Amendment 1

Moved by ***The Parliamentary Under-Secretary of State, Wales Office (Baroness Randerson)***

1: Clause 6, page 6, line 30, leave out from beginning to "(reserved" and insert—

"( ) The Northern Ireland Act 1998 is amended as follows.

( ) In Schedule 3"

The Parliamentary Under-Secretary of State, Wales Office (Baroness Randerson) (LD): My Lords, on Report I indicated the Government's intention to bring forward an amendment on a future reduction in the size of the Northern Ireland Assembly. Some noble Lords were concerned about the breadth of the current provision in Clause 6 to make a reduction in the size of the Assembly a reserved matter.

The Bill as it stands would enable the Assembly to legislate, with the Secretary of State's consent, to reduce the number of Members returned to it for each Westminster constituency. Currently six are returned from each of the 18 constituencies, which makes a total of 108 members. In Committee, views were expressed that the Secretary of State's ability to withhold consent to such an arrangement was not a sufficient safeguard. It would be open to the larger parties to legislate for a very substantial reduction in size. Smaller parties might suffer disproportionately if the number of Members returned for each constituency was significantly reduced.

The Government recognise those concerns and we have reflected carefully. Many in Northern Ireland hold that, at 108 Members, the Assembly is too large. However, it is certainly not our intention that it should shrink dramatically. When it was established, the intention was that it should be a widely inclusive body, and that remains essential to the healthy functioning of the Northern Ireland settlement.

This amendment would limit any reduction in the Assembly's size to five Members per constituency. It also requires that any such reduction must have cross-community support in the Assembly. Of course, the decision to reduce the size of the Assembly is ultimately a matter for the Assembly itself. The effect of the amendment is to confine the option to a reduction of one Member per constituency. If the Assembly decides to take that up, smaller parties and minority voices will still be well represented within the Assembly.

A number of noble Lords have indicated to me in the past day or so that, in speaking to these amendments this afternoon, they intend to refer to issues that have arisen in the past week in relation to the issuing of letters to so-called on-the-runs. I assure your Lordships that I will address that issue when I sum up on this amendment, once I have listened to noble Lords' points and questions.

I hope that your Lordships will agree that the proposed amendment offers sufficient protection and that they will feel able to support it.

4 pm

Lord Empey (UUP): My Lords, two potential processes can affect the size of the Assembly. The noble Baroness has mentioned one process but, of course, there is a second, over which the Assembly has no control whatever—that is, if a future Parliament decides to reduce the number of seats in the House of Commons, as was the case in this Parliament. The net effect of that would have been to reduce the size of the Assembly by two constituencies, thereby reducing its membership by 12. If the Assembly decided to reduce itself to 90 Members, which would be the proposal if you reduced by one seat per constituency, it would have no control over the fact that it could subsequently be reduced to 80; that would be an entirely separate process over which it has no control. Incidentally, I do not accept that the size of the Assembly is exclusively a matter for the Assembly. The size was determined by agreement, and therefore is at this point in time not a matter exclusively for the Assembly.

I just make the point to the noble Baroness that there are two processes that can affect the Assembly's size. The Assembly may have control of one, but it most certainly does not have control of the other. That needs to be borne in mind. While the noble Baroness has repeated to us on a number of occasions that there is no consensus on certain things and therefore we cannot proceed with them, I point out to her that there is no consensus on this in Stormont either. It is merely setting out a stall, and I think that she was trying to respond to some of the concerns that a number of us raised. I still think that it is a tricky issue, and I caution the fact that there could be a two-stage rocket here, and that the Assembly has no control over a reduction in the size of the House of Commons, which would have a subsequent effect on the size of the Assembly.

Lord Maginnis of Drumglass (Non-Afl): My Lords, I want to speak in a more generic sense about what is literally going on at the moment and what is being contrived. I was grateful to the Minister for turning up at the meeting with the Secretary of State yesterday evening. I am somewhat disappointed that she has not preceded the amendment with a statement that would have clarified some of the points that we raised. It appears to me—and I think most people would accept—that we are being asked to legislate on Northern Ireland affairs while they are being blanketed over by secret deals and arrangements that are not in the interests of the people of Northern Ireland, certainly not in the interests of the victims of the Troubles in Northern Ireland, and not in the interests of those soldiers and policemen who, to try to bring peace to our part of the United Kingdom, gave their lives in considerable numbers.

The reality is that eight years ago, in the aftermath of the St Andrews agreement, secret deals were carried out not with one section of our society in terms of nationalist or unionist, but with one little caucus within one section of our society. Those arrangements were dishonourable in the extreme.

If I had had a relative die in Regent's Park, I would not have a great deal of sympathy for a Government trying to build the future of Northern Ireland, given their attitude to one of the perpetrators of that outrage. I was closer to those victims than most in this Chamber, and that is why I challenge the Minister on this issue on their behalf. It is not always the case in another place but I always believed that this House was an exemplar of democracy and doing things correctly, not a place where we would seek to build on deceitfulness and sleight of hand, such as we have seen in respect of the post-St Andrews arrangements.

Before the Minister goes any further, will she address the reality of deceit that pervades the relationship between Northern Ireland and the rest of the United Kingdom? Not to do so will leave unsatisfied people such as myself, people in Northern Ireland and, not least, the relatives of soldiers and members of the Army who may still be subject to investigation by the PSNI in respect of that unfortunate situation 40-something years ago, when we put young soldiers with no experience of crowd control into a very difficult situation in Londonderry. Perhaps she can tell me whether they are still under investigation by the PSNI. That situation was more than unfortunate; it is something of which we have been ashamed over the years. Some 40-something years on, people in my age group are sitting at home wondering when they will be hauled in front of the courts while the terrorists—the people who planned and murdered in cold blood—are given carte blanche in respect of their actions.

Lord Alderdice (LD): My Lords, from the start when there was discussion about reducing the number of Members of the Northern Ireland Assembly, I have expressed some concern about it. I have never bought the proposition that 108 Members was too large for Northern Ireland, because of the complexity of representation and the running of affairs in Northern Ireland. However, in a time of austerity, when the Assembly and Executive have not exactly distinguished themselves by the volume of quality legislation or governance that they have produced, there is without a doubt public pressure to reduce its size. At the same time, there is a substantial reduction in the number of elected representatives at municipal level and an increasing complexity in the running of events in Northern Ireland.

One thing that is clear, which we shall consider later, is that the Government want to give more and more responsibility to the Northern Ireland Assembly. If the Assembly were functioning well I would have no objections, but it has not been functioning well. Indeed, over the past week or two, given the recent events that were referred to by the noble Lord, Lord Maginnis, relationships between the parties at the most senior levels are worse than they have been for a long time. I therefore want again to express concern about this whole question of reducing the number of Members of the Assembly.

However, I value the amendment brought forward by the noble Baroness. It at least makes it clear that you cannot simply keep on salami-slicing the Assembly's representation. However, there are often rather superficial views of the work and value of Assembly Members, as compared with the situation in Wales or Scotland, where the issues are completely different. Devolution was not brought to Northern Ireland for the same reasons for which it was introduced in Wales and Scotland. There were different requirements and functions in addition to all the important issues about making sure that governance is as close to the people as possible and so on. I want to flag that up.

It is impossible to ignore the fact that the whole structure is now somewhat shaken by the recent revelations about the on-the-runs letters issue. This is serious because for the past few years there has been within the unionist and loyalist community a sense of alienation. Whether that is justified is not the issue, but we all know that it is there. At the same time, we have elections coming up this year, next year and the year after, over which there are all sorts of anxieties and concerns within the unionist community and, indeed, more widely.

What troubles me somewhat about the general drift of the Bill is that it feels like some measure of disengagement. It is as though we are saying, "We've got a resolution with the Good Friday Agreement. These are big boys and girls, and it is time to let them get on with things". Not to be too trivial, it seems to me that it is much more like bringing up teenagers and adolescents, whereby you have to be there and not be there. There is no right way of doing it, but you always have to make sure that you are available because, as sure as eggs are eggs, problems will arise, and if you are not there to help out there will be tragedy.

In terms of administration, the Northern Ireland Office is a tiny affair. It is not quite back at the level that it was before the whole process began in Northern Ireland when Sir John Chilcot, who now has other responsibilities, was a junior official at the Home Office and part of his responsibility was all the Northern Ireland issues. It is not now quite at that level, but it is getting there. Even within the Northern Ireland Office as it is, there are very few people who remember what was necessary for the peace process. The institutional

memory is almost threadbare. That is not the fault of the people who are there; it is just the reality of what happens over a period of time.

People may assume that everything will go swimmingly, simply because Northern Ireland is not so much in the news. Events over the past week or two have made it clear that there are serious issues to be dealt with. Why were Mr Haass and Dr O'Sullivan brought in? It was because there were problems regarding the legacy of the past that had not been resolved and were unable to be resolved by the devolved Assembly and Executive. So we did what we have done in the past and asked people to come in from outside to help us. However, it is clear that that did not work.

If the Assembly and the Executive are unable to address the issue, and if those eminent, thoughtful, committed and knowledgeable people who were brought in were unable to resolve it, it seems to me that it is incumbent on the British and Irish Governments at the highest levels to address the question of how we deal with the issues of the past. Although there are lots of matters that one can bring up regarding the on-the-runs letters, this is fundamentally about how we deal with the issues of the past, not just in terms of republicans but in terms of loyalists, and particularly those who served in the security forces over a long period, who still wonder what the future holds for them.

Without wanting to drag this out, I emphasise that it feels—although this may not be the case—as though there is an element of pulling back and disengagement in the drift of the Bill. What has happened in the past week or two has been a very clear demonstration that this is not a time for disengagement, emotional or otherwise. Rather, at the highest levels of government—I am talking about the level of Prime Minister and Taoiseach—there needs to be some responsible re-engagement between the British and Irish Governments and the leaders of the Executive in Northern Ireland to address the issues of the past and all that they mean. There should not be a feeling that we can simply shovel them back over the water and hope that everything will work out well. That is what happened between 1921 and the late 1960s.

For goodness' sake, let us not make the same mistake of leaving things unattended to until it is too late and we then face an intolerable mess. That is not necessary and we should not do it.

4.15 pm

Lord Trimble (Con): My Lords, I start by thanking the Minister for bringing forward the amendments that we are going to consider. They go some way towards addressing the concerns that have been expressed and it is very welcome that she has responded to them in that way. I also thank her for her acknowledgement that we could not pass by the events of last week. We have not had the opportunity in this House to refer to these matters because Statements were not repeated. If we were simply engaged in a mundane debate, people outside looking in would wonder what on earth was going on. Therefore, I am very glad that the Minister has widened the scope of the discussion, and I am going to take advantage of it in just a moment.

I very much agree with quite a few of the things that the noble Lord, Lord Alderdice, said. I was particularly attracted to his analogy of teenagers, although he should perhaps go a little further and bear in mind that some teenagers have delinquent tendencies and it is slightly better to view the matter in that way. We all know that it is absolutely essential that teenagers with delinquent tendencies have clear boundaries. In that situation, nothing is worse than letting people think that the boundaries can be blurred and that they can get away with things. Unfortunately, that has been done again and again over the past 15 years with regard to the republican movement.

Although what the noble Lord says about institutional memory is true, one tendency has not been forgotten. In the old days before the agreement, we used to say that the default mode of the Northern Ireland Office was to make sure that it kept the Irish Department of Foreign Affairs and Trade happy. Since the agreement, the default mode of the Northern Ireland Office has been to keep Gerry and Martin happy, irrespective of any other consideration—or that is how it seems. What was revealed last week regarding the letters that were sent out in connection with 187 cases, and what was described by Dominic Grieve in his Statement to the other place as the administrative process involving the Northern Ireland Office, the public prosecutor and the police, certainly ought not to have happened in the way that it did, and perhaps it ought not to have happened at all.

There are a number of really interesting aspects of the judgment, which I recommend to everyone. I am going to mention just a couple of paragraphs, one being paragraph 36. It reads:

"On 2 June 2000 the Attorney General",

who I think at that time was Lord Williams of Mostyn,

"wrote to the then Secretary of State for Northern Ireland … Peter Mandelson stating: '… I am seriously concerned that the exercise that is being undertaken has the capacity of severely undermining confidence in the criminal justice system in Northern Ireland at this most sensitive of times. Individual prosecution decisions have to be justifiable within the framework in which all prosecution decisions are reached and I am not persuaded that some unquantifiable benefit to the peace process can be a proper basis for a decision based on the public interest".

Interestingly, that last phrase about the peace process was echoed by the judge, Sweeney J, in this case at paragraph 168, in which he said that he was not taking that into account, adding,

"that is a matter for politicians and Parliament",

and not for judges. I heartily applaud that.

Paragraph 37 is even more interesting. After referring to the letter from the Attorney-General, paragraph 37 states:

"That was followed by further correspondence and meetings (whether between Ministers or officials) during the course of which the need to proceed 'by the book' was accepted".

So afterwards,

"the need to proceed 'by the book' was accepted".

The implication is that before this stage people were not proceeding by the book. Of course, the great danger of this scheme is that it will create pressures on officials in the prosecuting authority and among the police not to stick to the book and to give what they

[Lord Trimble]
think is the answer that Ministers want. One has seen that happen in Northern Ireland in other circumstances as well.

I urge noble Lords to read paragraph 82 of the judgment, which is a lengthy statement by an official from the prosecuting authority indicating all the problems and difficulties that this caused. If noble Lords read that, they will come, as I have done, to the conclusion that this whole exercise was misconceived and that it was asking questions of the police and the prosecuting authority that they could not reasonably and properly answer, and that the whole process is one that should never have been undertaken. If you have any doubt about the undesirability of it, you only have to read paragraph 52, which states:

"At a meeting with the SSNI"—

the Secretary of State for Northern Ireland—

"in May 2001 Mr Adams expressed the view that … it would be better if there was an invisible process for dealing with OTRs".

Even Mr Adams wanted it to be kept but of course he wanted it to be kept invisible because it existed for the benefit of the IRA only. That is part of the reason why Lord Williams of Mostyn was so concerned about it. That concern comes out in paragraph 82 if you read it alongside.

This scheme was being put in place deliberately for the purpose of benefiting only one party and only one side of the community, and obviously was to be kept secret from the rest in so far as was possible. Incredibly, it was kept secret for so long, partly due to Answers to Parliamentary Questions given from the other side of the House which were quite simply lies. There is no other word to describe that. It is appalling that this happened.

I feel particularly ashamed that it continued after 2010 and that our Conservative Ministers were engaged in the decision. The decision to continue doing this was made by Owen Paterson. I wonder what advice he received to lead to that. I am very disappointed that it did not occur to him or to the other Ministers involved to say, "This is something which we should not have anything to do with. The previous Government may have done it but this is not something which we should put our hand to at all". I have to say that I applaud what David Ford has said on this matter that he is not going to tolerate it in his department. Of course it should have been devolved to his department in 2010 but it continued after that being run by the Northern Ireland Office. It was interfering with criminal justice matters even though it no longer had responsibility for criminal justice matters. That is really very strange. It could only happen in the Northern Ireland Office. At that, I think I should conclude.

Baroness O'Loan (CB): I wish to speak first of the reduction, the possible reduction and future reduction in the number of constituencies. The constituency in which I live is some 75% or 80% unionist. Of the original seats, two managed to elect nationalist, non-unionist politicians. The boundaries were withdrawn. One of the nationalist seats disappeared, so we are now down to five unionist and one nationalist seat. I declare an interest because my husband held one of those seats in the Assembly.

My point is that the impact of reducing the number of seats on the possibility of there being any purpose at all in voting in Northern Ireland is something of which the people of Northern Ireland are very aware. There are whole constituencies on both sides of the divide where people feel that at present there is little purpose in voting. We have single transferable voting so there is some purpose but I would very much endorse the words of my noble colleagues in regretting any attempt not to preserve the current numbers of Members of the Assembly.

I also want to talk about a matter which other noble Lords have addressed; namely, the crisis—it is a crisis—in the justice system in Northern Ireland at present. It is reaching right across the community. It has introduced a sense of distrust, which was beginning to be healed, throughout our community.

There has been no discussion in your Lordships' House about what was done. Last week, a man walked free from court because he had had a letter that said the police had no interest in him. As the noble Lord, Lord Trimble, said, we believe that there are 187 such letters. I heard one former Secretary of State talk of the possibility of 200 such letters.

The problem is that letters of comfort may or may not have had the effect of removing the possibility of any future prosecution—not least because their very existence gives rise to the possibility of an abuse of process application in the event of any attempt to prosecute, but also because the letters of comfort have generated such consternation. There was no knowledge of these letters of comfort among the general population of Northern Ireland. It was a betrayal of the people.

Great courage was needed to do some of the things that had to be done, and I pay tribute to the noble Lord, Lord Trimble, for what he did to bring peace to Northern Ireland. However, it was a very difficult time, and I have said repeatedly in your Lordships' Chamber that this deal is not done and settled; it is a very fragile state of affairs. The noble Lord, Lord Trimble, told us that Adams said it would be better if it were an invisible process—but it was an invisible process. I know, because in 2001 I was investigating cases involving IRA men who were acting as agents of the state for the police. In investigating those cases I had to look at the criminality of the IRA personnel. The HET is investigating the criminality of the IRA personnel, and the PSNI currently is also investigating that criminality. Neither the HET nor the criminal investigations branch of the PSNI was informed of the situation. None of us knew who we might have in our sights, if you like, and who would have been taken out of the sights of the Director of Public Prosecutions by virtue of a letter that may or may not have been issued, which may or may not have been correct in its terminology but which ultimately might have the effect of compromising any possibility of prosecution.

In such circumstances, the Government are spending huge sums of money to sustain a criminal justice system in Northern Ireland that is based on, to some extent, very significant failure. Throughout the Haass talks, there was a lot of talk about how we would deal with the past; it was one of the three strands of the talks. As I understand it, the possibility of letters of comfort did not at any stage get a mention.

We knew about royal pardons and the exercise of the royal prerogative of mercy. We could identify where both those might have happened, although the information was generally not made public. However, we did not know about these letters. It is profoundly important that this Parliament should concern itself with them. This Parliament is concerned that those who might have abused children in years past, and who are being investigated in the Savile investigation, should be prosecuted. Surely this Parliament has a duty to have the same standards of justice for the people of Northern Ireland.

The final thing I will say is that this was a secret process that has, as I said, undermined our justice system. The fact that it would do so was recognised in 2000 when the process started. There is much work to be done to try to explain what happened and what the ongoing implications are for the operation of the justice system in Northern Ireland today.

Lord Cormack (Con): My Lords, I will not detain the House for long, but I had the honour to be the chairman of the Northern Ireland Affairs Committee in another place for the whole of the previous Parliament. During that time, I came to know, respect and admire many of those, from all parts of the community, who were fighting very courageously for peace. I came to have a particular regard for the noble Baroness, Lady O'Loan. I had many meetings with her and admired the judicious sensitivity with which she approached her difficult task.

I have always had a very high regard for my noble friend Lord Trimble, who was a very courageous trailblazer. Without him, and without what he and Seamus Mallon did, we would not have had the Good Friday agreement. Although that came about during the premiership of Tony Blair, Prime Minister Blair himself was the first to acknowledge, in the ceremony that was held a few yards from here in the Royal Gallery, that without what John Major had done he could not have achieved what he did.

4.30 pm

The essential ingredient in coming to the Good Friday agreement was trust, and you cannot have trust without a degree of confidentiality and without, therefore, a fair number of secrets. I make no complaint about the fact that I and my committee were not privy to all the secrets, but I have to say that I was profoundly disturbed last week when, for the first time, we became aware of these letters. The reason I was particularly concerned was that it created a retrospective imbalance between the communities in Northern Ireland: "Oh, if they did that, what else might they have done?". A breakdown of trust could undo all that has been achieved, painfully and courageously, over the past 15 or 16 years.

I am glad therefore that the Prime Minister responded very quickly and said that he was going to have these matters investigated by a senior judicial figure. That is right. I am glad also that Mr Hain made the remarks he made about those involved in what will always be remembered in history as Bloody Sunday—something referred to very movingly this afternoon by other noble Lords. However, we have to go forward in Northern Ireland without constantly wondering who let down whom in the past, and I very much hope that we can reach an agreement in the Province whereby there will be no more digging up. We have to know precisely what happened with the letters and to whom they were sent but we do not want to have another Saville, which took so long and cost so much. My committee had seven Labour members, four from the Province, myself as chairman and one other Tory. We were as one in feeling that commitment to major further public inquiries was not necessarily in everyone's best interests. We made an exception in our report on the Omagh bombing, where we said that further consideration must be given, but even there we were not advocating a full-scale Saville-type inquiry.

I hope that the events of the past week will not bring forward, from anywhere, requests for long, expensive public inquiries. They can, in a way, only impede and hold up the healing process. That process has been dealt a very severe blow, and I am grateful to my noble friend for allowing us the latitude that we have this afternoon. It would have been wrong if this House had not had the chance to reflect on these matters, but I hope that we can now move forward and soon have a wider knowledge of precisely what happened, and that we can rebuild the trust that has been undoubtedly shattered in Northern Ireland, and indeed throughout the United Kingdom, by the revelations of last week.

Lord Mawhinney (Con): My Lords, I listened with interest to my friend—and my noble friend—Lord Alderdice and his comments about delinquent children. As a product of the Province about which he was talking, I have tried to keep my delinquent tendencies under control. He and I spent many a happy hour together talking about the foundations of what was eventually to be the Good Friday agreement, and he will recall that there was always a tendency to say at a certain point, "This really ought to be moved up the chain of command to the very top". There is a well established political ambience in Northern Ireland where, when things get particularly difficult, the inclination is to say, "Let the Prime Minister of the United Kingdom and the Taoiseach sort it out for us", or at the very least to give them the opportunity to put pressure on us local politicians so that we can use them as an excuse for doing what is right.

I hope my noble friend will not mind if I say that I did not quite buy the analogy. There has to come a time in Northern Ireland when, no matter how difficult it is, the locally elected people see it as being in their interests and in the interests of the people whom they serve to take on the very difficult stuff. I yield to no one in my understanding of how difficult it is.

In that context, I, too, want to show my appreciation for the work that my noble friend Lord Trimble did. He was key to this process and, as is frequently the case in Northern Ireland, those who make the principled stand soon get moved away from centre-stage for other reasons. It is right that your Lordships' House should not forget the role that he played. When he addresses this Chamber, his words need to be taken seriously.

I had the privilege of working as a Minister in Northern Ireland—I am one of only two who did more than six years in the job—and I learnt at the

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knees of my noble friends Lord King of Bridgwater and Lord Brooke, who is in his place. They both know how grateful I am to them for what I was able to learn from their leadership. But their leadership consisted of us dealing with the Northern Ireland political parties on the basis of truth. Nobody ever accused us, in all the years that we had the responsibility for building up to the Good Friday agreement, of being misleading, disingenuous or plain untruthful.

One could not necessarily say that about all of the build-up to the agreement. I remember the first time that my noble friend Lord King told me about the proposed details. He asked me, as an Ulsterman, for my reaction and I said, "The unionist community will not like"—and I mentioned three things. I went on to say, "They will not like it very much". His reply is burned into my memory: "That's not what my officials are telling me". Of course, those officials, by deliberate decision, excluded all Northern Ireland Office officials.

One could argue that whatever within the law had to be done to move forward the possibility of a better relationship between the two Governments and the two parts of the island of Ireland, was worth it. Personally, I take that view. I understand how difficult the agreement is, but it was a historic net plus for the island of Ireland and for the people of Northern Ireland. However, there is all that has been said—including by my noble friend Lord Maginnis, if he will permit me to call him that—about the hurt, sacrifice, bloodshed, killing and lack of being held responsible on the part of so many people. Not even your Lordships' House in all its strength, wisdom and experience can sweep that emotion under the carpet as if it is of no concern. That is why over the past week I have been—what is the diplomatic word that would pass your Lordships' approval?—disappointed in the former Secretary of State, Mr Hain. To argue that because people understood that there was a problem about on-the-runs meant that everybody knew exactly what was happening was disingenuous to the point of, well, being really disingenuous. People knew there was a problem but did not know what the solution to that problem was.

The second thing that bothers me greatly is the claim that these letters were only an administrative process. As we have heard this afternoon, the Attorney-General was involved in repeating that claim. When I was Minister in the Northern Ireland Office we did not do administrative processes: a Minister was responsible and had to say "yes". Nobody has told us which Northern Ireland Ministers and which British Ministers said "yes, go ahead" to this. I do not want to hear anything more about it being "only a bureaucratic activity" or "administrative process". That is not the constitutional way in which the British Government operate. Let us come clean on this. I look to my noble friend on the Front Bench to come clean at the end of this debate. If people are to have confidence and trust, they must be treated not as delinquent children but as grown-up adults who can take the truth and handle that truth.

One final thing: I am pleased that we are debating this. I share my noble friend Lord Trimble's disappointment—I think he used a stronger word—that Ministers in our party have continued to behave following the bad example of the Minister in the preceding Government. However, maybe because I am getting old and cynical—I hope not—I am also seriously disappointed that my noble friend on the Front Bench did not address this issue at the start of proceedings rather than at the end. I heard her say that she would reply after she had heard the views expressed. What your Lordships' House needed was a definitive government statement that would have set the framework for the rest of us to express views, to which she could have returned because she has the opportunity to close this debate. I do not find this process acceptable. By the way, I support the amendment.

4.45 pm

Lord Eames (CB): My Lords, the voices we have heard in this debate represent among them some of those who have made, on a sacrificial basis, a situation of relative peace, relative progress and relative hope. I am delighted to hear the tributes that have been paid, among others, to those who made that sacrificial attempt to bring us to where we are in Northern Ireland today. In particular, I join my voice to those who have paid tribute to the noble Lord, Lord Trimble.

In my position not as a politician but as the elected leader of a major denomination in Ireland for 22 years —those years spanning much of the worst years of our troubles—it was a privilege to get to know those elected politicians who found themselves in a position to move us towards peace. I was also privileged as a pastor to share with them their emotions, their thoughts and their problems. That is a privilege I will carry with me to my grave.

Listening to the debate this afternoon, I am reminded of two factors that I would beg the Minister to keep in mind when she responds to this debate. First, it is not just political voices that we must listen to today. We have to listen to widows. We have to listen to little children who are now adults. We have to listen to those who are not here to make their voice heard from Northern Ireland but who, through those tremendously devastating years, hoped that they could make trust with some.

The events of the past few days have not just shattered the trust of so many of us but have raised questions that, in their turn, have raised other questions: questions about misleading; questions about lies; and questions of a lack of trust in high places. Whatever we argue about this afternoon, and whatever we disagree about, of course there was a price to be paid for peace, of course things had to be done which were in a grey area, rather than black and white. I accept that, and I know something of the agony through which many decision-makers had to pass to make those decisions and to make those policies a possibility and a brick towards peace, but there is a limit to the way in which the elastic of public trust can be pushed or pulled. I beg the Minister to recognise that in listening to the voices that she has heard in this debate, the voices that she will not hear in this Chamber are saying, "Who do we trust, who can we depend on and what is the honest emotional answer to the grievous memories we have of the past?".

Secondly, I ask the Minister to remember this. While of course we have to look forward and have our hopes for the future, and while so much has been

achieved in the political process for which we must be thankful, I beg the Government to realise that we are talking about a very fragile situation and that one little incident can be multiplied out of all proportion and used to build on mistrust. I therefore share the view that it would have been helpful had we had a Statement at the beginning of this debate, rather than allowing our emotions to build up with other questions. I look forward to the Minister's response and I pay tribute again to all the Lord Trimbles who have played a part in building this fabric.

It was my privilege when, five years ago—it is hard to believe that it was five years ago but the noble Lord, Lord Cormack, as the former chairman of the Northern Ireland Committee, will know exactly what I am talking about—I was asked by the then Government to co-chair the consultative group on the past of Northern Ireland. We produced many suggestions. I venture to suggest that some of those proposals should been given more serious consideration five years ago than in fact turned out to be the case. Many are now recognising, as they say to me, that we should have given more consideration to some of those proposals for dealing with the past.

I say to the Minister that until we find a way of dealing with the past—not just this incident but the fabric that went to cause the division, the Troubles and the suffering—that involves all those who can make worthwhile decisions in finding a structure to deal with that past, Northern Ireland's future will go on to have incidents like those of the past few days. I beg the Minister to use her influence with Her Majesty's Government and all the other Ministers involved so that what we have been agonising over in the past few days never happens again.

Lord Browne of Belmont (DUP): My Lords, I thank the Minister for allowing the time to discuss the issue of on-the-runs. To quote the First Minister, the right honourable Peter Robinson MLA,

"This entire incident has been another salutary lesson about the dangers of allowing powers to be exercised by those whose only concern was in appeasing the IRA".

He said that devolution may be imperfect—indeed, today we are looking at ways of improving devolution—but that no Stormont Administration would ever have allowed that scheme to be put in place. That scheme, he went on,

"was put in place by a direct rule administration. It is appalling that we are now having to deal with the legacy of a process begun so many years ago".

This issue has caused incredible instability in the Northern Ireland arrangement. The credibility of the justice system is a cornerstone in any democracy. In the weeks and months ahead, I am sure that we must all work together to make sure that the damage which has already been done will be repaired. The need of victims demands no less; the requirement of justice requires no less. I hope that the actions to be taken in future will bring this scandalous episode to an end and that all the efforts which we will make will be well worth while.

Lord Lexden (Con): My Lords, my noble friend Lord Trimble spoke for me regarding the events of last week. I associate myself completely with his remarks. I have two questions arising from what he said, and to which he himself gave voice. I shall repeat them and ask the Minister for replies to them. First, how was this dishonourable and disreputable policy allowed to continue under the current Government, from whom I and many others hoped for better standards and a better approach? Secondly, why was all knowledge and all information about this policy withheld from the devolved institutions when security and justice were passed to them? We have been told repeatedly in this debate that we must respect the devolved institutions and that they must have entire responsibility for those things that are in their Province and devolved to them. Now we hear that the Government themselves have not adhered to that principle. Why?

Lord McAvoy (Lab): My Lords, I shall speak briefly to the amendments. The Opposition welcome them. In Committee, concerns were expressed by several noble Lords about the current provision in Clause 6 to make a reduction in the size of the Assembly a reserved matter. These amendments would limit any reduction in the size of the Assembly to five members per constituency, and would make it clear that any reduction must have cross-community support in the Assembly. They would also prevent the Secretary of State putting forward for Royal Assent any Bill passed in the Assembly to reduce its size if that Bill did not have cross-community support.

I place on record the Official Opposition's respect and admiration for the contributions made by several noble Lords in the House today. The situation over the past week has been extremely difficult, and it is good to have an opportunity to discuss it. The House has served Parliament and the country well with the tone and content of all the comments, which have been reasoned, informed and constructive. They have looked forward, with no great hassle about delving into the past but recognising that the past is presenting problems. As we have all discussed before, Northern Ireland is on a journey, and this is a particularly bumpy part of the road.

I would like to pick up particularly the comment of the noble Lord, Lord Alderdice, about disengagement. The message must go out from the Chamber today that there is no disengagement. The message must go to the UK Government, the Republic of Ireland Government and all parties in this House and in the other place that we cannot allow this situation to derail the whole process. There are legitimate questions to be asked and it is right that they are, but today's contributions give me hope that we will collectively get over this situation because of the reasoned response of so many Members with so much experience in this House and in Northern Ireland itself, and we will move on.

This House has shown a flexibility and maturity that other places are perhaps too strict to deal with. This is not at all meant as a criticism of the Minister but, in line with a point that has been made, I ask that in any future Statement on this issue adequate time is allowed, rather than the usual 10 minutes that we would get. This debate today has showed that, without taking overlong, the contributions have been extremely well made, and I ask that any future Statement be that

[LORD MCAVOY]
little bit longer. As I say, that is not meant as a criticism of the Government or the Minister, but the maturity and dexterity demonstrated today by all concerned show that this House is the place to deal with these issues.

5 pm

Baroness Randerson: I thank all noble Lords who have taken part in this debate. I shall respond in two parts. I shall first deal with the amendments in this group, and then I shall deal with the issue of the letters.

The noble Lord, Lord Empey, made a point about the potential impact of boundary changes in Westminster constituencies on the Assembly in Northern Ireland. This issue could be looked at again in the context of any reduction in the number of parliamentary constituencies. Indeed, we would expect that to happen. Under the provisions of the Bill, it would be open to the Assembly to reverse any reduction if the number of Westminster constituencies were to be reduced. Therefore, it could restore the number of representatives per Westminster constituency to six, for example, to restore the overall size of the Assembly.

I take issue with the point that the noble Lord, Lord Alderdice, made about this not being the time to give the Assembly additional powers. It is important to reassure noble Lords that there is no plan immediately to introduce all these potential changes. The Northern Ireland Office and the Government are acutely aware of the importance of timing and of dealing with this in the appropriate manner at the appropriate time. As one or two noble Lords have said, it is important that we develop and trust devolution. The point was made that the problems we have had in the past week are problems associated not with devolved government but with the UK Government. Therefore, it is not appropriate to say that because we have a problem now we should not trust devolution. It needs the opportunity to grow.

I now turn to the letters issued to so-called on-the-runs. One or two noble Lords made a point about the timing of what I shall say in relation to the debate as a whole. I remind noble Lords that we have tried to keep the House informed. We have issued two Written Statements, and in the other place there have been questions to the Secretary of State for Northern Ireland and the Attorney-General about them. I used the opportunity of the Bill to try to overcome the procedural constraints which I understand are frustrating noble Lords. I am trying to make the best use of the time available. I assure the noble Lord, Lord McAvoy, that I will do my very best, within the constraints of the procedure in this House, which is agreed with the Opposition, to ensure that there is adequate time to satisfy noble Lords on the various points that they have raised.

I entirely understand that many noble Lords are very keen to set on record their deeply felt concerns about recent developments in Northern Ireland. The Bill, of course, does not directly bear upon those concerns, but it does indeed touch on the issue of confidence in the institutions. It is important to bear in mind that, throughout the past week, it has been clear that Northern Ireland is no longer in a position in which our business can be derailed by political disagreements in quite the same way as was possible in the past. It is essential to the peaceful and prosperous future of Northern Ireland that ordinary, good government goes on. I acknowledge that this House has not yet had the opportunity for debate that many noble Lords are still seeking. However, I point out that, since the High Court judgment in the case of John Downey was delivered on 21 February, there have been, as I said, two Written Statements by the Secretary of State for Northern Ireland on 25 and 28 February. The Attorney-General has also made a Written Ministerial Statement.

Looking at the substantive facts as far as they are known, on coming into office in May 2010, the Government were made aware of a list of names submitted by Sinn Fein to the previous Government under an agreement they had reached to clarify the status of OTRs. These were people living outside the United Kingdom who believed that if they returned they would be wanted by the police for questioning in connection with terrorist offences committed before the Belfast agreement. One or two noble Lords have asked why such a scheme was not available to loyalists. It is my understanding that there had been no request for a similar scheme.

Under the scheme, the police and, in some cases, the Public Prosecution Service for Northern Ireland checked whether sufficient evidence existed in each case at that time for these individuals to be questioned, arrested or prosecuted if they returned to Northern Ireland or any other part of the United Kingdom. If it was found that they were not wanted by the police and that there was no prospect of any prosecution based on the evidence available, the individuals were informed of that fact by a letter from a Northern Ireland Office official. The letters did not amount to immunity, exemption or amnesty from arrest. I say to the noble Baroness that they were not letters of comfort. They were factual statements.

The fact that the letters did not confer immunity, exemption or amnesty was the situation in the past and remains the case now. No recipient of such a letter should be in any doubt that, if evidence emerges after the date on which the letter was issued in connection with terrorist offences committed before the Belfast agreement, they will be liable for arrest and prosecution.

Lord Maginnis of Drumglass: Is that not pie in the sky? The reality is that these people are now free to come back without interference from the police. Is the Minister honestly trying to convince us this evening that there would be the degree of further investigation that would produce fresh evidence? The Minister knows different, and I certainly know different.

Baroness Randerson: I beg to disagree with the noble Lord; I certainly do not know different. I am aware that, for example, the Historical Enquiries Team is looking assiduously at a number of cases and will continue to do so. It is important that the noble Lord takes account of the fact that there will be an inquiry into this, to which I will come in a moment. That will establish many of the facts that the noble Lord seeks.

Baroness O'Loan: I listened very carefully to what the noble Baroness has just said, and I want her to clarify whether there was an investigation before the issue of these letters—which proved to be a comfort to some, I have to say—or whether the police were tasked to check whether there were outstanding warrants. Had there been an investigation there would have had to have been a proper review of the investigation file in respect of specific events and the extent to which individuals were linked to them. Was that investigation conducted or was a lesser exercise conducted, which simply examined whether there was sufficient information to justify a warrant for the arrest of someone? I hope that the noble Baroness understands the question.

Baroness Randerson: It is my understanding that inquiries were made with the PSNI as to whether the people on the list were wanted for specific offences. However, it is important that this will be examined by the inquiry, which will examine the nature of the whole process, and we will get far more detailed answers than that as a result of the inquiry.

I was saying to noble Lords that people who receive such letters should not consider them to be an amnesty. On the basis that those were simply factual letters, the current Government agreed in May 2010 that the list of names submitted by Sinn Fein to the previous Administration could continue to be checked. That answers questions from one or two noble Lords.

Lord Cormack: As my noble friend will be so kind as to do some investigating, can she check on one very important thing? There was a civil case in which certain people were judged to be guilty of the Omagh bombing. Can she find out whether letters were sent to any of those people?

Baroness Randerson: I thank my noble friend for that question. I am certain that that will be covered by the inquiry. If it will not, I will of course ensure that he receives an answer to that question in writing.

The Secretary of State has made it clear, and I reinforce it, that if at any time we had been presented with a scheme that amounted to immunity, exemption or amnesty, we would have stopped that scheme, consistent with the opposition of both coalition parties to the previous Government's Northern Ireland (Offences) Bill 2005, which noble Lords will recall was withdrawn because of the level of opposition to it. We believe in the application of the rule of law and due process, regardless of whether a person is in possession of a letter or will be eligible for early release under the terms of the Belfast agreement. We will take whatever steps are necessary to make it clear to all recipients of letters arising from the scheme, in a manner that will satisfy the courts and the public, that any letters issued cannot be relied upon to avoid questioning or prosecution for offences where information or evidence becomes available now or later. In the light of the error identified in the case of John Downey, the Prime Minister announced—

Baroness O'Loan: The Minister has just said that if information became available now or in future, there would be no impediment to prosecution. What would the situation be in respect of evidence or information which is currently in the possession of police but which has not been processed to an extent that it becomes attributable or linked to those named individuals? Will that information be taken into account or is there a line in the sand, and the only information that can be used to prosecute in the future in respect of these named individuals is that which comes to the attention of the police in the future?

Baroness Randerson: I fear that the noble Baroness will be frustrated by my answer, which is that that will be clearly part of the information that will become public once the inquiry is finished.

I was referring to the error in the case of John Downey. The Prime Minister announced on 27 February that a judge would be appointed to provide an independent review of the administrative scheme, and I have referred to that several times already this afternoon. I wish to set out the terms of reference of the review.

5.15 pm

Lord Mawhinney: I thank my noble friend for giving way. In reference to her answer to the question asked by the noble Baroness, Lady O'Loan, when this inquiry is held and a Minister is asked the question that the noble Baroness, Lady O'Loan, has just posed, is the Minister going to answer that question? In that case, your Lordships' House is being told that an independent inquiry is worthy of an answer but your Lordships' House is not.

Baroness Randerson: I am certainly not saying that your Lordships' House is not worthy of an answer, but I am anxious that the answer should be legally consistent and robust. This situation has arisen in the last week. It is important that the Northern Ireland Office and the Government are able to check their records to look in detail at the history of the scheme. They will do so as part of the evidence that they give to the inquiry. It is obvious that both civil servants and current and previous Ministers will give evidence to this inquiry, and it is important that the overall picture is taken to make sure that it is accurate. I am sure that, once this inquiry reports, noble Lords will want to examine the outcome of that inquiry in considerable detail.

Lord Trimble: The noble Baroness may or may not be aware that for the past few months a Select Committee of this House has been engaged in post-legislative scrutiny of the Inquiries Act 2005, and I am a member of that committee. It has now wound up its proceedings and finalised its report, which will be published on about 11 or 12 March. When that happens, I ask the noble Baroness to draw it to the attention of the Secretary of State for Northern Ireland, because there are things that will be in that report that will bear very much on the inquiry that has just been announced, in the light of which it would be wise to make some changes to the way in which the Government are proceeding. I do not want to go into further detail. I happen to know what is in the report, but it is not published, and it is not appropriate for me to say further than this. But I urge the Minister to make sure that the Secretary of State gets her head around some of the significant recommendations in that report.

Baroness Randerson: I thank my noble friend for that comment, and I certainly give that undertaking. It might be useful if we were to have further discussions on that outside this Chamber.

It may be useful if I set out the terms of reference of the review. The aim will be to produce a full public account of the operation and extent of the administrative scheme for OTRs. I think that that answers the point made by the noble Baroness, Lady O'Loan, in terms of reassuring her that it will deal with her questions. It will determine whether any letters sent through the scheme contained errors other than, of course, the one that we know about. It will make recommendations, as necessary, on this or related matters that are drawn to the attention of the inquiry. Noble Lords will see that this is a very broad remit.

The persons conducting the review will have full access to all government papers on the operation of the scheme and will be free to interview key individuals in the Civil Service and the police, and any others who are willing to give evidence. The report should be provided to the Secretary of State by the end of May 2014 for full publication.

I say to the noble Lord, Lord Maginnis, who asked a question about the Bloody Sunday investigation, that the police must, of course, carry out investigations when serious offences have been alleged, and the actions of soldiers are not beyond that scrutiny. However, this is an ongoing investigation.

The noble Lord, Lord Alderdice, referred to disengagement by the Government in relation to Northern Ireland. I emphasise that it was the Northern Ireland parties which invited Dr Haass to help resolve critical issues. However, the Government took a very close and active part in supporting those talks, as they are doing in continuing efforts to resolve the problems. The Secretary of State has spent an enormous amount of time dealing with the parties, and the Irish Government, on Haass issues.

The noble Lord, Lord Browne, pointed out that the recent crisis concerns UK Government procedures and is not a crisis of devolution. I emphasise to the noble Lord, Lord Mawhinney, that the inquiry will reveal how, and in what way, Ministers were involved. The noble and right reverend Lord, Lord Eames, spoke very powerfully. We recognise the strong feelings about the OTR issue and, indeed, the pain it has caused the families of people who have been murdered over the years. It is important that we bear it in mind that families and friends in Northern Ireland and beyond are suffering as a result of this issue.

Lord Maginnis of Drumglass: I get the impression that the noble Baroness is coming to the end of her response. She has clarified the issue about the soldiers involved in the 1972 incident in Londonderry, and I understand that answer. However, I still fail to understand the issue of the 187 letters because she was not clear on that. She said that they are not letters of comfort because the people concerned can be further investigated. When I asked her whether she had knowledge of the police investigating any of those 187 cases, she talked vaguely about the Historical Enquiries Team. Therefore, I extend the question: are any of the 187 people currently being investigated by the HET? I hope by now that she has some knowledge of this.

Earl Attlee (Con): My Lords, the House has been extremely flexible about what we have discussed. We are really supposed to be discussing Amendment 1 and whether or not we should adopt it. My noble friend the Minister has answered quite a few questions and we ought to let her wind up this debate and move on.

Baroness Randerson: I will, however, answer the noble Lord's question. I am not speaking of specific numbers because that is also for the inquiry, but the issue is this: letters were sent following inquiries from a number of people. Those who received a letter that said "There are no known issues against you" were therefore free, if they wished, to return without fear of prosecution. Not everyone who made an inquiry received a letter of that nature. Does that make it clear to the noble Lord? By implication, therefore, there were ongoing inquiries in many cases. That is an important fact that reveals the nature of the exercise; there were and are ongoing inquiries in many cases.

Lord Maginnis of Drumglass: My Lords—

Baroness Randerson: No, I am sorry—

Lord Maginnis of Drumglass: I am aware of the mood of the House but we need a clear answer and we still have not got one. Out of the 187 cases, are any of them likely to be prosecuted? It is not worthy of this House and it is not worthy of the Minister that we do not have clear answers. I am finished; I have concluded what I was going to say. I apologise, but it must be said.

Baroness Randerson: The noble Lord is fully aware that I cannot give answers relating to the prosecution of individuals. That is certainly not a matter for a government Minister but one for the police service and prosecuting authorities. It is important that we bear that in mind in this discussion. I want to finish now and make it clear to noble Lords that the inquiry will be wide-ranging, and I have absolute confidence that in the future this House will have the opportunity to debate this issue further. I want, however, to return to the purpose of this discussion and commend the amendment to the House.

Amendment 1 agreed.

Amendments 2 and 3

Moved by ***Baroness Randerson***

2: Clause 6, page 6, line 35, leave out "exceeding" and insert "lower than five or higher than"

3: Clause 6, page 6, line 37, at end insert—

"( ) After section 7 insert—

"7A Cross-community support required for Bill altering size of Assembly

(1) The Assembly shall not pass a relevant Bill without cross-community support.

(2) In this section—

"pass", in relation to a Bill, means pass at the stage in the Assembly's proceedings at which the Bill falls finally to be passed or rejected;

"relevant Bill" means a Bill containing a provision which deals with a matter falling within a description specified in paragraph 7A of Schedule 3 (size of Assembly)."

( ) In section 14 (submission by Secretary of State), after subsection (3) insert—

"(3A) The Secretary of State shall not submit a Bill for Royal Assent if the Assembly has passed the Bill in contravention of section 7A (cross-community support required for Bill altering size of Assembly)."

( ) In section 53(3)(b) (agreements etc by person participating in Councils), after "section" insert "7A,"."

Amendments 2 and 3 agreed.

Amendment 4

Moved by ***Lord Empey***

4: After Clause 7, insert the following new Clause—

"Protection of opposition status in the Assembly

After section 41(2) of the Northern Ireland Act 1998 (standing orders) there is inserted—

"(3) Following a request to do so arising from a resolution of the Assembly, the Secretary of State may amend this section by order to make provision for the Secretary of State's consent to be required (in addition to cross-community support) prior to the repeal of any standing orders that provide for official opposition status to be allocated to any party which is not a part of the Executive.""

Lord Empey: My Lords, I did not in my remarks on the previous group of amendments make any reference to the issues pertaining to the on-the-runs and the general conduct of government. Given that, perhaps I may be permitted some latitude.

This amendment is an attempt to accept and acknowledge the concerns of the government and opposition Front Bench that earlier amendments on the subject of opposition status would interfere with the internal affairs of the Assembly, which already had powers at its disposal if it wished to have an Opposition. However, it was acknowledged by the Minister that there were anxieties and concerns that should the Assembly provide an Opposition, that Opposition's powers would of course be open to change and amendment by the Assembly without any guarantees being provided for the people who sought that status. The amendment asks for guarantees to be provided only if the Secretary of State was asked to do so by the Assembly. Therefore no offence is done to Sewel, and no direct interference is done to the Assembly. Indeed, only upon a request being received would this amendment take effect.

5.30 pm

It is ironic that some of the amendments, including the previous one and the subsequent amendments that we are going to discuss, have never been asked for, yet we are bringing them forward. Throughout this process, the people who have proposed these amendments have wagged their fingers at us and said, "We must respect the devolution settlement and ensure that we do not impose anything on Stormont". I understand that. However, the parties that have done the most disservice to devolution and have shown disrespect for devolution and for the settlement are the Government and their predecessors. A grave disservice has been done. In 2010, the powers of policing and justice were devolved to the Northern Ireland Assembly, and I believe that the powers pertinent to these letters were also devolved. Perhaps the Minister can help me but it is not clear under which legislation the Northern Ireland Office has been dealing with these matters since 2010. As I understand it, this is a devolved matter, and indeed the Secretary of State would say that any future letters would be a devolved matter.

The other argument put forward is that any letters that came in prior to devolution were dealt with by the Northern Ireland Office, even if that took them past devolution. A number of Members here have become Ministers, both devolved and national Ministers. Where there is a change of government or Minister or where there is a transfer from direct rule to devolution, you always know that whatever is outstanding in a department at that point becomes the responsibility of the Minister who takes over. Matters are not carried over in that sense. A department in Whitehall which gives devolved power does not keep on dealing with bits and pieces; the relevant matters are handed over to a devolved institution. I took over from two direct-rule Ministers: John McFall, now the noble Lord, Lord McFall, and Maria Eagle in the other place. Anything that was outstanding in the department at that time was transferred to me, and the same went for every other Minister. So why were these matters not transferred in this case? The first document that every person gets on becoming a Minister is the first-day brief. That brief should have clearly stipulated that this issue was afoot, but the Minister of Justice who came into office was unaware of it.

That brings me to one other point. The Permanent Secretary at that department, Mr Nick Perry, is the chief adviser to the Minister of Justice. Apparently he knew about this matter but he did not tell the Minister because, allegedly, there was a Civil Service rule that you did not say anything. The Permanent Secretary at the department is a Minister's principal adviser. In my opinion, the principal duty of Mr Perry—I know him and he is an excellent civil servant—is to his Minister and he should have told him. Therefore, the irony is that, on the one hand, we are being told that we have to respect devolution and, on the other hand, the Government have disrespected it. That is why we have this crisis of trust.

Perhaps I may say one other thing about Haass. I am probably the only person here who was involved. We sat talking about the past. The noble and right reverend Lord, Lord Eames, clearly identified the huge emotional capital that people have invested in this issue. People in both Northern Ireland and the rest of the United Kingdom are horrified by what is unfolding here. As I said, we were discussing the past and talking about setting up institutions such as the Historical Enquiries Team, which would have had a mini-police force and would have been able to conduct inquiries. Some people in those discussions knew about

[Lord Empey]
these proposals but nobody said anything. I can tell the House that this has done huge damage. Who will now sit down with any confidence and discuss these matters when something like this was going on behind our backs? Not only that but does anybody seriously believe that this is the only outstanding issue? It is very corrosive and, unless people come clean and make a clean breast of it, we will never regain the trust.

When we were discussing an amendment moved by the noble Lord, Lord Trimble, last week, the noble Lord, Lord Browne, said in very good faith that we had had the longest period of stable government since devolution started. Of course, he was correct in that, but within 24 hours we had a mini-crisis. It was a resignation that never was, and I am glad that it never was, but the fact is that we ended up with a potential crisis. We should not forget that if the First Minister resigns, he automatically takes out the Deputy First Minister, and I think that there are only seven days in which to replace them. Therefore, by this week we would have had a major crisis and we might have been discussing an emergency Bill to reinstate direct rule. That is just how serious this has been.

The fact that we are saying that we cannot accept amendments because that would interfere with devolution, when in fact the Government are the biggest culprit in interfering with devolution, has to lead us to the conclusion that we need a complete rethink on how we deal with these matters. I have a lot of sympathy—

Lord Morrow (DUP): I thank the noble Lord for giving way. He refers to the potential crisis that unfolded last week. I am sure he accepts that the crisis has not gone away; rather, I suspect that it has been suspended as a result of the Prime Minister's intervention and his announcement of a judge-led inquiry into the matter. Should that not happen, and should the terms of the inquiry not be satisfactory, then we will go straight back to where we were.

Lord Empey: I think that there is an element of truth in what the noble Lord says, although huge issues relating to the Human Rights Act and the Data Protection Act surround some of the conditions that were attached by his colleagues to the First Minister's potential resignation, such as the production of a list of names. Somebody else suggested that the letters be rescinded. They have not been rescinded and I do not believe that they will be. The possession of those letters is the issue. The people who possess them can always go to the court and those Acts will be their defence. I doubt whether a court will overrule that.

In her response to the previous amendment, the noble Baroness talked about people having letters and not being investigated. However, what happens if the evidence that existed when the person received the letter is subsequently capable of further interpretation either by scientific advance or other material? What impact is that going to have on those letters, and will it be a satisfactory defence for the people who hold them?

I return to the amendment. Without doing injury to the devolution settlement, we are trying to signal that, if requested to do so, the Secretary of State would positively respond to the Assembly by providing a guarantee that opposition status could not be arbitrarily changed by the activities of majority parties at some point in the future. The purpose of the amendment is very simple. I would encourage the Assembly to go down the road of creating an Opposition but it still needs that extra guarantee. The purpose of this amendment is to ensure that that guarantee is sought by the Assembly. It is much weaker than I would have liked but, nevertheless, it does what it says on the tin. It is a response to a request from the Assembly to the Secretary of State after a cross-community vote. Therefore, I believe that it is perfectly capable and compatible with the settlement that we have before us. I beg to move.

Lord Lexden: My Lords, I have supported my noble friend on previous occasions on which he has brought forward amendments designed to strengthen the constitutional basis on which an Opposition would be established in the Northern Ireland Assembly. As he has explained, this is a more modest, scaled-down version of the amendments that have gone before. It still seeks to give effect to the fundamental principle, which is extremely important, on constitutional grounds, as I have said previously. My noble friend and I have listened to the Government's view. We have held discussions with the Secretary of State. We have sought to meet the points that have been raised to render this amendment as compatible as possible with the Government's view of the position. I hope very much at this late stage that my noble friend will be able to indicate the Government's support for it.

Lord McAvoy: My Lords, we come to an issue which was discussed at Second Reading, in Committee, on Report and now again at Third Reading. The creation of an Opposition in the Northern Ireland Assembly already has been discussed extensively at every stage of this Bill but I need to apologise if my remarks sound repetitive. I maintain the position that the Opposition has held before. This amendment acknowledges the powers of the Assembly regarding an Opposition. Behind it there is an understandable concern to prevent the Assembly withdrawing anything it were to grant. However, as I have said so many times before, the Northern Ireland Assembly is a special creation designed to have as many representatives of the community in different shades as possible. It is not the time for this amendment.

I repeat that unfortunately this is not the time to accept this amendment. In June 2013, the Assembly and Executive Review Committee concluded that, as yet, no cross-community consensus had been reached. This followed a government consultation in 2012 that reached the same conclusions. The Assembly must reach a cross-community consensus on the creation of an Opposition before Parliament can consider legislating in this way. Consensus cannot be created retrospectively as this amendment would seek to do. It is for the Assembly to make the first moves towards creating an Opposition.

Lord Kilclooney (CB): The issue is about having an Opposition. Should it be our Parliament making this decision or should it be by consensus within the Northern Ireland Assembly? In taking the latter position, the

Government are asking some of the five main political parties in Northern Ireland, all of which are in the Government, to resign to become the Opposition. What incentive is there for any of the five parties to resign from the Government? The answer is none: they will never reach a consensus to have an Opposition.

Lord McAvoy: I take a slightly more optimistic view. Whether I have that view or not, the fact of life is that this is for the Assembly. As I mention that, I notice the noble Lord, Lord Lexden, has a smile of experience on his face. I hesitate to say this but it is not yet in the tradition of this Parliament, although I hope that we are on the road to it. Surely the latest stramash—the incident of last week—shows that we are not there yet. But we are on the road and we should be going there.

Lord Empey: I thank the noble Lord. I just get the impression that he is looking at a different amendment. The first line states:

"Following a request to do so arising from a resolution of the Assembly".

Whether there is a consensus currently or not is irrelevant. Such a request could come only when there is consensus. The amendment refers to "following a request" from the Assembly. Therefore, it can come only when such a consensus is reached.

5.45 pm

Lord McAvoy: The noble Lord is taking great care to quote me but I must remind him of the sentence that I used; namely, that consensus cannot be treated retrospectively, as this amendment would seek to do. It deals with a situation that has not yet been created. I hope that we are still on the road to a continued normalisation of politics.

Lord Empey: The noble Lord has just said that we do not want retrospectively to accept something. We have just passed an amendment anticipating something that the Assembly might do in the future; that is, decide to reduce its size. It is the same thing.

Lord McAvoy: It is a matter of judgment as to whether one takes that point of view or not. I do not share the noble Lord's point of view. I still insist that the United Kingdom and Northern Ireland are not ready yet. I am repeating myself. although I was trying not to. Last week, I referred to the fact that we are still on that rocky road. This amendment does not have the support of the Opposition.

Baroness Randerson: I thank the noble Lord, Lord Empey, for his introductory speech. I want to deal briefly with the points he made about the letters that were sent. Perhaps I may say yet again that because these were purely factual letters, they were of course non-statutory. Therefore, they were not the subject of any formal transfer provisions in the legislation that accompanied devolution in 2010. The noble Lord asked questions about further evidence and how it would be treated. I refer him to my earlier answer to the noble Baroness, Lady O'Loan, because it is important we remember that this is the subject of part of the inquiry.

As I have said previously, the noble Lord, Lord Empey, and my noble friend Lord Lexden, have done us a great service in raising the profile of this issue through the various amendments that have been tabled. At Report, I indicated that the Government would consider the matter further and set out their position at Third Reading. I am sorry to disappoint the noble Lords but we will not be supporting this amendment. As I have said previously, the creation of opportunities for responsible opposition in the Assembly would be a progressive step. As a Member of the Government here in Westminster I know only too well how much an Opposition can keep us on our toes. I think that noble Lords have illustrated that point very effectively during the passage of this Bill. It would be a welcome development if similar arrangements were put in place in Northern Ireland. I believe that the Assembly's reputation would be enhanced if that were to happen.

We are, however, talking about the Assembly's internal procedures and it is important that we do not make changes to those without, at the least, having consulted the Assembly. I know that I have mentioned this previously but the Government consider that it is important that the Assembly should be consulted. "Consulted" implies that one would take account of their expressed view.

In previous debates, it was noted that the Assembly could provide for an Opposition through its existing standing orders. It was also noted that the rights accorded to an Opposition created in this way could be revoked at the behest of the largest parties in the Assembly. It is right and proper that any Opposition in the Assembly should have the ability to carry out their functions without fear of losing their status by virtue of having challenged the Executive. It is also right that opposition parties should have sufficient status if they are to be truly effective in holding the Executive to account. To the noble Lord, Lord Kilclooney, who asked what incentive there was to become a member of the Opposition, I say that the original amendment of the noble Lord, Lord Empey, envisaged the potential status that would come to opposition parties: that would be part of the incentive.

The noble Lord's amendment attempts to offer a safeguard in the shape of the Secretary of State's involvement. I pay tribute to the effort that the noble Lord has expended in refining his successive amendments to the Bill. However, we still do not believe that this amendment is the appropriate means of ensuring more effective opposition. We believe that it would be inappropriate in any circumstances for the Secretary of State to have such a direct role in the internal procedures of the Assembly, as envisaged in the amendment the more so when the Assembly, as I said, has not been consulted.

The noble Lord will point out that his amendment would allow no role to the Secretary of State unless the Assembly took the first step. Even so, given that the Assembly has not been consulted, our taking this step now could be misunderstood by at least some in Belfast as hostile interference in the Assembly's procedures. The consequences of that would be negative for the long-term prospects of facilitating opposition. As the noble Lord, Lord McAvoy, said, there has been discussion of this in recent years in the Assembly, and there was

[Baroness Randerson]
no consensus. I will add that we also see technical difficulties with this amendment. I would not normally draw attention to them, but we are now at the stage where such difficulties cannot be remedied.

I welcome the comment in Committee of the noble Lord, Lord Browne, that his party was willing to support additional resources and speaking time for genuine opposition. I hope that his party will deliver on this commitment and that other parties in the Assembly will share that view. I am also encouraged by the Private Member's Bill brought forward by Mr John McCallister in the Assembly, and I hope that it will spur more debate. I hope that the Assembly, when it debates the Bill, will take cognisance of the various points that have been raised here.

In the mean time, the Government will impress on the parties in Northern Ireland their desire to see an effective Opposition in the Assembly and will consider ways in which we might do so. I hope that noble Lords will feel reassured that this is an issue that the Government take seriously and on which we hope to see real and meaningful progress in future. I hope that the noble Lord will feel able to withdraw his amendment.

Lord Empey: My Lords, it is almost as if one is answering a debate on an amendment that one has not actually tabled. The amendment is based on the assumption that the Assembly is the initiator. That was to ensure that no harm would be done to the convention. The Minister also said that of course the Assembly has not been consulted. That is a fair point. However, neither has it been consulted—to my knowledge—about reducing in size to 90. It has not been consulted—nor did it seek to be—on the content of the next two amendments. It appears that we have a law for one process and a totally different law for another.

That is hardly surprising, and dare I say to the Minister—although it is not her responsibility—that the one big thing that the Assembly was not consulted about was what was going on behind its back. That is the elephant in the room, and has been since last week. One can be very picky about what one decides to use as a mechanism for saying that one does not want to do something, but I have to say that the Minister's arguments were not convincing.

On the technical aspects of the amendment, I accept that there is an issue. One understands that those of us in your Lordships' House have only limited resources to table amendments; we do not have the power of the Government. The Minister made it very clear in her closing remarks in Committee that she and the Government acknowledged that there was a genuine concern that an Opposition born exclusively out of the Assembly changing its standing orders would be vulnerable. I feel that that point at least has come across. On whether this is the right mechanism to deal with the issue, we have an open mind.

The Minister also indicated that the Government were going to set out ideas on how the matter could be addressed. So far, those have not been set out. I hope that the Minister will shortly be in a position, through the Secretary of State, to set out the Government's proposals. Like so many other things regarding change, they are all stalled and going nowhere.

If we have done nothing else, we have raised the profile of the issue. It will not go away. I think that the necessity to have a guarantee that an Opposition cannot be abused by a majority in the Assembly has been accepted by the Minister. Of course, I acknowledge that there are technical issues, to which she correctly drew attention. On that basis, and not on the basis that the amendment does any harm or ill to the Assembly, I beg leave to withdraw it.

Amendment 4 withdrawn.

Clause 10: Civil Service Commissioners for Northern Ireland

Amendment 5

Moved by ***Baroness Randerson***

5: Clause 10, page 9, line 7, at end insert—

"( ) Section 4 of that Act (transferred, excepted and reserved matters) is amended as follows.

"( ) In subsection (2), for "and (3)" substitute "to (3D)".

"( ) After subsection (3) insert—

"(3A) The Secretary of State shall not lay before Parliament under subsection (2) the draft of an Order amending paragraph 16 of Schedule 3 (Civil Service Commissioners for Northern Ireland) unless the Secretary of State has, at least three months before laying the draft, laid a report before Parliament.

(3B) The report under subsection (3A) must set out the Secretary of State's view of the effect (if any) that the Order would have on—

(a) the independence of the Civil Service Commissioners for Northern Ireland;

(b) the application of the principle that persons should be selected for appointment to the Northern Ireland Civil Service on merit on the basis of fair and open competition; and

(c) the impartiality of the Northern Ireland Civil Service."."

Baroness Randerson: My Lords, the amendment refers to the appointment of Civil Service Commissioners. At present, that is an excepted matter and this function is exercised by the Secretary of State on behalf of Her Majesty. The functions and procedures of the Civil Service Commissioners are currently reserved matters.

Northern Ireland has had its own Civil Service since the 1920s. This was referred to in our previous debate. It is quite distinct from the Home Civil Service that serves the Westminster Government and the Scottish and Welsh Administrations. The Northern Ireland Civil Service itself is and always has been a devolved matter, but a decision was made in 1998 not to devolve the Civil Service Commissioners for Northern Ireland for the time being. They, like their Whitehall counterparts, are responsible for ensuring that appointments to the Northern Ireland Civil Service are made on merit and on the basis of fair and open competition.

Clause 10 moves the appointment of the commissioners from the "excepted" category in Schedule 2 of the Northern Ireland Act 1998 to the "reserved" category. Appointment of the commissioners would then be in the same category as their functions and procedures. The Bill does not propose any immediate devolution

of these responsibilities. The change it makes in constitutional categories opens the way to devolution at some future point following votes in the Northern Ireland Assembly and here.

6 pm

Many matters at the time of the Good Friday agreement were regarded as too sensitive to devolve. There were, in this case, concerns about safeguarding the independence of the Civil Service in the face of political pressures. Since then, the Executive and the Assembly have taken on many sensitive responsibilities, not least the field of law and order. It does not seem unthinkable to us that at some point the Civil Service Commissioners—like the Human Rights Commission, which we will come to shortly—should pass under the aegis of the devolved institutions.

However, it has become clear in debates, as we have carefully noted, that there were acutely felt concerns about the implications. I think we are all in agreement that impartiality and merit in the NICS are of paramount importance and that the commissioners, whatever their constitutional status, should be in a position to protect those principles. Protections for the Home Civil Service were enhanced in the Constitutional Reform and Governance Act 2010, but there is nothing similar for the Northern Ireland Civil Service. I outlined on Report some elements that we envisaged incorporating in an amendment, and I have previously indicated that any future devolution of responsibility for the Civil Service Commissioners would be subject to prior public consultation. This is not a statutory matter, but I reiterate that commitment here today.

This amendment requires the Secretary of State to lay a report in Parliament at least three months prior to bringing any order on the devolution of responsibilities in respect of the Civil Service Commissioners. The intention of that time restriction is to ensure that there is adequate time for both Houses to debate the matter and influence the Government's proposals before any devolution order is brought. A number of noble Lords, including the noble Lord, Lord Butler, and my noble friend Lord Alderdice, had concerns that a vote on any order would be on a simple yes or no proposition and therefore a blunt instrument. Our new proposal is intended to guarantee time for a wider debate in advance of a devolution order being brought forward. I confirm now that we as a Government will facilitate such a debate if and when the time comes and take into account its outcome in deciding whether to bring forward a devolution order.

The amendment also requires the Secretary of State's report to set out the effect such an order would have, in her view, on the impartiality of the Northern Ireland Civil Service, including on the merit principle for appointments and the independence of the Civil Service Commissioners. Again, we have gone further in the amendment than our initial proposals. The responsibility for the Northern Ireland Civil Service is a transferred matter, and changes there would be for the devolved institutions. However, the amendment recognises that the House would wish to take into account the overall arrangements governing the Northern Ireland Civil Service, including the safeguards for the merit principle and impartiality, before making a decision on whether or not to devolve the appointment, functions or procedures of Civil Service Commissioners.

Although we cannot amend much of the law relating to the NICS itself in this Bill, as it is a devolved matter, that does not mean that Parliament cannot take account of the overall position of the Civil Service in Northern Ireland before making a decision relating to the Civil Service Commissioners. This amendment will ensure consideration of safeguards in respect of the Civil Service in the devolved sphere before devolution takes place. I hope that noble Lords will agree that this amendment provides an appropriate mechanism for scrutiny of any future proposals to devolve responsibility for the Civil Service Commissioners and that they will feel able to support it.

Lord Bew (CB): My Lords, I thank the Minister for the discussions on this matter. The language that she is now putting before the House is better than the language we had before. However, I remain uneasy about the necessity for this provision at all. The noble Lord, Lord Alderdice, referred to a spirit which runs throughout the Bill, of a certain disconnectedness from the affairs of Northern Ireland. The noble Lord, Lord Empey, has also raised issues about elements within the Bill for which there is no obvious hunger in Northern Ireland. This is one of them. I am unaware of any particular local pressure, inside or outside the Assembly, on this point.

None the less, if there is to be devolution in this area, it is important to send a signal. I am very grateful to the noble Baroness for meeting me and for having discussions with other noble Lords who are concerned about this matter. I am also very grateful to her officials for the work that they put in on this. At least now we are sending a signal that this Parliament believes, in principle, in the importance of the independence of the Civil Service Commissioners and that appointment to the Northern Ireland Civil Service should be on an impartial basis and on the grounds of merit. It is important that a clear signal should continue to be sent out by Parliament on this point. It is certainly clearer in the language that the Government are currently offering than it was when the Bill first came before this Chamber. I thank the noble Baroness for her help in this matter.

Lord Alderdice: My Lords, I, too, thank my noble friend. In Committee and on Report I put my name to an amendment which was originally piloted by the noble Lord, Lord Empey, because of our concern about the impact at home in Northern Ireland. A number of things that my noble friend has said, and which are in the amendment, are extremely helpful. First, there is the fact that the Secretary of State would be required to produce a report. The contents required to be in the report are also spelt out, as is the fact that it would have to be done three months beforehand. Furthermore, my noble friend has given undertakings that if we find ourselves in that situation, the Government will facilitate the opportunity for debates on the report in this House and in another place, and will take account of the content of those debates. That is a very helpful undertaking.

[Lord Alderdice]

I think that my noble friend has also indicated something which goes a little further and which I really welcome—that any expectation that the Northern Ireland Executive might have that such legislation will be passed here will to some extent depend on whether there has been demonstrable progress on the Northern Ireland Civil Service rules and bringing them up to date with the arrangements on this side of the water. I am rather encouraged by that because one of the concerns that I expressed at a previous stage was that the Civil Service in Northern Ireland—for which I have enormous respect—has not necessarily kept up with some of the progress on this side of the water as quickly as it might have done. My noble friend has indicated—not just in the amendment but in her undertakings and her description of the amendment—that this could be a very helpful lever if we come to a time when the Northern Ireland Executive were eager to make progress in the direction of the amendment and this clause in the Bill.

Not only have the Minister and her officials listened, taken account of what was said and obviously consulted the Secretary of State but there has been a very positive response. I welcome that and I certainly support her amendment.

Lord Empey: My Lords, I am glad that we brought this matter forward for discussion. There is no doubt that the proposals in front of us are infinitely better than the ones that were in the Bill as originally drafted. However, I am still not clear what the driving force behind this is. It was left as an excepted matter quite deliberately and for very good reasons, and in my opinion those reasons are as valid today as they were then. It would be impossible for me to avoid pointing out to the noble Baroness that there has been no consultation with the Assembly on this, and it is not an issue that has any traction except within the small group of people who are directly affected. But the proposals in front of us today are a lot better than what was there before. Some protections have been put in. I am quite sure that reference to the 2010 Act could very well have been the mechanism to sort the whole thing out at the end of the day. Nevertheless, I thank the noble Baroness for listening to us and for acting on what has been said. At least we have put in some protections that were not there before and, I hope, will be of benefit in the long term. On that basis, I support the amendment.

Lord Brooke of Sutton Mandeville (Con): My Lords, I was greatly encouraged by the Minister's offer when we previously debated this matter to have conversations with those of your Lordships who had taken part in the earlier debate on this subject. It is perfectly clear that, unlike with Amendment 1, we are not talking about a secret deal. There has clearly been openness in discussing this. It has obviously been extremely constructive. I infer that there is approval of where we now are.

I have only one tiny niggle. I hold no proxy whatever for the noble Lord, Lord Butler, but those who have been taking part in these debates will recall that, in our most recent discussion of this subject, he raised the question of why the Government appear to have resiled from the position that the Minister had expressed in Committee. Is the Minister confident that the noble Lord, Lord Butler, is now satisfied—or would have been satisfied, had he been here—by what she said in moving the amendment?

Lord McAvoy: My Lords, at the risk of upsetting the noble Lord, Lord Empey, I join him in supporting this amendment. It would have been a lot better if we had discussed this on Report but the flexibility shown by the Minister, referred to by other noble Lords, indicates that once again there has been a success in talking to people.

As the noble Lord, Lord Alderdice, said, this amendment requires the Secretary of State to lay a report in Parliament at least three months prior to bringing any order on the devolution of responsibilities in respect of the Civil Service Commissioners. The report should set out the Secretary of State's view of the effect such an order would have on the impartiality of the Northern Ireland Civil Service, including the merit principle for appointments and the independence of the Civil Service Commissioners. The amendment marks a move towards ensuring the impartiality of the Northern Ireland Civil Service, and we welcome it.

There are key differences between the Northern Ireland Civil Service and the Westminster Civil Service. Senior civil servants in Northern Ireland have a higher profile than their counterparts in the rest of the United Kingdom. This is partly because, particularly when the Assembly has been suspended or there have been different governance arrangements, it has often been a civil servant who has undertaken the role that Ministers have here in defending or promoting policies and engaging with the public. The difference is cultural and practical. Due to these marked differences, the Northern Ireland Civil Service would benefit from a requirement for the Secretary of State to produce a report that outlines the effect such an order would have on the impartiality of the Civil Service, including the merit principle for appointments and independence of the Civil Service Commissioners. I am delighted to welcome the amendment on behalf of the Opposition.

Baroness Randerson: I thank noble Lords for their comments. Specifically, I thank the noble Lord, Lord Bew, for the very constructive comments he has made on this throughout. My response to his specific question is that so much of the Civil Service in Northern Ireland is already either devolved or reserved and this was the one aspect that was still within the purview of the UK Government. Therefore, it is the logical next step to put this in the same category as the procedures and functions of the Civil Service Commissioners.

I say to my noble friend Lord Alderdice and the noble Lord, Lord Empey, that there are now strong safeguards on the condition and position of the Civil Service Commissioners. Indeed, this could be a real improvement on the status quo, and it is important. The noble Lord, Lord Brooke, mentioned the comments made by the noble Lord, Lord Butler, in an earlier debate. The noble Lord, Lord Butler, has not pursued those issues with me directly but I hope that he is now content, particularly because of the commitment in this amendment to provide for a debate on the Secretary

of State's report. That ensures that the views of noble Lords who have a particular interest in this issue will be heard. I commend the amendment to the House.

Amendment 5 agreed.

6.15 pm

Clause 11: Northern Ireland Human Rights Commission

Amendment 6

Moved by ***Baroness Randerson***

6: Clause 11, page 9, line 13, leave out from "matters)," to end of line 16 and insert "after sub-paragraph (a) insert—

"(aa) in Part VII, sections 68 to 69A, 69C to 70, 71(2A) to (2C) and Schedule 7;"."

Baroness Randerson: Noble Lords will probably be relieved to hear that my comments on this amendment will be rather briefer than they were on the previous one on the Civil Service Commissioners because there are considerable parallels between the two.

Serious concerns were expressed in our earlier debates about the possibility of devolving responsibility for the Northern Ireland Human Rights Commission. These concerns were in many respects analogous to those that were outlined concerning the Civil Service Commissioners. In this case, too, we believe that those concerns deserve a very serious response. We have revised our approach in a similar way, so, as I said, I will make my comments as brief as is in accordance with being clear—I hope. As with the Civil Service Commissioners, I outlined a possible approach on Report. We have taken that approach substantially further in the amendments we have now tabled.

To recap, responsibility for appointments to the Northern Ireland Human Rights Commission is currently an excepted matter, as are the commission's functions. Clause 11 moves these responsibilities from the "excepted" to the "reserved" category. The Bill does not, however, propose the devolution of these responsibilities at this time. In previous debates, concerns were expressed in respect of the commission's independence should it ultimately be devolved. Your Lordships regard this as being of great importance. We share those concerns and are clear that they must be addressed before devolution. I indicated previously that any future devolution of responsibility for the Northern Ireland Human Rights Commission would be subject to public consultation. That remains the case.

These amendments require the Secretary of State to lay a report in Parliament at least three months prior to bringing any order on the devolution of responsibilities in respect of the Human Rights Commission. As I have set out in relation to previous amendments, that is intended to ensure that there is adequate time for debate and for noble Lords to influence the approach being taken in Belfast before a devolution order is laid. As before, we undertake to facilitate a debate at that point. I hope your Lordships will agree that this is a reasonable approach to ensure proper consideration and scrutiny.

These amendments would require that the Secretary of State's report should set out the effect, in her view, that such an order would have on the commission's independence—which is of cardinal importance to its work. I recognise the emphasis that the commission places on its compliance with international best practice, currently embodied in the Paris and Belgrade principles. My noble friend Lord Alderdice referred to this in speaking to his amendment on Report. To reflect these concerns, this amendment would also require the Secretary of State to set out in her report the effect, in her view, of devolution on the commission's compliance with internationally accepted principles in respect of national human rights institutions.

An important issue bearing on the independence of the commission, and dealt with in the principles, is the relationship of the commission and the Northern Ireland Assembly. These amendments would therefore require the Secretary of State in her report also to address the effect of devolution on that relationship. I hope noble Lords will feel we have reflected their concerns expressed here in debate and are able to support this amendment. I beg to move.

Lord Alderdice: My Lords, I again welcome the amendments brought forward by my noble friend the Minister. I accept what she said about this device or resolution being similar to that in the previous question on the Civil Service Commissioners. However, the matter at issue here is very different and one of much more substantial importance. Indeed, the Minister will recall that at Second Reading this issue was one of two that I identified as being absolutely critical. In Committee, I spoke against the question that the clause should stand part of the Bill. On Report, I came back with an amendment on the question and I am very grateful to my noble friend the Secretary of State and her officials for being prepared to engage on the question.

I do not want to repeat what I said before but I point out the signal importance of this issue and its difference from the previous one. Right back in the late 1960s and early 1970s, there was pressure in Northern Ireland for a Human Rights Commission. In 1973, when the legislation was passed, a Standing Advisory Commission on Human Rights was established. That was not sufficient but it was the best that could be achieved at that particular time. It produced some very worthwhile reports, some of which were acted upon in part and some more fully. Some very distinguished colleagues, not least my predecessor as leader of the Alliance Party, Sir Oliver Napier, was a chairman of the Standing Advisory Commission on Human Rights. Eventually, we moved on. We had a Human Rights Commission for Northern Ireland. The point is that this is not something that came in with the Good Friday agreement. It did not arise lately. There was absolutely critical demand and pressure for it from the 1960s and onwards. It continues to be of signal importance.

In her amendment, my noble friend has very helpfully identified a similar procedure to the previous issue. The Secretary of State would, at least three months in advance, bring forward a report identifying three very important issues: the independence of the Human

[Lord Alderdice]
Rights Commission, its relationship with the Northern Ireland Assembly, and the international commitments and responsibilities of Her Majesty's Government. That is extremely good. She has also said, again very helpfully, that in the event that your Lordships' House wanted to debate such a report, it would be given an opportunity by the Government to do that, and that the content of that debate would be taken seriously in the construction of the draft legislation. That is all extremely helpful and very welcome.

However, I feel strongly about the significance of this issue. If the Government did not bring forward a satisfactory report or set of proposals, this is of such significance that it is the kind of thing that one would be prepared to vote down. Not many things come forward here in terms of Orders in Council where your Lordships' House is called on to use what we might describe as the politically nuclear option. This matter of the Human Rights Commission is of such importance that a Government—not just this one; it is likely that a subsequent Government might find themselves in this position—should not be under any illusion that if this matter were to come forward in an unsatisfactory way, they would face very serious opposition. I would be part of that opposition.

My noble friend has listened seriously to the concerns of the moment. The Government are clearly intent on making this facility available to the Northern Ireland Executive, whether or not they wish to take that up. The Minister has listened seriously and there has been a reasonable response. If all the things in this amendment are fulfilled as she described I would be more optimistic that a positive outcome might be possible. On that basis, I support her amendment.

Baroness O'Neill of Bengarve (CB): My Lords, I think I support the amendment. I see that it takes account of the comments from the Joint Committee on Human Rights. It would help if the Minister could give the House one assurance—I do not know whether she can.

New subsection (3D)(b) refers to,

"the application of internationally accepted principles relating to national human rights institutions".

That is exactly the right criterion. I declare an interest as chair of the Equality and Human Rights Commission of the UK. In the UK we are in an exceptional position in that three human rights bodies are brigaded together for the purpose of receiving a certain status. I am happy to say that at present it is an A status. Our fates are bound together in that way. It would be extremely important to be clear about the implications of this move to a new status for the Northern Ireland Human Rights Commission. We must take into account the fact that if that misfired it could bring down the Scottish Human Rights Commission and the UK Equality and Human Rights Commission. Could the Minister comment on that? It would be helpful to know that, in considering this move, that particular set of risks would also be considered.

Lord McAvoy: My Lords, the Opposition support this amendment and commend the Minister and the noble Lord, Lord Alderdice, for their discussions and decision to bring it forward. Everyone agrees about the fundamental importance of human rights to the exercise of devolved government in Northern Ireland. It is also agreed that this is ensured through the independence of the Human Rights Commission and the impartial nature of its work. The preservation of this impartiality will be foremost in discussions when we come to actually devolve these powers. The Government's amendments mark a move in the right direction to enable that. They have our full support.

Baroness Randerson: I thank the noble Lord, Lord McAvoy, for his support for this amendment and amendments moved throughout this afternoon. To answer my noble friend Lord Alderdice, we believe we have now taken a belt-and-braces approach to this issue. We accept its considerable importance but surely it is of the same order of importance to Northern Ireland as policing and justice, both of which have been successfully devolved to the Northern Ireland Assembly. The Government hear my noble friend's concerns and take note. We will certainly bear in mind that his intention would be to vote against anything that did not come up to what he judged to be the appropriate approach.

On the question asked by the noble Baroness, Lady O'Neill, we are well aware of the impact of one human rights institution on another in terms of their reputation. That is one reason why we may be looking towards the Scottish model, because it has been successful in providing answerability to the Scottish Parliament. Although that is not absolutely specified in the report that the Secretary of State would make to Parliament, it is in the amendment as something of which account has to be taken.

A future Government would be mindful, of course, of the risks to the UK's reputation in human rights issues as a whole. I commend the amendment to the House.

Amendment 6 agreed.

6.30 pm

Amendment 7

Moved by ***Baroness Randerson***

7: Clause 11, page 9, line 16, at end insert—

"( ) In section 4 of that Act (transferred, excepted and reserved matters), after subsection (3B) (as inserted by section 10) insert—

"(3C) The Secretary of State shall not lay before Parliament under subsection (2) the draft of an Order amending paragraph 42(aa) of Schedule 3 (Northern Ireland Human Rights Commission) unless the Secretary of State has, at least three months before laying the draft, laid a report before Parliament.

(3D) The report under subsection (3C) must set out the Secretary of State's view of the effect (if any) that the Order would have on—

(a) the independence of the Northern Ireland Human Rights Commission;

(b) the application of internationally accepted principles relating to national human rights institutions; and

(c) the relationship between the Northern Ireland Human Rights Commission and the Assembly."."

Amendment 7 agreed.

Clause 28: Commencement

Amendment 8

Moved by ***Baroness Randerson***

8: Clause 28, page 17, line 30, at end insert "(but see subsection (2A) below)"

Baroness Randerson: My Lords, as noble Lords will be aware, Clause 24 amends an order-making power already passed in the Protection of Freedom Act 2012 to allow us to take forward by order the changes to the new biometric framework in the reserved and excepted fields, which the Northern Ireland Department of Justice could not legislate for within its Criminal Justice Bill, which received Royal Assent in April 2013. It will allow us to bring the position in Northern Ireland with regard to the retention, use and destruction of biometric data in the interests of national security, or for the purposes of a terrorist investigation, into line with that in Great Britain.

The amendment makes a technical change to the commencement of Clause 24. As the Bill is drafted, the clause would come into force on the day the Act is passed. However, the order-making power in the Protection of Freedoms Act—paragraph 8 of Schedule 1—is not yet in force. The proposed change to commencement is intended to avoid a situation where the amendment to the order-making power in Clause 24 comes into force before the power itself, which would have no practical effect and which I understand is technically undesirable. This is a technical change to the clause which I hope that the House will feel able to support, as it is not an issue that has raised concern previously.

Before I sit down, I take this opportunity to thank all those who have participated in debate on the Bill. Any Minister attempting to shepherd a Bill through this House feels some trepidation because of the great reservoir of expertise and experience here. As a relative newcomer to Northern Ireland, I was certainly very aware that I could not hope to match the knowledge of some noble Lords, who have first-hand experience of many of the events which led to the settlement we have today.

I also want to thank the Bill team and other Northern Ireland Office officials, who have worked so hard on the Bill and have made huge efforts to address and take account of the concerns raised by noble Lords in debate. I am grateful for the patience and the willingness that has been shown by noble Lords to attend not only debates but the many meetings we have organised outside this Chamber. I respect the persistence that has been evident in raising those issues of most concern. I believe that the Bill has been greatly improved as a result of our dialogue.

We have developed our understanding of some of the issues which set the context for this Bill: the nature of devolution; the limits of government power and influence in devolved matters; the operation of the agreements which established the current settlement in Northern Ireland; and the scope for development of those institutions. Those debates are important, not just for Northern Ireland, but for our constitution throughout the UK.

I introduced this Bill on a note of optimism as a Bill for more normal times. It is the first Bill in recent times not to have been subject to emergency procedures in Northern Ireland. I cannot conclude our debate without acknowledging the extent to which political peace has been challenged, not least by the events of the past week. It has been a difficult time for Northern Ireland, particularly for those who have suffered as a result of the atrocities of the past. Our thoughts must be with them at this time.

I believe that there is still reason for cautious optimism. Despite the real anger and hurt felt by many on both sides of the community, the devolved institutions have avoided crisis and devolved government continues. This underlines the progress that has been made in Northern Ireland as a result of the peace process. While ensuring that we deal properly with the past, it remains essential that our determination to build a shared and prosperous future in Northern Ireland is unwavering.

The Bill is, I believe, a modest way of making a contribution to fulfilling that objective, and I commend it to the House.

Lord McAvoy: My Lords—

Lord Alderdice: My Lords, I do not want to address the technical aspects of the amendment, but I cannot let the opportunity pass without saying something about my appreciation of and gratitude to my noble friend Lady Randerson. Perhaps it is because of her distinguished service and experience in the Welsh Assembly, perhaps it is just because of the person that she is, perhaps it is because of the conscientious way in which she approaches her work, but, for whatever reason, she has shown great sensitivity to the difficult issues in devolution in a provincial part of our United Kingdom and to the complexity of the issues concerned. Nowhere was this better shown than in your Lordships' House today, where she dealt with such extraordinary patience with all the difficulties, which were not immediately difficulties of the Bill, but were certainly difficulties with the context in which the Bill is passing in Northern Ireland. The patience that she showed in her responses reminded me a little of George Mitchell and the sort of patience that he had to show at a much earlier stage in the whole process. She has been an exemplar in that regard.

It is also the case that no predecessor for a very long time has had to take a Bill on Northern Ireland here through all the normal stages and passage of time. I see the noble Lord, Lord Rooker, nodding his head, because he was very familiar with those times and that work in Northern Ireland. The Minister, her officials and, indeed, the Secretary of State in the other place, have listened carefully and responded as far as they felt able. Even to our questions today, I think that she responded as far as it was possible to do given the difficulties and complexity of the problem. I express my sincere appreciation for all that she has done, in the knowledge that she will continue to serve in this House for Northern Ireland—and for other places, but from Northern Ireland's perspective I express my appreciation.

Lord McAvoy: My Lords, I apologise for my overeagerness, especially to support the Government in principle. As the noble Lord, Lord Alderdice, said, this is a technical amendment, it is welcome and I have no intention of going into the fine detail that the Minister had to in introducing it. I also join in commending her for her attitude throughout the process in listening and making changes. I also pay tribute to the officials of her office for the way that they have responded to the various processes within the procedure.

As mentioned by the noble Baroness, I also pay tribute to the expertise existing in this Chamber. I have been involved in Northern Ireland for a long time, back and forward, off and on. I know how she felt about having some trepidation in getting involved in a Bill with all the expertise around this House. It has been a success for her, a success for this House in processing the Bill in the way that we have, especially with the events of the past week, and we support the amendment.

Amendment 8 agreed.

Amendment 9

Moved by ***Baroness Randerson***

9: Clause 28, page 17, line 36, at end insert—

"(2A) If paragraph 8(1) of Schedule 1 to the Protection of Freedoms Act 2012 comes into force on a day after that on which this Act is passed, section 24 comes into force immediately after that paragraph comes into force."

Amendment 9 agreed.

Motion

Moved by ***Baroness Randerson***

That the Bill do now pass.

Lord Brooke of Sutton Mandeville (Con): My Lords, I would like to make a brief footnote to the debates that we have just had. My noble friend Lord Mawhinney made reference in debate on Amendment 1 to my noble friend Lord King of Bridgwater and myself. I did not intervene in that debate, especially on the subject of secret deals, but certainly my basic attitude to such matters was learnt at my mother's knee. I mention this because I recall that the Reith lectures given by the noble Baroness, Lady O'Neill of Bengarve, treated on the same matter. It is happy that she is here so that she can reprove me if I misrepresent her. Her view on behaviour was that those people with whom one has contact react and respond to the way that you treat them. If you communicate liking, they are likely to behave in a likeable manner while if you show that you trust them, they are likely to behave in a trustworthy manner. In both these examples, the converse is true. Secret deals are therefore fundamentally counter-productive. I once worked for a great American who taught me that the strongest argument against falsehoods is that the truth is much easier to remember. I am not seeking a response.

Bill passed and returned to the Commons with amendments.

Gambling (Licensing and Advertising) Bill

Report

6.42 pm

Amendment 1

Moved by ***Baroness Howe of Idlicote***

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

"(b) after subsection (5) insert—

"(6) The Commission may give a direction under this subsection if the Commission reasonably believe that a person or organisation who does not hold a remote gambling licence is providing remote gambling services in the United Kingdom.

(7) A direction under subsection (6) may be given to—

(a) a particular person operating in the financial sector,

(b) any description of persons operating in that sector, or

(c) all persons operating in that sector.

(8) A direction under subsection (6) may require a relevant person not to enter into or continue to participate in—

(a) a specified transaction or business relationship with a designated person,

(b) a specified description of transactions or business relationships with a designated person, or

(c) any transaction or business relationship with a designated person.

(9) Any reference in this section to a person operating in the financial sector is to a credit or financial institution that—

(a) is a United Kingdom person, or

(b) is acting in the course of a business carried on by it in the United Kingdom.

(10) In this section—

"credit institution" and "financial institution" have the meanings given in paragraph 5 of Schedule 7 to the Counter-Terrorism Act 2008;

"designated person", in relation to a direction, means any of the persons in relation to whom the direction is given;

"relevant person", in relation to a direction, means any of the persons to whom the direction is given.""

Baroness Howe of Idlicote (CB): My Lords, Amendment 1 is in my name and that of the noble Lord, Lord Stevenson. It would give the Gambling Commission a discretionary power to block financial transactions between people living in the UK and online gambling websites that have not secured a UK Gambling Commission licence. The aim is to prevent funds being transferred to illegal operators, thereby creating a disincentive both to the company to operate illegally and to UK gamblers, who will find it much easier to go to the many licensed operators available.

The Government have argued that this Bill is about consumer protection. On 19 November the Minister, Helen Grant, said that the new licensing proposals address,

"the fundamental purpose of the Bill, which is to enhance consumer protection by ensuring that all operators offering remote gambling in Britain are regulated by the Gambling Commission, whether they are based in Britain or overseas".—[*Official Report*, Commons, Gambling (Licensing and Advertising) Bill Committee, 19/11/13; col. 74.]

At first glance, this seems absolutely right because the Bill, for the very first time, requires all online gambling providers based outside the UK who want to access the UK market to get a UK Gambling Commission

licence. For this to constitute a meaningful bid for greater protection, however, it must be connected to a parallel provision preventing those providers which do not have a licence from selling to UK consumers. The Bill before us contains no such provision. In the absence of a credible enforcement mechanism, the primary implications of the Bill are twofold.

First, there would be significant liberalisation of online gambling advertising. At present, only providers located in a limited number of whitelisted and European Economic Area jurisdictions can advertise in the UK. However, under the Bill any provider based anywhere in the UK will be able to advertise in the UK, so long as they get a UK Gambling Commission licence. This significantly widens the scope for online gambling advertising. Not only that: it would be advertising liberalisation for a form of gambling which is associated with a significantly higher problem prevalence figure than gambling generally. The 2010 general problem prevalence figure was 0.9% but it was more than 9% for online on an annual basis and more than 17% on a monthly basis.

The second implication is that of providing a framework for increasing the tax take in co-operation with the 2014 Finance Bill. The 2005 Act created a tax loophole by allowing providers based in EEA or whitelisted jurisdictions still to advertise in the UK. All but one moved to whitelisted jurisdictions under more generous regimes. The Bill corrects this loophole by providing the Treasury with a framework to address the problem. It requires all providers accessing the UK market to get a licence, while the Finance Bill requires all online gambling providers with a UK licence to pay UK tax. It will come as no surprise to your Lordships that, as the wife of a former Chancellor of the Exchequer, I have absolutely no problem with seeking to close a tax loophole. However, the good news is that that tax loophole can be closed at the same time as providing a robust enforcement regime that upholds the consumer protection objective set out by Helen Grant. We do not have to choose between one and the other.

The Government have of course sought to argue that they have the necessary enforcement mechanism. At Second Reading, the Minister said:

"Where illegal operators attempt to target British consumers, the Government and the Gambling Commission are confident that action can be taken through existing enforcement mechanisms to disrupt and stop unlawful gambling. These include action on illegal advertising, player education and, ultimately, prosecution".—[*Official Report*, 17/12/13; col. 1252.]

The problem with this is that neither clamping down on illegal advertising nor better player protection will prevent illegal operators accessing the UK market. That leaves prosecution but the truth is that the DCMS has already recognised in its remote gambling consultation that prosecution has no teeth. The DCMS said that,

"we recognise that without extra-territorial extent, it will be difficult to actually pursue the offence through the Courts if the operator is located outside Britain".

Given the clear problems with the enforcement mechanisms highlighted by the Government, it has been clear to me since the first day when the Bill appeared that it is crying out for a proper enforcement mechanism. In this context, as I have said previously, Amendment 1, which gives the Gambling Commission discretionary financial transaction blocking powers to protect UK consumers from transacting with illegal providers, crucially restores integrity to the Bill. Far from being a curious add-on my amendment, in providing a credible enforcement mechanism, is central to the main purpose of the Bill.

When pressed on this point the Government have, until now, always rejected financial transaction blocking on the basis that the evidence is mixed.

Although I readily admit that financial transaction blocking is not 100% successful—very few public policy solutions are—it is my contention that it is the best available enforcement mechanism, and one that would greatly enhance the Bill. In making this case, I want to make some points. First, I shall briefly consider the experiences of other jurisdictions. In the USA, the Unlawful Internet Gambling Enforcement Act 2006 prohibits any person, including a business, engaged in the business of betting or wagering from knowingly accepting payments in connection with the participation of another person in illegal remote gambling. In practice, this means that credit and debit cards and banks do not allow their services to be used in relation to a merchant code associated with remote gambling. This means that if a person tries to gamble on an illegal or unregulated website, they will not be able to transfer funds directly into their gambling account. These merchant codes are used as a matter of course and as part of agreements made between gambling entities and the financial sector.

My conversations with online gambling providers suggest that, while this approach has not been perfect, it has made a very significant positive difference. Indeed, such is its success that other countries have since followed its lead; in Europe the most notable is Norway, as well as France, Belgium and Estonia. Other jurisdictions have also implemented policies that reflect the blocking of the financial flow to illegal websites—for example, in Israel, Turkey, Singapore and Malaysia.

Secondly, having looked at the experience of other jurisdictions, I want to reflect on the appropriateness of financial transaction blocking in a British context. In considering all the jurisdictions that have implemented FTB, it is vital to appreciate that they operate closed or relatively closed markets. For example, the US does not allow remote gambling across state borders or from overseas. Norway, meanwhile, operates an even more restrictive market.

If one operates a closed or relatively closed market, one faces two challenges. First, one has to block lots of transactions. That would not be the case in the UK, where we operate an open market. Then there is a greater incentive in closed or relatively closed markets for punters to seek to evade the blocks than in an open market, where the available odds should be relatively competitive. In a market like the UK, where there is a need for less blocking and where—on the occasions when it is used—financial transaction blocking is more likely to be effective, FTB is likely to be more successful than in the jurisdictions where it has been employed thus far.

Thirdly, mindful of the above, I want to reflect on the huge irony of the position that the Government have adopted. They have rejected financial transaction

[Baroness Howe of Idlicote]
blocking on the basis that the results are "mixed", citing instead their preference for prosecution. Given that, while not perfect, FTB has encountered some considerable success, and given that it is more likely to be successful in the UK than in any other jurisdiction where it has been used, I find it a little extraordinary that the Government should reject it in favour of prosecution on the basis that FTB is not perfect. Prosecution is far less likely to be successful than FTB. As we have seen by the Government's own admission, prosecution does not work. The idea that the UK Government can afford to chase multiple small online providers through the courts of multiple jurisdictions is, surely, fanciful. The providers in question know that the chances of their ever being successfully prosecuted are tiny, a calculated risk that they can afford to take. By contrast, FTB is likely to have a significant deterrent effect on small illegal providers, as the experience of Norway has demonstrated.

Yesterday many noble Lords will have received a letter from the Minister, the noble Lord, Lord Gardiner, that addresses enforcement. The letter says:

> "I am pleased to confirm that the Gambling Commission has reached agreement with a number of major payment systems organisations to work together to block financial transactions with unlicensed operators".

I very much welcome this announcement. It really is quite a turnaround from the suggestion during the earlier stages of the Bill that its enforcement provisions were sufficient. However, just as I highlighted deficiencies in what the Government said during those stages, I feel compelled to do so again today, because while I warmly welcome the announcement I do not believe that it constitutes a credible alternative solution.

The problem is that it pertains to only three payment processes and is voluntary. Of course Visa is a very big player and covers a large part of the financial transaction market, so you might be tempted to conclude that this solution would address a large part of the problem. In reality, though, the market is dynamic, and experience from abroad demonstrates that alternative payment mechanisms spring up to do the job in place of the big names that are persuaded in the name of social responsibility to adopt a different approach on a self-regulatory basis. Thus I am firmly of the opinion that we need the statutory approach of Amendment 1, which applies to all payment mechanisms.

I have heard it said that the Government do not want to accept amendments to the Bill. They contend that it is a simple Bill, with a sharp focus that amendments would only distract from. Far from being a distraction from the main purpose of the Bill, my Amendment 1, by providing a credible enforcement mechanism, is absolutely key to that central purpose. Rather than placing the simple integrity of the Bill in jeopardy, the amendment's key mission is actually to complete that integrity—to ensure that rather than being half a Bill, alienated from an enforcement mechanism, it is in fact a whole Bill, very much at one with its enforcement mechanism. My modest discretionary financial transaction blocking amendment would restore integrity to the Bill, in my view, something that is urgently needed. I hope that in due course the Government will agree, and I beg to move.

Lord Stevenson of Balmacara (Lab): My Lords, I pay tribute to the noble Baroness for her campaigning on this and many other issues, and particularly on the tenacity with which she is pursuing this topic. I place on the record that we on this side of the House support her in this amendment. Do the Government? We have seen reports over the weekend, amid the most extraordinary amount of material that has been released through papers and articles and by people talking directly to the press, about how keen the Government are to make progress in this area, how shocked they were to discover some of the points that have been made in the noble Baroness's speech—but had also been raised before in Committee—and how important it was that they should be seen to be taking action. However, talk is not going to get us to where we want to go on this issue, as the noble Baroness has said.

The Bill lacks the capacity to deliver the means to achieve the ends that it sets out very clearly, and with which we agree. There have been very clear calls for strong enforcement measures to accompany the Bill. The Bill may be modest in terms of what it does, but it will be even less effective if it does not have these additional measures. In addition to the points made by the noble Baroness, which I do not wish to repeat because she made a very positive and clear endorsement of the position that she is trying to adopt, we have to have regard to the fact that there will be people inside the industry who will hold licences who deserve to be supported, who are trying to do the right thing and who need to be given a clear endorsement in the Bill that those who are not doing the right thing by the Bill will be prosecuted but will also be made unable to operate by removing their financial support and by ensuring that they cannot connect through the internet.

These are issues that come up in other places. There is obviously a read-across to the field of the protection of children, and therefore it is important that we should begin to think hard about how we work in this world of new technology. As the noble Baroness said, the amendment complements the Bill. Voluntary arrangements, although welcome, will not achieve what we want. They are a step in the right direction, but they are not sufficient. The very idea of relying simply upon prosecution in offshore, foreign territories is absolutely bizarre. If the noble Baroness wants to test the opinion of the House, we will support her.

7 pm

Viscount Astor (Con): When my noble friend the Minister replies, will he address two issues that concern me about the amendment? The first is the ability to control what the noble Baroness referred to as illegal websites. It seems to me that websites spring up and have an almost infinite ability to replicate themselves. I am not sure how the Government could control them, even if they wanted to. Secondly, there seems to be evidence in other countries that financial transaction blocking has not been terribly successful. Will the Minister comment on whether that is the case? If we were to have this amendment, it is important that it is workable and would achieve its purpose. Otherwise, we have to look at other alternatives to achieve the same outcome.

Lord Browne of Belmont (DUP): My Lords, I am very pleased to speak in support of Amendment 1 because it is of fundamental importance. If this Bill is not endowed with a credible form of enforcement so that unlicensed operators are prevented from accessing the UK market then, as the noble Baroness, Lady Howe, has explained, the notion that this Bill is about consumer protection breaks down. Its primary impact will instead be a truly dramatic change to online gambling advertising in the UK.

I am particularly grateful to the noble Baroness for raising this issue throughout the passage of the Bill and particularly for the excellent seminar that she hosted for Peers last week, which was fascinating. It comprised two central presentations, one from the online gambling provider Paddy Power explaining why, from the perspective of online gambling providers, the provision of proper enforcement is absolutely key, and a second presentation from a charity, CARE, whose prime concern is the care of problem gamblers, which also argued passionately for the provision of credible enforcement.

In managing to create a coalition between the online gambling industry and problem gambler charities, the Government have really accomplished quite a feat. On a more serious note, it seems to me that if such disparate groups with such disparate aims and objectives are prepared to come together to present basically the same argument, the Government need to pause and take note. Paddy Power made it very clear that the online gambling industry is growing very quickly right across the world and that there are lots of small providers which will be tempted to access the United Kingdom market without getting a licence. The point was made very powerfully that the Government cannot possibly hope to chase these multiple small providers through the courts of multiple jurisdictions. It would cost far too much and take far too long. The small providers know that the chances of them being prosecuted, let alone convicted, are absolutely tiny and that it is a risk well worth taking.

In this context, the online gambling industry and the charity sector are very clear that financial transaction blocking is the best way forward. The Government, of course, have resisted this argument, claiming that the evidence for FTB is mixed. If by this they mean that it is not 100% successful, then I agree with them, but the notion that in order to be suitable an enforcement mechanism must be 100% effective is problematic for two reasons. First, in my experience, very few public policy solutions can make that claim. Secondly, the enforcement mechanism promoted by the Government—prosecution—is far less likely to be successful than FTB. Of course, I read with interest the letter from the Minister yesterday announcing that, despite earlier statements, the Government have now consented to a self-regulatory approach to prohibiting payments with three providers. That is a very welcome turnaround, but it is not a credible solution. The integrity of this Bill clearly requires a statutory solution that covers all providers.

This Bill has so far travelled from DCMS to the Commons and now through the Lords to Report stage without a single amendment. As a revising Chamber, we are here to detect problems and put them right. The noble Baroness, Lady Howe, has spotted a fundamental problem. I do not believe that we should allow this Bill to complete its passage through your Lordships' House without the insertion of the clear enforcement mechanism presented by Amendment 1. I strongly urge noble Lords to support this very important, seminal amendment.

The Lord Bishop of Chester: My Lords, I want to associate myself fully with the remarks just made by the noble Lord, Lord Browne, and with the powerful and comprehensive speech made by the noble Baroness, Lady Howe, in introducing the amendment. I do not intend to repeat the points they made so powerfully, but I shall add a general consideration. With the introduction of the internet, we are living through a revolution that is probably more powerful than the invention of steam power or the internal combustion engine. One does not want to be critical of the many benefits that flow from the internet revolution but it brings with it, at every point, corresponding dangers of which the Government need to be very aware. If in doubt, I would say that the balance of the argument comes down on putting in place powers to regulate and prevent the abuses that the internet can open up. I hope that general consideration will support the specific points so powerfully made in the debate so far.

Baroness Jolly (LD): My Lords, I thank noble Lords for a wide-ranging and constructive series of discussions as the Bill has progressed to this stage. As we said earlier, this is a small, five-clause Bill focusing on consumer protection. As a result of it, all overseas operators selling to British consumers—around 85% of the market—will be required to hold a British Gambling Commission licence. That will mean that those operators will be subject to robust and consistent regulation and that will increase protection for consumers.

Although it had been introduced with a distinct focus on new licensing and advertising arrangements for remote gambling activities, we have collectively explored a fuller set of related gambling considerations. Noble Lords will have seen some of them announced by the Secretary of State over the weekend. Work which had been ongoing has been catalysed by these debates, in which some very important matters arose, while ensuring that the core of the Bill, which I think I can say is widely supported, can pass into law.

One such issue is in relation to enforcement and I thank the noble Baroness, Lady Howe, for her amendment. It would enable the Gambling Commission to give direction to financial institutions to stop financial transactions with operators which do not hold a Gambling Commission licence. This is known as financial transaction blocking. The Government share the overall objective articulated so clearly by noble Lords, which is at the centre of this amendment, but the Bill must be enforceable. That is central to achieving the consumer protection purposes that lie at the heart of the Bill, which will extend the existing enforcement provisions to offshore operators selling or advertising into the GB market.

The Bill includes three important tools. First, the Gambling Commission can take action against illegal advertising. That is important as advertising is the

[Baroness Jolly]
lifeblood of so many operators. The Bill will make it easier for advertisers to identify what can and what cannot be advertised into the UK. Only lawful gambling may be advertised. Secondly, player education is another important tool. The current system makes it impossible for the Gambling Commission to advise consumers to buy from commission-licensed operators, as operators from anywhere in the world, subject to a range of different regulatory regimes, can transact with consumers in Great Britain. Thirdly, the Gambling Commission has powers to prosecute, so the commission will have the legal powers to pursue any unlicensed operators, wherever they are based. It is also worth noting that, although the collection of tax is a matter for HMRC, it has extensive powers of its own that may be deployed in the case of unlicensed operators, where this is appropriate.

However, alongside this, I can announce a further mechanism. I am pleased to confirm that the Gambling Commission has reached agreement with major payment systems organisations—notably MasterCard, PayPal and Visa Europe—to work together to block financial transactions with unlicensed operators which seek to use these payment systems for illegal purposes. What does this actually mean in practice? It means that when a consumer uses payment facilities for illegal gambling this may amount to a breach of the payment system's terms and conditions. These require that all transactions must be legal in all applicable jurisdictions. Such a breach may result in the operator having its payment facilities withdrawn by the payment system. This process will disrupt revenue to unlicensed gambling operators selling into our British market.

We have heard the arguments in detail throughout the passage of the Bill as to the effectiveness of financial transaction blocking. We believe that the approach I have just outlined is a good way to test and evaluate this mechanism. The mechanism provides an efficient way of achieving blocking in a single case, which is mostly where we expect this approach will be used. The reason this approach is efficient is that the Gambling Commission has a direct route to the payment organisations and does not need to go through a potentially lengthy and expensive court process.

However, as we have all agreed in this debate, the landscape can change quickly. Technology moves faster than legislation. The nature of these arrangements is such that they will be adaptable and can respond to the very latest developments. That is why the Government believe this is the most appropriate way to proceed: working in partnership with these organisations that share our determination to tackle illegal activity. We want to ensure that the enforcement arrangements continue to be effective and have asked the commission to report on its enforcement activities in relation to remote gambling. The Gambling Commission will provide an assessment of the effectiveness of these arrangements in enforcing the Bill in its annual report to Parliament. The Government and Gambling Commission will use this to assess the success of this approach and monitor the implementation of the new regime. This will enable the Government to ensure that the Gambling Commission continues to have all the enforcement tools it needs.

I thank the noble Baroness for bringing this issue forward and all noble Lords who took part in the debate. I hope that I have assured the House that the Government's approach is the most appropriate way to achieve the objectives behind the amendment and does not require legislative change. I therefore ask the noble Baroness to withdraw her amendment.

Baroness Howe of Idlicote: My Lords, I am grateful to all noble Lords who have participated in this important debate. I also thank the Minister, the noble Baroness, Lady Jolly, who kindly met me yesterday to outline the steps that the Government have now taken to begin to address this problem. I very much welcome, too, the fact that rather than saying that there already are adequate enforcement mechanisms, the Government are now bringing forward, somewhat belatedly, the measures that have been outlined to us today.

However, this really is a classic example of too little, too late. The online gambling providers we have consulted have been clear that, even if you target big transaction-processing companies that currently service the market but do not adopt a more statutory approach that relates to all such companies, gambling transactions will simply migrate to other or new providers. I still believe that the Bill is flawed because of this lack of an enforcement mechanism and because of self-regulatory measures, especially those which relate only to three providers, with no compensation for this. Separated from a proper means of enforcement, the Gambling (Licensing and Advertising) Bill is still very much half a Bill.

As other speakers have noted, to date the Bill has passed unamended through the Commons and also until Report stage in the Lords. Increasingly, everyone acknowledges that we are here as a revising Chamber to spot problems and to try and put them right. I would argue that we have identified a significant problem here that cannot be addressed by a voluntary agreement between just these three providers, which may or may not at some future stage give rise to litigation.

We have today the opportunity to address this shortfall. Although I hope very much that the Government will accept other amendments today, I want to take this opportunity to test the opinion of the House.

7.16 pm

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7.28 pm

Amendment 2

Moved by ***Lord Stevenson of Balmacara***

2: After Clause 1, insert the following new Clause—

"Licence compliance, stipulations and control

(1) Notwithstanding the regulation of spread betting by the Financial Conduct Authority, operators licensed for remote gambling by the Gambling Commission shall, to ensure their continued fitness as such, be obliged to comply with Condition 15.1 of the Consolidated Licensing Conditions and Codes of Practice 2011 (or its equivalent from time to time) in relation to all areas of their gambling operations, including spread betting and any other operations not within the jurisdiction of the Gambling Commission.

(2) In the event of any breach of subsection (1) which the Gambling Commission believes calls into question the fitness of the relevant operator, the Gambling Commission may require the operator to provide an explanation of such breach within one month and may, if not satisfied with such explanation, revoke the operator's licence."

Lord Stevenson of Balmacara: My Lords, the promotion and upholding of integrity is one of the key functions of all sports governing bodies and event organisers. The whole concept of sport is based on what is described as fair competition between participants under agreed rules. A vital principle for any sport is that all its participants are competing to win and that its officials are honest, and are seen to be so.

This amendment deals with a situation which could not have been forecast when the Gambling Act 2005 passed through this House and into law. At that time, the idea that people would somehow be able to vote without ever being close to or involved in a game was not thought of as likely to happen, and we certainly did not see, or have evidence to suggest that we had seen, any ideas that people involved in the betting industry—not the industry as a whole—might seek to use means to try to fix matches. The situation that emerged out of the 2005 Act is not one that we could have predicted; times have moved on. Therefore, we need to think hard about how to protect sports integrity as we move forward. Those who seek to influence the outcome or progress of sports events to secure rewards through betting undermine the very principles that I have been talking about. Worse than that, any suspicion that that is happening is almost as bad as the event itself happening. So some action needs to be taken.

The Government have been working with the Gambling Commission—and I give them credit for this—on how best to ensure that information flow is made available to those with responsibilities in this area. As a result, there is a series of regulations that operate, particularly licence condition 15.1, which ensures that information about practices that might be redolent of an event that has been fixed are brought quickly to the attention of the sports governing bodies and authorities so that action, if necessary, can be taken.

During the passage of the Bill in another place, my colleague in the Commons, Mr Clive Efford, spotted a gap in the overall approach being taken here, which is that the responsibility for spread betting is and continues to be with the FCA, which does not have the licence conditions—including licence condition 15.1—that apply to those organisations registered through the Gambling Commission itself. However, in the period since then there have been meetings and discussions, and I am very pleased that we have now got to a situation where, in respect of those bodies that are involved in regulating sports events, which include spread betting operated under the auspices of the FCA, the effect will be that licence condition 15.1 will apply, so that all information can be channelled to those who require it in a way that will allow them quickly to take action if required. This is terrific—and, if I am going to hear that from the other side, we will welcome it. It may influence how we take forward this amendment.

However, in closing I make one point. The situation that we will find ourselves in if what I hope is the case comes through is that those in scope to the Gambling Commission will have the effect of licence condition 15.1 applied to them. But if there were a situation in which a spread betting organisation were to start taking bets on gambling activity but was not in scope to the Gambling Commission, the information flows would be interrupted. Can the Minister reflect on that point and give us some information, if he has it, on that issue? Subject to hearing more about that, I am very happy to move this amendment and look forward to hearing what the Minister has to say in response.

Baroness Heyhoe Flint (Con): My Lords, this amendment returns us to an issue that has already received considerable scrutiny. As we have heard, it is vital that national sports governing bodies receive information and intelligence about any untoward betting patterns as a matter of urgency so that they have the greatest opportunity to prevent corrupt activities and behaviour. Spread betting needs to be regulated just as effectively as fixed odds betting. Yesterday, the Minister informed noble Lords that the Gambling Commission is to extend the remit of its licensing code 15.1 to include spread betting in its information reporting requirements, as is placed on those who have a fixed odds betting licence. I commend this remit, because it will address most of the issues that sports bodies have raised. Presently, the two companies that offer spread betting also offer fixed betting and thus have Gambling Commission licences. Could my noble friend tell me when the Gambling Commission will introduce this new licensing code?

I am also pleased that in recent weeks the FCA has finally agreed to take responsibility on this issue, no doubt following pressure generated by noble Lords—

I say, immodestly. It has come forward with proposals for its own industry guidance for spread betting companies that take bets on sport. This guidance will be broadly similar to that issued by the Gambling Commission, but there are two main areas where it will be deficient in comparison and concerns remain.

The first is that the guidance will not be made public. I find that somewhat curious. Surely, regulatory requirements set by public bodies should be open, transparent and accountable. How is the sports sector to have confidence in a regulation if it does not know what it says? How can it be used as educational material or act as a deterrent in the sporting world if we cannot show people the actual guidance? Can the Minister give an assurance that a way will be found to make sure that this guidance is made publicly available to those in the sports sector?

Secondly, the industry guidance issued by the FCA will not require as a statutory requirement that the spread betting company must share any information that it has, not just with the FCA but, most importantly, with sports governing bodies. Sports bodies understandably have ongoing concerns about the quality of information that they might eventually receive and the speed at which it will be made available. I gather that the reason for this is that the FCA says that its own statutes do not allow it to instruct spread betting companies to share information directly with sports governing bodies. That would be a major anomaly and a threat to sports integrity, should a spread betting firm operate without having a fixed betting arm. That means that it would not fall under the regime being proposed by the Gambling Commission. Can the Minister tell me what action the Government are taking to ensure that any future spread betting company that is established and does not have a fixed betting operator licence will still be subject to the same requirements that the Gambling Commission is introducing?

The easiest way in which to guarantee a level regulatory playing field between traditional and spread betting companies would be to transfer responsibility for sports spread betting from the FCA to the Gambling Commission, as the amendment would seek to do. I understand that there are powers contained in a Treasury-regulated activities order that would enable the transfer of sports spread betting from the FCA to the Gambling Commission, which may be a more suitable route to address the issue than in this Bill. Could the Minister give a commitment that that option will be further explored as a matter of urgency, and that, should there be any development of standalone spread betting companies setting up, we could expect to see the application of a transfer of sports spread betting from the FCA to the Gambling Commission using that Treasury-regulated activities order? That would ensure that sports integrity continues to be upheld.

Lord Gardiner of Kimble (Con): My Lords, I thank the noble Lord, Lord Stevenson, for tabling his amendment, which seeks to ensure that spread betting operators who hold a remote gambling licence from the Gambling Commission are required to report suspicious betting patterns to both the regulator and sports governing bodies under licence condition 15.1. Your Lordships have heard that my noble friend has tabled an amendment on that issue.

First, I acknowledge the determination with which Members of both Houses have pursued this matter—and the noble Lord, Lord Stevenson, mentioned one of his colleagues in the other place. The point about our deliberations is that it has undoubtedly led to more speedy progress.

As I said in Grand Committee, the Government take the issue of ensuring the integrity of sport very seriously. People must be able to trust that the sport that they are watching is fair and uncorrupted by cheating. The effect of this Bill will be that this will apply to all operators who offer remote gambling in the British market, regardless of where they are based, and information is at the very heart of the detection and disruption of any such corruption by regulators and sports governing bodies. But the Government believe that the following two-pronged approach achieves the objectives that noble Lords seek. This approach will ensure greater consistency in how suspicious activity is reported, and in a way that can be effectively enforced.

First, the Gambling Commission will soon be publishing its revised licensing conditions and codes of practice, which will include a change to licensing condition 15.1. This will make it clearer that, when a sports spread betting firm holds an operating licence with the Gambling Commission for its fixed odds activity, it will be required to report suspicious activity arising in relation to its sports spread betting activity. The revised licensing conditions will be published by the end of this month, and I say to my noble friend Lady Heyhoe Flint that the revised 15.1 will take effect in June.

Secondly, noble Lords will be aware of the FCA's commitment to issue guidance for sports spread betting operators. The guidance will be issued under FCA Rule 15.3.17, which relates to the types of fraud and irregularities that must be reported to the FCA. The guidance will make it clear that the fraud and irregularities that will need to be reported by sports spread betting firms include suspicious sports betting. The FCA is also in discussion with the firms to put in place a mechanism by which information received by the FCA can be notified to the Gambling Commission and the relevant sports governing body. The finer details of the guidance are in the process of being finalised with the individual firms. However, I should make it clear that the underlying FCA Rule 15.3.17 is in place now.

I should say to the noble Lord, Lord Stevenson, and my noble friend Lady Heyhoe Flint that where a spread betting firm does not have a Gambling Commission licence, it will be bound by the updated FCA guidance, which will, of course, be mandatory.

We believe that the approach we are taking will work and will facilitate the appropriate sharing of information —the noble Lord, Lord Stevenson, particularly emphasised sharing of information, which is absolutely key to success—and it ensures that the licensing conditions, be it the expanded licence condition 15.1 adopted by the Gambling Commission, or the guidance issued by the FCA under the FCA rules, have a clear route

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back to the relevant regulator. Any failure to comply by an operator will be enforceable by the relevant regulator.

My noble friend Lady Heyhoe Flint asked a number of questions, seeking confirmation. As regards publishing the FCA's guidance, as this is individual guidance it would not normally be made public. However, I will ask the two spread betting firms if they would be content to publish this individual guidance, once it is finalised. I should also mention that the first draft of the guidance was shared with the Gambling Commission, for its consideration and comment.

On best practice in information sharing—another point raised by my noble friend—I can confirm that the commission established the tripartite forum, involving betting operators and representatives of sports governing bodies. That forum continues to provide a space for debating these kinds of issues, which, again, is very important.

As regards future changes to the regulation of sports spread betting, I understand that there has been recent discussion between the FCA and the Gambling Commission as to whether the question of transfer needs to be revisited. Indeed, this matter remains very much alive. However, it is a very complex issue, and there was a deliberate decision at the time of the 2005 Act that it remain within the regulatory purview of the FCA as a financial services product. However, I can confirm that the mechanism for transferring the regulation from the FCA to the Gambling Commission is by amending the regulated activities order by statutory instrument. That issue was raised by my noble friend.

I hope that I have been able to reassure noble Lords that action has, and is being, taken on this important issue to ensure greater consistency in the way that suspicious activity is reported, and how this can achieved. The Government take this issue extremely seriously as the work currently going on around sports integrity and match fixing illustrates. We believe that the steps we are taking, and what noble Lords seek, is the right path. Indeed, we think that our approach goes somewhat further than what is sought in the amendments in so far as the new FCA guidance complementing an enhanced 15.1 provision is concerned. On that basis, I very much hope that the noble Lord will feel able to withdraw the amendment.

Lord Stevenson of Balmacara: I thank the noble Baroness, Lady Heyhoe Flint, for her amendment and for speaking to it so excellently and, indeed, adding a number of questions which have provoked the Minister to take us further down this route, which makes us better understand the process that we are going through.

I also thank the Minister for acknowledging that this has been a co-operative team effort. He said that our deliberations had resulted in speedier progress. However, I think that they made the measure a bit better; I think he is being a bit mean in his praise. We were able to get together around some common themes that emerged as a result of the discussions on Second Reading and at the beginning of Committee, and, with others present today, we looked hard at what was being attempted here. In the sure and certain knowledge that gambling (licensing and advertising) Bills do not come before your Lordships' House very often, we decided to try to hook a lift on one or two paragraphs in order to make improvements, which I hope will be long lasting and effective in terms of improving the situation for the sports governing bodies, the regulators and, indeed, of course, the consumers, who are, after all, what this is all about. That is my rant over.

I am not very experienced in matters to do with legislation, having been a mere three or four years in your Lordships' House, but this is a model that we might try to export and use again in some future circumstances. I am certainly up for that. I am very pleased that the Minister was able to spell out in a bit more detail some of the additional regulatory framework that exists. It is important that the FCA and the Gambling Commission are in discussion. As mentioned by the noble Baroness, Lady Heyhoe Flint, there probably is a case for transfer of, if not all the functions, at least some of them because it seems to me that the regulatory functions relating to gambling will get more complex and will be challenged by the new technologies, and I am sure that the FCA has other issues on which to focus.

We will return to match fixing in later debates this evening so I will not delay the House further on that point. In the interim, I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

7.45 pm

Amendment 3

Moved by ***Baroness Jones of Whitchurch***

3: After Clause 1, insert the following new Clause—

"Consultation on remote gambling advertising

The Secretary of State shall consult on the current regulatory position concerning advertising of remote gambling and other forms of online gaming activity where it is likely to be seen by, or influence, a child or children and shall lay a report of the findings before both Houses of Parliament not later than the final day of 2014."

Baroness Jones of Whitchurch (Lab): My Lords, Amendment 3 calls for a review of the effects of online gambling adverts shown to children before the 9 pm watershed. Our amendment calls on the Secretary of State to conduct an investigation into whether there are sufficient controls, and report back to Parliament.

Our amendment recognises that the world of gambling adverts has changed dramatically since the 2005 Act, which gave exemptions to adverts for betting on televised sporting events and for bingo. Since then, televised sports coverage has multiplied so that it is now possible to watch sports programmes 24 hours a day, seven days a week. This has coincided with the massive growth in online gambling, so rather than place a bet in a betting shop on the outcome of a race or a match, gambling is now carried out at home. It is instant, compulsive and has become more complex. It is no longer enough to bet on the outcome of a game, you are now encouraged to bet on the first no-ball, the first

corner, the first goal scorer and so on. This has been fuelled by the growth of spread betting with high stakes and winnings, but also potentially high losses.

As we have already identified, these days, viewers of televised sporting events are bombarded with betting adverts in the commercial breaks, with all kinds of tempting, and often misleading, offers for correctly predicting the run of play and the outcome. They capitalise on viewers' excitement and emotion in the moment.

Equally, in 2005, I do not think that anyone predicted the rise of online bingo. In its original form, bingo had a strong social aspect, providing a safe community activity, particularly for women, in predominantly working-class areas. However, online bingo has none of these attributes: it is solitary, repetitive and addictive. It is not surprising to discover that most online bingo adverts are on daytime TV, targeting those who are home alone.

There is a third development which was also not anticipated, which is the rise of gambling adverts throughout the day on social media and music websites, which by their very nature are targeting a younger audience. We know that gambling adverts are profitable and increasingly prolific. For example, between 2005 and 2012, while the total number of TV adverts almost doubled, over the same period the number of gambling adverts increased eightfold to more than 4% of the total adverts shown. It may be that a more general review of the regulation of these adverts is necessary, but our amendment seeks to address one aspect of particular concern, which is the exposure of children to these ads before the 9 pm watershed.

Of course, these adverts are not specifically targeted at children, and there are codes of practice that prevent adverts seeking to exploit young people or appealing to children. However, this is not the point. The fact is that children are being increasingly exposed to remote gambling adverts as they watch TV sport or daytime TV, or listen to music channels. We know that children will often be accessing these programmes without their parents being present, and we know that children are more computer savvy than their parents and can therefore be tempted to find ways to participate in these betting opportunities. We also know from other studies how susceptible children can be to adverts, which is why there are already restrictions on other adverts before 9 pm.

Following Committee, the Minister wrote to us on this issue and I am grateful to him for the letter. He referred us to an Ofcom report published in November last year and went on to say that its research suggests that the current arrangements are working well. I have to say to the Minister that I have looked at the report and it was far from reassuring. Instead, it showed that since 2005 children's exposure to gambling ads has increased by 272%, whereby in 2012 there were 1.8 billion views of these ads by children. Moreover, in 2012 children were exposed to more than 8% of all the lottery and scratchcard ads on music channels. I could quote more examples but the point is that I do not see anything in that Ofcom report that suggests that these statistics are acceptable.

The truth is that we do not know the extent to which children are influenced by these ads but we know that sports, bingo and social media ads are multiplying and becoming more sophisticated. This is why our amendment calls on the Secretary of State to initiate an investigation into the impact of these adverts on children and report to Parliament on her findings. We were therefore pleased to read at the weekend that the Secretary of State has now accepted the need to look again at the regulation of gambling advertising with the aim of providing better protection for children and the vulnerable. We were also pleased to receive yesterday a letter from the Minister confirming that an independent review will now be carried out, with the aim of implementing any changes in the autumn of this year.

It would therefore be helpful if the noble Lord could confirm today who will be involved in this review and who will make the ultimate recommendations to the Secretary of State. Can he also confirm whether the review will be underpinned by an open consultation? Can he reassure the House that Parliament will have the ultimate say on the proposals? Can he confirm the projected timetable for this review if it is anticipated that the changes will be implemented in the autumn?

It is in all our interests that we understand, while there is still time to act, whether these ads are encouraging a gambling culture among children. I hope that the noble Lord is able to reassure us that the Government are now prepared to take this issue seriously and have a robust and accountable review process in place. I look forward to his response on this matter.

Lord Clement-Jones (LD): My Lords, my motives in speaking to this amendment are entirely about probing further. I appreciated much of what the noble Baroness had to say about the opposition amendment and I am massively impressed by the growing consensus between the two Front Benches as the evening draws on.

However, the nature of the amendment is much narrower in scope than the review that the Secretary of State has promised. I am a little concerned about the sudden switch that has taken place. The noble Baroness referred to the letter of 22 January from my noble friend, as compared to the most recent letter of 3 March. There has been quite a turnaround, and we had the article from the Secretary of State in the *Sunday Times* last weekend. What concerns me is that this or any inquiry has to be firmly rooted in the evidence. I absolutely share what the noble Baroness had to say about the importance of child protection and the exposure of children to these gambling adverts but I do not want us to engage in some kind of moral panic when it comes to advertising to adults.

Gambling and the activities that take place, whether in casinos or remotely, are legitimate and it is legitimate to advertise them. Unless there a clearly established connection between advertising and problem gambling—from the research so far, it does not appear to be a major factor—I hope that this debate will be devoted largely to looking at the impact on children. There probably are conflicting views on the nature of the Ofcom evidence: the Advertising Association seems to be saying that only 42 seconds of advertising out of nearly 17 hours spent watching television each week is seen by 10 to 15 year-olds. I do not know whether that is the case or whether the figures that the noble Baroness,

[Lord Clement-Jones]
Lady Jones, cited are correct. If there is an issue here, we should definitely explore it. From his letter, I know that the Minister will clearly respond positively.

However, I am concerned, particularly when the Secretary of State makes a statement referring to a 600% increase in gambling advertising. I am not a mathematician; in fact, I am virtually innumerate but I know that if you use percentages such as that it can sometimes be from a very low base. Let us face it, between 2006 and now, remote gambling of the kind that is advertised so heavily has grown hugely as an industry, and it is hardly surprising that gambling advertising of that nature has increased in that period.

All that I am saying is that I hope that when the Secretary of State commissions this inquiry, questions of the kind being asked by the noble Baroness will be answered. I also hope that those answers will be firmly rooted in evidence and that we do not just rush to condemn gambling advertising per se, when what we are really after is the impact on the under-18s.

Lord Mancroft (Con): My Lords, I had not intended to intervene in this short debate but, after listening to my noble friend Lord Clement-Jones, I cannot resist doing do.

Looking around your Lordships' rather empty House at this late hour, I see that I am the only Member who sat on the joint scrutiny committee on the 2003-04 Bill, which became the 2005 Act. I remember the tortuous hours of evidence that we heard about the effects that this new phenomenon of gambling advertising would have. I do not make this as a party-political point but as a general political point: the Government of the day swept that aside. I heard my noble friend give a figure of a 600% increase but that was of course from a low base, which was zero; there was no advertising of this sort at that time. It was introduced under the 2005 Act, amid a lot of people—some sensible and some not so sensible—saying that it would cause awful mayhem. Of course, there is no mayhem and nightmare because the background is that we were also advised that we should take into account what is now called evidence-based policy, which is introduced on expert advice and allows the Minister of the day to avoid exercising his political judgment—probably the reason for which he was elected, but that is neither here nor there.

However, the reality is that this debate is the child of the 2005 Act, which was put through far too fast, not thought through and not based on evidence. Now we are in this Bill having in part to clean up some of the mess that the Act created—quite rightly, because that is what Parliament does from time to time. However, that is the history and everyone has to recognise that that is what happens when you legislate in haste.

Baroness Howe of Idlicote: My Lords, I add my support for the amendment in the names of the noble Baroness, Lady Jones, and the noble Lord, Lord Stevenson. Having listened to everybody's contributions, I think that what is really important here is the effect on children of this increased access to advertising. It provides an early start to children getting gambling problems, which then have to be sorted out, and that is what my amendment was seeking to address. I do not feel one way or the other about what other noble Lords have said but I think that the age of the children being exposed to this advertising is important. A 10 o'clock watershed would be ideal if only it could be applied to online activity, although we all know that it cannot. Nevertheless, other ways of checking this should certainly be looked at in detail.

8 pm

Lord Gardiner of Kimble: My Lords, I thank the noble Baroness for tabling this amendment in respect of gambling advertising, particularly because, as noble Lords have said, there have been some recent developments in this important area.

The Government recognise that the relaxation of restrictions on gambling advertising following the implementation of the Gambling Act in 2007 has led to a significantly greater volume of gambling advertising on television and in other media. Indeed, over the weekend my right honourable friend the Secretary of State expressed concern about some of these developments and outlined some of the actions that will be taken.

Although the nine o'clock television watershed arrangements—I think that the noble Baroness, Lady Howe, mentioned 10 o'clock but my understanding is that the watershed arrangements are from nine o'clock at night—have limited the exposure of children to such advertising compared with adults, children still see considerably more gambling advertising on television than ever before.

In addition, we have seen significant innovation in the gambling industry since the current regulatory controls were established in 2007. The codes, including the industry voluntary code, which govern gambling advertising are now applied across a much changed gambling landscape with the availability and promotion of new products which were not anticipated when the codes were devised. These technological developments have led to intense competition in remote gambling advertising, which has coincided with an increase in complaints about gambling advertising to the Advertising Standards Authority. It is timely, therefore, that the codes are re-examined to ensure that existing controls keep pace with developments in the market and that they remain consistent with public expectations about gambling advertising.

Noble Lords may be aware that the Government have been working for over six months with the organisations responsible for regulating gambling advertising to monitor the impact of developments and to consider whether the current controls remain adequate. In particular, I reassure the noble Baroness, Lady Jones, that this work includes both remote gambling advertising and other forms of online gaming activity, including online bingo. As a result of these discussions, I am now in a position to explain the four strands of work being undertaken, and to what timetable, to ensure that the regulatory controls on gambling advertising are properly examined, especially in relation to children and the most vulnerable. The Secretary of State particularly mentioned children and the most vulnerable.

I say to my noble friends Lord Clement-Jones and Lord Mancroft that it is absolutely key that this work is rooted in evidence and that there is a thorough

review. Therefore, the first of the four strands is that the Government have asked the Remote Gambling Association to co-ordinate an industry-led review of the voluntary Gambling Industry Code for Socially Responsible Gambling. As noble Lords will be aware, this code supplements the principal regulations on gambling advertising by providing industry standards in certain areas, including educational messaging and the 9 pm watershed arrangements for television advertising. The Remote Gambling Association has agreed to complete its review with a view to coming forward with any proposed revisions by the summer of this year.

Secondly, the Committee of Advertising Practice and the Broadcast Committee of Advertising Practice have committed to evaluate the findings of a new report into gambling advertising to consider what regulatory implications arise as a result. This report will be published by the Responsible Gambling Trust this month and will examine the available evidence on gambling advertising and its relationship with problem gambling. The committees will publish their findings on completion of this work, which could lead to changes in the principal codes controlling gambling advertising. The findings are expected by the autumn of this year.

Thirdly, the Advertising Standards Authority will undertake a review of its enforcement action on the gambling rules, taking into account internal intelligence, complaints statistics and trends to ensure that it is enforcing the rules proportionately and consistently. The ASA will communicate the outcome publically by the autumn of this year.

Finally, the Gambling Commission will consider what revisions might be necessary to the licence conditions and codes of practice to ensure that all gambling advertising continues to comply with the licensing objectives of the Gambling Act. This work will be principally focused on ensuring that free bets and bonus offers are marketed in a fair and open way by the gambling industry.

I hope that that provides noble Lords with the reassurance that significant activity, which can have a real impact, is in hand. To my noble friends in particular, I emphasise that this will be rooted in evidence, and there are four strands to it. The terms of reference for the reviews are currently being defined and will be made public by the spring.

I am confident that the multi-agency approach will provide the comprehensive and robust examination that is necessary. As regards the point made by the noble Baroness, Lady Jones, about consultation, the Government intend to involve all relevant stakeholders during the review. Any statutory regulations would be preceded by consultation and the Government will confirm their position by the end of this year. They will consider the findings of the review before determining what further action may be necessary and will confirm their position by the end of the year. I will arrange for a summary of the findings of the reviews and the Government's response to be placed in the Libraries of both Houses as soon as they are available but definitely by the end of this year. I very much thank all noble Lords for contributing to the debate. On this basis, I hope that the noble Baroness will feel able to withdraw her amendment.

Baroness Jones of Whitchurch: My Lords, I thank very much noble Lords who have spoken in this debate and the Minister for his reply. I echo his view that of course any proposed changes should be based on evidence and empirical research, which has been somewhat lacking in the past. Therefore, there is a rather urgent need to address that issue. Nevertheless, I welcome the change in mood and position from the Secretary of State and the Minister over the past couple of months. It has been a very welcome conversion on the road to Damascus. I also welcome the detail that the Minister has spelt out in terms of the steps that will now be taken. I suppose I have a remaining concern that, although the Minister described them as four strands, there very much is a need to pull those four strands together and to pull them into an ultimate set of recommendations. I am taking him on slight trust that that certainly is the intention of the Secretary of State and that we will end up with one set of recommendations regardless of the four pieces of work that are taking place. I very much welcome the commitments that the Minister is now able to give.

When a Bill is over, there is a tendency sometimes in this House for it to be out of sight and out of mind but in this case we will pursue the Government as regards the work that is taking place over the coming months and try to hold them to account for the commitments that they have given. In the spirit of co-operation and working on the basis of trust, I take the Minister's good word on this matter. Therefore, I beg leave to withdraw the amendment.

Amendment 3 withdrawn.

Amendment 4 not moved.

Amendment 5

Moved by ***Viscount Astor***

5: After Clause 1, insert the following new Clause—

"Power to extend the horserace betting levy to overseas bookmakers

(1) The Secretary of State may by regulations amend any provision or provisions of the Betting, Gaming and Lotteries Act 1963 (at a time when the provisions listed in section 15(1)(a) to (c) of the Horserace Betting and Olympic Lottery Act 2004 (horserace betting levy system) have not been entirely repealed by order under that section), the Gambling Act 2005 and/or the Gambling Act 2005 (Horserace Betting Levy) Order 2007/2159 for the purposes of ensuring that each person who holds an operating licence under the Gambling Act 2005 which authorises that person to provide facilities for betting shall be—

(a) liable to pay the bookmakers' levy payable under section 27 of the Betting, Gaming and Lotteries Act 1963; and

(b) subject to the provisions of section 120 of the Gambling Act 2005 (as modified in accordance with the Gambling Act 2005 (Horserace Betting Levy) Order 2007/2159) if that person is in default of such bookmakers' levy.

(2) Regulations under this section must be made by statutory instrument.

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

Viscount Astor (Con): My Lords, I should start by thanking my noble friend Lord Clement-Jones, and the noble Viscount, Lord Falkland, for moving this amendment in Committee. I also thank the noble

[Viscount Astor]
Lord, Lord Collins of Highbury, for his support for the amendment. I should apologise for missing Committee but after joining the Prime Minister on his trip to China in December, I was called back to Beijing in January and so missed that stage.

My amendment produced an informed and generally supportive debate. The Minister concentrated his response by saying that now was not the right time to replace the levy and that a reform was needed to be considered across the whole system. I absolutely agree but my amendment does not seek to reform the levy. I agree that there should be a major reform that takes in all aspects of the issues that surround racing, whether it is on-course betting, off-course betting, offshore or onshore betting, betting exchanges, media rights or issues of state aid.

My amendment is simple. It allows the Secretary of State to bring in legislation to encompass offshore bookmakers who do not presently pay the levy. Racing is losing about £10 million a year that it is entitled to. That word "entitled" raises the question of why. There is a simple analogy. If the Government are going to regulate those based overseas on areas such as problem gambling and integrity on bets on UK sports, that shows that there is already that reach and the entitlement. My amendment does not force the Government to do anything but if they want to support racing they could use it. It does not cost any money and, in fact, it would provide an addition to the Treasury coffers. The reason it is important for racing is that we know that there is no time to legislate this Session. Therefore, the earliest time will probably be half way through the next Session of Parliament, by which time racing will have lost out on nearly £100 million of income.

I read carefully the Minister's response in Grand Committee. He said that my amendment was too narrow in its scope. That may be so, so I look forward to the Government widening and improving it. The Minister said that the levy is regarded as state aid by the EU. I think we all agree with that. However, my amendment does not change anything. It just allows the levy to be collected as it used to be from all bookmakers. It is not necessarily a substantive change to the existing system as some have claimed. If permission is required from the European Parliament, the Government can ask for clarity before they proceed. After all, that is what the French did and it worked. If accepted, the amendment would allow the Government to continue their discussions with the European Commission.

My amendment supports the racing industry. Following the very useful discussions I have had with the Minister of Sport, Helen Grant, I understand that my noble friend might be able to reconsider his earlier response. I look forward to his reply. My amendment would put bookmakers based in the UK on an equal footing with those based abroad. It would allow the Government, if they wish, to remove the unfair competition that those based abroad currently enjoy and which benefits racing. I beg to move.

Lord Clement-Jones: My Lords, I rise briefly to support the principle of my noble friend's amendment. It would be especially suitable for the Minister to take heed of it as it is the Chinese year of the horse. My noble friend spent some time in Beijing, so clearly he was inspired by the horse to put forward the amendment.

The question is whether we are going to miss the boat. The opportunity has been taken to hang off the architecture of the Bill a number of amendments that do not necessarily relate to remote gambling. It is incumbent on the Minister, if he is going to avoid further and perhaps unwanted amendments, to reassure those of us who see a boat going by without the opportunity to make desirable amendments, because we know that there will not be another gambling Bill for another five years or so. This is one of the issues that we face. I hope that the Minister will be able to give us an assurance on the ability of the Government—or any Government—to institute a new, improved form of levy that safeguards the future of the industry, without it being incorporated in the Bill. Otherwise, it will make reserved powers very attractive as a mechanism for introducing a future form of levy. That is a dilemma.

This evening, the Minister very adroitly proceeded by way of voluntary agreements and assurances in a number of areas, or by actions that do not require primary legislation. I hope that this will be another such instance. However, it is a subject of considerable anxiety in the racing industry and I very much hope that the Minister will be able to satisfy all those who want to see some action going forward in this case.

8.15 pm

Lord Collins of Highbury (Lab): My Lords, I am very pleased to associate myself with this amendment. I hope that my new alliance with the noble Viscount will produce positive results tonight. Perhaps it is a sign of things to come and we can co-operate on other issues.

What the noble Lord said reminded me that, in the Chinese zodiac, I am in fact a horse. However, that does not mean that I support the amendment simply from a vested interest point of view. Many people have placed a bet on a horserace at one time or another, but I suspect that few realise that racing is the second largest sporting employer, supporting a predominantly rural industry that makes a significant contribution to the UK economy.

As we have heard, the purpose of the amendment is to capture the revenue that should be paid, as Parliament has already determined, from all betting operators that take online and telephone bets on racing in Britain, wherever they are located. I pay tribute to my honourable friend Clive Efford in the other place, who has consistently raised this issue. The change, as we have heard, could be worth up to £20 million a year to British horseracing, and would undoubtedly lead to a healthier sport, and to more investment, growth and jobs.

Too often, people focus just on the prize money and do not see the work of the board and the training, education and employment initiatives that the levy supports, year in and year out. Nor do they see the broader picture of how the industry has a direct link to building sustainable rural economies. Why should offshore betting operators and those in betting shops pay the full levy while others who are based overseas and do not have a voluntary agreement pay nothing?

In Committee, we heard the argument that any reform of the levy to capture revenues under a point of consumption licensing regime would constitute state aid. As the noble Viscount pointed out, that interpretation is not accepted by the British horseracing industry—and nor, following the ruling of the European Commission, is it one that we need to accept. The French raised the issue and we have had a decision on it.

This sets a precedent that I understand is being reviewed by the department's lawyers. Clearly it is better that we should rely on new legislation rather than just have another round of disputes following messy court cases. I agree with the comment that in the long term, the Government may want to consider a more modern and commercial framework for the levy. That is something that I know the industry would support. However, with the best will in the world, the sport will be waiting several more years for that, all the while losing out on a vital source of income. Action has long been required and Ministers must not simply allow this once-in-a-Parliament opportunity for primary legislation to pass.

Clearly, there is a strong argument for further consultation and assessment of the implications of the European Commission's warning on state aid. However, I would ask the Minister to begin consultation on levy reform as soon as possible and to include all options, particularly the option for a "horseracing right". As the noble Viscount said, the amendment is about the reserve power to allow that to happen, giving the Government the opportunity to consult the Commission and, if that route of action is considered the right one, the power to act. I look forward to hearing the Minister's response.

Lord Gardiner of Kimble: My Lords, my noble friend's amendment seeks to give the Secretary of State reserved power to extend liability to pay the horserace betting levy to offshore remote gambling operators. We have had some useful discussions about the future of the levy at all stages of the Bill, including some particularly interesting ones in Committee. They have been extremely valuable and I want to reassure your Lordships that the Government have been listening. I am grateful to all noble Lords for the constructive discussions we have had.

We agree with the view that while we still have a statutory levy, it should be fairly applied. Furthermore, we are persuaded that including a clause about extending the levy to offshore remote operators is fully in keeping with the context and purpose of the Bill. We will therefore bring forward a government amendment at Third Reading which will remedy your Lordships' concerns about ensuring a level playing field between onshore and offshore betting operators in terms of the levy. With the consent of the House, this amendment will give the Secretary of State power to use secondary legislation to secure extension of the levy to offshore remote operators. I shall ensure that all noble Lords who have expressed an interest in this matter during the Bill's passage are invited to a briefing on the detail of the amendment before Third Reading. Bringing forward a government amendment will complement the work which, as I mentioned to your Lordships, is already under way to seek clarity on the state aid issues from the European Commission. The Government will consult on implementing an extension before any secondary legislation is brought before Parliament.

The Government want British racing to continue to thrive. I know from my own experience just how important racing is to so many in the countryside and of course in all communities—not only its economic impact but the pleasure it gives to so many millions of people. Extending the levy to offshore remote operators will help achieve the objective we all share. I want to say particularly to the noble Lord, Lord Collins of Highbury, that bringing forward a government amendment about extending the levy in the way that I have described does not of course close down options for wider levy reform or replacement. This is very much work in progress.

The Government have committed to bringing forward an amendment at Third Reading which will achieve the outcomes being sought tonight. Consequently, I ask my noble friend whether he will withdraw his amendment.

Viscount Astor: My Lords, I am particularly grateful to my noble friend for his response and I thank him for all the help that he has given me. I also thank the officials in his department for all the help that they have given on this issue. It has been extremely useful and we have come to a very satisfactory conclusion.

I think that all noble Lords agree that we want a commercial relationship between all the entities that comprise the racing industry. However, we need the Government to take a lead. If they do not, I am afraid that the industry will not come up with a solution itself, as there are too many vested commercial interests at play. I hope that the Government will consider setting up a consultation process with all involved in the racing industry to consider how best to put this new commercial relationship in place to replace the levy at a point in the future.

I should have declared an interest in that I own one and a third legs of a three year-old. I have to say that, on its current form running as a two year-old, I do not think it will be contributing to the levy or indeed benefiting from it. However, I am ever hopeful, and if your Lordships are interested in contributing to the levy, it is called Squaw King—it is trained by Eve Johnson Houghton and I very much hope it will run in May. In the mean time, I thank all those who spoke in this debate, particularly my noble friend and the noble Lord opposite. I thank the Minister and beg leave to withdraw the amendment.

Amendment 5 withdrawn.

Amendment 6

Moved by ***Lord Clement-Jones***

6: After Clause 1, insert the following new Clause—

"Facilities for remote gambling

(1) Section 235 of the Gambling Act 2005 (gaming machine) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (h)(ii), leave out "and", and

(b) in paragraph (i)(iii), at the end insert ", and

"(j) a machine is not a gaming machine by reason only of the fact that it is remote gambling equipment (within the meaning of section 36) which is made available for use in a casino".

(3) After subsection (2) insert—

"(2A) The Secretary of State may make regulations providing for the nature of, and circumstances in which, remote gambling equipment to which subsection (2)(j) applies (a "casino remote terminal") may be made available for use in a casino.

(2B) Regulations under subsection (2A) may, in particular, provide for—

(a) a casino remote terminal to be constructed or adapted so as to—

(i) only permit users to gain access to remote gambling facilities; and

(ii) not be capable of accepting or processing any form of payment; (other than any payment made by the user via an online account to the provider of the remote gambling facilities),

(b) the maximum number of casino remote terminals which may be made available in a casino,

(c) the location within a casino where, and circumstances under which, a casino remote terminal may be used,

(d) any other matter.""

Lord Clement-Jones: My Lords, as I pointed out in Grand Committee, during pre-legislative scrutiny of the Bill, the Culture, Media and Sport Select Committee made a cross-party recommendation to the Government to amend the Bill to allow British bricks-and-mortar casinos to offer their online gaming products within their own premises.

Currently a regulatory anomaly means that people can play on remote internet sites using their own mobile phones, tablets or laptops, whether in their homes, on the move or in any public or private place, including inside a casino. However, while under existing regulations onshore casino operators can and do hold remote licences which permit them to advertise their online products in their casinos, these licences do not allow operators to indicate that the product is available from any internet-linked computer within their casinos or advertise their online sites on or around an actual computer with internet access supplied by the operator. In other words, it is currently illegal for a casino to offer a customer access to their own legitimate online business if the customer is inside their bricks-and-mortar business.

It seems commercially illogical that the most rigorously controlled premises, intended by statute to be at the top of the regulatory pyramid, are not permitted the most up-to-date technological products. This amendment would simply provide a synergy between the casino's online and land-based products, already recognisable to casino customers, in a similar way to land-based bricks-and-mortar retailers, such as John Lewis, which offers its products in store and via an online facility inside its land-based stores.

More importantly, it is also a missed opportunity to undertake research and player protection in that the product itself will not be available in terrestrial casinos, which are required by law to have the most rigorous control measures. All casino gaming staff are licensed by the Gambling Commission; all staff, including all food and drink and administrative personnel, are trained annually in responsible gambling practices; and effective policies are in place to protect the young and vulnerable. UK terrestrial casinos already provide their customers with laptops, iPads and computers, which are available in their business-style lounges, and the products that could be offered through this amendment are not slot machines.

The Government's intention appears to be to continue to categorise internet terminals supplied by operators in casinos as gaming machines—probably category A machines—while allowing the use of precisely the same devices owned by customers in those casinos without restriction. The idea that consumers accessing their own accounts on a gambling website should have the content controlled simply because it is in a different area of the same building and on something called a category A gaming machine provided by the operator rather than on their own internet access device adds nothing to player protection and is confusing for the consumer.

In Grand Committee the Minister raised a number of concerns, notably around the perceived lack of controls over how remote terminals might develop. This new amendment seeks to respond to all those concerns. It defines the exact nature of a remote gaming device and addresses the concerns raised by the Minister by placing the responsibility for all associated decisions solely with the Secretary of State. It provides the Secretary of State with the power to stipulate not only the maximum number of remote terminals within a casino but the location where and the circumstances in which a remote terminal may be used, as well as a remote terminal's specific use and appearance and the fact that these machines would not be capable of accepting or processing any form of payment. To go one step further, the revised amendments would even enable the Secretary of State to provide for any other matter. I really believe that this new amendment would provide DCMS with all the safeguards it requires.

8.30 pm

These proposals can realistically be achieved only through primary legislation. I noted what the Minister said in his letter and understand that he still says that the changes the industry desires to allow remote devices in casinos can be achieved by the secondary legislation route. However, that is very much not the preferred route of the industry. As I said, it leads to all the complications of designating these machines as category A. I believe that that position has been repeated to the National Casino Forum by officials and the department's lawyers, but without any detail given about how secondary legislation could be effective. There are considerable uncertainties about this route. Surely trying to do this via just secondary legislation would add an unnecessary layer of complexity and uncertainty, whereas this amendment would give clear definition to the changes.

I very much hope that my noble friend will agree that this amendment offers and provides all the necessary safeguards, including going further with the provision for the Secretary of State to regulate on any other matter. In conversation, the Minister used the phrase "unforeseen consequences". However, as an enabling piece of legislation that does not necessarily need to be brought into effect, it is simply there for use if it is decided that that is the way forward. That would seem

to cater for all unforeseen circumstances. In many items of government legislation—I think of the Digital Economy Act as merely one—quite often sections are not brought into effect where the Government, on mature reflection, believe it is right to not do so. I very much hope that the Government will accept this amendment on the basis that it is perfectly possible to have a clause in the Bill and then maturely reflect on whether it is the right way of dealing with an issue. I believe that it is. Eventually, if the Government incorporated it, it would be a sensible addition to the remote gambling provisions. I beg to move.

Viscount Astor: My Lords, my name is attached to this amendment as I fully understand the arguments made by the casinos sector. It is in what one might call an unfair position at the moment. I understand that my noble friend the Minister is not unsympathetic to those arguments.

As I understand it, the difficulty is that the department, while having what one might call fruitful discussions on the issue, believes that the solution can be progressed safely and satisfactorily through secondary legislation. Of course, it would be helpful if the outline of that secondary legislation could be agreed before we get to Third Reading but I accept that this is a complicated area—the more so as one looks at it and realises what can be accessed online, whether with one's own machine or one provided by a casino. I understand that the Government want to get this right.

I presume that my noble friend the Minister will want to come back again and say that secondary legislation is the right way to proceed with this issue. I will accept his assurance provided that he can give one bit of comfort to us: that, once this Bill has completed its passage through the House, the issue will not be kicked into the long grass and forgotten but will still be dealt with. It should be looked at carefully and as speedily as possible. I am sure that it will be, so that we can have a solution that is satisfactory to all those concerned.

Lord Mancroft: My Lords, I, too, put my name to the amendment in Grand Committee. Amazing though it may sound to your Lordships, the Prime Minister manages to travel the world without my company so, unlike my noble friend Lord Astor, I cannot claim that I was in China. I cannot actually remember where I was, but it was not in China.

There is no need to explain the background: my noble friend Lord Clement-Jones has done that adequately. Reading the *Hansard* of Committee stage to prepare for this evening, I noticed that my noble friend Lord Flight—who, sadly, is not in his place this evening—described the anomaly that my noble friend Lord Clement-Jones talked about and which the amendment is intended to address as a silly anomaly. Nonsense, he called it. He said that the amendment in its previous incarnation was straightforward and common sense. That was quite right. He also described the Government's position at the time as pretty silly, and he was quite right about that too.

In Committee, the Minister talked about basing remote gaming around existing machine rules—I think I have quoted him correctly on that. It was that which really drew my attention to this, because I have history on legislation in gambling regulation. That is the sort of thing that leads to ineffective and bad regulation. That is exactly what the previous Government tried to do when a new class of gaming machine came out. That is the problem that we now have with what are called fixed-odds betting terminals, which are not betting terminals at all: they are gaming machines. It is really important when new machines and new forms of gambling appear that we regulate them correctly and do not try to fit them into boxes that are not really there. That is what I would call the DCMS's attempt at the King Canute style of regulation, holding back the waves of new technology. That is what we did before and we must be very careful not to do it again in this case. My noble friend Lord Clement-Jones's amendment is an attempt to address that.

In truth, I think that the Government have now accepted the principle of what my noble friend's amendment is intended to do; I hope that they have. The debate before us this evening is really about whether it is better to put it in primary or secondary legislation. I know that, originally, the Government's view was that this was not the right legislative vehicle. I have heard that before so many times. I am not quite sure what the right legislative vehicle is, but I am absolutely certain that the general public do not care; they just want it done. As my noble friend Lord Astor said, the right legislative vehicle—any legislative vehicle—does not come along very often, so when one comes along, you want to grab it.

If the amendment is to be withdrawn and the Government are to move forward in a different direction, the Minister should give your Lordships a commitment on a timetable, so that this does not just drag on and on, as issues have before. The problem with secondary legislation is that it is impossible to amend. If that is the route that the Government are determined to go down, my understanding is that the industry is not happy with it and would much prefer primary legislation but, obviously, like any industry, it will take what it can get. It seems to the industry, and it certainly seems to me, that primary legislation is the right vehicle for this. Unless the Minister can give us a very good reason why it is not, that is what we should do. There is quite enough flexibility in the provision. I think that your Lordships deserve the Government's commitment to a timetable and to flexibility for the industry to make sure that we get this right. Unless we have those commitments, I see no reason not to take the view of my noble friend Lord Clement-Jones and pass the amendment. I look forward to hearing the Minister's response.

Lord Gardiner of Kimble: My Lords, first, I thank my noble friend for his amendment and all my noble friends who have spoken to it. It is intended to allow the casino sector to introduce its specific remote gambling product into casino premises. As I said in Grand Committee, the Government are not opposed in principle to that, provided that appropriate player protections are put in place. We remain concerned that any changes should be effected within existing machine regulations so that appropriate controls can be put in place, rather than outside them in primary legislation, which this amendment would cause.

[Lord Gardiner of Kimble]

I have looked into this issue carefully and particularly because, on the face of it, this seems like a simple change to current arrangements by allowing casinos merely to promote their own online games within their premises. On further reflection and in reality, however, this is a more complex change that would introduce credit card play into the casino environment for the first time and permit far broader sports betting. It could also allow casinos to develop even more sophisticated remote gaming machines without the proper controls afforded by machine regulations.

Casinos are already able to offer remote gaming devices in their premises within existing machine controls. Those regulations create a carefully crafted hierarchy to ensure that machine-based play can be offered only with appropriate player protections in place. Player protections are a key part of this; they include restrictions on the number of machines, their location and the circumstances under which they can be used. I acknowledge that my noble friend Lord Clement-Jones is absolutely right to say that casinos are at the top of the regulatory pyramid. However, I also hope that noble Lords will agree that it is incumbent on the Government—indeed, that the Government have a responsibility—to consider carefully the impact of any new gambling arrangements, to ensure the avoidance of unintended consequences and an increase in problem gambling. My noble friend Lord Mancroft mentioned the way in which developments can take us and given the pace with which gaming technology develops, this is not merely a theoretical risk.

The casino industry recognises that any changes need to be made subject to appropriate player protections. We welcome this, as it reflects the very constructive dialogue that officials have had with the industry to date on this issue. This is also acknowledged in my noble friends' amendment, which gives the Secretary of State power to make regulations for the nature and circumstances in which remote gaming machines can be used in casinos. This brings us much closer to the current regulatory structure and, in our view, it is difficult to see the need for primary legislation. Indeed, there would be a real risk of introducing regulatory anomalies in the existing primary legislation route.

For these reasons, the Government do not think that taking remote devices outside existing regulation is the right route to tackling this issue. The Government consider that this issue is best progressed instead through the ongoing and very constructive discussions with industry, and that any changes implemented can be done through secondary legislation. I emphasise that the Government are actively engaged in constructive discussion with the casino industry and the Gambling Commission to consider the appropriate legislative and regulatory tools that would need to be put in place. I understand entirely that the industry would like to have primary legislation as its first objective but it has acknowledged that secondary legislation is a viable option to pursue these proposals.

My noble friends Lord Astor, Lord Mancroft and Lord Clement-Jones quite rightly asked for some assurances. The discussions are scheduled to conclude at the end of this month and Ministers will then consider the outcomes. This is very much a live discussion and I give those reassurances to my noble friends. I also emphasise to your Lordships that the Government are not ruling out change but that we think we need to approach this in the right manner and ensure that such changes are made through an existing regulatory framework that applies to gaming machines while bringing proper scrutiny, assessment, consultation and—this is paramount—consumer protections. It is for these reasons and because I think that there is another route for this that, while I understand what my noble friend would prefer, I ask him whether he might withdraw this amendment.

8.45 pm

Lord Clement-Jones (LD): My Lords, I thank the Minister for that response, albeit that it was somewhat disappointing in the circumstances. It was somewhat circular, in that he said that we must have appropriate player protection and the appropriate protection is that provided by secondary legislation, so we go around the loop that says that secondary legislation must be the way forward. Yet the Minister almost admitted himself that the amendment reflects a lot—in fact, most if not all—of what could be reflected in secondary legislation.

The Minister described the discussions taking place with the industry as ongoing and constructive, but to date the industry itself has found them to be ongoing but frustrating because of the insistence on bringing the whole issue within secondary legislation and categorising these terminals as machines subject to all the existing secondary legislation, rather than finding a new and more flexible way of dealing with them. However, it is not incumbent on me to keep bashing my head against a brick wall. I very much hope that the Minister's discussions will be rather more fruitful than they have been to date. From the timescale, I fear that we will have had Third Reading in this House by the time that his discussions come to a conclusion.

The Minister said that it is incumbent on the Government to consider the consequences of any new arrangements and that there are complexities surrounding these issues. I must be very simple-minded because I cannot see that the matters are quite so complex. I feel that the Minister is busy building the barricades as we speak. In fact, the barricades seem to be much higher on Report than they were in Committee; I was rather more impressed by his reply then than I have been on Report. I live in hope, though, and, in the mean time, I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Amendment 7

Moved by ***Lord Browne of Belmont***

7: After Clause 1, insert the following new Clause—

"Remote operating licence

(1) Section 89 of the Gambling Act 2005 (remote operating licence) is amended as follows.

(2) After subsection (1) insert—

"(1A) The Commission shall hold a list of persons who have registered to be excluded from access to remote gambling websites.

(1B) It shall be a condition of a remote operating licence that an operator must exclude any person access who has registered for self-exclusion with the Commission under subsection (1A).""

Lord Browne of Belmont (DUP): My Lords, the Government have been very clear that this Bill is about consumer protection. As others have noted, this was made very clear by the Minister, Helen Grant MP, in another place when she said that the new licensing proposals address,

"the fundamental purpose of the Bill, which is to enhance consumer protection by ensuring that all operators offering remote gambling in Britain are regulated by the Gambling Commission, whether they are based in Britain or overseas".—[*Official Report*, Commons, Gambling (Licensing and Advertising) Bill Committee, 19/11/13; col. 75.]

As has also been pointed out, though, that statement makes sense only if the new requirement for all online gambling providers based beyond the UK to obtain a UK gambling commission licence is backed by a parallel provision preventing those that do not have a licence from accessing the UK market.

In that context, the main effect of the Bill, far from enhancing consumer protection, is actually to place it under greater pressure by dramatically widening the scope for online gambling advertising in the UK. Rather than enhancing consumer protection, the Bill's principal implication will consequently be to make the British people more aware of gambling opportunities, and not just any such opportunities but opportunities associated with a far higher problem gambling prevalence figure than gambling generally. While the basic 2010 problem prevalence figure was 0.9% for online, it was over 9% on an annual basis and over 17% on a monthly basis.

Mindful of that, I find the intervention of the Secretary of State over the weekend rather odd. She has said that she wants to clamp down on gambling advertising, yet her department is at the same time introducing dramatic online gambling licensing liberalisation. I am genuinely at a loss to know how these two commitments fit together. Estimates differ, but it is widely recognised that the UK embraces about 450,000 problem gamblers. That may not seem very many as a proportion of the total population, but it is a very significant number of people in absolute terms. We rightly devote very considerable care and attention to other social challenges that affect similar numbers of people, yet we do not seem to accord problem gambling the same level of concern or attention.

Problem gambling is a very debilitating condition that takes over people's lives and destroys them. Last week, I was privileged to hold a briefing on this amendment in the Palace of Westminster that was addressed by two recovering problem gamblers who bravely shared their stories. Justyn, aged 45, and Dino, aged 36, developed gambling problems relatively recently, within the past four years or so. Of particular interest for the purposes of the Bill, which liberalises online gambling advertising, is that they both began online gambling in response to adverts they had seen promoting free bets. In one case, the advertising was at a sporting event; in the other, it was on a bus. The destructive impact of problem gambling on both was remarkably similar. They got into difficulty relatively quickly and ended up losing their jobs and families and became hugely involved in debt.

They both said that one of the problems with online gambling is the fact that it is available 24/7 with no natural barriers, such as those pertaining to a betting shop. You do not have to leave the house to gamble, and there is no closing time. They also highlighted that it is an enormously solitary experience without any kind of accountability to fellow humans. One of them even ended up selling his son's christening presents to raise funds to feed his habit. It is a matter of great concern to me that this Bill, which is supposed to be about consumer protection, not only proposes making life much more difficult for problem gamblers, such as Justin and Dino, but completely fails to take any balancing or compensating steps to help them.

In this regard, the failure to do so is further compounded by the fact that online gamblers are already seriously disadvantaged in terms of the support available to them when compared with terrestrial gamblers. One of the key mechanisms for helping problem gamblers is self-exclusion. Problem gamblers, like other addicts, experience days when they are stronger and days when they are weaker. On a stronger day, a problem gambler can get around the five betting shops in his town and self-exclude for a fixed period—say, six months—and thereby cut himself off from local gambling opportunities for the period in question, during which time he can seek help and try to put his life back together again. Crucially, however, the same provision does not have the same effect for online problem gamblers. On a strong day, the online problem gambler can self-exclude from five online gambling providers, but he cannot cut himself off from all locally available online gambling opportunities because there will still be hundreds, if not thousands, of online gambling providers that remain equally accessible from his bedroom.

Not only do online problem gamblers have to exclude themselves far more times to cut themselves off from locally available gambling opportunities, they would have to self-exclude to an extent that is physically impossible. Mindful of the fact that self-excluding once is a difficult step for a problem gambler to take, the idea of doing it hundreds, if not thousands of times, simply is not credible.

Given this problem, it is my firm belief that we should provide online problem gamblers with the credible form of self-exclusion promoted by my amendment. Amendment 7 proposes that instead of trying to self-exclude from multiple online gambling websites, online problem gamblers should have the option of self-excluding just once to the Gambling Commission. The Gambling Commission would then relay the self-exclusion to all online providers with Gambling Commission licences and all such providers would be required to honour the terms of the self-exclusion as a condition of their licence.

The need for a one-stop shop online self-exclusion mechanism was demonstrated clearly through the testimony of the online problem gamblers who came to Parliament last week. Justyn Larcombe said that had a one-stop shop self-exclusion mechanism been in place in 2012 it could have saved his marriage. Justyn, with the support of his wife, made the difficult decision to self-exclude from the online gambling site he had been using. The reality of his self-exclusion provided both Justyn and his wife with a real sense of security. It was, however, only a matter of time before he saw adverts for other online gambling websites and,

[Lord Browne of Belmont]
three months on, he had been fully set back into using alternative sites. When his long-suffering wife found out, that was it; she left him.

Dino Panayi, meanwhile, explained how he had managed to self-exclude from 25 websites but, in words that all too eloquently sum up the problem, he said:

"The problem is, there is always another website".

Again, he was adamant that a one-stop shop self-exclusion mechanism would make a real and practical difference to their lives. Of course, neither was suggesting that the one-stop shop was a magic wand that would liberate them from their problem, but they were both very clear that it was one relatively simple step that could be taken and would make a clear, positive impact on their lives. They could not understand why the Government had not already intervened to introduce a one-stop shop, and were shocked that the Government had whipped against an amendment proposing this change in the Commons.

I find it extraordinary that the Government should introduce what is, in effect, our first Bill specially on online gambling without seizing the opportunity it presents for dealing with the long-term disadvantaging of online problem gamblers. I find it even more extraordinary that the Government should instead use the Bill to make life much more difficult than is already the case for online problem gamblers in the United Kingdom by introducing far-reaching online gambling liberalisation, so that any provider anywhere in the world can now advertise so long as they get a Gambling Commission licence.

Amendment 7 presents your Lordships' House with the opportunity of ensuring that this, the very first piece of legislation specifically on online gambling, seizes the opportunity to address the historic disadvantage of online problem gamblers. Amendment 7 also provides a means of balancing the online gambling advertising provision in the Bill, which will make life much more difficult for online gamblers, with a provision that would at least provide some assistance. I beg to move.

Lord Phillips of Sudbury: My Lords, I support the amendment. Gambling is an extraordinary business, and it is never more so than when otherwise sensible, able people become addicted to it. I was present at the meeting kindly organised by the noble Lord, Lord Browne, and I was very moved by the testimony of the two men there who had fallen prey to this addiction. One was a Regular Army officer who was thereafter a senior figure and shareholder in a City business; the other was an engineer who had been a broadcast disc jockey. Listening to those two men—who were being extraordinarily brave, forthright and frank—drove home to me the sheer loneliness and social isolation that goes with the addiction to gambling and what an awful business it is.

I then read Section 1 of the Gambling Act 2005, which is substantially amended by the Bill. This section —in Part 1 of the Act, which is headed "Interpretation of Key Concepts"—under "Principal concepts", says:

"In this Act a reference to the licensing objectives is a reference to the objectives of"—

the third of which is:

"protecting children and other vulnerable persons from being harmed or exploited by gambling".

The people we are talking about in this amendment are "other vulnerable persons", and they are harmed and exploited by gambling and exploited by the companies that run these betting opportunities. They are ruthless in the way that they advertise. They go straight for the jugular. They care not what happens as long as their betting odds come piling in.

9 pm

I do not see what objection there can be against a one-stop shop as described by those two gamblers. It is an opportunity, by a single voluntary act of self-exclusion, to be safe from all the gambling outlets. That, of course, overcame the reservation that I first felt about this amendment and which others may feel about it—namely that it tinkers with the freedom of the subject. It does no such thing because the subject—the addict—has to self-exclude. Nobody is forcing it on the addict. Surely we must help the addict self-exclude where they want to do so, and not leave a vast vista of opportunities unchecked for the reasons so well explained by the noble Lord, Lord Browne.

I hope the Government will accept this amendment, because to leave it for further consideration, deliberation or consultation is not good enough. The incidence of addiction gambling is growing. Its consequences do not just affect the addicts but, of course, directly affect their families and their creditors. I therefore hope very much that the Government will listen.

Baroness Howe of Idlicote: My Lords, I also support the amendment in the name of the noble Lord, Lord Browne. He put the case so clearly, as did the noble Lord, Lord Phillips, that I find it very difficult to think of any further reasons at all for not accepting it. He and the noble Lord, Lord Phillips, were present at that gathering where we heard, as has been said, these incredible addicts talk extremely frankly about their own addiction and what situations it had caused for them and their families and about the total horror of all that. I therefore hope the Government will realise that there is a role for what is proposed in the amendment and take on board just how important it is to make certain that it is included in the Bill.

The Lord Bishop of Chester: My Lords, I associate myself very closely with the speech of the noble Lord, Lord Browne, and that of the noble Lord, Lord Phillips, so I will not repeat the points they made. Noble Lords will realise that it is quite rare for Members from this Bench to quote the scriptures. For understandable reasons we are a bit coy about doing that. However, I cannot avoid going to a verse from the First Epistle to Timothy, which says that,

"the love of money is the root of all evil".

There is great truth in that. The lure and attraction of wealth so often lies behind the person who turns gambling from an innocent pastime into an obsession, an addiction or whatever. A responsible society has to do what it can to protect people against these false gods and false goals. When you get into the digital world, you simply raise the stakes, to use a gambling analogy. If I am a problem gambler and I have to walk

down to the betting shop in Chester, there is a natural restraint—there may be only two or three people there and they will wonder what I am doing when I walk through the door. But if those restraints are taken away, you have to be cognisant of the potential dangers.

I often think that we are now, in the digital age, in a digital version of the wild west, where there was all the excitement and discovery and all the positive aspects in America when it opened up, but the reality of law and order had to come in later. We must provide proper protection to people in the online world.

I shall briefly refer to a completely different area that concerns me very greatly—the way in which the internet is used in relation to pornography. The noble Baroness, Lady Howe, has talked about this on previous occasions. I have had a particular problem with two or three clergy in my diocese who have innocently thought that accessing child pornography on the internet was somehow not as serious as interfering directly with an actual human being. Of course, the law quite properly says that accessing child pornography on the internet is to be complicit in the actual original abuse. People have that sort of innocent view of the internet so often. The more checks and balances that we can introduce, the better.

If the net effect of this Bill is that the advertising of online gambling is much more in our face and much more prevalent, it behoves us to put in place what protections we can. I warmly support the amendment.

Lord Stevenson of Balmacara: My Lords, I thank the noble Lord, Lord Browne, for introducing the amendment. We are also signed up to it. The noble Lord spoke at length about the issues that he wanted to raise, building on the meeting that he kindly organised, at which I was also present. I endorse what has been said by other noble Lords who were there, including the noble Lord, Lord Phillips.

The interesting thing about gambling, to me, coming to it relatively unskilled in this area, is that it is one of those areas about which we make a set of assumptions when we approach it, then we discover as we get closer to it that they do not stand up. For example, one thinks of addiction very much in terms of what substance people are taking that has a chemical effect on their body which makes them addicted. But with gambling, all the signs, evidence and research suggest that we are dealing with addictive activity, but there is no physical substance. Of course, it may well be, as the right reverend Prelate was saying, that something about the internet has a way of interacting with our neurons and has an effect that we do not yet fully understand. There is absolutely no doubt, from the reading that I have done for these debates, and from the evidence that we heard at that powerful meeting, that we are talking about something really rather serious and deep-seated worries should flow from that. It is not that the problem is extremely widespread—it is not—but the numbers are still significant. If we are talking about 450,000 people in our society, of course, we as a responsible society should take action to try to help them.

The situation, as I understand it, is that the regulatory position is very clear. There has to be a process for self-exclusion, because it is recognised that it is a helpful way to do it. It may not be the only way to get people away from gambling and it may not be sufficient on its own, but at least—as long as the evidence is there that it is helpful—we must make sure that the regulatory framework supports it. It is obviously right that, for those who obtain a licence to operate in current systems, and in future systems envisaged by this Bill, we need to see the self-exclusion procedures in place. I do not think any of us would be against that, but I have a problem in understanding why it is sufficient for the Government to argue that simply having a voluntary scheme operated by those who perpetrate the harm is sufficient in this case. The evidence that we have—and the very moving testimony that we have heard from the noble Lord, Lord Browne—suggests that those affected by this, those who are addicted and those who are trying to help, say that simply having the mechanism available on a case-by-case basis, on every website that they go to, as it may be regulated in future, and therefore having available the ability to self-exclude, is not sufficient.

If it is not sufficient, what system can we put in place to make sure that it works? Again, the evidence shows that the detailed proposal of the noble Lord, Lord Browne, seems to work for those with whom we have been in touch. Therefore, it seems to me a bit perverse for the Government to continue to say that they do not think that any further action is required in this regard. But what are they saying? I hope that when the noble Baroness responds, she will try to tease out the wording in the letter that we received yesterday from the Minister, which states:

> "But this issue is not standing still: the Gambling Commission has indicated that it will be reviewing the self-exclusion provisions as part of a wider exercise to strengthen player protection, with the aim of significant progress within six months towards the establishment of a national remote gambling exclusion scheme".

That text is not in capitals; I capitalised it as I said it.

That seems to suggest that there is at least the option of having something that will meet the criterion emerging from this evening's debate—namely, that there must be something that will work for those people who are addicted. It must be something that does not mean they are constantly coming across additional websites which are not part of the scheme. It should, if possible, work with areas that are not yet regulated, although I understand that will be difficult. Certainly, if it were possible to keep open the proposal of the noble Lord, Lord Browne, until such time as the review is completed, that would help us a lot in dealing with the issue behind this amendment.

We are not saying that that is the only way in which this issue can be tackled. However, given what we have heard today and at meetings, I am certainly persuaded that this is something which works. Therefore, if it does the trick, we should keep it in play until such time as all the evidence is available.

It is becoming a theme of our discussions today that we are offering the Minister the chance to get this right at the next pass. My noble friend Lady Jones was a bit nervous about the issue of the watershed and I have my concerns about this big and important matter. As a responsible society, we should take action in this regard. The noble Baroness will say, when she responds, that there is a review and will ask why we should

[Lord Stevenson of Balmacara]
anticipate it. I understand that, but I hope she will recognise that we will want to come back to this issue if satisfactory progress is not made. I support the amendment of the noble Lord, Lord Browne, and the very powerful speeches made tonight on this matter. I hope to hear some good news from the noble Baroness when she responds.

Baroness Jolly: I start by thanking the noble Lord, Lord Browne of Belmont, for his amendment, which seeks to create a centralised self-exclusion scheme. I seek to reassure him with regard to the Secretary of State's letter and with regard to the noble Lord's suggestion that gambling is being liberalised. The Government do not see this as a liberalising Bill. It ensures that all operators who currently advertise in Britain, and wish to do so in the future, are required to have a Gambling Commission licence. This is consistent with what the Secretary of State was saying.

Problem gambling is debilitating and I reassure noble Lords that the Government take this extremely seriously. I am in absolutely no doubt about the commitment of the noble Lord, Lord Browne, to this. Problem gambling is not only debilitating for the gambler himself or herself, but creates a heavy burden on their families and on society at large. I was not at the relevant presentation but I have heard that it was very powerful. Strategies to prevent and address problem gambling are key aspects of the social responsibility obligations set out in the Gambling Commission's licence conditions and a priority within the Government's approach to gambling more generally. Self-exclusion is a very important tool to assist those who are experiencing problem gambling or wish to exclude themselves to prevent it.

Under the Gambling Commission's existing licence conditions, all licensed operators are required to have effective procedures in place to allow consumers to self-exclude. Therefore, once the Bill is enacted, all remote gambling operators licensed by the Gambling Commission will be required to offer self-exclusion to their customers. This marks a real step forward in increasing player protection for British consumers and will mean that future improvements in this area by the Gambling Commission will apply to all operators selling into the British market.

9.15 pm

We fully agree with the spirit of what the amendment seeks to achieve but believe that it may be detrimental to achieving that goal by being too specific and embedding only one potential solution in primary legislation—that of a Gambling Commission central list. Over the next few months we will learn far more about how to achieve the end goal of allowing consumers to exclude across multiple remote sites, which may or may not include the Gambling Commission holding a central list itself.

Therefore, while there are practical and legal difficulties associated with the creation of a one-stop shop for self-exclusion, work is progressing in two ways to explore how these might be overcome and delivered appropriately. First, the Gambling Commission will be reviewing the self-exclusion provisions as part of a wider exercise to strengthen player protection, with the aim of making significant progress within six months towards the establishment of a national remote gambling exclusion scheme. This review will consider with the industry and other stakeholders how to solve the various practical and legal impediments, for example in relation to data protection and identity checking. Further, it will bring together learning from the remote and non-remote sectors to expand participation across types of operators and products where necessary.

Secondly, the Responsible Gambling Trust is reviewing the effectiveness of the current self-exclusion provisions. The Responsible Gambling Strategy Board, in its 2013-14 strategy, identified self-exclusion as requiring further research—in particular, on how effective it is and on what changes could improve its usefulness to those who wish to control their gambling. The Responsible Gambling Trust is expected to report in May 2014. This work will provide an analysis of the effectiveness of self-exclusion, its limitations and the challenges to creating enhanced systems. It will also review experiences in other jurisdictions. We welcome the Remote Gambling Association's announcement this week on its willingness to do more in respect of making existing self-exclusion mechanisms as accessible and easy to use as possible, and making arrangements with GamCare and providers of treatment for problem gamblers to self-exclude at the same time as seeking treatment.

The Government are not sitting back. They are driving the agenda forward on self-exclusion more generally. For example, the Secretary of State made clear last weekend that the Government want a system to be developed within six months that allows customers to exclude themselves from betting shops on a national basis. Put simply, a customer need ask only once in their local betting shop, and their exclusion would apply to all shops in that chain and all other chains within the UK. We are therefore confident that all this work will result in real progress on allowing consumers to exclude across multiple online sites—which is what the noble Lord is looking for; the concept of a one-stop shop, as is it often described—and help deliver this important tool to assist problem gamblers to get control back into their lives.

I hope that I have persuaded noble Lords that it is better for us to await the outcome of this critical work to advance the best means of achieving a national remote self-exclusion scheme, rather than enshrine in primary legislation a potential solution that may not be the most effective approach. Of course, that option remains open, and if it is found to be the best route forward it will be pursued without the need for primary legislation. For those reasons, I ask the noble Lord to consider withdrawing his amendment.

Lord Browne of Belmont: My Lords, I am very grateful to everyone who has spoken in this debate and I have listened carefully to what the Minister has had to say. I very much welcome the fact that the Government have moved a long way on one-stop shop self-exclusion since the beginning of the passage of this Bill in another place—from clear opposition in the Commons to commending research in the Lords—and they now talk of making significant progress in the next six months towards creating a one-stop shop self-exclusion mechanism.

I have a number of questions for the Minister. First, can she clarify that it is the clear and deliberate intention of the Government to establish a national self-exclusion scheme for remote gamblers? Can she confirm that it will happen? Secondly, can she provide a little more detail on the timing? In the letter from the Minister, the noble Lord, Lord Gardiner, reference was made to making significant progress in the next six months but there was no reference to when the Government hope that the arrangement might be in place. Finally, can she confirm that the new arrangement will be statutory in the sense that it will be achieved under the Gambling Commission licensing conditions that are upheld by the 2005 Act?

Baroness Jolly: I am sorry. Would the noble Lord mind repeating his third question to me?

Lord Browne of Belmont: Can the Minister confirm that the new arrangement will be statutory in the sense that it will be achieved under the Gambling Commission licensing conditions that are upheld by the 2005 Act?

Baroness Jolly: That was really fast work by those in the Box, for which I thank them. The report is due in May 2014. Having made a decision, we will then need to move as fast as is practically and technically possible, because this is not the sort of thing that we can just turn to in the morning and switch on. We need to decide what we are going to do. That is our intention, if it is practical and possible to do so, and it will form part of the licence conditions.

Lord Browne of Belmont: I am very grateful for the Minster's reply. Perhaps I may ask just one further question and I do not think that there will be a problem with this. Will the Minister undertake to meet me and online problem gamblers to listen to their stories and to allow their experience to feed through into the development of the one-stop shop?

Baroness Jolly: Of course.

Lord Phillips of Sudbury: Perhaps I may interject and ask the Minister for clarification arising out of the answer that she gave. I simply want to be sure that the scheme that she talked of will be comprehensive and compulsory.

Baroness Jolly: We need to make a decision when we have seen what the report says. There is no point in having something that is not comprehensive. I have explained that it is part of the Gambling Commission licence so it will therefore be compulsory.

Lord Browne of Belmont: My Lords, on the basis of the Minister's replies to my questions, I congratulate the Government on the significant steps that they have taken to date. Since the Bill entered the Commons, they have moved forward in relation to self-exclusion and I hope that we will be able to make more progress as time goes on. I beg leave to withdraw the amendment.

Amendment 7 withdrawn.

Amendment 8

Moved by ***Baroness Heyhoe Flint***

8: After Clause 4, insert the following new Clause—

"Cheating at gambling

Cheating at gambling: amendments to section 42 of the Gambling Act 2005

(1) In section 42 of the Gambling Act 2005, in paragraph (a) of subsection (4), for the words "two years" substitute "ten years".

(2) In section 42 of the Gambling Act 2005, after subsection (3) insert—

"(3A) Without prejudice to the generality of subsection (1), cheating at gambling may, in particular, consist of—

(a) a person engaging in conduct that corrupts or would corrupt a betting outcome of an event or event contingency—

(i) knowing that, or being reckless as to whether, the conduct corrupts or would corrupt a betting outcome of the event or the event contingency, and

(ii) intending to obtain a financial advantage, or to cause a financial disadvantage, in connection with any betting on the event or the event contingency (whether or not a financial advantage was actually obtained or a financial disadvantage was actually caused),

(b) a person offering to engage in, or encouraging another person to engage in, conduct that corrupts or would corrupt a betting outcome of an event or event contingency—

(i) knowing that, or being reckless as to whether, the conduct corrupts or would corrupt a betting outcome of the event or event contingency, and

(ii) intending to obtain a financial advantage, or to cause a financial disadvantage, in connection with any betting on the event or the event contingency (whether or not a financial advantage was actually obtained or a financial disadvantage was actually caused),

(c) a person entering into an agreement or arrangement in respect of conduct that corrupts or would corrupt a betting outcome of an event or event contingency—

(i) knowing that, or being reckless as to whether, the conduct the subject of the agreement or arrangement corrupts or would corrupt a betting outcome of the event or event contingency, and

(ii) intending to obtain a financial advantage, or to cause a financial disadvantage, in connection with any betting on the event or the event contingency (whether or not a financial advantage was actually obtained or a financial disadvantage was actually caused),

(d) a person encouraging another person to conceal from a relevant authority conduct, or an agreement or arrangement in respect of conduct, that corrupts or would corrupt a betting outcome of an event or event contingency—

(i) knowing that, or being reckless as to whether, the conduct corrupts or would corrupt a betting outcome of the event or event contingency, and

(ii) intending to obtain a financial advantage, or cause a financial disadvantage, in connection with any betting on the event or event contingency (whether or not a financial advantage was actually obtained or a financial disadvantage was actually caused),

(e) a relevant person—in each case, where the relevant information possessed by that relevant person is relevant to the bet concerned.

(i) betting on an event or event contingency, or

(ii) encouraging another person to bet on an event or event contingency in a particular way (whether or not that other person actually bet on the event or event contingency concerned), or

(iii) communicating the relevant information possessed by that relevant person, or causing that relevant information to be communicated, to another person who the first person knows or ought reasonably to know would, or would be likely to, bet on the event or event contingency (whether or not that other person actually bet on the event or event contingency concerned),

in each case, where the relevant information possessed by that relevant person is relevant to the bet concerned.

(3B) In subsection (3A)—

"bet" and "betting" includes (without prejudice to the generality of section 9)—

(a) placing, accepting or withdrawing a bet, and

(b) causing a bet to be placed, accepted or withdrawn,

but, for the purposes of subsection (3A) only, shall be limited to bets placed, accepted or withdrawn by means of remote communication,

"causing a financial disadvantage" includes—

(a) causing a financial disadvantage to another person, and

(b) inducing a third person to do something that results in another person suffering a financial disadvantage—

whether the financial disadvantage is permanent or temporary,

"conduct" means an act or omission to do an act,

"conduct that corrupts or would corrupt a betting outcome of an event or an event contingency" means conduct that—

(a) affects or, if engaged in, would or would be likely to affect the outcome of any type of betting on the event or event contingency, and

(b) is contrary to the standards of integrity that a reasonable person would expect of persons in a position to affect the outcome of any type of betting on the event or event contingency,

"encouraging" includes inciting, inducing, persuading, urging, threatening or pressurising,

"engaging in conduct" means—

(a) doing an act, or

(b) omitting to do an act,

"event contingency" means a contingency connected to an event,

"obtaining a financial advantage" includes—

(a) obtaining a financial advantage for oneself or another person, and

(b) inducing a third person to do something that results in obtaining a financial advantage for oneself or for another person, and

(c) retaining a financial advantage that one has,

whether the financial advantage is permanent or temporary,

"relevant authority" means—

(a) a member of a police force, or

(b) the Commission, or

(c) any person or body listed in Schedule 6, or

(d) any other authority of a kind as may be prescribed by the Secretary of State by order,

"relevant information" means information in connection with an event or event contingency about conduct that corrupts or would corrupt a betting outcome of the event or event contingency,

"relevant person" means a person who possesses relevant information and knows that, or is reckless as to whether, that relevant information is about conduct that corrupts or would corrupt a betting outcome of the event or event contingency.

(3C) A person will be taken to have intended to obtain a financial advantage, or cause a financial disadvantage, if, and only if, that person—

(a) intended to obtain a financial advantage, or to cause a financial disadvantage, in connection with betting on an event or event contingency, or

(b) was aware that another person intended to obtain a financial advantage, or to cause a financial disadvantage, in connection with betting on an event or event contingency as a result of the conduct concerned.""

Baroness Heyhoe Flint: My Lords, I move this amendment because I believe passionately in the power of sport, which does so much good in society. I believe that we have a duty to protect sport from those who seek to interfere with its integrity for financial gain by match fixing.

We recently had an excellent debate in Grand Committee about the importance of competitive sport—the skills, health benefits and pleasure that it brings to millions who take part in it. Sport, whether people take part in it or watch it, has the power to unite a nation and thrill the billions who watch across the world. All this is threatened by match fixing. If supporters cannot trust an event to be genuinely clean and fair and an honest competition, it will diminish in value and all belief in its authenticity will be lost.

I am very sorry that my noble friend Lord Moynihan cannot be with us. He was intending to lead this amendment on cheating in gambling and he is of course an expert on the problems of this subject, having been Minister for Sport and, more recently, chairman of the British Olympic Association. He backs wholeheartedly this amendment and has in recent years been on working groups at the International Olympic Committee on match fixing. Perhaps I may remind this House that in the run-up to the Olympic Games in London 2012 it was interesting that the president of the International Olympic Committee at that time, Jacques Rogge, opined that the greatest threat to the Games in London was illegal gambling activity.

My noble friend Lord Moynihan wishes me to convey his apologies to noble Lords for not being present. Urgent business has taken him overseas. He asked me to relay just how important he sees the fight against the match fixers. He describes this amendment as vital. To use his words:

"Going right to the heart of integrity in sport and the fight against irregular and illegal betting is critical if we are to maintain the integrity of sport on which all international sport and, indeed, all sport depend. In my work at the International Olympic Committee, which has sought to define a common approach in the fight against irregular and illegal betting, we identified one of the most important things that can be done: to get nation states to strengthen their offences of cheating at gambling to influence sporting events".

In Committee, several noble Lords urged the Government to look more widely at the legislative framework for gambling. Many of those who administer sport feel that there is now a need for clear and specific laws against match fixing to cover all activities which fixers might engage in around a sporting event, with clear definitions, including match fixing, spot fixing and the passing on of inside information. This would improve considerably the current Gambling Act which does not, as such, provide any specific definitions. They also want to introduce stricter penalties by increasing

the current maximum sentence of two years to 10 years in line with the penalties applied to serious fraud offences. We are told that the low level of penalty in the Gambling Act is one reason why prosecutors may not seek to use this measure.

The measure would create a strong deterrent effect as sports bodies will be able to point to this legislation to warn and educate participants about the risks associated with being caught cheating. If the United Kingdom were to strengthen the legislative framework, it would become an exemplar nation on this issue and would catch up with the advances in such legislation in Australia. Perhaps it might catch up in cricket a little later as well. As an example, the England and Wales Cricket Board would like to see more effective measures taken against match fixing in other countries where cricket is played. It would be an advantage to be able to point to effective measures in our UK market before calling for improvement in other countries. In the absence of adequate legislation, the burden falls on sports governing bodies to prosecute offenders under their own disciplinary charges in circumstances where the sport does not have the same recourse to investigate as the police and other relevant bodies and does not possess the same deterrent penalties as with legislation.

The current offence of cheating is to be found under Section 42 of the Gambling Act 2005. It states:

> "A person commits an offence if he … (a) cheats at gambling, or (b) does anything for the purpose of enabling or assisting another person to cheat at gambling".

Noble Lords will immediately note that this is a very general clause which does not specifically criminalise the acts of fixing—either match fixing or the more common and harder to detect form of spot fixing. It simply is not designed to protect the integrity of sport. I believe that there has been only one prosecution under the Gambling Act in several years. Prosecutors instead use the fraud and conspiracy offences which were designed for different purposes and are now being used where possible to shoehorn in charges to fit a sports corruption context. It is of course worth reminding ourselves that we are not replacing any offences here. We are merely adding further strength to the fight against fixing which must equal best practice. As mentioned, there has been a dearth of criminal prosecutions under the Act for fixing offences in sport and I wonder whether that in part is reflective of the fact that the existing statutes were fundamentally flawed.

The Department for Culture, Media and Sport commissioned a report in 2010 into the integrity of sport. Its primary recommendation for government was that the definition of "cheating" in the Gambling Act 2005 should be reviewed and given greater clarity—as this amendment does. Will the Minister consider establishing a review into the most appropriate way to address the offence of cheating, as recommended by the DCMS Parry commission's report in 2010?

Integrity in sport is a challenge for every Government and for every sports governing body in the world. It is our duty and responsibility to make sure that our domestic market is regulated as effectively as possible. I beg to move.

9.30 pm

Lord Hodgson of Astley Abbotts (Con): My Lords, I have taken no part in proceedings on the Bill so far, but I will take the opportunity tonight to say a few words in support of what I consider to be an important and significant amendment. My noble friend Lady Heyhoe Flint ran through the technicalities with great precision and the hour is late, so I will not repeat her arguments but will restrict myself to three separate points.

I asked myself why people consider a couple of years' imprisonment a relatively light punishment and not a serious deterrent for a serious match fixer. For many people, it seems a victimless crime—except, perhaps, for the bookmakers, who as a group do not command much public sympathy. When I began my career in the City, there was another victimless crime—or rather, a crime that was believed to be victimless—which was insider dealing. In my generation it was perhaps not as widespread as in the previous generation, when you were not paid much money because it was expected that you would trade inside in order to make good your rather inadequate wages. Undoubtedly quite a lot of it went on.

When one asks why people accepted that situation, it was because the crime was believed to be victimless—and, if it was not victimless, it was extraordinarily difficult to prosecute and eradicate, because one could never catch up with insider dealers. Any law would be unenforceable, and an unenforceable law would have no merit. More importantly, if it was unenforceable it ran the risk of bringing the wider law into disrepute.

I have not had a chance to glance over the Minister's shoulder to see the notes that he will use in a few minutes, but I suspect that there will be a good deal about the issue of unenforceability as a reason for not wishing to accept my noble friend's amendment. However, to go back for a moment to the example of insider dealing, over a period of years, as the legal framework changed, the attitude to enforcement changed and the reputational risk increased, the prevalence and acceptability of insider dealing diminished. While I will not claim that it does not exist now in the City, its instance is pretty small.

That is what this amendment seeks to achieve: a higher penalty, linked to a higher reputational risk for engaging in this crime, so that its frequency is likely to be very much reduced. For match fixing is not a victimless crime. Its victims are not, of course, those on the inside, be they investors or gamblers; it is usually the smaller, poorer and less experienced people who suffer.

That takes me to my second point. If I could see further down my noble friend's speaking note, I think I would see that he will emphasise not just the difficulties of domestic enforcement but the much greater challenge posed by the extraterritorial nature of so many of these crimes, which seem to have overseas origins. Leaving aside the desirability of our making the greatest possible effort to root out match fixing completely in the UK, my noble friend on the Front Bench should remember that Her Majesty's Government have not always found extraterritoriality to be an insuperable bar. The Bribery Act, although not uncontroversial

[Lord Hodgson of Astley Abbotts]
in its application, requires UK companies to take responsibility for their agents overseas, even where the agent is not directly employed by them. There are precedents and experience in this area which we could build on to develop our activities to inhibit, prevent and eradicate match fixing in the UK.

To conclude, it seems that this modest amendment sends a clear signal that the heat is being turned up as regards this crime: 10 years on conviction, not two years, could not be clearer. I shall of course listen very carefully to my noble friend's reply in due course. The Hippocratic oath says, I think, "First, do no harm". I want to hear from him not why the enforcement of this amendment will be difficult—I am sure it will be—but why its existence on the stature book would do any harm or not take us in the right direction towards eradicating this extremely unpleasant and, apparently, increasingly prevalent activity.

Lord Grantchester (Lab): I speak in favour of Amendment 8, in the names of the noble Baronesses, Lady Heyhoe Flint and Lady Grey-Thompson, the noble Lord, Lord Moynihan, and my noble friend Lord Stevenson. This amendment not only comes from all sides of the House but is in the names of great sporting personalities who have participated at the highest level of elite sport. I support them in their contention that sport must maintain the highest levels of integrity and be recognised to be fair and honest. Sport governing bodies have been relentless in stamping out cheating, whether through drugs, unfair equipment or fraudulent activity, in order to maintain the public's interest and trust. We all enjoy the pursuit of excellence and recognise that competition is the spur to improvement. The public will turn away, sponsors withdraw funds and participants lose interest if they detect any level of cheating or corruption, or any lack of fair play.

The amendment creates a clear and specific offence of cheating that covers all activities that fixers may engage in. All sports would have this offence available under the Gambling Act. Recently, we have witnessed the difficulties cricketing authorities had to face in prosecuting and getting convictions regarding the bowling of no-balls by Pakistani cricketers. This situation could easily occur with throw-ins and other events in professional football. I understand that the authorities had to go to great lengths to enforce fair play and that they went ahead under the Prevention of Corruption Act 1906. This offence will enable a strong deterrent from stricter penalties to warn and educate all sportspersons. Professional bodies such as the Professional Footballers' Association in soccer can underline to their members the dangers and risks associated with being caught cheating.

I urge the Government to take this amendment seriously and, if they cannot accept it tonight, to be amenable to bringing forward their own amendments at Third Reading, otherwise similar amendments will be pressed very vigorously then.

Lord Stevenson of Balmacara: My Lords, I am reminded by my noble friend Lord Grantchester that I have joined a rather elite and special grouping in turning up on this list. I certainly cannot pretend to have, in any sense, any quality that matches theirs in terms of the sporting achievements they have had. Along with the noble Lord, Lord Hodgson, I was a not-indifferent squash player, but I am afraid that does not take me far towards either the noble Lord, Lord Moynihan, or the noble Baronesses, Lady Grey-Thompson or Lady Heyhoe Flint.

I apologise for intruding on their party but I do so because this is a really interesting amendment, and I am rather annoyed we did not think of it ourselves on this side of the House. The 2005 Act was much castigated earlier on in our debates but is still a rather good Act in its way. It goes out of its way to make it clear that it is not dealing with the integrity of sport—this point has been made already—and does not attempt to try to deal with the actual issues around the playing of sport. Its actions are about gambling, and sport is only one of a number of things that people can gamble on. We should not therefore expect that Bill to carry us all the way to where we want to get to in this new area, which is about trying to make sure that the sport that we all love and enjoy is played to the highest standards.

I talked earlier about the need for integrity. It is an issue that we need to think very hard about. It is not necessarily the case that if you follow the argument that I am about to make through to the end we would end up with simply amending the current Bill; I suspect our ambitions are a bit broader than that. When the Minister responds, perhaps he could reflect on the question that has been posed implicitly in the speeches we have heard today and explicitly outside by a number of people who are now saying that there is something slightly odd about the way in which we pay so much attention to the process of gambling around the sporting activity but we do not think hard enough about what we need to do to ensure that the sporting activity itself is as clean and above suspicion as it should be. That is the way in which I want to approach this.

The noble Lord, Lord Hodgson, said that we were talking about something that is called a victimless crime and pointed out that that was a contradiction in terms. I follow him on that: his point is very well made. My noble friend Lord Grantchester, who has substantial experience in running a sports club of great distinction, knows all too well about some of the issues that have arisen there.

It is interesting that the only serious case we have seen in recent years, which involved spread betting rather than fixed-odds arrangements, was prosecuted under a conspiracy to defraud offence and not under the provisions of the Gambling Act. On my reading of it, that is not unreasonable because the Gambling Act does not go in that direction but, if that is the case, the point was made earlier about the need to level up the tariffs on all these approaches to try to clean up sport—they need to be the same. So we are talking about a 10-year penalty being the standard for crimes against sporting activity. If anybody affects the integrity of the sports that we are concerned about, we should be able to use a range of penalties and approaches to ensure that the person is nailed.

We have looked at the number of prosecutions for match fixing in sport and there seems to be about one a year at the moment. Although, as I have said, there

are difficulties in raising these offences, it is important to recognise that they do take place. There is evidence that there is quite a lot of match-fixing activity going on, not necessarily all related to gambling, and that is one of my points.

The DCMS itself has a sports integrity review. It must have been ahead of the game in thinking that it would need to look at that, and the Rick Parry report calls for further action in this area. Therefore, the onus is on the DCMS to come forward with proposals on this. The European Parliament and Commission have called for all member states to have specific match-fixing legislation. Again, one might ask the Minister what action the department will take to respond to that call. The amendment before us derives from evidence of recent work in Australia, where legislation has recently been introduced. The amendment is based on a model that seems to be working well and is widely seen in the sport as an exemplar.

To return to my first point, although we must be thinking about the question of what to do to strengthen our sport, of which gambling is a part but not the full amount, it is interesting that the gambling industry supports this approach. Sue Rossiter, director of projects and policy at the Remote Gambling Association, which supports the amendment, says:

"Cheating is already an offence under the Gambling Act and match-fixing falls into that category. But anything which further clarifies the fact that it's illegal is welcomed by us. Players should be made aware that if they get involved in match-fixing, they're involved in a criminal activity wherever they are. We work closely with sports governing bodies to make sure players are clear about that".

There is an educational element to this, which will be very important.

This amendment may seem to be at a distance from the main purpose of the Bill but it should not be rejected out of hand. I appeal to the Minister to think about bringing this back at Third Reading for a further debate, when it might be possible to get the noble Lord, Lord Moynihan, and the noble Baroness, Lady Grey-Thompson, to add their arguments to this. We will have to fix this in the future if we do not fix it now.

The sport that we play in Britain somehow makes a huge contribution to our culture. As my noble friend Lord Grantchester said, if people feel that the games they watch are in some sense fake then, to quote from "The Hunger Games"—a recent film that I am sure all noble Lords have seen—the games will not be quite as enjoyable as they might otherwise have been. That is rather an unfortunate and sad analogy but I hope some of it might live long in memory.

9.45 pm

Lord Gardiner of Kimble: My Lords, first, I thank my noble friend for moving this amendment. I very much agree with her and regret that my noble friend Lord Moynihan is not with us tonight. I thank all noble Lords for speaking in this debate.

Match fixing is an issue about which I know many of your Lordships feel very strongly. The Government fully share those concerns. Match fixing has no place in sport and we must do all we can to eradicate it. That is precisely why the Secretary of State held a match-fixing summit on 10 December and the Sport and Tourism Minister followed that up with a second meeting on 3 February. That work remains a priority. I emphasise that Ministers in the department see this as extremely important ongoing work.

My noble friend's amendment suggests that Section 42 of the Gambling Act 2005, covering the offence of cheating at gambling, is inadequate in its current form. The Government recognise that sports governing bodies have concerns about that section. Indeed, sports governing bodies were invited on 3 February to provide case studies that they believe demonstrate the failings of Section 42 in dealing with gambling-related match fixing. The Government will consider any such evidence when it is supplied. We have received two case studies to date and are aware that there may be others in the pipeline. However, we have yet to see robust evidence demonstrating a problem with Section 42 as opposed to other factors such as lack of evidence. Indeed, lack of evidence of a link between match fixing and corrupt betting would make it difficult to pursue a successful prosecution under either Section 42 or my noble friend's amendment.

I should also say to my noble friend Lady Heyhoe Flint that Section 42, as a gambling provision, can apply only where there is evidence of cheating at gambling, as has already been discussed. As the noble Lord, Lord Stevenson, said, that is why we have long established and recognised that other criminal offences may need to be used, given that match fixing can be realised in various forms.

The noble Lord, Lord Stevenson, also referred to Section 42 in the context of negotiations on the Council of Europe's draft convention. The Government recently reviewed Section 42 in that context. All the legal teams and others came to the conclusion that Section 42 as currently drafted, together with other fraud and corruption offences already on the statute book, gives prosecutors the tools required to deal with the circumstances that might constitute match fixing.

As the noble Lord, Lord Stevenson, said, there have been some criticisms of the 2005 Act and, perhaps, some of its consequences. At the time, Section 42 was deliberately crafted to be a broad offence in which "cheating" was intended to have its normal, everyday meaning. The provision expressly extends to actions that involve actual or attempted deception or interference with the processes involved in the conduct of gambling or any other race, game, event or process to which gambling relates. That was done precisely to ensure that it could be used in a wide range of circumstances. That is why we are concerned about changing it. I emphasise that point.

Section 42 also clearly spells out that the offence is committed not just by the person who cheats but also by a person who does something for the purpose of assisting or enabling another person to cheat. That means that Section 42 already covers all the ground that my noble friend's amendment seeks to add. Section 42 already applies to both remote and non-remote types of betting, whereas this amendment applies only to remote betting. We therefore believe the amendment could create confusion and that it is better to retain the existing provision for that reason.

[Lord Gardiner of Kimble]

My noble friend's amendment would also raise the custodial tariff for Section 42 offences from two to 10 years. It has been argued that an increase in custodial sentencing will both act as a deterrent to those who may be involved in criminal match fixing, and influence law enforcement agencies to investigate and prosecute more cases.

I will explain to your Lordships why we believe that there is no need for a change in the tariff. The Government consider that the penalties in Section 42 remain proportionate and appropriate, and are consistent with other offences in the Gambling Act. There is nothing to suggest that the threat of a two-year jail sentence is not a sufficient deterrent or that law enforcement agencies do not take match fixing sufficiently seriously.

The UK has a number of legislative tools at its disposal to combat corruption of sports competitions. The toolkit naturally includes Section 42 of the Gambling Act 2005, where there is a link with betting. We can also use other fraud and corruption offences where that link with betting cannot be established. It does not mean that Section 42 is inadequate simply because it cannot be applied in every situation. When a sportsperson is found to be engaged in match fixing not linked to betting, the penalties under the bribery and fraud Acts are severe, as your Lordships have already said.

The fight against match fixing is not just about legislation. The UK's approach to combating match fixing, based on effective collaboration between the Government, the regulator, betting operators, sports governing bodies and the law, is working and, indeed, is highly regarded internationally.

I emphasise that the Government take the fight against match fixing extremely seriously. I do not know whether the match-fixing summit was the first, but it is an indication that the Secretary of State and Ministers take this matter very seriously and want to work with the sports governing bodies.

My noble friend Lady Heyhoe Flint asked whether the Government would be prepared to undertake a formal review of Section 42, in line with what the Parry review suggested. As I said, in the cross-government review of Section 42 in the context of the European convention on match fixing, we concluded, and the legal advice was, that Section 42 was robust as written. However, of course we are willing to consider carrying out a review if and when sports bodies provide robust evidence demonstrating that there actually is a problem with Section 42. That is the position that we have come to.

I will be asking my noble friend to withdraw her amendment—not because we think that match fixing is not a priority; we do. The lawyers have looked at the provisions of Section 42 and we are of the view that, until we have proper and robust evidence that elements of Section 42 are not working properly, we think it is premature and unwise to move. I have not gone back to read *Hansard*, but I have been informed that Section 42 was drafted to capture as much of the conceivable parameters as possible. That is why it was couched in the way it was.

I have looked into this matter very strongly because I know that it is of extreme concern to the sporting world and beyond, to those who enjoy sport. I have looked into it. I have sought to outline the reasons why we think that Section 42 is robust but, as I said, we are willing and look forward to hear from sports bodies if they can come forward with robust evidence, which we will then consider very thoroughly. In the mean time, I ask my noble friend to withdraw her amendment.

Baroness Heyhoe Flint: My Lords, we are moving into extra time. I thank the Minister for his responses and, in most cases, his assurances. I know that there has been a great amount of background work and energy put into what he referred to as a small or niche Bill. I thank the Bill team sincerely for the courtesy of the meetings which we have had and I apologise for not being fully attentive in the earlier debate on Amendment 4, when I think that I must have been dreaming in the outfield.

Perhaps I might reiterate that sport has had and has concerns and, to a certain extent, I am very aware of the fact that the Government are seeking to deal with them. In the eyes of sport and in the protection of its integrity, even though my noble friend the Minister referred to the Bill in the early days as a small Bill, I think that sport considers it to be a big Bill because this is a growing threat to the integrity of sport. I accept the assurances from the Minister in true sporting spirit. I came off the substitutes' bench to support my noble friend Lord Moynihan, who bowled me a googly when he told me that he had to be abroad at this stage and was unable to contribute. I have a feeling that he may continue to pursue his concerns on his return but, in the hope that he will not then put me into the sin bin, I beg leave to withdraw my amendment.

Amendment 8 withdrawn.

House adjourned at 9.57 pm.

Written Statements

Tuesday 4 March 2014

EU: Competitiveness Council

Statement

The Minister of State, Department for Business, Innovation and Skills & Foreign and Commonwealth Office (Lord Livingston of Parkhead) (Con): The EU Competitiveness Council took place in Brussels on 20 and 21 February 2014. The UK was represented by Lord Livingston on day one (industry and internal market) and David Willetts on day two (research and space). A summary of those discussions follows.

The main internal market and industry issues discussed were industrial competitiveness and the Annual Growth Survey.

The Council began with a discussion about industrial competitiveness. Member States were asked to outline their priorities for improving industrial competitiveness, achieving a balance between climate, energy and competitiveness policies and how to mainstream industrial competitiveness into all policy areas. In its presentation, the Commission outlined its overall approach, noting that: all policy proposals should be competitiveness proofed; support should be given to innovative SMEs; and the Competitiveness Council should play a greater role on industrial policy. The Commission also reiterated its proposed target to boost industry's share of EU GDP to 20%. The UK called for: the EU to focus on creating the right single market conditions; reduced burdens; a strong state aid regime; free trade agreements; a cost effective and flexible energy and climate framework; a reformed Emissions Trading System; robust action to prevent carbon leakage; and a single energy market. The UK also emphasised that the EU should not be distracted by artificial targets on industrialisation.

This was followed by a discussion regarding the Annual Growth Survey. The Commission noted the progress many Member States had made on their Country Specific Recommendations, but argued that too many service sector barriers remained. Key sectors where action should be taken included business and professional services, construction and retail. The UK emphasised the need to fully implement the Services Directive, called on the Commission to urgently provide guidance on proportionality, and suggested following a sectoral approach for further services liberalisation (e.g. professional business services).

Eight AoB points were discussed: the 9th ministerial meeting of the Union for the Mediterranean on Euro-Mediterranean industrial cooperation; the European Tourism Quality Principles; the European Strategy for Costal and Maritime Tourism; State Aid Modernisation; hybrid nutrition labelling; non-financial and diversity information and the Statute for a European Foundation.

Research and space issues were covered on 21 February. During research discussions, the Commission noted that many Member States were cutting their research budgets due to the overriding driver of fiscal consolidation—a careful balance had to be found or this would risk damaging their Research &Development capacity and the knowledge economy.

References were made to the importance of linking research agendas—both National and Horizon 2020—to structural fund spending. Germany and the UK warned of the risks of unhelpful regulation at European level, with the UK highlighting that the precautionary principle needed to be revisited and that "gold" open access to publications should be the norm in Europe.

On the European Research Area Council conclusions, the Commission clarified that the European Research Area was complete at a European level, but this now needed to be complemented by Member States' action to implement the policies identified.

On the AOB items on public-public research partnerships and public-private research partnerships the Presidency updated on the recent negotiations with the European Parliament. On the AOB item on international cooperation, the Commission welcomed the renewal of the Science and Technology agreement.

On the Space policy debate on relations between the European Union and the European Space Agency, the Presidency highlighted that both organisations were analysing similar policy options: to do nothing, have closer collaboration on policies and space missions, to have a dedicated directorate in the European Space Agency operating in accordance with EU rules on procurement, or to disband the European Space Agency and establish a new Agency within the EU with similar functions. The majority of Member States including the UK expressed a preference to undertake further consideration of the middle two options although the UK noted that the concepts still needed further definition and that the case for new EU legislation to implement them had not been made.

There was widespread consensus that both organisations needed to respect each other's expertise more and become more pragmatic in their relationship. The UK proposed that there should be a joint ESA/EU "Space Council" at the end of the year to discuss which approach to take.

Prison Service Pay Review Body: Triennial Review

Statement

The Minister of State, Ministry of Justice (Lord Faulks) (Con): I am today announcing the start of the Triennial Review of the Prison Service Pay Review Body. Triennial reviews of non-departmental public bodies (NDPBs) are part of the Government's commitment to ensuring, and improving, the accountability and effectiveness of public bodies.

Section 127 of the Criminal Justice and Public Order Act 1994 prohibits the inducement of operational staff within the prison service to take industrial action. As a "compensatory mechanism" for their inability lawfully to take such action, the Prison Service Pay Review Body provides advice to the Secretary of State about the pay of those staff.

The review will be conducted in accordance with Government guidance for reviewing Non-Departmental Public Bodies, and will focus on the core questions of effectiveness and good governance. It will be carried out in an open and transparent way, and interested stakeholders will be given the opportunity to feed in their views. I shall announce the findings of the review in due course.

Written Answers

Tuesday 4 March 2014

Asylum Seekers

Question

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government how many Syrians refused asylum in the United Kingdom in 2013 are (1) not in the United Kingdom following a forced removal, (2) not in the United Kingdom following a voluntary removal, (3) in a detention removal centre, and (4) remain in the country but not in detention. [HL5080]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach): Of the total number of Syrians refused asylum in 2013:

(1) Twenty four have returned following an enforced removal.

(2) The number of those not in the UK following a voluntary departure is low, ,so in line with Home Office practice on published data, the number cannot be published to protect the identity of those involved.

(3) Twenty remain in Immigration Removal Centres.

(4) When an asylum claim has been refused, all applicants are encouraged to return voluntarily to their country of origin. The Department cannot therefore provide reliable data in answer to this part of the question. However, the Government has made a commitment to introduce exit checks by 2015 which will improve our ability to identify those who have overstayed their visas and to measure migration.

Bahrain

Question

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what discussions they have had concerning the imposition of sanctions against the government of Bahrain until it complies with international human rights law. [HL5485]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The British Government has not held any discussions on imposing sanctions against the Government of Bahrain. We are supportive of the reform programme in Bahrain and regularly discuss human rights with the Bahraini government.

Benefits

Questions

Asked by ***Lord Hylton***

To ask Her Majesty's Government how many benefit claimants have been sanctioned since June 2013; how many dependants those claimants had; and, if total figures are not yet available, when they will be published. [HL5522]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): Figures on the number of Jobseeker's Allowance and Employment and Support Allowance benefit claimants who have been sanctioned up to September 2013 which is the latest data available, are published and can be found at:

https://stat-xplore.dwp.gov.uk/

Guidance for users is available at:

https://sw.stat-xplore.dwp.gov.uk/webapi/online-help/Stat-Xplore_User_Guide.htm

The information requested in relation to Income Support Lone Parents (ISLP) shows that there have been 15,040 ISLP sanctions between June 2013 and September 2013.

Source

Income Support Computer System

Notes

1) Income Support Lone Parents receive a fixed sanction of 20% of the personal allowance rate of a single claimant [not aged less than 25] for each failure to attend/participate in a Work Focused Interview until 10 pence is left in payment. This sanction lasts until the individual attends and participates in a Work Focused Interview. In the case where there is more than one sanction in place the claimant need only attend/participate in one Work Focused Interview in order for all related sanctions to be removed from their benefit. .

2) Sanctions are only available up to September 2013 for Income Support Lone Parents

3) Figures are rounded to the nearest 10.

Information on the number of dependants these claimants had is not readily available and could only be provided at disproportionate cost.

Asked by ***Baroness King of Bow***

To ask Her Majesty's Government how many Jobseeker's Allowance claimants have been sanctioned in each year since 1996 and in each month since October 2012. [HL5620]

Lord Freud: Statistics on the number of Jobseeker's Allowance benefit claimants, who have been sanctioned, from April 2000, the earliest data we have, up to September 2013 which is the latest data available, are published and can be found at:

https://stat-xplore.dwp.gov.uk/

Guidance for users is available at:

https://sw.stat-xplore.dwp.gov.uk/webapi/online-help/Stat-Xplore_User_Guide.htm

Central African Republic

Question

Asked by ***Baroness Berridge***

To ask Her Majesty's Government what representations they have made to the African Union and to the government of France in the light of the allegations of human rights abuses in the recent report by Amnesty International, Ethnic Cleansing and Sectarian Killings in the Central African Republic. [HL5492]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): We have frequent discussions with both the African Union and the Government of France on the security and humanitarian situation in the Central African Republic, including the disturbing reports of human rights abuses.

Amnesty International's report highlights the importance of the international peacekeeping effort in preventing ethnic and sectarian killings. Our immediate focus is supporting the UN Security Council-mandated African-led International Support Mission to the Central African Republic (MISCA) force alongside the French deployment. They are already on the ground, have a robust enforcement mandate, and are able to act immediately to increase security and humanitarian access. We have supported the UN Security Council to keep the situation under regular review, including what more can be done to strengthen existing efforts given the severity and urgency of the situation.

Children: Children's Rights

Question

Asked by ***Baroness Massey of Darwen***

To ask Her Majesty's Government what plans they have to address violations of children's rights in England. [HL5594]

The Parliamentary Under-Secretary of State for Schools (Lord Nash) (Con): The UK Government has committed to give due consideration to the UN Convention on the Rights of the Child (UNCRC) when developing new policies and legislation:

http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101206/wmstext/101206m0001.htm#1012063000011

The rights set out in the UNCRC are secured through a range of different methods, including through legislation, guidance and requirements in various national minimum standards. If those requirements are not being met, children can access a range of complaints mechanisms, with support from advocates where necessary, to address any violation of their rights. Ultimately, where a child has exhausted these other forms of redress, it is open to them to bring a challenge to the courts (for example, under the Human Rights Act 1998).

Civil Service: Senior Posts

Question

Asked by ***Baroness Suttie***

To ask Her Majesty's Government what steps they are taking to encourage women to apply for senior posts in the Civil Service. [HL5590]

Lord Wallace of Saltaire (LD): Women comprise over a third of the Senior Civil Service.

Work commissioned through the Contestable Policy Fund begins in March and will identify and help to remove the blockages faced by women when applying for senior posts.

Genetic Modification

Question

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government, further to the Written Answers by Earl Howe on 22 January (WA 129) and 6 February (WA 77), whether they consider that an egg or embryo with healthy mitochondria that has had its own nuclear DNA removed and entirely replaced by nuclear DNA from a different egg or embryo is genetically modified as a consequence. [HL5496]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): As the noble Lord is aware from Viscount Younger of Leckie's Written Answer of 12 November 2013 (Official Report, columns. 113-114) there is no universally agreed definition of "genetic modification". For example, people who have organ transplants, blood donations or even gene therapy are not generally regarded as being "genetically modified".

While there is no universally agreed definition of genetic modification in humans, the Government has decided to adopt a working definition for the purpose of taking forward the draft mitochondrial donation regulations. The working definition that we have adopted is that genetic modification involves the germ-line modification of nuclear DNA (in the chromosomes) that can be passed on to future generations. We will keep this under review.

On the basis of that working definition, the proposed mitochondrial donation techniques do not constitute genetic modification.

Health: Cancer

Questions

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government what steps they are taking to improve access to new medicines for patients with pancreatic cancer. [HL5617]

To ask Her Majesty's Government whether they will conduct an assessment of the Cancer Drugs Fund in relation to the provision of new treatments for patients with pancreatic cancer, and in particular in respect of quality of life. [HL5619]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The National Institute for Health and Care Excellence (NICE) provides advice to the National Health Service on the clinical and cost-effectiveness of drugs and treatments. NICE technology appraisal guidance, issued in May 2001, recommends gemcitabine as an option for treating patients with advanced or metastatic adenocarcinoma of the pancreas who meet certain clinical criteria.

NHS commissioners are legally required to fund those treatments recommended by NICE in its technology appraisal guidance.

Since October 2010, the Cancer Drugs Fund has helped over 44,000 patients in England to access the life-extending or life-improving cancer drugs their clinicians think they need. On 28 September 2013, the Government announced that a further £400 million will be made available to extend the Fund to the end of March 2016.

NHS England is responsible for administering the Cancer Drugs Fund, and decisions on which treatments are afforded priority funding status are taken by an expert clinical panel. In assessing applications for drugs to be included in the national Cancer Drugs Fund cohort policies list, the expert clinical panel uses a scoring tool and one of the criteria in this tool is evidence of impact on quality of life.

For cancer drugs not on the national cohort policy list, regional clinical panels can consider individual applications for funding in exceptional cases.

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government what plans they have to expedite the appraisal of drugs for pancreatic cancer. [HL5618]

Earl Howe: The National Institute for Health and Care Excellence (NICE) is currently developing technology appraisal guidance on the use of a number of drugs for the treatment of pancreatic cancer.

Wherever possible, NICE aims to publish draft or final technology appraisal guidance on significant new drugs within a few months of their launch.

Health: Mitochondrial Disease

Question

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government, further to the Written Answers by Earl Howe on 29 August 2013 (WA 359), 30 October 2013 (WA 259) and 24 February (WA 175–6), how many of the terms employed by the Human Fertilisation and Embryology Authority to refer to either pronuclear transfer and spindle-chromosomal complex transfer or the outcomes of those techniques they accept as valid; and what external advice and documentation they have relied on in reaching their conclusion that such procedures do not constitute genetic modification. [HL5605]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Human Fertilisation and Embryology Authority (HFEA) has advised that, at the request of the Government, it sought public views through a variety of public dialogue and consultation methods on emerging In vitro fertilisation (IVF)-based techniques to prevent the transmission of mitochondrial disease.

The public's views on this issue are outlined in the Authority's advice for the Government, which can be found on its website at:

www.hfea.gov.uk/6896.htd

This exercise did not seek to explore the validity of particular scientific and technical terms.

The HFEA convened an Independent Oversight Group to ensure the consultation was balanced and accessible, details of which can also be found on the Authority's website:

http://mitochondria.hfea.gov.uk/mitochondria/about-the-consultation/independent-consultation-oversight-group/

Its role included advising on the materials and wording used during the public dialogue exercise.

Health: Organ Donation

Question

Asked by ***Lord Empey***

To ask Her Majesty's Government what impact the 2011 change, which made it compulsory for drivers applying for a new or replacement licence to state whether they want to be an organ donor, has had on the percentage of the population pledging to donate their organs via the Organ Donor Register; and what has that percentage been in each month of the last three years. [HL5598]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): This information is not held centrally in the format requested. However in the five years up to April 2013 the United Kingdom achieved a 50% increase in deceased organ donor rates and work continues to increase consent and organ donation and transplantation rates.

A study by the Government Behavioural Insights team in July 2011 in partnership with Driver and Vehicle Licensing Agency (DVLA), NHS Blood and Transplant (NHSBT) and the Department examined how best to increase registration on the Organ Donor Register. In one of the largest public sector studies of this kind, over one million people took part and were tested on eight different ways of asking whether to join the register. Further information can be found at:

www.gov.uk/government/publications/organ-donor-registrations-trialling-different-approaches

Houses of Parliament: Post Boxes

Question

Asked by ***Lord Berkeley***

To ask the Chairman of Committees who authorised the sealing of post boxes inside the Palace of Westminster near the Royal Gallery on the morning of Thursday 27 February. [HL5669]

The Chairman of Committees (Lord Sewel): Post boxes near the Royal Gallery were sealed on the morning of Thursday 27 February as a security precaution, based on experience and lessons learned from previous events, ahead of the Address by the Chancellor of the

Federal Republic of Germany to both Houses of Parliament. The temporary sealing of the post boxes was recommended by the Metropolitan Police Service and authorised by Black Rod.

India: Golden Temple, Amritsar

Question

Asked by ***The Lord Bishop of Coventry***

To ask Her Majesty's Government what meetings they have had or are intending to have with Sikh organisations in the United Kingdom following the publication of the Cabinet Secretary's report on the Indian operation at Sri Harmandir Sahib. [HL5517]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): We continue to take the views of the Sikh community on this matter very seriously, and round-table meetings were hosted by the Foreign and Commonwealth Office on 4th February and by the Department for Communities and Local Government on 25th February. The following organisations took part:

4th February
Sikh Council UK
Network of Sikh Organisations (UK)
Federation of Sikh Organisations
Sikh Organisation of Prisoner Welfare
Sikh Community and Youth Services
Shiromani Akali Dal Amritsar
Akhand Kirtani Jatha
Sikh Youth Project
Kesri Leher/1984 Genocide Coalition
Akali Dal
Sikhs in England
United Sikhs
City Sikhs Network
Sikh Federation UK
25th February
Sikh Council UK
Federation of Sikh Organisations
Sikh Organisation of Prisoner Welfare
Kesri Leher
Sikh Community and Youth Services
Sikhs in England
City Sikhs Network
Guru Nanak Nishkam Sewak Jatha
Sikh Federation UK
Indian Worker's Association
Young Sikhs UK
Sikh Care Society Heathrow
Sikh Community and Youth Services
Network of Sikh Organisations (UK)

National Minimum Wage

Questions

Asked by ***Lord Beecham***

To ask Her Majesty's Government whether, in the light of the HM Revenue & Customs report, National Minimum Wage compliance in the social care sector, they will update their evaluation of national minimum wage compliance; and whether they will encourage and monitor the payment of the living wage in the social care sector. [HL5527]

To ask Her Majesty's Government what steps they are taking to enforce and monitor national minimum wage enforcement in the social care sector in the light of the evaluation published by HM Revenue and Customs in November 2013; and what extra resources have been made available for that purpose. [HL5544]

To ask Her Majesty's Government what discussions have been held with the Local Government Association about the possible role of local authorities in enforcing minimum wage legislation in relation to social care and generally; and with what result. [HL5545]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie) (Con): The Government is committed to increasing compliance with minimum wage legislation and the effective enforcement of it, including in the social care sector. Everyone who is entitled to the minimum wage should receive it.

The Government has a central enforcement body dedicated to the National Minimum Wage (NMW). HM Revenue and Customs covers all areas of the UK, which ensures a consistent approach, a high quality service and a brand that everyone recognises.

HMRC investigates every complaint made to the Pay and Work Rights helpline. In addition, HMRC conducts risk-based enforcement in sectors or areas where there is a higher risk of workers not getting paid the legal minimum wage. One of the sectors in which HMRC carries out risk based enforcement is the social care sector.

The Government is also taking specific action to improve compliance with national minimum wage legislation in the social care sector. The Department of Health is developing statutory guidance for local authorities which refers to employment law and the Department for Business, Innovation and Skills (BIS) guidance on payment of travel time. This will enable local authorities to assure themselves that the care companies they contract with comply with NMW regulations. This guidance should be available in the Autumn.

BIS is also working with HMRC to identify the communication action necessary to promote the useful information for workers and employers contained in HMRC's evaluation report on the social care sector. It is also considering the next steps to increase compliance in this sector.

The Government supports businesses that choose to pay a higher wage when it is affordable and not at the expense of jobs. The decision to pay employees above National Minimum Wage is for employers and their workers and the Government will not be monitoring this. Consequently, the government does not intend to monitor the payment of the living wage.

Sudan

Question

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what negotiations they have had with the government of Sudan regarding relief for Sudan's foreign debt; and when the next scheduled meeting to discuss Sudan's foreign debt is due to take place. [HL5494]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The Inter-Governmental Authority for Development (IGAD)-led peace talks between the Government of South Sudan and the opposition forces are continuing in Addis Ababa but progress continues to be slow.

Reports of attacks in Malakal and the discovery of mass graves in Bor are the latest in a series of disturbing allegations of human rights violations and abuses in South Sudan. We are urging the African Union Commission of Inquiry to act quickly and deploy an investigation team to collect the necessary information.

During the Parliamentary Under-Secretary of State, my hon. Friend the Member for Boston and Skegness (Mark Simmonds)'s meeting in February with South Sudanese Foreign Minister Dr Barnaba Benjamin, he urged progress in the peace talks and accountability for human rights abuses.

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