

Vol. 716  
No. 30



Thursday  
21 January 2010

PARLIAMENTARY DEBATES  
(HANSARD)

# HOUSE OF LORDS

## OFFICIAL REPORT

*ORDER OF BUSINESS*

Questions

Afghanistan  
Cyclists: Safety  
Iran: Baha'i Community  
National Insurance Contributions

Questions to the Secretary of State for Business, Innovation and Skills

Universities: STEM Subjects  
Enterprise Finance Guarantee Scheme  
Economy: Growth

Counterterrorism: Foreign Office Budget

*Private Notice Question*

Royal Assent

Fiscal Responsibility Bill

*First Reading*

Business of the House

*Timing of Debates*

Nuclear Disarmament

*Debate*

Probation Service

*Debate*

Contaminated Blood (Support for Infected and Bereaved Persons) Bill [HL]

*Third Reading*

Rehabilitation of Offenders (Amendment) Bill [HL]

*Committee*

---

Grand Committee

Child Poverty Bill

*Committee (2nd Day)*

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Written Statements

Written Answers

*For column numbers see back page*

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# House of Lords

Thursday, 21 January 2010.

11 am

Prayers—read by the Lord Bishop of Southwark.

## Afghanistan

### Question

11.06 am

Asked By **Baroness Rawlings**

To ask Her Majesty's Government what steps they are taking to promote sustainable livelihoods for the people of Afghanistan.

**Lord Brett:** My Lords, providing sustainable livelihoods and economic opportunities for Afghans is critical to countering the appeal of the insurgency and to increasing stability. That is why the UK is building the capacity of the Afghan Government to deliver economic growth. The Department for International Development has committed £96 million to increase agricultural productivity, improve the business environment and support the private sector. This will aim to support the creation of 20,000 jobs and raise the incomes of 200,000 people by 2013.

**Baroness Rawlings:** My Lords, I thank the Minister for that reply. In a previous Question for Short Debate on alternative livelihoods, the noble Lord stated that Her Majesty's Government supported the production of wheat, which is,

“dependent on price in the market”,

and that,

“we cannot guarantee that we will have such success in climatic conditions in future”.—[*Official Report*, 23/6/09; col. GC415.]

Does the Minister not agree that pomegranates would be a better product? I know that Her Majesty's Government do not directly support charities, but what help is he prepared to give to proven and successful organisations, such as POM354?

**Lord Brett:** My Lords, the noble Baroness raises an important question. Diversification of crops, in terms of moving away from the production of poppies, is an essential part of improving the lot of the people of Afghanistan. In practice: wheat has been mentioned and there has been success in that area; we are looking at saffron and at the trellising of grapes, which improves their value and quality; and we are supportive of POM354. We have recommended that POM354 produces a detailed business plan which will help maximise the programme's chances of success and will help in terms of conversations with potential donors. DfID will continue to provide advice on that plan.

**Lord Tomlinson:** My Lords, does my noble friend agree that absolutely imperative to this question of sustainable livelihoods is the need to create an environment of peace? Therefore, the imperatives of sustainable livelihoods are support for the military activity that is

taking place in Afghanistan by this country and its allies, together with development assistance to that country, and then all the necessary diplomatic efforts to make sure that it can continue to exist in peace and that the development assistance will be properly used.

**Lord Brett:** My Lords, I can only agree with my noble friend. The overall stability of that country depends on its security. What we are doing in terms of training Armed Forces and police personnel, the support we are giving to national and sub-national government, and to farmers in terms of alternative crops, are all part of a coherent and cohesive plan to save that country from some of the travails it has experienced in recent years.

**Lord Ashdown of Norton-sub-Hamdon:** My Lords, is it not the case that neither the international community nor the British Government will ever be able to deliver livelihoods, sustainable or otherwise, to the Afghan population unless they speak with a single voice and act to a single plan? It seems that we are still scandalously completely incapable of doing that. Will the Minister reassure the House that this will be the first aim—and, I hope, the first outcome—of the Afghan conference next week?

**Lord Brett:** My Lords, I do not totally agree with the noble Lord's analysis but I agree that the conference next week is a very important event taking us forward. It was announced by the Prime Minister and the Secretary-General of the United Nations; the Prime Minister and President Karzai will open the proceedings; and Foreign Ministers from all 43 ISAF partners plus the EU international organisations will be present. We hope the conference will focus on the delivery and co-ordination of international support for the new Afghan Government's programme on security, governance, reintegration, economic development and regional relationships. That adds up to a comprehensive way forward which is in line with what the noble Lord is seeking.

**Lady Saltoun of Abernethy:** My Lords, why do we not buy the Afghan poppy crop and use it to make medicine for the NHS, instead of trying to grow it ourselves?

**Lord Brett:** My Lords, there are two reasons why that seductive solution is not practical. First, the Afghan Government do not believe that they could actually police and monitor successfully licit poppy production. Secondly, in economic terms, Australia can produce the quality that we require from poppies for opium used in medical practices at about half the cost of doing it in Afghanistan.

**Lord Wright of Richmond:** My Lords, the noble Baroness, Lady Kinnock, yesterday told us that poppy prevention, or poppy diversion, is one of the areas in which the Foreign and Commonwealth Office has had to make cuts. Is that joined-up government?

**Lord Brett:** My Lords, we can show progress in the reduction of poppy production. Eradication is a matter for the Afghan Government. We are seeking alternative livelihoods so that farmers in Afghanistan do not see

[LORD BRETT]

the seduction of poppy production and the moneys that come from selling poppy for narcotics as a substitute for the normal type of legal activity that farmers across the world engage in to make a living.

**Baroness Northover:** My Lords, can the Minister tell us what effect the weakness in the pound is having on the DfID budget in Afghanistan?

**Lord Brett:** My Lords, clearly the question of moving exchange rates has an impact on budgets of all government departments. I cannot give the figure the noble Baroness wants but I will make inquiries and write to her.

**Lord Skelmersdale:** My Lords, I have asked this several times of various Ministers over the past two years. Can the Minister please tell me what replacement crop there is for poppy that is suitable for conditions in Afghanistan?

**Lord Brett:** My Lords, the noble Lord asks a good question and the answer is that it depends on the skill and techniques of farmers and the ability to look at alternative crops for which climatically there are the right provisions and which would have a market. I mentioned that saffron is a high-value product now being considered; the use of trellis grapes, rather than grapes grown on the ground, provides for a greater yield and better quality; and pomegranates are native and grow naturally in some parts of the country. Again, we must not see the whole country as a single entity. It has different climatic conditions from north to south and it is a question of what is appropriate.

**The Earl of Sandwich:** My Lords, one very strong alternative is dried fruit. What are the Government doing to promote the export of dried fruit and are they aware that USAID is improving the packaging which goes with those exports?

**Lord Brett:** My Lords, I do not have details on dried fruit export. That seems to be an area I should investigate and I will write to the noble Lord.

**Baroness Trumpington:** My Lords, there was a question about joined-up government which I do not believe the Minister answered. Can he quickly answer it now?

**Lord Brett:** My Lords, the Government believe in joined-up government. The Ministry of Defence, DfID and the Foreign Office work together on international matters. There has been much evidence over the past 12 years to show that has been successful and I see no reason to think that the situation will change.

## Cyclists: Safety

### Question

11.14 am

Asked By **Viscount Falkland**

To ask Her Majesty's Government what measures they will take to make roads safer for cyclists.

**Lord Faulkner of Worcester:** My Lords, measures to make roads safer for cyclists include providing better infrastructure, funding cycle training, improving training

and testing for motorists and encouraging cyclists to protect themselves by making themselves conspicuous and wearing a safety helmet. Other initiatives such as anti-drink/drug-drive and speeding campaigns, the provision of 20 mph zones and new measures on goods vehicles' mirrors can also contribute to cycling safety.

**Viscount Falkland:** My Lords, I thank the Minister for that comprehensive reply. The Government must be commended for the support they have given to cycling for health and many other reasons. However, safety is still a problem.

Can the Minister tell me why young people who might go out with their families at weekends, or possibly in the evenings in summer time, are inhibited from doing so—parents are particularly inhibited from letting their children go out—because, at that time, most of the cycle lanes in urban areas are filled with parked cars? This seems to be a problem that does not go away. Does the Minister agree that children get a lot of benefits, apart from health benefits, from cycling? They learn road sense, which is very useful to them later on in life.

**Lord Faulkner of Worcester:** My Lords, I very much agree with the noble Viscount. There are mandatory cycle lanes, which are indicated by a continuous white line. They may not be used by vehicles other than pedal cycles during their hours of operation. However, as with bus lanes, mandatory cycle lanes can operate full time or during certain times of the day only. If a mandatory cycle lane is to be introduced, it requires a traffic regulation order.

If cycle lanes are to be enforced at weekends, it is the responsibility of the local authority to ensure that the traffic regulation order covers that eventuality. We take the view that, in those circumstances, it would probably be wise for local authorities to lay down yellow lines at the same time to indicate that parking in the cycle lane is not permitted.

On the noble Viscount's point about cycle training for young people, we agree completely.

**Lord Berkeley:** My Lords, does my noble friend agree that the real problem with cyclists and drivers not obeying the law is the lack of enforcement? Certainly when I cycle around London, I have recently come across several cars, including a police van, driving up a one-way street the wrong way. I know that cyclists do it as well, but the Minister would surely agree that there must be much better enforcement, possibly even by a dedicated police force.

**Lord Faulkner of Worcester:** My Lords, the Question is about cycling rather than motoring. If the House will allow me, I will confine myself to answers on cycling today.

The Government do want people to cycle more, as I indicated in my Answer, but we certainly do not condone those who cycle irresponsibly. It may be for the benefit of the House if I remind your Lordships that cycling on the pavement is an offence that goes back to 1835,

under Section 72 of the Highways Act as amended by the Local Government Act 1888. That penalty can be enforced either by way of prosecution or by the use of fixed-penalty notices.

The same applies for running red lights. I know that a number of your Lordships have in the past drawn attention to cyclists who go across red lights. That, too, can be subject to a £30 on-the-spot fine.

**Lord Tebbit:** Did the Minister read the recent reply that I received from the noble Lord, Lord West, in which he told me that there is no record kept of how many fixed-penalty notices issued to cyclists for cycling on the footpath are paid? If the Government do not have any statistics on this, how do they know whether their policy is working or not?

**Lord Faulkner of Worcester:** The noble Lord asks an interesting question. I shall ask it myself and see whether I can discover the answer. I obviously do not have that information with me but I will come back to the noble Lord.

**Lord Bradshaw:** If I may turn to government responsibilities that cannot be passed to local government, will the Government do something about lorries not having adequate rear-view mirrors or many of the other proximity devices that would prevent the death of quite a lot of young people in London every year? It is really an absolute disgrace.

**Lord Faulkner of Worcester:** My Lords, the Government have introduced new regulations on rear-view mirrors for heavy goods vehicles. We recognise the problem of long goods vehicles not seeing cyclists coming up on the inside—that is a particular danger and gives rise to some very serious accidents. The regulations have been enhanced and we believe that the new rear-view mirrors will go some way towards solving that problem.

**Baroness Hanham:** Further to that response and to a reply that the Minister kindly sent me a little while ago, can the Minister tell me whether discussions are taking place with Transport for London on, in particular, the mayor's proposals to allow, in the interests of safety, cyclists to turn left through a red light? What research would need to be carried out to enable a pilot, to which the Minister referred, to be undertaken?

**Lord Faulkner of Worcester:** My Lords, I wrote to the noble Baroness on 17 December on exactly that subject. We are ready to undertake a pilot if there is demand for it. We think that there is a lot to be said for there being at least an experiment on this, but we do not want to give cyclists the feeling that they are allowed to ignore red lights and just turn left or right when they think it is appropriate for them to do so; that has to be properly regulated.

**Baroness McIntosh of Hudnall:** My Lords, does my noble friend agree that probably the safest and most effective form of cycle lane are those that have a small physical barrier between the cycle lane and the remainder of the road? That deals with the problem that was raised in the original Question asked by the noble

Viscount, Lord Falkland. What encouragement are the Government giving to local authorities to use this safer form of cycle lane rather than simply delineating with lines?

**Lord Faulkner of Worcester:** My Lords, we are giving every encouragement to the Mayor of London's proposals for 12 cycle highways, which I understand will offer some form of segregation in the way that my noble friend referred to. We think that that is important. We want an increase in the number of people cycling to work in London. The London figure is very low compared with European cities. It is only 3 per cent in London, compared with, for example, 36 per cent in Copenhagen and 25 per cent in the Netherlands. These figures can go up a lot. We think there are health reasons and other very strong reasons why that should happen.

## Iran: Baha'i Community

### Question

11.22 am

Asked By **Lord Avebury**

To ask Her Majesty's Government what reports they have received on the trial of seven leading members of the Baha'i community in Iran; and what action they will take on that case with the United Nations Human Rights Council and, in particular, at the Universal Periodic Review in February.

**The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead):** My Lords, reports so far suggest that the trial of the Baha'is has worrying parallels with the post-election show trials and falls far short of international standards. Ivan Lewis summoned the Iranian ambassador on 20 January—yesterday—to echo EU calls for the Baha'is to receive a just and open trial. We are considering options for further action at the Human Rights Council, with the universal periodic review providing an important opportunity to draw attention to the deteriorating human rights situation in Iran.

**Lord Avebury:** My Lords, is the Minister aware that in the evidence presented to the universal periodic review there is only one short paragraph dealing with the relentless persecution of the Baha'is and no mention at all of the trial of the seven who had been in custody for over two years incommunicado and are now facing the death penalty? Will the Minister undertake to ensure that the British delegation at the universal periodic review will submit supplementary evidence about the treatment of these seven Baha'is? Could she ask colleagues in the European Union to ask to have observers present at the trial, which takes place a week before the UPR?

**Baroness Kinnock of Holyhead:** I thank the noble Lord. I will attend the Human Rights Council next month and will make every effort to address some of the points that he has raised. As he will know, the European Union has repeatedly expressed concern over the treatment of those imprisoned and has called for their release. To reiterate, Ivan Lewis summoned

[**BARONESS KINNOCK OF HOLYHEAD**]  
the Iranian ambassador to express concerns about human rights abuses and violations and he renewed calls based on the declaration made by the European Union on 12 January. There is a great deal of co-ordinated effort about the concerns that the noble Lord raises.

**Lord Goldsmith:** My Lords, I welcome what my noble friend has said about the representations in relation to the seven people to whom the noble Lord, Lord Avebury, referred. Is she also aware of the cases of three other young Baha'is, Haleh Rouhi, Raha Sabet and Sasan Taqva, who have been held in the Ministry of Intelligence detention facility since November 2007? Can she confirm that, if they are supposed to be serving sentences of imprisonment, even under Iranian law it is illegal to hold them there? Will she be able to make representations on their behalf as well as on behalf of those to whom she has already referred?

**Baroness Kinnock of Holyhead:** My Lords, I reassure my noble and learned friend that I will ensure that representations are made on behalf of the people to whom he referred. We continuously express our deep reservations about the treatment and the severe intimidation that these people suffer as a result of staying true to their faith. At least 50 Baha'is remain in detention in Iran and we have grave concerns about the conditions in which they are being held.

**Lord Howell of Guildford:** My Lords, in addition to the very telling interventions that we have just had on the plight of the Baha'is, does the Minister recall that in modern Iran the persecution of the Baha'is has been long standing and very vicious and that it has involved executions—sometimes public executions—the desecration of cemeteries and other revolting practices that bring home the repulsive nature of much of the mullahs' regime in Iran today? Will she therefore accept from this side, too, strong support for using very firm words and action in all possible fora to ensure that the plight of the Baha'is is brought home? Does she recall that many have had to seek refuge in this country, particularly in my home town of Guildford? We owe it to these people to stand up for them, given the horrific experiences that they have had.

**Baroness Kinnock of Holyhead:** I thank the noble Lord, Lord Howell, very much for the points that he makes and for illustrating that Baha'is live in his town. We have made it clear that the persecution of individuals on the grounds of ethnicity or religious beliefs is totally unacceptable. We have raised our concerns on several occasions. The religious intolerance of the regime in Iran also extends, of course, to Muslim denominations that do not share the official version of Islam promoted by the state.

**Baroness Afshar:** My Lords, would it be advisable to impose sanctions on the grounds of human rights rather than nuclear power, because human rights in Iran are being transgressed for all, including human rights lawyers, who can no longer function in Iran? If it were possible to focus sanctions on human rights, support for that in Iran would be enormous, whereas sanctions on nuclear power are perhaps not so effective.

**Baroness Kinnock of Holyhead:** I thank the noble Baroness, whose great expertise on Iran I acknowledge. Sanctions are not currently under consideration, as we discussed in the previous Question on Iran to which I responded. However, the rights that the Iranian people are demanding are universal rights. They must know that calls for their rights to be respected are being echoed internationally. We work closely to maximise impact. For instance, the Foreign Secretary writes blogs and tweets on Iran that are read and followed in Iran. That is proving to be a satisfactory and effective way of communicating our concerns.

**Baroness Falkner of Margravine:** My Lords, we on this side are pleased that the noble Baroness will lead the delegation to the Human Rights Council. To broaden out the scope of human rights abuses in Iran beyond the Baha'i community, although that is a serious case, is she also aware of the Liberal Student and Alumni Association members who have been arrested and held under a charge that is as vaguely drafted as being at enmity with God? These people have been tortured in Evin prison and have no prospects of legal representation whatever. Will she use the opportunity to stress that the use of the death penalty for cases of peaceful demonstration against the regime will not endear Iran to the world?

**Baroness Kinnock of Holyhead:** I thank the noble Baroness and agree very much with what she says about all the individuals who are currently held in deplorable conditions in Iran. Indeed, as far as the death penalty is concerned, Iran is second only to China in the number of executions that take place: 318 people were executed in 2009.

## National Insurance Contributions

### Question

11.29 am

Asked By **Lord Hunt of Wirral**

To ask Her Majesty's Government what discussions they have had with representatives of small and medium-sized enterprises about the impact of the proposed rise in employer National Insurance Contributions.

**The First Secretary of State, Secretary of State for Business, Innovation and Skills and Lord President of the Council (Lord Mandelson):** My Lords, the Chancellor announced in the Pre-Budget Report a number of tax changes to tackle the public deficit. The increases in national insurance contributions in 2011 will enable the Government to protect spending on front-line priorities in health, schools and policing, at the same time as paying down debt. The Government have many discussions with small and medium-sized enterprises. Business organisations support the Government's programme to halve the deficit over four years.

**Lord Hunt of Wirral:** But is the First Secretary of State listening? Rather than making contradictory statements about inward investment from the touch line, would he get on the pitch and just urge his

colleagues in Cabinet to stop imposing a tax on jobs at a time when individual insolvencies have reached record levels—five times higher in Labour's recession than in all previous recessions combined since records began. That is 180,000 cases of individual misery. After 13 wasted years, we cannot go on like this.

**Lord Mandelson:** My Lords, I am never knowingly off the pitch in fighting for the interests of British industry and British jobs. Previous experience indicates that rises in national insurance contributions need not choke off employment: contributions rose in 2003, also by 1 per cent, but employment went on rising. This increase is timed for 2011, when the UK economy is expected to be growing steadily and can afford it. But at least we on this side of the House are absolutely clear on the tax measures needed to cut the deficit. The noble Lord's party says that it wants to cut the deficit further and faster than us. I think it would be of interest to the House to know whether the noble Lord's party supports this measure. Its position on tax, with the knots into which it is tying itself on the married couple's allowance, seems to change with every hour of the day. It is now not far off from midday. Perhaps it could say what the latest position is on its tax measures.

**Lord Newby:** My Lords, the Minister has just said that the Government's position on cutting public expenditure is clear. I am glad that it is clear to him, because it is not clear to the rest of the country. Can he possibly enlighten the House by telling us what the Government's plans are on public expenditure levels for all those departments other than health, education and international development, where we understand there are to be no changes?

**Lord Mandelson:** My Lords, restoring the public finances to a sustainable position without wrecking the economy or damaging essential front-line services means restoring growth in the economy. Growth is the best antidote to debt and will be the principal means by which we can reduce the public deficit without resorting to the draconian tax increases or the draconian reductions in spending that we expect to see from the party opposite should there be a change of Administration after the next general election. The imperative now is to focus on equipping people and business to return the economy to growth, to increase employment and to raise incomes. That is exactly what the Government are doing.

**Lord Brooke of Alverthorpe:** Can my noble friend the Minister say what the estimated loss of jobs would be if instead of increasing national insurance contributions the Government increased VAT to 20 per cent right across the board? If he cannot give the figures immediately, can he let me know in due course and perhaps also give us calculations on the number of jobs that would be lost in the economy if VAT went as high as 22.5 per cent?

**Lord Mandelson:** My Lords, my noble friend is absolutely right to raise these questions. The party opposite suggests that it wants to reduce the deficit further and faster. If it were simply to advance by one year the deficit reduction plans that the Government

have put in place, it would cost in the region of £26 billion. That amounts to the elimination of half the schools budget, or increasing VAT to 23 per cent. The entire country is entitled to know what the consequences would be of its policies, whenever it is in a position to let us know what they are.

**The Lord Bishop of Exeter:** My Lords, will the Minister say what assessment has been made of the impact of this rise on charities large and small, which have already seen a heavy and negative impact as a result of the current economic recession?

**Lord Mandelson:** My Lords, the best solution for businesses and charities is to restore our economy to its previous growth rate. Among the other measures that we must take are measures to reduce the deficit, and I am afraid that that includes making fair but targeted tax increases in the way that the Chancellor has set out. The increase in national insurance contributions will be introduced in 2011, when everyone expects the economy to be growing. That will lift all the boats in our economy, including the boats of our most important charities.

**Lord Craig of Radley:** My Lords—

**Lord Davies of Oldham:** Sorry, my Lords, time is up.

## Universities: STEM Subjects

### Question

11.36 am

Tabled By **Baroness Wall of New Barnet**

To ask the Secretary of State for Business, Innovation and Skills what action he is taking to give priority to STEM subjects (science, technology, engineering and mathematics) at higher education level in the light of the possibility of spending cuts affecting universities.

**Baroness Prosser:** My Lords, on behalf of my noble friend Lady Wall, and at her request, I beg leave to ask the Question standing in her name on the Order Paper.

**The First Secretary of State, Secretary of State for Business, Innovation and Skills and Lord President of the Council (Lord Mandelson):** My Lords, science, technology, engineering and mathematics skills are crucial in securing future prosperity. Last summer, I asked universities to provide an additional 10,000 places on courses that contribute most to our high-level skills needs, including STEM subjects. All of these places have been filled. *Higher Ambitions*, the Government's higher education framework, will deliver further skills needed for new industry and new jobs, notably in STEM subjects.

**Baroness Prosser:** My Lords, I trust that my noble friend is aware that there is considerable support, particularly on these Benches, for the views that he expressed yesterday in his article in the *Guardian* about the future of university funding. Will he reassure the House that the Government will continue to work to encourage young people, and more women, to take

[BARONESS PROSSER]

science, technology, engineering and mathematics courses at colleges and universities? We know that such courses open the door to STEM-related careers. Will he further tell the House what he is doing to strengthen the ties between research and business?

**Lord Mandelson:** My Lords, the Government are investing in encouraging more young people to take up and study science. We are working with schools to promote interest in, and the study of, STEM subjects; and we are opening up opportunities in universities and beyond. I am glad to say that the uptake of STEM subjects at GCSE and A-level has been rising steadily since 2005. The Government announced a £140 million strategy in January 2008 to secure the next generation of scientists and mathematicians, and provide more and better STEM teachers. This is exactly the sort of investment that we must sustain, and exactly the sort of investment that would be in peril should those in the party opposite have the opportunity to make the swingeing cuts that they are already alluding to.

**Lord Baker of Dorking:** My Lords, is the Minister aware that the number of applications by young people to go to universities this year is already 12 per cent higher than last year? Few of those extra people will go to universities. Every vice-chancellor now agrees that there will be a fall in numbers as a result of his cuts. Sarkozy increases higher education expenditure, Mandelson cuts it. How does he reconcile that with the theme of the election, which is investment in the future, and hope and aspiration for the young?

**Lord Mandelson:** My Lords, this is pure hyperbole. In reality, the savings that we have set out amount to a reduction of under 5 per cent over the next three years. The Government have made it clear that higher education needs to shoulder its fair share of the burden of reductions in public spending—but not more than its fair share. I will make sure that that remains the case.

**Baroness Garden of Frognal:** My Lords, the recent HEFCE grant letter showed a reduction in unit funding for teaching of around £200 per student, with a figure of £3,950 for 2010-11. Would the Secretary of State indicate whether that is a one-off measure linked to the current economic climate and the need to rebalance the books, following the overspend in student support, or is that rebalancing likely to continue next year? Also, is the cut across the board and will it therefore impact on those students studying STEM subjects and other subjects?

**Lord Mandelson:** My Lords, universities are aware of the Government's requirement for that rebalancing, and for them to grow their intake at a pace and on a scale for which the resources exist to support it. We have always made that clear. However, tighter budgets right across the public sector, including in higher education, can be a spur to further diversifying British universities' funding. That can also focus minds on teaching and research excellence, and on new ways of delivering higher education. Those trends are already part of the picture in higher education; both trends need to become more so in the coming years.

## Enterprise Finance Guarantee Scheme

### Question

11.41 am

Asked By **Lord Harrison**

To ask the Secretary of State for Business, Innovation and Skills how many businesses have accessed loans under the Enterprise Finance Guarantee scheme.

**The First Secretary of State, Secretary of State for Business, Innovation and Skills and Lord President of the Council (Lord Mandelson):** My Lords, 6,200 businesses have accessed loans totalling more than £620 million under the enterprise finance guarantee over the past year. The scheme has been a real success, which is why the Chancellor announced an extension in the Pre-Budget Report to allow a further £500 million of loans to be made available to small and medium-sized enterprises.

**Lord Harrison:** I thank my noble friend for that Answer. First, given the good news this week of the fall in unemployment, has he made any estimate of how many jobs are attributable to the introduction of the enterprise finance guarantee scheme? Secondly, as with Professor David Blanchflower, is he concerned that any precipitate withdrawal of this scheme or, indeed, of other schemes designed to stimulate the economy would undermine the progress that has already been made by the schemes?

**Lord Mandelson:** My noble friend is right to draw attention to the very real risk of wrecking what is a fragile economic recovery if the Government's stimulus measures were to be withdrawn prematurely. On employment, the enterprise finance guarantee has in fact made a significant impact. Before Christmas, we published an early-stage assessment of its impact on 385 small and medium-sized enterprises. The findings showed that, as a result of the finance guarantee, approximately 60 per cent of firms reported the creation of new jobs and 57 per cent reported that they had saved jobs. Estimates suggest that the guarantee could have been responsible already for saving and creating around 31,600 jobs, with a further 8,000 expected to be saved or created in the future. Government measures of this kind have led directly to the fall in unemployment that we were able to announce yesterday which I would hope would be welcomed by everyone in this House.

**Lord Bates:** My Lords, can the Minister confirm that, as in a Written Answer which he provided for me last year, only 3.7 per cent of those loans that had been offered were to firms in the north-east of England? Is he aware that in the figures that were announced yesterday, to which he referred, unemployment in the north-east of England is now the highest in the country, with one in 10 people out of work and youth unemployment having risen 122 per cent year on year? That is before the devastating impact of the Corus Teesside plant closure and its 3,000 job losses. What efforts will his department take to make sure that scarce resources are targeted where the need is greatest?

**Lord Mandelson:** My Lords, on the subject of scarce resources, I hope that the noble Lord will direct his advice to those sitting in front of him. What we have seen in the north-east of England is indeed a reduction of unemployment—as has occurred across the country—but not on the same scale and not at the same rate as in other regions in the country. That is precisely why we have to maintain our targeted measures of support for industry, of support for science and skills and support for universities and other educational sectors in the north-east of England—including the excellent regional development agency, whose future of course would be severely threatened and put at risk were there to be a change of government after the election.

**Lord Razzall:** My Lords, I recognise the success of the enterprise finance guarantee scheme, but do Her Majesty's Government and the Secretary of State accept that there is now significant evidence that a number of other government initiatives are being blocked and frustrated by bureaucracy in the banks? What do the Government propose to do about it?

**Lord Mandelson:** My Lords, I am permanently concerned about the rate of lending by our banks to the corporate sector. Evidence on the availability of bank loans suggests that the vast majority of businesses are able to obtain credit and at a price which is actually below that of two years ago. However, we are aware that demand remains subdued and is possibly masking issues in supply. As demand for lending rises, as it will do as the economy and growth pick up, the banks' responsiveness to SMEs in the corporate sector as a whole must also pick up and the supply of lending and its price must respond more to market needs.

## Economy: Growth

### Question

11.47 am

Asked By **Lord Forsyth of Drumlean**

To ask the Secretary of State for Business, Innovation and Skills what measures he has put in place to encourage economic growth.

**The First Secretary of State, Secretary of State for Business, Innovation and Skills and Lord President of the Council (Lord Mandelson):** My Lords, the Government last week set out in *Going for Growth: Our Future Prosperity* the public support for the economic capabilities that will underpin future growth in the UK as we emerge from the global recession. That growth will be based on a combination of targeted government investment which supports our competitive strengths in new technologies and innovation and continued investment in the educational talents and skills of our people.

**Lord Forsyth of Drumlean:** My Lords, why should we have any confidence in the Government's prediction about the future given their record over the past 10 years? Have not the past 10 years seen the lowest growth and the highest decline in manufacturing output of any decade since the Second World War? Why is that? Can the Secretary of State explain to us how this has happened?

**Lord Mandelson:** As it happens, although employment in the manufacturing sector has fallen, in terms of value and volume over the past 10 years, the manufacturing sector has maintained its strength and presence in the UK economy as a whole. But I would ask the noble Lord in return what he thinks his own ideas and approach would do for manufacturing in this country. I see from the newspapers this morning that he is calling for annual cuts of £75 billion a year from public expenditure. He has inadvertently or otherwise lifted the lid on what his party is really thinking. Cuts on this scale—

**Noble Lords:** Oh!

**Lord Mandelson:** Noble Lords may not like this debate but I am afraid that they have to listen to the facts. Cuts on this scale could not be achieved without eating deeply into front-line services. They would also virtually remove at a stroke all government capital spending and support for industry, including the manufacturing sector. In other words, the ideas that come from the noble Lord would strangle our restoration of growth at its birth.

**Lord Hoyle:** Can my noble friend say what effect on growth the Kraft takeover of Cadbury's will have? What discussions is he having with Kraft in relation to investment in this country and securing British jobs?

**Lord Mandelson:** I strongly share my noble friend's concern about the future, a concern that seems to be shared by none other than Mr Warren Buffett, according to remarks of his which are cited in the *Financial Times* today. All that I can say is that I have received a written assurance, an undertaking, from the chief executive of Kraft making clear Kraft's intentions towards Cadbury, which are to respect its production, its legacy and its workforce. I have asked to meet the chief executive as soon as possible in order to get further detail about those undertakings.

**Lord Hunt of Wirral:** I warmly welcome the First Secretary of State's conversion to the value of inward investment, but instead of trying to talk out this experiment in Question Time, could he provide some answers and explain to this House why it is that 3,000 more companies have gone bust or become insolvent in Labour's recession than, say, the recession in the 1990s? What answers is he going to provide? Can he just tell us when the next general election is, as he seems to think that it has started? Is it true that he proposes that the campaign will start on Maundy Thursday? Is he aware that that is April Fools' Day, and that in view of his answers today, it would be highly appropriate?

**Lord Mandelson:** When the noble Lord has quite recovered, perhaps I can point out to him that, contrary to the facts that he has just put to the House, in the recession of the 1990s, when, I remind the House, the noble Lord was in government, business failure and insolvency was twice what it has been in this recession. If we had seen the same job losses as we saw in the recession of the 1990s, four times as many people would have lost their jobs in the recession that we have

[LORD MANDELSON]

just gone through, and housing repossession are now running at around half the rate that they were in the recession of the 1990s.

This achievement is due not least to the measures and interventions made by this Government. The actions demanded even now by the noble Lord and his party would make matters even worse. In the Tory dash for cuts, the recovery under way now would be wrecked. That is the last thing that the people of this country need and expect, which is why I am sure that that stark choice will be influencing their decisions when the time comes later this year for them to put their votes in the ballot box.

## Counterterrorism: Foreign Office Budget

### *Private Notice Question*

11.53 am

*Asked By Lord Wallace of Saltaire*

To ask Her Majesty's Government whether Baroness Kinnock's admission of cuts in the FCO budget for counter-terrorism, counter-radicalisation and counternarcotics programmes in Pakistan and Afghanistan is compatible with the Prime Minister's statement yesterday that "The action we are taking to counter terrorism at its source in the Afghanistan-Pakistan region and elsewhere is a central part of our counter-terrorism strategy".

**The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead):** My Lords, the Prime Minister was entirely right when he said yesterday that our CT efforts in the Pakistan and Afghanistan region are a central part of our counterterrorism strategy. Our overall CT spend continues to rise next year and Pakistan has been and continues to be by far the largest single recipient of our CT support throughout this spending period, receiving more than a quarter of the CT budget. The budget for Pakistan managed by the FCO under the FCO's countering terrorism and radicalisation programme is expected to rise from £8.2 million in 2009-10 to £9.5 million in 2010-11. Although this is a smaller rise than we would have hoped, we are still spending more than ever on Pakistan CT. Pakistan remains a critical partner in our nation's security. A small number of projects that were not delivering CT objectives as effectively as other projects have been cut or scaled back. The noble Lord should note that the Foreign Office's CT programme is but one part of the Government's total effort in Pakistan, which includes the MoD, DfID and others. There is also a huge amount of political work and lobbying to help further our and Pakistan's CT objective.

**Lord Wallace of Saltaire:** I thank the Minister for that Answer to my Question. I recognise that it has two aspects: One is the continuing deep cuts in the Foreign Office budget and the other is joined-up government on Afghanistan and Pakistan. Can she confirm the story in the *Financial Times* at the end of December that American and European diplomats have been asking the Foreign Office how deep those cuts are and how much they will affect Britain's capacity

to represent common western interests abroad? Can she reassure us that there is a coherent strategy, including a financial strategy, towards Afghanistan and Pakistan that goes across all government departments concerned?

**Baroness Kinnock of Holyhead:** I thank the noble Lord for his continuing interest in these matters. He and other noble Lords are well aware that the reason why the difficulties that the Foreign Office has had are having these effects is the fluctuation in exchange rates. We make our payments to the United Nations, the EU and others in their currencies, which has a huge effect because of the rate of exchange with the pound. As I think I said yesterday, the Foreign Office deals with something like 120 different currencies. The effect on our work is difficult to manage.

I do not think that this has an effect on the coherence of strategy. Across government, we are working on these matters, recognising that they are an essential part of the work that we need to do. These are the issues that concern our citizens and have a huge and important global effect. It is important that we work with our European Union partners, the United States and others and in the United Nations to ensure that we can more effectively deal with the threats that we face. That means dealing with them where they occur, as the noble Lord suggests.

I am not aware of any concerns that have been raised by the US or anyone else about the effectiveness of the British Foreign Office. It goes without saying that the British Foreign Office continues to have the great respect of the world for all the hard work that it does in representing Britain and pressing for the values and principles that we have in the United Kingdom.

**Lord Howell of Guildford:** My Lords, the Minister was very candid yesterday in telling us of all the substantial cuts that are being inflicted on the Foreign Office—perhaps she was a bit too candid—including the ones in the counterterrorism and counternarcotics strategies, among others. Can she tell us how this muddle happened? It seems that the refusal to compensate for the foreign exchange fall was a Treasury decision. We all realise that all departments have had to face, and will have to face, increasing cuts and economies but, in this case, it seems that a Treasury one-off decision is having a major influence on British foreign policy. That cannot be right. Surely it is important to bring to this House and to the other place an explanation of how this confusion came about and how we are going to redress the balance between existing limited funds to maintain an effective foreign policy and not, as we appear to be doing at present, to damage the central issues—in the words of the Prime Minister—such as counterterrorism in Pakistan and Afghanistan.

**Baroness Kinnock of Holyhead:** We are totally committed to the objectives on counterterrorism and working across government that the noble Lord outlined. Joined-up government is often raised by the opposition Benches. We are very aware of its importance in the work that we do and I think that we do it well in working on counterterrorism with the MoD and DfID. I do not think that pointing fingers at any department of the British Government does any good when we have these debates and discussions. The important

thing is that we work together to ensure that our work can be effective and that we deal with the counterterrorism challenges that we face.

**Lord Bramall:** My Lords, since, as is obvious from the nature of the Question, dynamic diplomacy does or should have a vital part to play in all modern military operations, should the FCO budget be considered more in a strategic context and therefore await the outcome of the long overdue defence and security review, rather than being slashed unilaterally?

**Baroness Kinnock of Holyhead:** I reassure the noble and gallant Lord that that review will take place over the coming period. Like him, we look forward to discussing its implications.

**Lord Anderson of Swansea:** Does my noble friend recognise the danger that our foreign administration will be determined by currency fluctuations and not by a sober reassessment of our global role in the post-imperial world? I met our consul-general shortly before he was killed by an explosion in Istanbul. Can my noble friend reassure me that the current cuts do not affect the protection of our diplomatic personnel and buildings?

**Baroness Kinnock of Holyhead:** I can of course reassure my noble friend on that count. One of the increasing costs that we have faced is that of providing security in some of the more difficult situations in which we find ourselves working now. The cost of that kind of security is essential, but it places increasing pressure on the FCO budget.

**Lord Patten of Barnes:** I am sure that the Minister will recognise how much sympathy there is for the Foreign Office in large parts of the House. However, returning to my noble friend's question, could she explain how, given that 80 per cent of the Foreign Office budget is non-discretionary, the Foreign Secretary could possibly have agreed that the effective implementation of our foreign policy should, under this Government, have to be determined by the level of the exchange rate?

**Baroness Kinnock of Holyhead:** Those decisions were taken on the basis of what was best for the country and best for the way in which we manage our affairs. I can comment on that no further.

**Baroness Falkner of Margravine:** The noble Baroness has given us some figures about the potential increase next year; I calculate that it will be about 12 per cent. Is she aware that the current inflation rate within Pakistan and Afghanistan is running somewhere between 20 and 30 per cent? If these funds were to be spent in country, the potential increase that she describes is actually a decrease in the budget.

**Baroness Kinnock of Holyhead:** My Lords, I reiterate that the original CSR settlement is £35 million, £39 million and £53 million and that Pakistan has been and continues to be by far the largest single recipient of our CT support throughout the period. The FCO's countering terrorism and radicalisation programme fund has more than doubled since the last CSR period—up from

£16 million in 2007-08 to £38 million in 2010-11—but I take into account the important point made by the noble Baroness.

**Baroness Symons of Vernham Dean:** My Lords, given the absolute priority given to the security and protection of the British people, can my noble friend tell us whether there is any plan to ring-fence the budget on security and protection, which is so important to the British people?

**Baroness Kinnock of Holyhead:** The noble Baroness raises a very important point. It was raised yesterday and we are going to look at it.

## Royal Assent

12.04 pm

*The following Acts were given Royal Assent:*

Video Recordings Act,  
Beverley Freeman Act.

## Fiscal Responsibility Bill

*First Reading*

12.05 pm

*The Bill was read a first time and ordered to be printed.*

## Business of the House

*Timing of Debates*

12.05 pm

*Moved By Baroness Royall of Blaisdon*

That the debates on the Motions in the names of Lord Hannay of Chiswick and Lord Ramsbotham set down for today shall each be limited to two and a half hours.

*Motion agreed.*

## Nuclear Disarmament

*Debate*

12.05 pm

*Moved By Lord Hannay of Chiswick*

To call attention to the prospects for multilateral nuclear disarmament and for strengthening nuclear non-proliferation; and to move for papers.

**Lord Hannay of Chiswick:** My Lords, of all the threats and challenges that face the international community at the beginning of the 21st century, none exceeds in risk and urgency the interlinked threats from nuclear weapons and from the fraying of the regime that prevents their further spread beyond the current eight or perhaps nine countries that possess them, and none has so far in the first decade of this century received a less effective reply.

The substantial reduction in nuclear arsenals that followed the end of the Cold War ground to a halt at the turn of the century, and was followed by a decade

[LORD HANNAY OF CHISWICK]

in which even existing arms control measures were dismantled. The Nuclear Non-Proliferation Treaty, which since the 1960s has been a pillar of international peace and security, is under challenge by North Korea and Iran. Some 23,000 nuclear warheads remain worldwide—enough to blow the world to pieces many times over, and far more than are needed to assure even the most extensive doctrines of deterrence.

To the risk of a nuclear exchange between states has now been added the nightmare scenario of a nuclear weapon, or nuclear material from which a dirty bomb could be manufactured, falling into the hands of terrorists for whom the whole concept of deterrence is alien and thus inoperable. That is the justification for our debate today, and I express my gratitude to my fellow Cross-Benchers for recognising it and for choosing to devote one of our two possible debates in the remainder of this Parliament to this subject.

The case for a debate is more powerful than that, however, because much has changed since we last held a debate on these issues a year ago. The momentum that began to build up with the *Wall Street Journal* article by Messrs Schultz, Perry, Kissinger and Nunn, and matched by similar statements by groups of statesmen here and in France, Germany and elsewhere, pressing for a resumption in multilateral disarmament negotiations, was given hugely added force when President Obama, in his Prague speech last spring, called for a world free of nuclear weapons and set out a detailed agenda for heading down that road. In September, the UN Security Council, under Obama's presidency, endorsed that agenda, and the US and Russia are currently negotiating a START follow-on agreement that would reduce their holdings of strategic nuclear weapons and launchers.

In 2010, we face two major multilateral conferences: in April, the Washington conference on nuclear security; and, in May, the quinquennial Nuclear Non-Proliferation Treaty Review Conference. These conferences have the potential to set the world on a completely new direction of travel and to begin to match words with action, so it is high time for us to debate what Britain can contribute to this process. The Government began this process last summer when they provided a White Paper, *The Road to 2010*, but, frankly, that White Paper was more of an atlas than a road map, and we now need greater precision on the objectives that are being pursued and greater top-level political will in pursuing them.

Britain has a great deal to contribute: as a nuclear-weapon state, as a founding member and depository of the Nuclear Non-Proliferation Treaty, as a permanent member of the UN Security Council, as one of the two nuclear-weapon states in the EU, and as a member of the board of governors of the International Atomic Energy Agency. However, we need to steer between two extremes. The first extreme is to argue that because our nuclear arsenal is the smallest of the five recognised weapon states, and because the US and Russia hold 95 per cent of those assets, we can take a pass on the whole process until it is at a far more advanced stage.

The second extreme is to overestimate our influence and argue that, by our own unilateral action, we can transform the global scene. That was always an illusion when it was widely held in the 1960s, 1970s and 1980s,

and it is even more of an illusion now. Who can seriously believe that the nuclear policies of North Korea and Iran, of China, Russia and the US, of India and Pakistan, or of Israel will be crucially affected by the decisions we take on Trident renewal? What we can do—I hope that we will—is ensure that our policies are at all times consistent with the objective of moving towards zero and use all our influence in the many international forums to which we belong to press that agenda forward.

What needs to be done if the world is to move effectively towards zero is not much in doubt. Last month it was set out clearly and compellingly in the report of the International Commission on Nuclear Non-Proliferation and Disarmament, entitled *Eliminating Nuclear Threats: A Practical Agenda for Global Policymakers*, of which the noble Baroness, Lady Williams of Crosby—unfortunately she is not able to be here today—was a distinguished member. I hope that that report will come to be regarded as a kind of global White Paper on which future action could be based. My first question to the Minister is whether the Government intend to treat it as such—as, in effect, our White Paper—to sketch out the objectives we intend to pursue at this year's two major international conferences.

Of course, changing the direction of travel, vital though it is for future international peace and security, will not be easy. There is just too much ingrained distrust: for example, distrust between the two Cold War superpowers, which are now unbalanced in conventional weapons and in economic power, but still have matching numbers of nuclear weapons; distrust between disputing parties in south Asia and the Middle East; and distrust between developed and developing countries—the latter determined to secure their access to civil nuclear power, which is all the more so given its importance to achieving environmental targets. There are also too many technical complexities, and too many vital interests and national interests at stake, for that essential change of direction to be easily achieved.

The first test we face is under way in the ongoing US-Russian negotiations. The second will come in April with President Obama's nuclear security conference summit, which will deal with an important part—but only a part—of the overall problem. The need for more effective nuclear security in a period of expanding new civil nuclear capacity, and with terrorists determined to lay their hands on weapons-grade material, is obvious but not straightforward. I hope that the Minister will say something about the Government's objectives at this important conference, given that it was called only after the Government produced their White Paper, *The Road to 2010*.

The third test will come with the Nuclear Non-Proliferation Treaty Review Conference in May. This will need to cover all three main objectives of that treaty in a balanced way if it is to get anywhere and to avoid repeating the fiasco of the last review conference in 2005. The first of those is the commitments by the nuclear weapon states to move towards disarmament. The second is the strengthening of machinery to prevent proliferation and the third is the right of all states which desire it and which fulfil their obligations under the treaty to have access to civil nuclear energy.

On the first objective, the 13 steps agreed to by the nuclear weapon states at the 2000 review conference, which remained thereafter a dead letter, will need extensive updating, revision and amplification if they are to regain credibility. Will the Government be ready to work on the basis of the Australia-Japanese commission's report, to which I referred a few minutes ago? It put forward 20 proposals which are now in the public domain. Are they giving active consideration to updating and strengthening the negative security assurances by nuclear weapon states towards non-nuclear states, which was first endorsed by the Security Council in 1995? Are they also considering how to move towards a "no first use" commitment or at least to a statement that the sole purpose of our holding nuclear weapons is to deter others who have them?

The second objective—strengthening the non-proliferation machinery—will surely require significant action too. The additional protocol to the IAEA's safeguards agreement, giving the agency much wider and more intrusive powers, clearly needs to become universal and may even need further strengthening in the light of recent experiences of evasion. How is this universality to be achieved? Is it by consensus and rapid implementation? We have been trying that for years and there are still a significant number of laggards. Is it by mandatory UN Security Council decision or by making it a condition for the supply of nuclear material by members of the Nuclear Suppliers Group? Also, surely it is high time that withdrawal from the non-proliferation treaty was made a costly and not a cost-free option. The International Atomic Energy Agency needs adequate resources, a matter where I fear that the recent cuts have left our record far from spotless.

Reducing the proliferation risk from the expansion of civil nuclear energy while ensuring its availability—the third objective—also needs some rethinking after the setback at the June meeting of the IAEA board of governors. A plethora of proposals is on the table for guaranteeing the supply of enriched uranium and reprocessing services. It is now urgent to begin implementing one or several of these in a way that will give confidence to developing countries that these multinational instruments are not devices designed to put them at a disadvantage or to deny them anything to which they have a right. How do the Government see the way ahead in this area?

Parallel to those two conferences, two other international instruments urgently need to be moved ahead. The Comprehensive Test Ban Treaty will in due course go back to the US Senate for ratification, and US ratification could bring on board a significant number of other ratifiers. So I hope that we will give what advice we can, without interfering in US domestic politics, to explain why we regard this as an essential building block of the international nuclear architecture. The other instrument is a fissile material cut-off treaty, long languishing in the Conference on Disarmament, even though it enjoys broad support from the main nuclear weapons states. There was some hope this summer that that agenda was being freed up, but it seems to be fading. Should we not be moving towards agreement on at least a moratorium on producing

fissile material until the treaty is negotiated and comes into force? This was an approach which worked quite well on the CTBT. May we not have eventually to contemplate a negotiation between five recognised nuclear weapons states if others continue to block negotiations in the Conference on Disarmament? The wider importance of these two instruments is that they offer scope for bringing within their ambit the three de facto nuclear states that are not recognised under the treaty. That could be an important objective since it is most unlikely that they will ever sign the treaty.

Some will ask whether this ambitious agenda makes any sense so long as North Korea and Iran are seeking to break out of their NPT disciplines and to obtain weapons capability. I would argue that it does. First, it will demonstrate clearly how those two countries are now swimming against the tide and thus risk intensifying their isolation. Secondly, however successful North Korea and Iran may prove to be, and it is clear that we must do all in our power to ensure that they are not, it will be many years, if ever, before they are in a position to match the extended deterrent capacity of the existing nuclear weapons states, even if the latter do decide to reduce substantially their nuclear arsenals.

I am only too well aware that many will greet the concept of a world free of nuclear weapons as a utopian pipe dream or with a cynical shrug, and some will argue that during the Cold War, nuclear weapons were a factor of stability. The second consideration may have some historical validity, but we are no longer living in a bipolar, Cold War framework, and what worked then could well not work in a wider, global and multi-polar framework. We only have to be wrong once for untold misery and destruction to be unleashed, perhaps inadvertently. As for the matter of moving towards zero, the important thing to remember is that the road towards achieving a balance of a much lower level of nuclear weapons than currently and the road towards zero are identical for a considerable part of the way and for a considerable period of time. There is no need, therefore, for the protagonists of these two different concepts to get at cross purposes in the immediate or near future.

In conclusion, I hope that this debate will play a small part in the emergence in this country of a cross-party or non-party consensus on the twin issues of multilateral nuclear disarmament and non-proliferation, and that this will enable whoever forms the next Government to move ahead actively and imaginatively, and with broad support, to secure our national interests.

12.20 pm

**Lord Robertson of Port Ellen:** This is an important and urgent issue. I commend the noble Lord, Lord Hannay, for his initiative in persuading his fellow Cross-Benchers to devote some of their scarce time to a matter of such urgency. I came into politics demonstrating for unilateral nuclear disarmament at the Holy Loch when the American nuclear submarines arrived in 1961. When I told President Bush that in the Oval Office in the White House he was a bit aghast: he did not realise that the Secretary-General of NATO had had that kind of background. However, as we were the same age, born in 1946, he did a quick mental

[LORD ROBERTSON OF PORT ELLEN]  
 calculation and figured that he was, as he said, “raising hell” at that time and did not wish to be reminded of what he was doing, so we would put that aside.

I moved from demonstrating at the gates of Ardnadam Pier on the Holy Loch to being in charge of Britain’s independent nuclear deterrent because, along the line, I changed my mind about unilateralism. I did it slightly before my noble friend Lord Kinnoch, whose Damascus conversion at a National Executive Committee meeting will remain in the memories of anybody who was at that meeting. The line was, “I have tried to preach unilateralism in the Kremlin, in the White House and in the Elysée and I have to tell you, comrades,”—that word was used quite commonly in those days—“it doesn’t work”. So the Labour Party moved away from its almost suicidal unilateralist policy. However, I believe that disarmament is important and relevant and that proliferation poses a huge threat to the world today. I am delighted, therefore, to be among a group of colleagues, in this House and the other one, who are committed, in the Top Level Group of UK Parliamentarians for Multilateral Nuclear Disarmament and Non-Proliferation, to be moving towards a position where we can at last welcome a world without nuclear weapons.

We have very limited time in this debate, so I just want to make three points. One is that we undervalue the progress that has already been made in nuclear disarmament and that some of the non-nuclear states, in undervaluing the progress that has been made, dismiss their own role and their own obligations under the Nuclear Non-Proliferation Treaty. It is worth reminding ourselves that the disarmament record of the P3 group of nuclear nations has been impressive. By 2012, the United States will have reduced its nuclear stockpiles by 75 per cent of the level of 1990. France has reduced the number of its warheads by 50 per cent since the height of the Cold War and has eliminated its land-based missiles. Our country has reduced the explosive power of its nuclear arsenal by 75 per cent since the end of the Cold War, reduced the number of its operationally available warheads to no more than 160 and done away with all the non-strategic nuclear weapons as well. Russia itself has sharply cut back on its strategic nuclear forces, reducing from approximately 15,000 to 3,900 since 1986, although it has to be said that it has deployed a large arsenal of non-strategic nuclear forces which I shall address in a moment.

The START negotiations that are taking place at the moment look likely to produce even further reductions in American and Russian nuclear arms. So it is important for the non-nuclear states in the run-up to the NPT review conference to bear in mind the fact that the nuclear nations have made improvements and that they have obligations as well in terms of creating the conditions necessary for implementation, for preventing further nuclear proliferation and for securing nuclear weapons and material as well as encouraging the peaceful use of nuclear energy. These are important matters that should be borne in mind before the NPT conference.

Finally, there is an opportunity in the lead-up to the review conference to look at theatre nuclear weapons, the preponderance of which, in Europe, are Russian. However, there is an opportunity here of trying to

negotiate the levels of these short-range nuclear weapons to a point where they cease to be relevant and remain purely symbolic. But this must be done carefully and with imagination. It is a new opportunity for NATO to begin a dialogue and a negotiation with the Russians in order to relieve the European continent of some of these pretty redundant but symbolically very important weapons. There are opportunities involved in the process leading up to the review conference and I hope that we grab these opportunities quickly and wisely.

12.25 pm

**Lord Howe of Aberavon:** My Lords, I have to confess that I come to this scene with so many more cumulative recollections of the years when we were confronting the Cold War and all that went with it, and I find myself impressed beyond my own capability by the compact and skilled way in which the noble Lord, Lord Hannay, presented his summary of the present situation.

I glance back for a moment, as did the noble Lord, Lord Robertson, to an earlier stage in my career when, as I moved from the Treasury to the Foreign Office, I found myself absorbing all the case that could be made for the preservation and enhancement of our nuclear weapons, and the fact that my son had become the national press officer for the Campaign for Nuclear Disarmament. That led to a certain amount of stress within the family, but I am happy to say that we have now, more or less, reconciled it.

What immediately strikes one when recalling that period now is the huge distance that we have been able to cover and the fact, as the noble Lord, Lord Hannay, pointed out, that a formidable gathering of American men of authority, including four secretaries of state and two senators, has come together to lead their campaign on a worldwide basis for the achievement of a world that will in the end be free of nuclear weapons of any kind. It is all the more encouraging that comparable movements have been started and are making headway virtually all round the world. Like the noble Lord, Lord Hannay, I regret the absence from today’s debate of the noble Baroness, Lady Shirley Williams. She, in her partnership with Gareth Evans in the Australian Parliament, has also made a very substantial contribution to what we need.

One other feature that influences me from the Cold War era is the extent to which success in these matters will require, and has always required, tenacity and determination on a very long and often frustrated basis. Happily, we no longer live, as we did in those days, in a world where everything is dominated by the confrontation between the two superpowers. For example, it was remarkable—miraculous—when my noble friend Lady Thatcher and I had our first meeting at Chequers with Mikhail Gorbachev as he first arrived on the world stage, and he immediately said that arms control was his principal preoccupation. He pointed out the scale of the agenda at that time, with the simple proposition that the weapons available to the superpowers exceeded by billions the total power of the weaponry used in World War 1. There one began to see the will which has taken us now so far along the road, with an impressive array of treaties already in force, the enhancement and reinforcement of which are of primary importance in the years ahead.

Our American friends, led by my former colleague George Shultz, have also underlined a very simple analysis. He has written a very helpful essay in a book, to which I wrote a foreword, edited by a former colleague in the other place, Robert Harvey. The book is entitled *The World Crisis: The Way Forward after Iraq*. The central dilemma as set out by George Shultz is that the prospect of building more nuclear power plants implies the wider distribution of potential bomb material. In those circumstances, it is our duty now to undertake—to quote from George Shultz’s analysis—“the task of protecting the golden moment”.

We have reached the point where it is not unrealistic to expect the possibility of progress along the lines indicated by the noble Lord, Lord Hannay.

My central point is that if we are to achieve the completion of that agenda, then the will and determination to tackle the different tasks in each of the different quarters that the noble Lord identified will require as much tenacity as was needed to make the first steps in achieving headway on arms control between the major powers. We have rightly identified the value of the agreement between the two leaders of the superpowers and counted our blessings on the agenda that has to be tackled in the next two or three years. I hope and believe that we shall now be able, in this country with our limited influence, to play our part in a much larger concert of leadership on the road to sanity in achieving defence against the horrors of a world overwhelmed and cluttered by nuclear weapons, although tucked away. We may well be on the track that will take us possibly to the elimination of all nuclear weapons and certainly to the large-scale reduction of them. That, as the noble Lord, Lord Hannay, pointed out, is a direction to which we can all commit ourselves. I hope this Government, and the one who will shortly succeed them, will have no doubt in pressing ahead with that agenda.

12.32 pm

**Lord Lee of Trafford:** My Lords, an appreciation that just one nuclear detonation could wreak even greater devastation than that we have seen so tragically in Haiti emphasises the crucial importance of this debate, and I congratulate the noble Lord, Lord Hannay, and the Cross Benches in securing it.

It is a near miracle that the world has been spared nuclear conflict these past 60 years. The thawing of the Cold War—with the West and the Warsaw Pact coming so close to hostilities—has partially lifted a significant threat, but the risk of nuclear catastrophe is ever present. As the co-chairs of the report of the International Commission on Nuclear Non-Proliferation and Disarmament, Gareth Evans and Yoriko Kawaguchi, point out in the preface to *Eliminating Nuclear Threats*:

“There remains no simpler or more compelling articulation of the case for action than that first put by the Canberra Commission over a decade ago: so long as any state has nuclear weapons, others will want them; so long as any such weapons remain, it defies credibility that they will not one day be used, by accident or miscalculation or design; and any such use would be catastrophic for our world as we know it”.

Sadly, many traditional attitudes and suspicions remain. During a recent visit to the naval port of Vladivostok, Vladimir Putin is quoted as saying:

“To preserve the balance, we must develop offensive weapon systems, not missile defence systems as the United States is doing”.

Somewhat more encouragingly, he went on:

“Let the Americans hand over all their information on missile defence and we are ready to hand over all the information on offensive weapons”.

In more recent years, the nuclear threat has unquestionably broadened. Not only have we seen a spread in nuclear technology—witness Iran—and a rising terrorist threat, but we are witnessing a substantial growth in UAVs, with weapon systems activated from thousands of miles away. In addition, the increasing vulnerability of command and control systems to cyberattack is rapidly being recognised—witness a recent Google experience in China. Indeed, in November 2008, the US-China Economic and Security Review Commission, which reports annually to Congress, declared that as many as 250 hacking groups were tolerated or encouraged by the Chinese Government. It said that the country’s sustained effort could give it,

“capability enabling it to prevail in the conflict with US forces”.

Earlier this week, there were reports of serious Chinese cyberactivity against Indian government offices.

While it remains a Herculean task to achieve a world totally free of nuclear weapons, we can most certainly bring about a significant reduction in nuclear stockpiles—a process which, thankfully, has already started towards zero, as the noble Lord, Lord Hannay, said earlier. In the short term, we have two reviews under way or in prospect: the NATO nuclear posture review and the US nuclear prospect review, helping to create an atmosphere which we hope will enable real progress to be made in May at the NPT review conference.

There are some encouraging omens. There have been significant reductions in nuclear stockpiles, as the noble Lord, Lord Robertson, said earlier. The UK, in conjunction with Norway, has made good progress in developing verification systems. An increasing number of nations are refusing to have tactical nuclear weapons based on their soil: Greece has banned them and Germany is pushing for their removal, although it must be said that Turkey takes the opposite view. And all US nuclear weapons have gone from the UK. Here, there is an increasing questioning of the replacing and upgrading of Trident, both on military and financial grounds.

I would like to put a number of questions to the Minister. What progress has been made on former Defence Secretary Des Browne’s suggestion of a meeting of sophisticated nuclear powers’ laboratories, which would have been seen as a trust builder? What plans do Her Majesty’s Government have to strengthen the NPT? As I think the noble Lord, Lord Hannay, said, could we make it more expensive and unattractive for countries to exit the NPT? In other words, could future support, both for military and even civilian nuclear development, be withdrawn, as recommended by the International Commission on Nuclear Non-Proliferation and Disarmament? I understand that the co-chairman, Gareth Evans, will be addressing the high-level group here next month. At this juncture, perhaps I may offer the sincere apologies of my right honourable colleague and friend, the noble

[LORD LEE OF TRAFFORD]

Baroness, Lady Williams, who deeply regrets not being with us today as she is attending a family wedding in India.

As clearly the IAEA needs much greater resource, are Her Majesty's Government prepared to increase funding? Could we offer to take the lead in training future inspectors, given our experience in this area? Finally, am I correct in suggesting that on a Spanish base there is a substantial EU facility for satellite imagery? Could any spare capacity be offered to the IAEA by the EU, obviously with Spanish agreement?

In conclusion, there is clearly a relationship between nuclear and conventional forces when we talk about reductions and disarmament. Following the break-up of the Soviet Union and the splintering of the Warsaw Pact, Russia no longer has conventional superiority. Thus, it is not unreasonable for it to argue for a parallel reduction in conventional armouries alongside any reduction in nuclear capability.

12.38 pm

**Lord Owen:** My Lords, it is a pleasure that this is a Cross-Bench debate and the noble Lord, Lord Hannay, deserves our congratulations on introducing it in such an erudite way.

Since I last discussed this issue, some important changes have taken place. I greatly welcome the American decision to put on hold the anti-missile defence system that was proposed for Poland and the Czech Republic. It has been an important step in making it much easier for the Russian Federation to enter into a serious dialogue with the United States. We should not forget that the reason underpinning that decision was to put anti-missile defences in the area with the biggest threat, as perceived by Israel, Egypt and Saudi Arabia. We must reconsider quite a lot of views about anti-missile defence in a world in which we now see unstable countries developing medium-range to long-range weapons, cheating on the non-proliferation treaty and showing every sign of developing nuclear weapons.

It is also important to recognise that there is currently a quiet but serious debate in Israel as to whether it should take pre-emptive action against Iran, as it successfully did against Iraq and Syria. I hope that I have proven over many years that I remain a good friend of Israel. I know that it will not take much notice of outsiders taking this decision, but I believe that it would be deeply damaging to Israel if it were to risk a pre-emptive attack against Iran. We cannot say that clearly and loudly enough whenever we are in the presence of influential Israelis. Israel now has the possibility of serious anti-missile defence but, above all, we must be patient.

There is no doubt that we will not see any immediate change in Iran, but we are beginning to mobilise China. Sino-Iranian relations are extremely important. There are also some signs that Russia is taking a more critical stance on the Iranian nuclear weapons programme than it has done hitherto. It may or may not be a nuclear weapons programme but, to all intents and purposes, it appears to be. Iran's strategy may be to carry on with its present programme under the valid argument that it is preparing a civil nuclear programme,

but the world has now had enough experience, with both Pakistan and Korea, to seriously doubt any arguments that this is all about a civil nuclear programme.

The Comprehensive Test Ban Treaty is becoming a real issue in Washington. It would be a massive improvement if we could have a commitment from China and the United States to ratify the treaty before the NPT review conference. We need to remember—this goes back a long time, to Harold Macmillan—that the difference between having the capacity for a nuclear explosion and actually making one is still one of the few real thresholds at which, if one possibly can, one should stop. That is important in terms of how Israel looks at the issue. It has held back from that threshold in clever ways. Iran may be persuaded to do the same; that would be a considerable achievement if it could be done. There is no doubt that the path towards that lies in China and America both ratifying the test ban treaty. I hope that that is given a high priority.

In the UK, the juxtaposition of a far graver economic crisis than this country has yet begun to face up to and the need for expenditure cuts across the board, even in defence—I deeply regret that, but we must face the reality—ought to be able to make us take decisions on continuing with the nuclear deterrent for the next few decades, albeit in a much more modest and less costly way than we have done in the past. The Prime Minister has said that he favours a three-boat SSBN fleet. That effectively means that you do not have continuous deployment, which is itself an important decision in terms of non-proliferation.

My own judgment is that it is extremely extravagant to spend that amount of money on a three-boat solution. I would far prefer what the Americans have been doing for the past 25 years: having the capacity to put nuclear warheads on their cruise missiles on their fleet submarines. I see the noble Lord, Lord Robertson, who knows about these matters, shaking his head. However, throughout his period as Secretary-General of NATO, the United States retained the option of deploying nuclear warheads on cruise missiles on their submarines. It is, therefore, a proven system. It is far less effective than the Trident submarine system that we have; I have never made any secret of my view on that. But if we are going to zero, we have to choose, on that path, a lesser nuclear weapons system. That is the key decision that will have to be taken some time this year, by whichever Government form the next Administration.

12.45 pm

**The Lord Bishop of Southwark:** My Lords, I, too, am grateful to the noble Lord, Lord Hannay of Chiswick, for enabling us to have this important debate. I will focus on some of the ethical aspects.

As your Lordships are aware, a major factor in the conduct of a just war is the principle of proportion, which is that,

“the harm done in the conduct of the war must never be greater than the harm done or the injustice caused by the aggression it is intended to restrain or remedy”.

It might be thought that the use of nuclear weapons could never meet this criterion. But what of the possession of nuclear weapons with the possible threat of using

them, the so-called mutual assured destruction policy? The then Bishop, Graham Leonard, reflecting on this question, maintained that the principle of proportion does not rule out the choice of a great good achieved at the risk of a great evil when the alternative is almost wholly evil.

It is arguable that for the decades of the Cold War the possession of nuclear weapons in mutual assured destruction prevented a war between the great powers which would have been a catastrophe even if only conventional weapons had been used. However, the days of the Cold War are over. We might have got used to the possession of nuclear weapons and perhaps there are new generations that are not so aware of their destructive power. But we are not living in a world today where a massive Soviet army is threatening to roll into western Europe. That is not our “certain great evil”, to which Graham Leonard referred and which made the possession of nuclear weapons arguably moral. That threat has gone, in our infinitely more complicated world, where threats to our security come from unexpected directions. In this world, it is difficult to see what the circumstances would be in which a British nuclear weapon could ever be used. If such use is inconceivable, the moral argument for their possession loses its force.

An argument might well be that it is precisely because the world is unpredictable that a responsible Government must keep all options open and have a minimum number of nuclear weapons as part of their defence capability. First, however, nuclear weapons are not cheap and it might seem that £20 billion or more—the estimated cost of the renewal of Trident—might achieve greater national security if it were spent on conventional arms. Secondly, the world always will be unpredictable, so we must ask, “If the time is not right to phase out nuclear weapons now, when will it be right?”. If the answer for Britain is never, then it must be the same for every nation.

To follow that logic drives a coach and horses through the Nuclear Non-Proliferation Treaty. As your Lordships are well aware, that treaty was signed by UN nations in 1968 and is frequently reviewed. As we have heard, the next review meeting is in New York this coming May. It is basically an agreement between nations possessing nuclear weapons and those without them. In what is sometimes called the “grand bargain”, under Article 2 of the treaty non-nuclear nations undertake not to seek to develop nuclear weapons, while under Article 6 nuclear nations undertake to pursue nuclear disarmament and a treaty on general and complete disarmament under strict and effective international control. Article 6 does not, however, establish any timetable for nuclear disarmament, nor does it prohibit maintenance or updating of existing capabilities. Perhaps it should have done, but it does not.

The British Government have over the years reduced the scale and readiness of the Trident system and plan to reduce it further. The Government’s thinking of upgrading Trident while reducing the total number of its warheads might seem consistent with a strict legal interpretation of the NPT, but it is hardly in its spirit or the ethical principles underpinning that spirit.

Indeed, if nuclear nations upgrade their nuclear weaponry or seek to develop a new generation of smart nuclear weapons, they are hardly in a strong moral position to argue that non-nuclear nations should not seek to develop them. Both elements in the NPT need to be honoured if the world is to become a safer place. The fact that in the past few years we have seen a clutch of new nuclear states, among them Pakistan, India, North Korea and possibly Israel, with Iran on the horizon, does not add to our confidence.

May 2010, when the next NPT review is to take place, will soon be here. Five years ago I attended the previous review on behalf of the World Council of Churches. I found it a most depressing experience, with day after day of debate being lost in procedural wrangling. However, the international political environment seems surprisingly more positive today than it was five years ago. The development of civil nuclear power in the face of climate change is certain to spread to many new countries in the coming years, extending knowledge and expertise in nuclear technology. It is not only Iran that will be a source of anxiety, so the need to deliver on the grand bargain of the NPT becomes ever more urgent, particularly as there is an increasing potential for fissile material to fall into the hands of those who would seek to use it for acts of terrorism.

I trust that the NPT conference next May will be a major step on the road to nuclear disarmament and that Her Majesty’s Government will give the conference every encouragement and support and be prepared to make bold initiatives to seek to unblock the nuclear logjam.

*12.52 pm*

**Lord Judd:** My Lords, I join most warmly those who thanked the noble Lord, Lord Hannay, for having secured this debate and for having introduced it so thoughtfully. I declare an interest as the trustee of Saferworld, the arms control and security sector reform NGO, and as somebody with an honorary doctorate from Bradford University who follows its specialised work on these issues with great interest.

I have always been a multilateralist, but just as I have always believed that the effective control of the arms trade is essential to defence policy, so I believe that disarmament should be an integrated part of that policy. In that context, I am as yet unconvinced that the case for the direct like-for-like replacement of Trident has been made. Unless it is, there are no grounds for it to be ring-fenced in any post-election defence review, as such a review would, I hope, analyse what really are the threats that face us and what we really need to meet them.

What used to be regarded as unconventional warfare has de facto become increasingly the normality in conflict. The relevance of a new generation of Trident to this reality has not been demonstrated. That is not to say that some of the old dangers may not still lurk in the shadows and could re-emerge. Non-proliferation remains vital. Anxieties about Pakistan, India, Israel and Iran all underline this, but to deal with such anxieties effectively other, more economic forms of deterrence than a new Trident are available.

[LORD JUDD]

Just how indispensable is it still to have a nuclear arms submarine at sea, ready to fire within days or even hours? How essential is it to keep our nuclear arsenal at its present level? How damaging would it really be to cut the nuclear warhead stockpile by 50 per cent to less than 100? The cost of the proposed Trident replacement is enormous. We simply must consider what could be done with those funds to strengthen the equipment and support for those who are operational in real front-line engagements or, indeed, to help to defray the costs of new aircraft carriers, which are probably essential if we are to have the flexibility to deploy land and air power to trouble spots across the world in support of the international community. With the limits on public funds so severely constrained, the importance of these considerations is heavily underlined.

The Government can with some justice claim that the UK has demonstrated a commitment to nuclear disarmament. They can point to the ratification of the Comprehensive Test Ban Treaty, ending production of fissile materials for nuclear weapons, publishing accounts of their holdings and history of fissile material production and reducing to a single nuclear system in Trident. All this is powerful, but a credibility gap still remains. As the right reverend Prelate said, how convincing is it for the existing nuclear powers to insist that others forgo nuclear capability unless they themselves are constantly producing evidence of a steady move towards nuclear disarmament? This was indeed the expectation inherent in the non-proliferation treaty.

Were the UK to increase the momentum by forgoing a new generation of Trident, cutting significantly our nuclear warhead stockpile and making a firm declaration that the use of our nuclear weapons would only ever be in response to a nuclear, and perhaps biological or chemical, attack, such action would immensely strengthen our negotiating power on non-proliferation across the world. A declaration would, after all, reflect only the sane reality of what is ever going to be the situation anyway. Similarly, a reduction in the stockpile would make a dramatic impact on world opinion and, again, would leave us well within the realm of real possible scenarios.

There is, meanwhile, grim evidence that every day between 1,000 and 2,000 people around the world die from armed conflict. Livelihoods and economic activity are ruined. Her Majesty's Government must not weaken in their impressive drive for an effective and verifiable—"verifiable" cannot be overemphasised—arms trade treaty. They must insist on adequate preparatory arrangements and allocate sufficient human and administrative resources towards making a success of that. There must be senior ministerial engagement.

We have to recognise that a number of states are suspicious of so-called northern support for the ATT and suspect that it is a way of keeping less developed countries from gaining access to technology and of maintaining the north's military and economic advantage. A number of states also link the ATT directly to nuclear disarmament. This is true of Middle Eastern states, with Egypt evidently believing that there can be no ATT until Israel's nuclear status has been addressed.

India and Pakistan are also among the sceptical critics, fearing that the ATT is another way of keeping nuclear upstarts under control.

Progress on nuclear and conventional disarmament is inextricably linked. Progress on nuclear disarmament is essential. For it to happen, it will surely be more persuasive to be able to say, "Take the same road as us", rather than, "Take the road we are demanding of you even if we ourselves are not going the same way".

12.57 pm

**Lord King of Bridgwater:** My Lords, I join in congratulating the noble Lord, Lord Hannay, on initiating this most important debate. I do not think it is a great secret that he, I and other senior parliamentarians are members of a top-level group committed to promoting multilateral nuclear disarmament and non-proliferation. His initiative today is a most important step in giving the Government confidence that, as they pursue these most important matters, they have the widest possible support across the political spectrum, and from those of all parties and none, for making progress in this area.

Looking at the recent controversy that has broken out in the Ministry of Defence as regards the different armed services, I was very struck by its comment that there is a marked reluctance to recognise that the Cold War ended in 1989. If that is true as regards choice of weapons, it is certainly true in the nuclear field. It is sobering to think that, as we sit here today, between the United States and Russia there 2,000 nuclear weapons on high alert. Nothing seems less relevant to the world situation than that there should be such a nuclear capability on high alert at this time.

Members of the group to which I referred have picked up a baton handed on by the initiative in the United States of George Shultz, Henry Kissinger and Bill Perry. I was very struck by the opening sentences of an article they wrote two days ago in the *Wall Street Journal*. It states,

"The four of us have come together, now joined by many others, to support a global effort to reduce reliance on nuclear weapons, to prevent their spread into potentially dangerous hands, and ultimately to end them as a threat to the world. We do so in recognition of a clear and threatening development.

The accelerating spread of nuclear weapons, nuclear know-how, and nuclear material has brought us to a tipping point. We face a very real possibility that the deadliest weapons ever invented could fall into dangerous hands".

Is it an exaggeration to say we are at such a tipping point? I do not believe that it is. I was Secretary of State for Defence at the end of the Cold War. I remember almost immediately one development that occurred. I was sitting in No. 10 with John Major, the Prime Minister, and President Yeltsin discussing how we were going to handle the issue of nuclear weapons in parts of the former Soviet Union which were no longer under what had then become Russian control. We offered them assistance in secure transport for conveying these weapons back within the security of Russia. I think Kazakhstan was one of the countries that had nuclear weapons at that time. It was an immediate warning that the end of the Cold War introduced new, more dangerous situations.

As I look at the world now, I am under no illusions that this is a much more dangerous time. We have already had the very real risk of a nuclear confrontation between India and Pakistan and there is concern about the security of weapons in Pakistan. I saw a comment in the newspapers—I have no idea if it is true—that the Americans are already preparing plans for special forces that might need to go in to secure the safety of those weapons if the situation deteriorates in Pakistan. It is a pretty obvious point about the danger and instability of that country at this time.

There are also issues that we never previously had to face; for example, the threat of suicide bombers—fundamentalist jihad who do not care about the casualties that they might cause. The bigger the outrage the more success they might attribute to their cause. As well as those situations and the risks of accidental or deliberate use of nuclear weapons, or a miscalculation, there is the possibility of cyber threat and the use of cyber techniques. The noble Lord, Lord Owen, in a most impressive speech, referred to the Israeli situation and that it might deal with the Iranian nuclear threat by cyber attack.

New developments pose enormous dangers of one sort or another. They also coincide most awkwardly with the time when many people in the world want to see much greater use of nuclear power. That is a difficult combination to handle. It is against that background that I strongly support the efforts suggested by the noble Lord, Lord Hannay—the importance of the review conference of the NPT and the initiatives that should be taken by the nuclear weapons states at this time for major reductions. There should be strong support for President Obama in the initiatives that the Pentagon is trying to frustrate. I hope he is successful in getting movement in that field.

This is a case where the House of Lords has taken an initiative through that of the noble Lord, Lord Hannay, and I hope that it will be reflected in another place. I hope that the message will then be heard that Britain is prepared to play its part in a most important challenge that the world faces at this time.

1.04 pm

**Lord Ramsbotham:** My Lords, like other noble Lords, I congratulate my noble friend Lord Hannay on obtaining this debate and for the masterly way in which he introduced it. I will be brief because I want to focus entirely on our national position.

As the noble Lord, Lord Hannay, said, we are faced with taking obvious but not straightforward moves towards zero along the 20 steps advocated by the Australian and Japanese commission towards a world free of nuclear weapons. However, we must not base those moves on either an underestimation or an overestimation of the relative importance of our nuclear capability.

As my noble and gallant friend Lord Bramall said during the Private Notice Question that immediately preceded this debate, it is important that national decisions must be synchronised with the Strategic Defence Review. We must acknowledge that although manned by the Royal Navy, our deterrent and its capability is not just a matter of defence. I have long

felt that it should be taken out of the defence budget. I feel that even more as we move towards the very difficult Strategic Defence Review that is promised after the election, if that review is skewed by the fact that the cost of the deterrent is a given in the defence budget.

Our position in relation to multinational disarmament will be less credible if, with regard to Trident, we take the line that others must engage in it but not us. Not only can we not afford the financial cost, but we cannot afford the political cost of following that line. Therefore, showing our determination to acknowledge our responsibility and demonstrating a genuine commitment to the move towards zero, I entirely agree with my noble friend Lord Owen that we should go down the cruise missile route—possibly using dual-capable weaponry mounted in Astute submarines. This route was advocated by such as Admiral Eberle when Commander-in-Chief Fleet more than 20 years ago, since when the technical capability of supersonic cruise missiles has been considerably developed. Can the Minister assure the House that this route is being seriously considered?

This debate is taking place at a very important time, with the impending conferences set out by my noble friend Lord Hannay. It is extremely important that our delegates to those conferences are armed with a credible and affordable national line.

1.07 pm

**Lord Hunt of Chesterton:** My Lords, I welcome this debate and the introduction of the noble Lord, Lord Hannay, about the need for the UK to work with other nations to reduce the world threat of nuclear weapons.

If the UK is to play such a role it is essential that the UK capability in science and technology remains very significant. The lack of really excellent collaboration between the EU and the US in these fields considerably reduces our capacity. Do the Government plan to improve this collaboration in future? My noble friend Lord Robertson referred to the Holy Loch. The Holy Loch was where Lewis Richardson lived in the 1940s and 1950s. He wrote an extraordinary letter to *Nature* in 1951. He said there had been three arms races in the 20th century and there had been two world wars. Was there any reason why there would not be a third world war? He argued that if one country really won the arms race, the other country might submit, which is one interpretation of recent history.

The noble Lord, Lord Hannay, made the point that conflict of countries with big armaments when you have only two big blocs is different from the multilateral situation we have now. We should go to a lower level of international armaments but we may still need some low-level international nuclear capacity to deal with rogue elements.

In some sense nuclear power has prevented world wars in the past 60 years. It is also worth while noting in terms of the relative danger that some people feel about nuclear power and nuclear risks that every year, according to the World Health Organisation, between 1 million and 1.5 million people die from the effects of the oil and coal industry—particularly in China, but 30,000 people die early in the UK every year from

[LORD HUNT OF CHESTERTON]

pollution, largely from vehicles. Clean nuclear energy would hugely reduce the number of deaths, despite the risks associated with nuclear power.

Policies about nuclear energy relate very strongly to problems of non-proliferation from nuclear energy. Non-proliferation considerations are having and have had a significant impact on the introduction of new nuclear technologies. Nuclear fission systems are being introduced rapidly in China, slowly in the UK and at a moderate pace elsewhere in Europe and in the United States. However, countries using conventional fission systems are very concerned about uranium running out. China currently depends upon Kazakhstan and Australia for its uranium. It believes, as does Russia, that we need new technologies. Those countries, including the United States, have a growing R&D programme to develop hybrid systems that combine fusion and fission.

I will make a couple of points about neutrons, which have not featured largely in the debate. Neutrons from fission systems can trigger chain reactions in the fission blankets around them, so that they act in an even safer way than conventional fission systems. The important point is that they can use a much lower level of fuel than you need for current fission systems. I had an e-mail yesterday from a senior official in the US Department of Energy, on whom I was testing the idea. He wrote:

“This has considerable advantages in non-proliferation”.

The reserves of thorium in the deserts of India and China are five times as great as those of uranium, so the Chinese are aiming to construct a prototype system by 2020. Other countries are following this. An important feature of this hybrid technology is that not only will heat from the fossil fuels lead to power, but the process also transforms the wastes so that they have a much shorter half-life than the 10,000-year half-life of waste from conventional nuclear fission systems.

The UK Government have been very concerned about this technology and have prevented people discussing it. There has been only very limited discussion at the IAEA. The fear was that this technology could be used to generate high-grade fissile material for weapons. However, this is no longer seen as a valid objection. The e-mail that I mentioned states:

“If thorium is used, it will be very difficult to transform that into uranium 235, and any attempt to do so will be easily detectable”.

That is why we need good science on detection.

I was pleased last week to receive a letter from the noble Lord, Lord Drayson, which stated that the UK would now include consideration of hybrids as part of its research into fusion and fission. Our programmes on both are excellent, particularly our fusion programme, for which the Chinese have great respect. This will be an important basis for us to develop future energy systems that will have lower proliferation potential and will use more widely used fuels, which will benefit the world. I welcome the point made by the right reverend Prelate the Bishop of Southwark that nuclear energy is an important part of how we are going to reduce carbon emissions for the world.

1.13 pm

**Lord Patten of Barnes:** My Lords, the noble Lord, Lord Hannay, may recall the advice of Adlai Stevenson that flattery is fine provided you do not inhale. I will join others in congratulating him warmly on instigating the debate. I will also join others in commending the report of the International Commission on Nuclear Non-proliferation and Disarmament, chaired by my former colleague at the International Crisis Group, Gareth Evans, and by Yoriko Kawaguchi. It can be fairly said that the report bears the imprint of Gareth Evans’s—how can I put this?—rigorous and no-nonsense intellect. It is a very good report.

I will focus on one simple point made by the co-chairs of the international commission and which has been touched on by several noble Lords. Nuclear disarmament and non-proliferation are plainly joined at the hip. In a world where the number of nuclear power reactors is likely to double in the next 20 years, and where we all wish to diminish the chances of terrorist organisations buying or stealing nuclear weapons, it is imperative to tighten the safeguards and the verification, compliance and enforcement provisions of the Nuclear Non-proliferation Treaty. That will be a major issue on the agenda at the review conference of the treaty in May.

As Mohamed ElBaradei and others have argued, we cannot expect the non-nuclear weapon states to accept tougher surveillance if the nuclear states do not do more to reduce their own nuclear arsenals. The two issues are closely related. For example, the downsizing of nuclear arsenals before 1995 helped to secure in that year the extension of the NPT. We welcome the fact that President Obama is committed to making real progress on nuclear disarmament, unlike his predecessor. That is not an issue, but it may be problematic how much support he will get in the Senate for that position.

What about the other permanent members of the Security Council? What is their commitment to non-proliferation? Let us consider the two most serious threats to non-proliferation, starting with North Korea. The key actor in the six-party talks, apart from the United States, is China. China is obviously and understandably worried about the possibility of an economic and political collapse in North Korea, which would almost certainly result in an exodus of North Koreans into China’s neighbouring rust-belt provinces. However, is China prepared to take a more forceful line with its unruly and awkward former ideological dependant?

More worrying is the case of Iran. I will follow very closely what the noble Lord, Lord Owen, said. I welcome the fact that President Obama has been wisely enthusiastic about engaging Iran. The international community put a serious offer to Iran in October, which would have helped it out of the corner into which it had painted itself without it losing face. Unfortunately, Iran rejected dialogue. Doubtless the issue at the time was entangled with the turmoil in the country after the rigged elections. I have always been in favour of trying to negotiate a settlement with Iran, recognising the country’s ambitions to develop a civil nuclear capacity, properly monitored, while drawing red lines to prevent weaponisation. However, if such a

policy is not getting anywhere, and if we agree with what the noble Lord, Lord Owen, said about how devastating a military strike would be to the region and to the world, the only alternative to negotiating with Iran is tougher sanctions.

Sanctions are already in place; but what if next month in the Security Council the United States, with British and French support, comes back with much tougher sanctions? I hope that Russia would accept a tough arms embargo on Iran, even though it provides 85 per cent of Iran's arms imports. What of China? It has a significant energy relationship with Iran. China buys oil from Iran and sells petroleum back to Iran. China has a \$100 billion natural gas deal with Iran. Will China accept a ban on petrol and diesel sales to Iran as part of an effective embargo policy? The way that China handles this issue will be one of the determining factors in its relationship with the rest of the world, alongside climate change and the value of the renminbi in the years ahead. I hope that we can expect the European Union—Iran's biggest trade partner—to give a forceful lead, though I recognise that that may be an oxymoron.

1.19 pm

**Lord Bramall:** My Lords, having lived for much of my professional life under and, indeed, intellectually fully accepted what I might even describe as the theology of Britain's nuclear deterrent, with all its political overtones; commanded a division in the field in West Germany at the height of the Cold War, the tactical performance of which depended to a great extent on the back-up and background threat of NATO's nuclear weapons; been Chief of the Defence Staff when our own nuclear deterrent was, 24 hours a day, 365 days of the year, capable of a 15-minute response; and shared with many others a comforting feeling that the balance of nuclear terror was indeed contributing to stability and the absence of aggression in Europe, I feel that I may be more qualified to offer some views on my noble friend Lord Hannay's timely Motion than some who may be excessively influenced by political or emotional factors which, valid as they are to them and to others, must be somewhat extraneous to the core issue of an effective defence of this country against any realistic threat.

The first point I feel I must put forward, not for the first time, is that if this country and our allies are really serious about wanting not only to curb nuclear proliferation but to bring about a nuclear-free world as soon as that is practical, and not just pay it lip service, it cannot be anything but the worst possible example if we, in our key international position, make firm plans and spend vast amounts of money that we cannot afford to give ourselves a continued national strategic deterrent capability for the next 50 years, based on an age-old but now fallacious argument—which others might, not unnaturally, feel encouraged to follow—that even in a manifestly changing world no self-respecting nation can afford to be without such a weapon if it is to be properly defended. I say this particularly because there are a number of alternative options to which we could subscribe that would make a positive contribution to the nuclear proliferation negotiations, instead of the extremely negative one.

Having thought deeply since the end of the Cold War about possible future threat scenarios, however bizarre and including nuclear blackmail, in which our own nuclear deterrent, let alone its usage, might just have any relevance at all, I now take the view—very simplistically, and no doubt many will say oversimplistically—that we really no longer need an all-singing, all-dancing successor to Trident. This is for four simple reasons: it does not deter any threat likely to face us in the future; in a globalised world, it cannot really be used under any relevant circumstances; it is not independent in any useful sense, and we certainly cannot afford it.

However, I do accept that if we were, as my noble friend pointed out in his masterly introduction, to make the logical conclusion from these perfectly valid points it is improbable that others would necessarily follow our example. But even if our Government were not, for political reasons, prepared to go the whole hog for fear that the country might—in a still dangerous world, with the possibility of nuclear weapons getting into the wrong hands—take fright and imagine that we were giving away something fundamental, while the French retained theirs, there is still much that we could do positively which could be looked at most carefully in the context of the long-awaited defence and security review. Particularly, we could delay as long as is humanly possible any firm decisions on replacing the existing Trident SSBN fleet to give us more flexibility in negotiations. That would be made easier by being prepared to accept a gradually reduced fleet of three, or even two, submarines with some theoretical loss of effectiveness over a period and far more reliance on intelligence. But do we really need round-the-clock alertness? That assumption should be seriously challenged.

Putting Tomahawk cruise missiles on submarines with a nuclear and/or conventional capability to take out pinpoint targets, and improving utility and credibility without abandoning any uncertainty altogether, are other ways to make a significant and positive nuclear disarmament point. Those points have been made most strongly and effectively by my noble friends Lord Owen and Lord Ramsbotham. Nor should we despair of trying to come to some agreement with the French about a joint move to such disarmament; for once that unilateral straitjacket was removed or loosened I believe that the whole country would soon be in favour of stepping down the nuclear ladder—as a useful research paper recently described it—and of doing so comparatively quickly; and the whole country would be absolutely right.

1.25 pm

**Baroness Falkner of Margravine:** My Lords, I, too, wish to express my gratitude to the noble Lord, Lord Hannay of Chiswick, whose expertise in these matters is known well beyond this House. He has provided us with another welcome opportunity to debate these important issues.

After the disappointment of the 2005 review conference, the backdrop to the current conference is much more hopeful, not least because the United States has adopted a more multilateralist posture. However welcome those US moves are, there is still ambiguity for the rest of

[BARONESS FALKNER OF MARGRAVINE]

the world in our not knowing to what extent the US would initiate a retaliatory nuclear strike if attacked by biological, radiological or chemical weapons. How welcome it would be if we could get clarity from the United States before the review conference.

Closer to home, I welcome the Government's paper, *Lifting the Nuclear Shadow*, and the suggestions it contains. However, in my view the Government fall into the trap of overstating the case in terms of threats. The paper asserts that,

"foremost amongst the new security threats are the risks of nuclear weapons spreading to more states or falling into the hands of terrorists".

Unfortunately, the paper does not provide much evidence for these claims. I say that because I am secure in our belief that moves towards zero must remain our ultimate objective. However, a desire to do away with nuclear weapons should not cloud our judgment in terms of realistic assessments of where we are today and the threats that we face.

A sober assessment of nuclear proliferation requires that we jettison some popular fears and exaggerations, one of which is that terrorists are about to acquire nuclear weapons. The uncovering of the Abdul Qadeer Khan network should indeed lead us to more coherent policies to reduce the risk of non-state actors using nuclear weapons, and much is being done in this area. To suggest, however, as some do, that rogue states such as Iran would have an interest in providing weapons and delivery systems to terrorist groups does not stand up. A greater danger may well be that of unstable states that have nuclear weapons and allow them to fall into the wrong hands. If we take Pakistan, its own internal crisis with Islamists might result in their gaining power and then having access to nuclear weapons which, according to our logic, are better held in the hands of the military than the mullahs. Our efforts should therefore be to work with both the Pakistani and Indian Governments better to secure their weapons, and to bring peace to the region overall so that the countries find that they ultimately do not need their nuclear weapons.

A further element of the Government's paper is its attempt to advance the view that the Middle East should be a WMD-free zone—a laudable aim, which I endorse wholeheartedly. But to achieve that aim there would have to be an acknowledgement that the Middle East also comprises Israel, so the achievement of a WMD-free zone would require that all states in the region give up their nuclear weapons programmes. In the interests of clarity, the Government would do well to say so. In both the Middle East and India-Pakistan, success in disarmament will come through the hard slog of conventional moves towards confidence and peace-building among neighbours. The five permanent members of the Security Council bear special responsibility to advance negotiations towards that end.

I turn to the supposed new threat of nuclear proliferation. While I would argue that we must do all we can to curb proliferation, we should equally be committed to reducing the existing arsenals and stockpiles among old nuclear weapons states. It rings hollow for

us to berate those with nuclear ambitions while the US and Russia still hold arsenals big enough to destroy all of us, several times over. It is also disingenuous to suggest that the greater danger comes from rogue states. If rogue states are those whose leaders are not rational, which flout international norms, violate the human rights of their own populations and pose a threat to their neighbours, it can be argued that several of the current members of the nuclear arms club were themselves rogue states.

One can take the case of China, which tested in 1964. At the time, Mao's domestic policies had killed tens of millions of its own citizens, there was an aggressive foreign policy with attacks on India, fighting the US in North Korea, and supporting what would now qualify as a terrorist organisation, the Vietcong, who were a non-state actor. Yet within five years of the People's Republic's nuclear test, the US and China initiated a covert dialogue and they were in alliance against the Soviet Union within a decade. I say this to illustrate that nuclear weapons did not make China more hostile—its foreign policies became more restrained and responsible, although in these areas there is still some way to go, as the noble Lord, Lord Patten, pointed out.

I give the China example because there are often lessons in history. We might reflect on these lessons when contemplating our stance towards Iran. Iran, and indeed South Korea's covert programmes, began during the Cold War itself—a little acknowledged fact. Iran's desire for a programme comes from being attacked by its neighbours with chemical weapons, the existence of hostile neighbours and nuclear armed states on its borders.

We hear increasingly belligerent voices speculating whether air strikes against Iran's nuclear facilities will work. I think we can safely assume they will not. So we will be left with the option of ratcheting up sanctions and raising the cost of non-compliance. That is all very well, but in my view we need to work harder through the P5 and the US might also reflect on its 1960s China experience and consider direct talks. Both share overlapping interests in defeating the Taliban in Afghanistan and seeing a secure and stable Iraq.

The many different steps contemplated in the lead-up to the review conference—diplomacy, negotiations and sanctions—may well restart the moves towards zero this year. We wish it well.

1.32 pm

**Lord Anderson of Swansea:** My Lords, this House benefits enormously from the wisdom and experience of the noble Lord, Lord Hannay—as we have done today. I shall make three brief points.

First, we may be at what the noble and learned Lord, Lord Howe, called the golden moment. There is a happy conjunction of the favourable factors for disarmament, based on the recognition by Russia and the United States of their common interest in co-operation in this field and the several conferences on the subject at which that co-operation can be taken further.

The new spirit was heralded by President Obama's speech in Prague in April in which he described:

"America's commitment to seek the peace and security of a world without nuclear weapons".

That was underlined by his speech on 17 September revising the missile defence policy, which had a response from Russia in terms of the removal of its threat of stationing short-range missiles on Kaliningrad and also of allowing the transit through Russian airspace of military materiel for Afghanistan.

Thus there is an excellent basis for progress this year on the crowded agenda for arms control. This includes, first, a new Strategic Arms Reduction Treaty, which could involve subsequent negotiations on battlefield tactical nuclear weapons; secondly, the US nuclear posture review which is shortly to be published and could give further momentum to the no-first-use debate; thirdly, the fact that the US will host the nuclear summit in April; and most importantly, after the disappointing review of the NPT five years ago, the new review to be held at the United Nations in May, with a number of very helpful preparatory conferences. For example, at the last conference, in May 2009, the US delegation signalled the new Administration's determination to engage in negotiations for the Fissile Material Cut-off Treaty—FMCT—and to seek to persuade the Senate to ratify the Comprehensive Test Ban Treaty, the CTBT. So, in this spirit of co-operation, there is all to play for this year.

Secondly, to avoid a new era of global proliferation and preserve the nuclear moratorium, there have been a number of useful reports, which have already been mentioned. These include the Global Zero initiative launched in December 2008 and the IISS paper *Abolishing Nuclear Weapons*; but of course the most significant of all is the road map in the International Commission on Nuclear Non-Proliferation and Disarmament report subtitled *A Practical Agenda for Global Policymakers*. I join the noble Lord, Lord Hannay, in asking my noble friend whether the Government adopt that report. It was launched in Tokyo on 15 December 2009, and the membership of the noble Baroness, Lady Williams, shows the respect in which she is held internationally. The noble Lord, Lord Hannay, aptly summarised the two phases of the recommendations in the commission report as going along in the same direction but one stopping earlier than the other.

The commission report prompts two speedy observations. The first is the relevance for the UK independent nuclear deterrent. Clearly the Government have played a leading role in the debate, evidenced by the publication of *The Road To 2010* last July and the Prime Minister's speech to the UN. This has been taken further by the speeches today of the noble and gallant Lord, Lord Bramall, and the noble Lords, Lord Owen and Lord Ramsbotham. Secondly, the commission report is so comprehensive it is difficult to dissent from its conclusions.

My final point is that these carefully-researched and balanced proposals could, alas, stumble at the first hurdle because of regional problems. The fragile peace between India and Pakistan has already been mentioned, and there is also concern over the new Indian military doctrine. North Korea has enough plutonium for six to eight bombs yet its conduct is unpredictable. It is traditionally the arch-proliferator in the world and its conduct unpredictable. Most

problematic of all is Iran, which the noble Lord, Lord Owen, spoke about well. Secretary Gates said:

"There are no good options in Iran".

All non-military options have been tried. Iran is well aware that had Iraq possessed nuclear weapons, it would not have been invaded. Mr Larajani told our then ambassador in 2005 that Iran had three options: surrender, nobly defy or manoeuvre. It has by zig-zag, one step back, two steps forwards, proceeded on its path. Sanctions are likely to fail; after all, China sells its petrol to Iran and Russia accounts for 85 per cent of Iranian arms exports.

If Iran is truly on the path to a nuclear capability—we may be deluding ourselves to think otherwise—we should consider the "what if" option. How should we react if it were to obtain such a capability? The clear danger is that other leading states in the region will be under pressure to produce their own capability. How do we persuade them otherwise and perhaps mitigate the consequences for them? Can we provide bankable assurances of protection? Is it enough to assist them to build their nuclear facilities?

So, overall, this is a very important year. There can be significant progress. It is favourable that Russia and the US appear to be co-operating. The prospects are indeed hopeful, but they could be undermined by the regional hot spots, particularly Iran.

1.38 pm

**Viscount Waverley:** My Lords, the enormity and complexity of non-proliferation almost defies comprehension, ranking alongside challenges on climate for the need to leave the world in better shape for future generations. The global nuclear warhead capacity on high alert speaks for itself, a fraction of which could cause global mayhem. Rogue nations openly challenge the non-proliferation regime with waters further muddied by al-Qaeda, and others, attempting to acquire nuclear material. An additional complicating factor is of internet-based information now leading to a wider understanding of dual-user technology.

Progress on the reduction has seemingly hitherto been governed by bureaucrats exercising their minds on treaty finesse without real political engagement and reduction implementation benchmarks. The upcoming US nuclear security summit must become a milestone, with many hoping that nuclear security will be added as a fourth pillar. If there be any doubt about the need for seriousness, the participants' minds will be focused by a film, based on fact, entitled "Last Best Chance", described by the 9/11 Commission chairman as,

"a wake-up call for America and the world".

We trifle with global public security by any absence of vigilance, or by relegation of the matter to a few military agencies.

Countries will renounce their nuclear capability when they see it in their political and security interests to do so, and not before. For non-proliferation to be successful, security and protection must be left in its wake. Although nuclear weapons are the most potent form of WMD, we should be equally concerned about biological and chemical weapons. Although significant progress has been made in recent years, more needs to

[VISCOUNT WAVERLEY]

be done. The 2012 timetable for chemical weapon destruction by either the US or Russia is running behind schedule. In addition, misuse of biological sciences to create disease remains. It is crucial that specialist scientists be found gainful employment. Western funds have been provided for scientists—for example, at the Stepnogorsk facility in Kazakhstan, along with others inherited from the Soviet era as part of their biological weapons programme. Again, more needs to be done.

I have previously engaged with the Government of Jordan on their civil nuclear programme. The world would certainly be a more tolerant place if others adopted a similarly responsible approach. One point arises, however, which has been touched on. World-class assets of uranium, a first component, are in abundance in such countries as Oman, Saudi Arabia and Syria in the Middle East, and the Central African Republic, Chad, Mali, Namibia, Niger and Sudan in Africa. At some stage, those countries may wish to avail themselves of those assets. Could we face a plethora of future—admittedly, far distant—Iran-style negotiations? I believe that it would be useful, given that Britain seemingly lags behind the French, for example, on identifying and negotiating nuclear co-operation agreements, to consider the implications.

Following on from that, and recognising that Central Asia is of strategic importance to Western interests, Kazakhstan holds the 2010 OSCE chairmanship. Early progress is being made to shape its time. For example, to cite its 14 January Vienna communiqué,

“based on its experience of nuclear disarmament, Kazakhstan is well placed to address issues of proliferation of dual-purpose technologies and weapons of mass destruction”.

That country has all its experience of nuclear testing at Semipalatinsk and commendable policy decisions of nuclear disarmament by President Nazarbayev.

An untested thought could be for Kazakhstan to propose a mechanism for OSCE members to state willingness voluntarily to renounce the intention or right to develop indigenous enrichment capabilities, relying instead on Angarsk or similar international centres to meet future nuclear fuel needs. Kazakhstan could propose making that policy commitment into a binding legal obligation by means of an appropriate instrument—a multilateral treaty negotiated within the OSCE with technical assistance from the IAEA. OSCE members that do not currently have enrichment capability could commit themselves never to develop it in exchange for a commitment by OSCE members with that capability to satisfy their nuclear fuel needs. Such a treaty could be designed such that non-OSCE members could accede as well. The UAE, for example, recently signed a binding agreement with the US renouncing its right to enrich. Such an initiative from Kazakhstan would become a centrepiece of international non-proliferation deliberations at the review conference and elsewhere.

In conclusion, opportunities present to recognise the benefits of nuclear energy, yet accelerate progress towards nuclear weapon abolition. Perhaps today's leaders could finally move forward with the sense of urgency that this now demands and, in doing so,

reflect on these two questions. First, what will be the criteria for allowing some treaty non-signatory countries to own WMD and others not? Secondly, what are the red lines for countries to develop nuclear energy and then be controlled satisfactorily in a manner not seen as undue interference?

1.44 pm

**Lord Giddens:** My Lords, I join other noble Lords in congratulating the noble Lord, Lord Hannay, on having initiated this debate. Despite what the noble Lord, Lord Patten, said, I will try a little bit of flattery. I am sure that the noble Lord, Lord Hannay, like President Clinton, will promise not to inhale, but I appreciate his distinguished contributions to the work of this House.

I want to discuss the relationship between climate change policy and nuclear proliferation. They are, arguably, the two greatest sets of risks that humanity faces in this century. When the first atomic weapon was exploded in Trinity, New Mexico, many years ago, Robert J Oppenheimer famously cited an Indian scriptural text, the *Bhagawad Gita*, and said:

“Now I am become Death, the destroyer of worlds”.

The scientist James Lovelock, in his book, *The Revenge of Gaia*, states that, unchecked, climate change could leave upwards of 40 per cent of the Earth's land mass uninhabitable by the end of the century.

The connecting point between those two is nuclear power, because of its role in reducing greenhouse gas emissions. Lovelock is a forceful advocate of a widespread renaissance of nuclear power around the world. Nuclear power produces virtually no greenhouse gas emissions. Its energy output is constant; it is not intermittent, as in the case of wind or solar power. It is tried and tested—unlike, for example, carbon capture and storage, on which many people place a great deal of emphasis, but we just do not know whether it will work or whether it will be commercially viable.

For those who wish to phase out nuclear power, its level of contribution in holding down greenhouse gas emissions is sobering. Today, 30 countries have one or more nuclear plants. The volume of greenhouse gas emissions globally would be fully 9 per cent higher if equivalent energy were produced by coal-fired power stations. France produces almost 80 per cent of its electricity from nuclear power, and has very interesting schemes to deploy what is in fact a surplus of electricity to fuel, for example, electric cars or desalination plants in the Mediterranean. French companies join Lovelock in arguing for a worldwide renaissance of nuclear power.

The key question, which is extensively discussed in the large body of academic literature, is: can a widespread turn to nuclear power be decoupled from the risks of nuclear proliferation? For me, the prime risk of nuclear power is not safety or security but its connection to nuclear proliferation. I want to make four quick points about that. First, I do not think that we should support Lovelock or the other advocates of an extensive process of nuclear renaissance. Of the scholars in the world who are knowledgeable about both climate change and nuclear power, Robert Socolow of Princeton is probably the most distinguished. He concludes that

the risks of unconstrained proliferation of nuclear power are too great; and I agree with him. Of course, technological innovation, such as was mentioned by my noble friend Lord Hunt, might alter that situation.

Secondly, it follows that we should distinguish nuclear renewal from the spread of nuclear power; the two are not the same. Nuclear renewal is a prime means whereby the industrial countries, the OECD countries, can hope to meet their targets for reducing greenhouse gas emissions. They must be in the lead on a global level in order to do so. If we look at those countries, such as this country, Germany, Sweden or Finland, it is virtually impossible to see how they can be in the lead in radically reducing their emissions without substantial reliance on nuclear power.

Thirdly, it is not possible to confine nuclear power to OECD countries only. Although we must seek to limit the spread of nuclear power, I feel that any such spread must be connected to the worldwide attempt to reduce the proliferation of nuclear weapons. I fully support the arguments made by noble Lords following the famous article by the gang of four—not our gang of four, but George Shultz’s—following President Obama’s celebrated Prague speech.

Fourthly, and finally, we should not actively obstruct the building of nuclear power stations in developing countries. Rather, we should try to offer a positive bargain to such countries. I would like to hear any comments the Minister may offer on this. For example, many developing countries are in areas that can easily profit from large-scale solar power, and hydro-electric power has only a 9 per cent take-up in Africa compared to about a 55 per cent take-up in Europe. You do not have to have big dams to have hydro-electric power. You then come full circle because if the Copenhagen accord is substantiated, there is \$100 billion on offer from the industrial countries, part of which could be put precisely to such a purpose.

*1.51 pm*

**Lord Addington:** My Lords, in trying to sum up for these Benches on this subject, I acutely feel the lack of my noble friend Lady Williams—I feel that even more than the noble Lord, Lord Hannay, felt it in his initial remarks—because the complexity of the process is mind-boggling. The people who state that they are working as bodies towards non-proliferation and removing nuclear weapons work as a huge spider’s web pulling in roughly the same direction some of the time. Why have we got to this situation? It is because we have realised that nuclear weapons pose a great threat to our existence and we want to get rid of them. We have managed to get ourselves into a situation where we have lots of them on a hair-trigger response.

The noble Lord, Lord Robertson, reminded me of the world in which I grew up. The idea that we could all die tomorrow was there throughout my childhood and my early adult life. It could always happen. It was a constant of the popular literature and culture of the time. We now have gloom and disaster about climate change, we even invented things about meteorites, but in my childhood, we did not have to invent anything. Two squabbling politicians provided a drama where the world ended. We have moved on considerably.

That type of pressure may have produced Tom Lehrer being beautifully black in “We Will All Go Together When We Go”, but getting rid of it is something we must work towards.

What can Great Britain do? I forget who said that our place within the nuclear pantheon is as a small player, although we still possess enough nuclear weapons effectively to obliterate life as we know it on this planet. We are probably the smallest of the established five powers, but we are still there. As has been said by virtually all speakers, we can lead by example in showing that we want to reduce our capacity because we do not want to use it. This means that we have to try to encourage others to become involved in that process in a fairly aggressive way. By that, I mean not simply shrugging our shoulders but having a stake in the process of removing this threat.

Every second noble Lord who spoke mentioned the complication of the link with civil nuclear power. If the theoretical knowledge that is the basic prerequisite for acquiring nuclear weapons is there, how do we marry these two threats—effectively one threat and one benefit to society? We have to make sure that when we are talking about this and making pronouncements, we know what everybody is saying: we must enhance the verification process. Great Britain has the capacity to make considerable investments in the laboratories, institutions and groups that need expertise. As we cannot get rid of the knowledge of nuclear weapons and power, we need a commitment from the Government, whoever sits on the Treasury Bench, to make sure that we invest in those institutions in terms of personnel, training and awareness to make sure that they function in the short, medium and long-term future and that we have enough people who are reliably trained to make sure that when we say we are doing something, we are doing it, and others can rely on that.

The idea of nuclear weapons and mutually assured destruction was based on the fact that we do not know what the other person is doing—in other words, fear—so let us have another missile. I was very relieved when everyone seemed to pull back from the recent idea of missile defence and the idea of being able to deter somebody from striking back against you. Russia felt that, justifiably, as it no longer has an overwhelming mass of land-based forces.

If we can get the knowledge to get away from positions where that fear can come out, we can make a real contribution. Britain has sufficient resources to do that. We also have sufficient status to take a lead in this. When she sums up, will the Minister give us some idea of our status on the training and support of those institutions?

*1.57 pm*

**Lord Howell of Guildford:** My Lords, this debate, which was opened so ably by the noble Lord, Lord Hannay, is superbly appropriate, not merely because this is globally a time of great danger, as my noble friend Lord King reminded us, but because civil nuclear power is about to expand enormously. There is to be a renaissance, as the noble Lord, Lord Giddens, reminded us, as part of the huge energy transition that lies a few years ahead. We are not there yet, but it is coming. As

[LORD HOWELL OF GUILDFORD]

we know, there is a clear thread, which several noble Lords have observed, between the expansion of civil nuclear power and weaponised nuclear power developments.

I shall deal first with the immediate nuclear issues before coming to longer-term prospects and challenges. The prime issue raised in this debate is the Iran problem and its clear implications for Middle East nuclear proliferation and global instability. Time has run out on the Tehran research reactor deal, with the Iranians proposing their own package instead, the International Atomic Energy Agency saying that it is unable to verify the situation any longer and the US Congress getting extremely restive and proposing a new round of tougher and much more targeted sanctions against Iran.

Where will this lead? The key is in Russia and China, as the noble Lord, Lord Owen, and my noble friend Lord Patten observed in their extremely acute and penetrating remarks. Until those two countries are willing to join in, Iranian sanctions will always be undermined, as they have been in the past, so the permanent membership of the UN Security Council will be unable to act effectively. Will there be a change on that front? Will they help?

As the noble Lord, Lord Owen, observed, Russia is clearly worried by the revelation of an additional enrichment plant over and above the Natanz plant and showed some signs of coming on board, as it were, but China has shown very little sign of halting its sanctions-busting trade and supplies, as my noble friend Lord Patten reminded us. I hope that it does not sound too cynical to say that it could be in the interests of China and Russia—and I have heard this suggested by Russians—to see western concern prolonged, so that Iran looks eastward and north and its huge potential oil and gas supplies go in those directions rather than westwards, thus not undermining Gazprom's long-term aims for maintaining domination of the European gas supply. We may have a very steep hill to climb in bringing the Russians and Chinese round.

Nevertheless, if more targeted and smarter sanctions can be agreed, especially in the finance and energy sectors, where the mullahs are most vulnerable, I ask the Minister when she thinks that they may be forthcoming. I hope that she will be able to tell us. Will they restrict investment in Iranian oil and gas by outside investors more tightly than they have so far? Will they be Europe-wide, or are we waiting for the Americans? It would be helpful to have some views on that.

As your Lordships have observed, on American nuclear policy generally President Obama is on an encouragingly positive course, with an ambitious disarmament strategy. He has cancelled, or rather relocated, the eastern Europe-based missile defence plan, he is seeking to ratify the Comprehensive Test Ban Treaty and he says that he wants to replace and update START—indeed, the negotiations with the Russians are now going on, as the noble Lord, Lord Robertson, reminded us. He also wants to push ahead with the Fissile Material Cut-Off Treaty. All that is very good and I hope that the Minister will make it clear that we are supporting those efforts strongly.

As for the other rogue proliferator, North Korea, we had assumed that the negotiations were once again at a dead end, but I believe that very recently there have been signs that North Korea might want to return to the six-party talks. It is not much to hope for, but can the Minister tell us whether that is correct?

As some of your Lordships said, we remain extremely uneasy and concerned about the India-Pakistan interface. With al-Qaeda increasingly threatening Pakistan, the stability of that country and its good governance become absolutely prime concerns for our own safety. I hope that this is a message that the Government have fully taken on board. Also, we would like more nuclear frankness and openness from Israel, despite the existential threat that it faces in blood-curdling remarks from Iran.

Several of your Lordships raised the question of our own nuclear deterrent programme. I believe that the National Security Committee has been asked to report back on whether we need the three or four submarines that the Prime Minister mentioned. Has it yet reported back? Has there been any examination of the alternative and cheaper ways of keeping a fully credible and independent nuclear capability, which we support, such as one based on Astute class submarines, which are already being built, and the use of Cruise missiles, as suggested by the noble Lord, Lord Ramsbotham, and the noble and gallant Lord, Lord Bramall? The Government's view on that is very important.

I come to the central issue of the Nuclear Non-Proliferation Treaty Review Conference next May, which the noble Lord, Lord Hannay, rightly concentrated on. I gather that it runs from 3 to 28 May. If a certain election takes place in the middle, there could be a change of personnel at that event, at least at the political level. I make no predictions, but it could happen—we would have shades of Potsdam, but in reverse. It means that on this side of the House we need to prepare an agenda; this is not something that we can walk into overnight.

I make it clear to your Lordships that, should the lot fall to my party to be active in government at that time, we shall seek international agreement on the following points: first, mounting a strategic dialogue between Britain, the United States, France, Russia and China on how to achieve further reductions in nuclear stockpiles and reduce further the risk of nuclear confrontation or accidental nuclear war; secondly, an agreement to take steps to close the loopholes in the Nuclear Non-Proliferation Treaty itself, including a new Security Council resolution so that any country in breach of the treaty would be referred to the Security Council; and, thirdly, a mechanism to bring the nuclear fuel cycle under international control, whether through international partnerships of the producer states of nuclear fuel at present, or through a network of fuel banks—this idea has been developed and is a very interesting and important prospect.

Fourthly, we want to take steps to strengthen the IAEA itself and the international system of safeguards and inspections. Fifthly, we want to take steps to improve urgently the ability to track and block the trade in nuclear weapons technology and the financing

of international terrorism. We also want to strengthen the Proliferation Security Initiative, which we think is weakly organised at present. Sixthly, we join others in wanting to negotiate the Fissile Material Cut-Off Treaty and push for stronger enforcement of the Comprehensive Test Ban Treaty, which President Obama has said that he, too, wants. That will need the support of others as well, and we could—

**Lord Brett:** With all due respect, there is a limit of six minutes. This is fascinating hypothetically but over time.

**Lord Howell of Guildford:** With respect, I think that the Minister is mistaken. I have been told by the office that I have 10 minutes. The paper that he is looking at is incorrect.

**Lord Brett:** I apologise.

**Lord Howell of Guildford:** I thank the noble Lord for his apology.

As I was saying, seventhly, we will push for stronger enforcement of the Comprehensive Test Ban Treaty. Mr Obama is already committed to this, but we may be in a better position than the Americans to secure the support of others.

The Minister can relax, because I am coming to my last sentence. I do not think that the approach that I have described will be very different from the current Government's approach to these matters, as set out in their *The Road to 2010* documentation. However, we shall certainly approach these objectives with the unity and vigour that sometimes seem to elude the present Administration.

2.07 pm

**The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead):** My Lords, I know the whole House is grateful to the noble Lord, Lord Hannay, for initiating this very timely debate. I thank all noble Lords who have participated for their contributions, and for emphasising the need to make further progress with nuclear disarmament and non-proliferation. The noble Lord, Lord Addington, made a very poignant point about how it felt in the past. I remember reading Bertrand Russell's *Has Man a Future?* when I was still in school and being terrified by his account of how he saw things.

A number of critical issues have been raised by noble Lords, including the nuclear ambitions of Iran and North Korea; the possible proliferation risks generated by the wider development of civil nuclear energy; the inadequate security of fissile material around the world; fears over regional security, particularly in the Middle East; and the perception that the nuclear weapons states are slow to implement their existing disarmament obligations. That is a great list of very difficult and challenging issues. I will answer some of the points raised in the debate, and later make some of the points which I will not have covered.

Each of the concerns that have been raised is justified; together they are compelling. Therefore, I reaffirm to the House that the Government recognise the importance of these challenges to world peace and security, and fully agree that nuclear disarmament and non-proliferation

are among the most important and pressing issues of our time. As the noble Lord, Lord King, has said, the risks of inaction are enormous. As the House will know, the UK is fully committed to the ultimate goal of a world without nuclear weapons. It is strongly committed to securing multilateral action to that end, and I confirm that to the number of noble Lords who raised the issue. This debate very usefully addresses the prospects for multilateral nuclear disarmament and for strengthening nuclear non-proliferation. As others have said, those prospects are now more promising than they have been for years, not least because the advances of 2009 and the opportunities of 2010 give cause for realistic hope and spur us on to work further and harder.

Last year, as several noble Lords have observed, the UK Government were active in influencing others and pushing non-proliferation up the international agenda. We published *Lifting the Nuclear Shadow*, to which the noble Lord, Lord Hannay, referred, which set out the conditions for abolishing nuclear weapons, and in the summer the Prime Minister launched *The Road to 2010*, which set out the UK's position ahead of the NPT Review Conference.

In addition to the words and directions, as the noble Lord, Lord Hannay, said, the Government hosted the International Nuclear Fuel Cycle Conference and an historic P5 conference on confidence-building measures towards nuclear disarmament; worked to establish the UK Nuclear Centre of Excellence; and continued pioneering work with Norway and the NGO, VERTIC, on the science of warhead dismantlement verification—an important aspect of what has been discussed today.

The noble Lord, Lord Hannay, and other noble Lords have been right to draw attention to the fact that this year brings significant opportunities to secure further advances in nuclear non-proliferation and disarmament. In the setting of 2010 and the Nuclear Non-Proliferation Treaty Review Conference, we hope for an announcement soon on a successor to the Strategic Arms Reduction Treaty between the US and Russia, and we await the outcome of the US Nuclear Posture Review, which will establish US nuclear deterrence policy, strategy and force posture for the next five to 10 years.

Several noble Lords, including the noble Lord, Lord Robertson, and the right reverend Prelate the Bishop of Southwark, talked about the NPT review conference and what the noble Lord, Lord Hannay, has called a “renaissance of multilateral ... disarmament”. That requires the strengthening and reinvigorating of the NPT. We want a balanced action plan across the three pillars to give us a road map for nuclear weapons build-down and increased global security. I assure the noble Lord, Lord Hannay, that we will seek a political commitment by NPT partners at the review conference to make progress towards universal adherence to the additional protocol.

Working with partners from across the international community, I confirm to the noble Lord, Lord Ramsbotham, and others our commitment to a multilateral approach. We will consequently seek a mandate to make the existing non-proliferation regime more effective through improvements in safeguards, in

[BARONESS KINNOCK OF HOLYHEAD]

verification and in compliance measures. I should also say to the noble Lords, Lord Hannay and Lord Lee, that we fully agree that countries should not cut and run from the NPT. We will also continue our work to establish viable mechanisms to ensure safe and secure access for all NPT parties to the benefits of civil nuclear energy, provided that they fully comply with their non-proliferation obligations. The IAEA board of governors recently gave wide support for that approach, and noted the importance of developing a range of options for assurances of supply.

Several noble Lords asked about the US. I confirm that it will host a nuclear security summit in April that will help to promote common understanding of the threat of nuclear terrorism and seek to build international support for effective means of countering that threat. I assure noble Lords that the Government hope to contribute to the success of that conference, which we accept is basic to security.

Let me turn to some of the other points that have been made in the debate which I have not covered. We welcome the ICNND report, which the noble Lord, Lord Hannay, mentioned. We have no plans to adapt it as a White Paper, but we will carefully consider how we can best make use of its proposals.

On IAEA funding, there will be a donors' meeting later this year to discuss the financial resources that the agency needs to meet the challenges that it faces.

The noble Lord, Lord Lee of Trafford, talked about strengthening the NPT. We see the NPT as the cornerstone of our non-proliferation and disarmament policy. It has never been more relevant to take this option very seriously. *The Road to 2010* sets out detailed proposals for a balanced and pragmatic strengthening of the NPT.

The question of a disarmament laboratory was discussed. As I said, the UK hosted a P5 confidence-building meeting in September 2000. I alluded earlier to our ground-breaking work with Norway on that important work of verifying warhead dismantlement on the road to zero.

A number of noble Lords raised the issue of future sanctions. It is clear that sanctions have had some impact, but not enough to change the course of Iran's nuclear activities. We now need multilateral sanctions that will affect decision-makers in the region, with the aim of bringing Iran to productive and sensible dialogue. We are in regular dialogue with the E3+3 to achieve this, but cannot, I regret, put a timetable on it at this time. We will therefore consider tightening and extending to other sectors sanctions that target the regime.

The noble Lords, Lord Patten of Barnes, Lord Anderson and Lord Howell, also touched on Iran and sanctions. The EU has implemented UN sanctions and has gone beyond them by freezing the assets of more entities in Iran, including Bank Melli, by banning more officials from travelling from Iran and by imposing further requirements on Iranian banks. That is a significant addition to what we have.

My noble friend Lord Judd, the noble and gallant Lord, Lord Bramall, and others talked about Trident. The decision taken by Parliament on the 2006 White Paper is consistent with the NPT and with the long-term

goal of achieving a world free from nuclear weapons. It does not mean that we are irrevocably committed to retaining nuclear weapons for the next 50 years. I reassure my noble friend Lord Judd that, when it is useful to do so, we will willingly include the UK's nuclear weapons in a future multilateral disarmament negotiation.

On the point made by the noble Lord, Lord Owen, the 2006 White Paper considered a range of options and concluded that retaining submarine-based systems is the most effective way of proceeding at this time. We found that no alternative could match the capability or the cost that were considering.

Continuous at-sea deterrence, to which the noble Lord, Lord Howell, referred, is currently provided by four submarines. On 24 September, the Prime Minister announced his intention that from the mid-2020s we will meet our minimum requirement for three next-generation submarines, provided that this is consistent with credible and continuous deterrence. Work is in progress on this and other issues.

The noble Lord, Lord Patten of Barnes, and others referred to China. We understand that the Chinese Government recently put legislation before their National People's Congress on this, and we need to encourage China to move towards ratification as quickly as possible.

I should say to the noble Lord, Lord King, the noble Baroness, Lady Falkner, and others that we communicate regularly on issues of nuclear safety and security in Pakistan, and we help to fund work to ensure nuclear security through the International Atomic Energy Agency's nuclear security fund, to which we are one of the largest contributors.

The noble Lords, Lord Hannay, Lord Hunt of Chesterton, Lord Giddens and Lord Addington, the noble Viscount, Lord Waverley, and others talked about the global expansion of nuclear energy. It is the Government's conviction that we will not overcome the twin challenges of climate change and the security of the energy supply, which is necessary for sustainable development, without wider use of nuclear energy. However, there is a need to ensure that the long-term development of civil nuclear power takes place in a culture of openness, transparency and confidence. This can be achieved by strengthening the IAEA safeguards regime, and by encouraging multilateral and regional approaches to the nuclear fuel cycle. To that end, we remain fully committed to the multilateral approach agenda and we are working on steps within our UK-led nuclear fuel assurance proposal.

We regret North Korea's withdrawal from the six-party talks and hope that it will re-engage. We are seriously concerned about its claim that it has restarted plutonium production to develop its highly enriched uranium programme. In our contacts with the North Korean Government, we have urged them to re-engage with the international community and to comply with their NPT obligations. In my effort to address as many points as possible, I am sure that there are a number I have not. We will go through *Hansard* to make sure that noble Lords who have not had an adequate response will receive a letter from me.

To conclude, the road to zero is long. The 2010 Nuclear Non-Proliferation Treaty Review Conference and other events this year are milestones. They are not

the destination. While our attention is rightly focused on making them a success and on reassuring our citizens that we take our obligations seriously, we also have to look beyond this horizon. It is our common responsibility to ensure that the proliferation of nuclear weapons does not set back the cause of nuclear disarmament, nor imperil the role that international nuclear co-operation should play in combating climate change, ensuring sustainable development and the development of nuclear energy for non-power purposes. The multilateral aspect of these efforts is crucial. As my right honourable friend the Foreign Secretary has said, we must find common cause and move from a decade of deadlock to a decade of decision.

2.21 pm

**Lord Hannay of Chiswick:** My Lords, I thank all noble Lords who have contributed to this valuable and timely debate. I can assure the noble Lord, Lord Patten, that as an almost-lifetime non-smoker I do not intend to start inhaling. This debate, in which two former Secretaries of State for Foreign and Commonwealth Affairs, two former Secretaries of State for Defence, a former European Commissioner, two very distinguished military figures and many others have contributed, is a signal of how well this House is equipped to carry out thoughtful and fairly in-depth discussion of these highly technical, but also highly political, issues.

One of my objectives, which I hoped to achieve—to demonstrate that we have a broad national consensus on a very large amount of the area covered by this debate—has been amply fulfilled by the contributions, including those from the Front Benches, which gave me great encouragement. I think that we can say that if there is a change of Government in the middle of the Nuclear Non-Proliferation Treaty Review Conference, whoever represents this country will be able to feel that they have solid support from all parties in a very important but challenging agenda. My final thought that I would leave is that I suspect we will discuss these matters again before too long. I beg leave to withdraw the Motion for Papers.

*Motion withdrawn.*

## Probation Service

*Debate*

2.23 pm

*Moved By Lord Ramsbotham*

To call attention to the current state of Her Majesty's Probation Service; and to move for papers.

**Lord Ramsbotham:** My Lords, on 16 May 2000 the then Home Secretary, Jack Straw, addressing the then Central Probation Council, said:

“The new (National) Probation Service will work more closely with the Police and other agencies, and with local Crime and Disorder Partnerships. Local Probation Boards will work to deliver their services in a way that serves their locality better ... One of the key challenges will be to find ways of being accountable to local communities for the work of the Service”.

The only thing new about this was the mention of a single national service rather than a number of local probation services. He was expounding how probation had operated since its introduction 93 years before. However, less than eight years later, on 28 January 2008, the same Jack Straw, now the Justice Secretary, announced a complete reversal of this. He said that the National Probation Service, which had been in existence only since 2001, would now be merged with the Prison Service in a new version of the National Offender Management Service, which was to be launched in April that year, to deliver jointly his recently announced punishment and reform mantra. The new NOMS was to be under a new chief executive, the then director-general of the Prison Service. These starkly contrasting directions by the same person with the same responsibility for probation explain why the story of probation under this Government has been so turbulent.

Before I go any further, I want to make one wish and one plea to the Minister. My wish is that the clocks around the Chamber should show the letters PANT, instead of the numbers 0:01. The letters stand for “People Are Not Things”, which are words that should be emblazoned on the hearts and desks of every Minister and official with any responsibility for probation.

I sympathise with the Minister, because he will not be familiar with much that will be said during this debate. My plea to him is that, when he comes to wind up, he strikes out the meaningless and dangerous mantra that I am willing to bet is in his script. Every time probation service problems are mentioned, Ministers trot out what Jack Straw alleged in the other place. On 21 July 2009—at Commons *Hansard* col. 734—he said that resources are not an issue because 70 per cent more money and 50 per cent more staff have been made available to probation since 1997, while the case load has increased by only 53 per cent. That is meaningless because money is not the only resource required and, while the numbers of lesser trained probation service officers and management staff have increased, the number of fully trained officers has gone down, which is dangerous. If that mantra is believed, it discloses a wilful blindness to the actual situation on the ground, which has been set out over and over again by those who work there, as they have done to me as I prepared for this debate.

The purpose given to what were called “officers of the court”, who were first appointed by the Probation of Offenders Act 1907, was “advise, assist and befriend”. Probation became one of the four parts of the criminal justice system. It is the service responsible for the supervision and rehabilitation of those awarded community sentences and it works alongside the courts, the police and the Prison Service, which is responsible for the custody and rehabilitation of those awarded sentences of imprisonment. The system, like any other system, is only as good as how its individual parts perform their own function and work together.

From the outset, probation officers worked principally with courts and the police, all being community based. Work with prisons was confined, as it is now, to those prisoners whose sentences included a period of community supervision or licence. This focus and purpose was

[LORD RAMSBOTHAM] confirmed in the Criminal Justice Act 1991, which promised probation a centre-stage role in the management of much toughened, more publicly credible community penalties, including electronic monitoring. Please note the link between credibility and public confidence.

However, all was to change in 1997. On becoming Home Secretary, Jack Straw made it immediately apparent that he did not like the existing system of 54 autonomous county probation forces, each with a local probation committee. He wanted to bring probation and prisons together, which needed primary legislation. Happily, a proposal to change probation's name to the community rehabilitation and punishment service was rejected, before a National Probation Service, under its own director-general, with 42 probation areas each with its own probation board, was established by the Criminal Justice and Court Services Act 2000. The purpose, too, was changed, with the proper punishment of offenders in the community and ensuring offender's awareness of the effects of crime on victims being added to rehabilitation. But the independence of the director-general was not to last for long, because a commissioner of corrections, who was responsible for prisons and probation, was appointed in 2002.

Then, before you could blink, came NOMS in 2004, initially allegedly a commissioning service. In 2005, the Home Office disregarded 99 per cent of the 756 responders to a so-called consultation on the future of probation who opposed the government line and pressed ahead with its plans, which culminated with Jack Straw's 2008 redirection of NOMS.

Those who doubt that the effect of this has been to exclude the voice of probation from policy-making in a NOMS that is virtually run by the Prison Service should reflect on the figures disclosed on 21 January 2009 by Mr Malik in the other place, in *Hansard* col. 1566W: of the 4,270 persons employed within NOMS, 742 were old NOMS, 3,415 ex-Prison Service and only 113 ex-probation service, none of whom is in a senior position or in any of the main units such as strategy and effectiveness, offender assessment and management or the briefing and casework groups. In addition, the post of director of the National Probation Service was abolished in April 2009.

People are the only effective tool for dealing with people—PANT. At the heart of the distinct role of the probation service within the criminal justice system is person-to-person supervision and rehabilitation of offenders awarded community sentences. Working with offenders in the community is not the same as working with them in prison; it needs different training and skills, about which my noble friend Lady Howe will speak. The only alternative to custody is community sentencing, in which the public will have confidence only if offender supervision is seen to be credible. Of course probation staff have other tasks, but to have a credible probation service the Government's basic responsibility is to ensure that there are enough trained probation officers with enough available time to supervise the rehabilitation of the number of offenders for whom they are responsible—nothing more, nothing less. If there are not, neither probation nor the criminal justice system will be effective.

Is that provision being made? In 2008-09, the probation case load was 197,000 on community orders and 46,200 ex-prisoners under supervision. To supervise them are 7,200 qualified and senior probation officers, 6,100 probation service officers and 6,950 managers and administrative staff. However, every area is having to make staff redundant, with further financial cuts of 2.7 per cent next year. Also, in 2008-09 the service was required to complete 216,000 pre-sentence court reports, of which 134,000—60 per cent—were standard reports, which take two to three weeks to compile and eight hours to write up, and 82,000—40 per cent—were fast delivery reports, which take two hours to write up on the day of sentence. Apparently the Government now wish to reverse the 60 standard and 40 fast ratio to 70 fast and 30 standard, which is bound to result in a decreased service to the courts. My noble and learned friend Lord Woolf and my noble friend Lord Tenby will expand on the court story. To all this has now been added responsibilities as offender managers of offenders in prison to meet national standards demanding that sentence reports are written within five days of reception.

The impact of this case load on the number of trained staff on the ground was set out clearly in a December 2008 Ministry of Justice survey of direct contact. It found that 24 per cent of the available time is spent on direct contact with offenders, described as either face to face or by telephone; 41 per cent is spent in computer activity such as writing reports and letters or completing returns to the offender assessment system; and 35 per cent is spent on non-computer activities, such as drafting correspondence, writing reports, attending meetings, administration and travel. I ask the House to note the figure of only 24 per cent of time being spent in direct contact, including by telephone. It is the guts of the situation to which I am drawing attention. There can be no more damning indictment of the Government's failure to provide probation with the vital resources of people and time. It explains why probation officers say that some have case loads in excess of 100, which means that they can spend no more than 15 to 30 minutes with medium-risk offenders, often having no time for others. The report concludes:

"NOMS needs to decide whether the reported amount of direct contact time with offenders is sufficient to meet its main objectives of reducing re-offending and protecting the public".

It says that,

"repeatedly the main issue regarding bureaucracy and red tape refers to ... the amount of time spent in non-direct contact".

The review of policing report made similar observations about the use of police time; my noble friend Lord Dear will speak about police involvement with probation.

A Lilliputian touch is added to all this by what are called probation quarterly ratings, published by NOMS and rushed to ministerial desks. The most recent, covering the second quarter of 2009-10, declares that, of the 42 probation areas, the performance of 18 is exceptional, 22 are good and only two require development due to a drop in performance. The ratings result from a data-driven, integrated probation performance assessment of 40 indicators. I have to admit that I am left speechless by the thought of Ministers basking in the delusion that all is wonderfully well thanks to a computer-based assessment of a number of largely

irrelevant indicators produced by the vastly expensive bureaucracy that is NOMS, publicly criticised for its incompetence over its failed computer system, C-NOMIS, while on the ground impoverished probation service staff are unable to offer medium-risk offenders more than 15 minutes of contact a week.

How has all this come about? The Government are fond of telling us how much worse things were in 1997. I do not deny, nor does the probation service, that all was not well with the way in which the service functioned at that time, but all the bureaucracy and red tape that I have described has been imposed on probation since 1997. No one has suffered more from micromanagement than probation, illustrated by the fact that there is now an external, an internal and a NOMS auditor permanently present in each area probation chief officer's office, on top of all the other time-consuming obligatory reports and returns, audit and inspections.

Prison staff do not understand the minutiae of probation work, nor can they be expected to do so, any more than soldiers can be expected to be sailors. The two services are different but complementary within the criminal justice system. Therefore, to exclude the voice of probation from the formulation and direction of probation policy and to put it in the hands of people who know only about prisons is seriously unwise.

What can be done? I know that we are in the run-up to an election and that this is not the best time to make proposals, but in the hope that the next Government, from whatever party, will realise the danger and do something about it, I shall make the following suggestions for action. First, repeat Jack Straw's statement of 16 May 2000, substituting the word "restored" for "new". Secondly, restore an independent National Probation Service by immediately appointing a director-general, with membership of all relevant policy committees, responsible and accountable for the performance of the service. Thirdly, recast NOMS not as a service but as the acronym of the national offender management system within the criminal justice system. Fourthly, ensure that probation really is accountable to local communities, again as stated by Jack Straw, linking regional management to local rather than central control by rationalising probation performance criteria within local area agreements and crime reduction partnerships. All-important local confidence in community-based alternatives to custody is best gained by local rather than national action, because outcomes are locally visible. Fifthly, announce that, in principle, and as a basis for resource planning, probation officers and probation service officers are to spend a minimum of 50 per cent of their time in face-to-face contact with offenders. Sixthly, decentralise administration and rein back micromanagement, examine and cut out all superfluous branches in NOMS and rationalise and reduce audit reports and returns.

I have not had time to explore many other factors affecting the situation, such as the commissioning of probation services. Again and again, I come back to PANT. I am sure that, if the incoming Government act decisively, many of the current problems facing probation can be swept away. In doing so, I hope above all, on behalf of the public whom it is their duty

to protect, that they will never forget that, not least, all the marvellous people who work in the probation service are not things. I beg to move.

**Baroness Farrington of Ribbleton:** I remind noble Lords that there is a speaking time limit.

2.41 pm

**Lord Judd:** My Lords, it is good to follow the noble Lord, Lord Ramsbotham, and to thank him most warmly for having secured this debate, having introduced it so powerfully and for all his relentless commitment on these issues.

There is a disturbing paradox in penal policy. In all the mainstream political parties, we know very well that rehabilitation is the priority which should be at the centre of everything. It makes humanitarian sense, in enabling people to become what they are capable of being as self-respecting, positive citizens, contributing to the well-being of society. It makes absolute economic sense because without it, the cost of reoffending, both to the community and to the penal system itself, is very high. Yet we prevaricate. We run scared of sensationalist tabloid journalism which plays on ill-informed public opinion and fear to sell newspapers. It is high time that we all, on all sides of politics, went onto the attack and left people in no doubt that it is the short-sighted elements in the media which help to generate crime and that, while, of course, punishment is necessary to underpin the principle of what is not acceptable, punishment without a deep commitment to rehabilitation is irresponsible nonsense.

Probation is very much part of this challenge. I have always respected the probation service as a vocation of dedicated professionals who enable offenders spared custody to sort out their lives and make a success of them. It has been under considerable pressure to demonstrate its macho and quasi-custodial role of late. Again, of course, supervision of the offender is part of the task, but by far the biggest part is helping people to become good citizens. Another reality is that a high proportion of those in prison or on probation have mental health problems. Many will certainly be the products of extremely disturbed family and other experiences.

If we were to start with a clean sheet of paper to devise a fit-for-purpose penal system, it is impossible to believe that it would be remotely like what we have. There would be all sorts of specialists working in a variety of purpose-designed centres to deal with what is needed, instead of piling people into prison or onto probation, irrespective of whether this will really help or make things worse. I very much doubt whether such a fit-for-purpose system would cost as much as the frequently counterproductive system we have today.

One day, sooner rather than later, I hope we will have the courage and the resolve to set about providing what is really required. That is not to say that a great deal of good, effective, imaginative work is not done within the penal system, but not infrequently, this is in spite of the overall, prevailing arrangements, rather than because of them. We need far more educational resources, more creative arts, including literature, painting, theatre, music and opera, more mental health resources

[LORD JUDD]

and more opportunities for meaningful work. We need more counselling and far more resources to help with the resettlement of offenders coming out of prison and with their successful re-entry into the community.

I do some work with the School of Applied Social Sciences at De Montfort University. This school works closely with the probation service and the police. It is clear to all of us that there is ample, strong evidence to demonstrate that social exclusion leads to offending and yet more offending. Prison too often represents and aggravates such social exclusion. Does my noble friend agree that probation at its best stands for and is about promoting social inclusion? Prison removes people from their communities and can slow the process of changing for the better. Does my noble friend agree that it can too easily offer only temporary containment and postponement of crime, rather than prevention? To us, it is clear that probation should be about motivating people to avoid offending, enabling them to develop the skills to achieve this and supporting them in finding the opportunities to have a worthwhile, fulfilling life. Treating people fairly and well brings out the best in them and provides positive modelling for future behaviour.

All of this underlines why probation has to be such a highly skilled profession. It is not just technical skills that are required, but the insight, intellectual maturity and understanding to help people face up to their unacceptable behaviour and to help them become self-motivated to change. A great deal of what is sometimes called emotional literacy is essential if those serving in probation are to build bridges and relationships with some of the most damaged people in our society, not least high-risk and potentially dangerous sex offenders who, all too often, have themselves been victims of abuse and violence. Can my noble friend specifically assure the House that the Government recognise this and are determined to ensure the best possible education and training for probation workers? It would be good to have similar assurances from the Front Bench opposite. I am convinced that it is the quality and depth of their preparation which will produce the best results by probation workers.

The probation service has established a proud tradition of promoting diversity and its values have repeatedly set an example to the wider criminal justice system. The right sort of professional preparation for probation has to provide for building up experience of working with diverse communities and thereby understanding difference. It is that which can, crucially, enable personnel to tackle some of the most pressing and complex social problems underpinning criminal behaviour including, for example, domestic violence and the various forms of hate crime. Our probation service has proved to be one of the most committed, effective and socially valuable of all public services.

Of course, there is responsible risk-taking involved if imaginative and effective progress with offenders is to be made. Of course, sometimes things will go wrong, even dramatically wrong, but how I wish there were a culture of social responsibility in our society to ensure that, when this happened, when things do go wrong, while of course determined to establish the cause of failure and to learn from it, it is seen as very

much the exception and always measured against a background of widespread, too often unsung success. None of us in this House should ever miss an opportunity to ram this home in support of the probation service.

2.48 pm

**Lord Birt:** My Lords, we are indebted to the noble Lord, Lord Ramsbotham, for enabling the House to discuss these important and troubling issues. I declare two interests; I was heavily involved in crime policy when I was the Prime Minister's strategy adviser in the first half of this past decade and I later married the founding director-general of the National Probation Service.

I was present in the Cabinet Room when the Prime Minister first decided to proceed with the proposal for a root-and-branch reform of the offender management system and again, later, when he signed off the detailed and considered plan of implementation of the noble Lord, Lord Carter. The vision that the Prime Minister endorsed was bold. An offender manager corps would focus systematically and continuously on individual offenders, across the whole span of the criminal justice system process—from court, through prison, to supervision within the community. There would be a single focus, and a single locus, of responsibility and accountability. A whole-life plan would be drawn up for every offender, focusing on the reasons for his or her offending behaviour, and with a sharp emphasis on programmes that would reduce reoffending, and thus, vitally, reduce the number of victims of crime. The offender manager would be the budget holder, purchasing programmes and services, including prison services, at arms-length from providers in the public, private and voluntary sectors. In effect, the probation tradition would be elevated and empowered. That was the very heart of the intention underlying the reform.

Ten years on, that vision has largely evaporated. We have ended up, as the noble Lord, Lord Ramsbotham, suggested, with a service, not a system; with integration, not separation; with division of responsibility, not focus; and with direct funding, not purchaser-provider relationships. I have never experienced a better example of the law of unintended consequences.

How did this happen? Ministers came and went. Some took too little interest in the nuts and bolts of organisational and system reform. Those who did would not stay long enough to get a grip. Thus, political oversight slipped away. Nor did the senior Civil Service step up to the plate. They too failed to drive the agreed implementation plan and timetable. Thus, the sectional interests involved pretty much had the field to themselves. They had their own agenda and little if any appetite for reform. So progress unsurprisingly in the early years was snail-like. When change came, in incremental steps, the architecture was redrawn and the original design was effectively cast aside.

In the process, there have been some gains: an improved focus on risk assessment and developing appropriate programmes; more co-operation across services; and better sharing of information about offenders across the system as a whole. I should also emphasise, as others have already done and will continue to do,

that many fine people of great integrity remain in the system, doing their best—not least those who have the unenviable task of managing our prisons in often adverse circumstances, when demand for places outstrips supply.

But let us be clear; overall we have been denied the powerful gains that really radical reform would have brought us. The greatest tragedy has been the emasculation of the probation profession and ethos—the precise reverse of the original intention. At the very least, within the present system—I echo what the noble Lord, Lord Ramsbotham, said—however unsatisfactory that system may be, a head of profession is now surely needed. Just as there is a Chief Medical Officer, a Chief Nursing Officer and a Chief Scientist, perhaps we need a professional head of probation, responsible for policy and standards, and as the flame carrier of more than 100 years of experience of tackling offender behaviour.

However, the greater hope is that the new decade will bring a fresh look at the whole criminal justice system and a greater willingness to institute the fundamental reform still needed right across the system if we are substantially to reduce the high levels of crime that we experience in the UK.

2.54 pm

**The Lord Bishop of Southwark:** My Lords, I add my congratulations to the noble Lord, Lord Ramsbotham, on giving this House the opportunity to debate this important subject.

I am particularly interested in the debate because it was in south London, in what is now the Diocese of Southwark, that the radical decision was taken in 1876 to employ a group of police court missionaries. They acted as advocates in the courts, pleading the case of the friendless and the hopeless, and it was partly as a result of their ministry that the first probation Act saw the light of day in 1905. The 17 serving missionaries then became the first probation officers. We have a stake in all of this.

Probation officers get little thanks. They stand every day between the rock and the hard place—the rock of public indifference to the penal system and the hard place of those who see the probation officers, community service and the rest as soft namby-pambies, hoodwinked by the criminals who should be given no help or quarter. The position of these Benches is that more detailed research is needed to judge better the worth of probation and that this should be evidence-led, rather than media-led.

The truth is that there is a lack of clarity in society at large about the nature of probation. Is it intended to be punitive or restorative? Are offenders meant to benefit from it, or to suffer as a result of it? It would be helpful if the Minister would clarify whether, in the Government's view, punishment takes priority in the probation process over the prevention of reoffending.

The role of community in delivering the aims of probation is complex. Apart from anything else, the word “community” can mean almost anything one chooses it to mean. It is not that offenders commit crimes just because they come from dysfunctional communities—although they often do. Poor backgrounds and lack of support do not by themselves cause crime.

It is more that without shared social structures within which people learn sympathy for one another and gain an understanding that actions have consequences, there are fewer disincentives to crime. Without community structures, which provide a framework of shared responsibility, crime too often pays. In a society of strangers, there are few consequences for the individual who transgresses the social norms. In a society where everyone is constantly exhorted to be a winner, rather than a loser, there are numerous incentives to get one over on one's fellow citizens, whether in terms of wealth, status or crime.

In some parts of the country, the received wisdom is that community and all that goes with it has almost totally broken down. From the point of view of the Church, that is overpessimistic. In even the hardest pressed parishes of the inner cities or forgotten deep rural Britain, the bonds of community are still present and often centred on the churches, mosques and other religious groupings. But they are often immensely fragile. Many forces are at work which undermine common bonds and preach a gospel of individual choice and autonomy which neglects the important truth that human beings are both autonomous and dependent creatures. The philosopher, Alasdair MacIntyre, describes humans as “dependent rational animals”. For him, dependency on others and on social networks is a far deeper truth than the autonomy of the individual.

If we have no ultimate responsibility except to ourselves, the whole principle on which probation is based is undermined. We must seek out the places where shared responsibility for one another is still to be found, and nurture them, or there will be no communities left within which offenders can be civilised. The message from many of our hard-pressed communities is that time is running out for this. That is why we in the churches in London are collaborating with the development of new community chaplains based in our major prisons, whose work is to help bridge the gap between what goes on in prison and individual people or congregations in the community who are prepared to help befriend ex-prisoners. But volunteers in the community, while adding value to the work of professional probation officers, cannot be a substitute for their face-to-face encounters with offenders.

The objective of probation is to prevent reoffending. This takes lots of contact time and it is worth investing properly in it. We seem willing to invest millions in prisons but we treat the probation service as a Cinderella service. If we believe that even the offender has a future, and if we believe that our society is to have a future, we might run the calculation of cost and benefit a little differently. It was good to hear from the noble Lord, Lord Birt, the rationale for the new offender management system. However, as he indicated, however fine the vision might have been, the reality is very different and it is not working. I trust that, at the very least, this debate will clarify the options available to the Government and help them to think again.

3 pm

**Lord Rix:** My Lords, first, I express my appreciation for the many years of dedication and hard work my noble friend Lord Ramsbotham has shown in the

[LORD RIX]

pursuit of reforming our criminal justice system and reducing levels of reoffending. His work is an endeavour to ensure that the actions of the prison and probation services to turn rehabilitation into a reality are recognised and, I hope, improved.

My personal experience of the probation service is, I am glad to say, non-existent, but I have had two brief visits to Her Majesty's Prisons. The first was in 1952 when I took "Reluctant Heroes" from the Whitehall Theatre to Wormwood Scrubs one Sunday evening and played to a packed house of convicted rogues and vagabonds, all of them hooting with laughter at the antics of three Army recruits and a bullying sergeant major. Seven years later, Wandsworth prison was the background for the filming of "Nothing Barred". I was a plumber helping the prison choir—all actors, of course—to escape down the sewers supposedly attached to the chapel. It was a particularly malodorous experience.

However, I must return to the more fragrant atmosphere of your Lordships' House and, as president of Mencap, report on the issue of learning disability in the prison and probation services. Mencap was a partner of the Prison Reform Trust in the No One Knows initiative—the advisory group chaired by the noble Baroness, Lady Quin. This was a three-year UK-wide programme which aimed to effect change by exploring and publicising the experiences of people with a learning disability or learning difficulty who came into contact with the criminal justice system.

As a result of this programme, in 2008 the Prison Reform Trust produced a comprehensive report, *Prisoners' Voices*, which made a number of recommendations to Government about the steps which must be taken to improve the ways in which people with learning disabilities and difficulties interact with the criminal justice system. It revealed some truly shocking statistics and showed that around one-third of all prisoners have a learning disability or difficulty which interferes with their ability to cope. However, in the absence of any routine or systematic screening, no one knows for certain who these people are, and subsequently the support they need is not readily available.

There are, however, four pilot programmes currently running at four prisons across the country—Durham, Birmingham, Wormwood Scrubs and Brinsford young offender institution. These programmes introduce a screening process to help identify people with learning disabilities on their entry into prison, with some very positive early results. No doubt the National Offender Management Service will assess their success and how best they can be rolled out across the prison and probation services in England and Wales.

There are a number of reasons why such a screening process is so important but I will mention just three. First, screening underlines the need to consider the appropriate diversion away from the criminal justice system. Secondly, it underlines the need for appropriate support during police interviews and in court; otherwise the suspect or defendant will be unable to participate effectively, which, in turn, may compromise his or her right to a fair trial. Thirdly, it underlines the need for appropriate adjustments in, for example, offending behaviour and rehabilitation programmes; otherwise

the individual will be less likely to lead a useful and productive life on their release from prison or during their time under the authority of the probation service.

As my noble friend Lord Ramsbotham made clear, in 2004 the Government brought the prison and the probation services together as the National Offender Management Service in an attempt to create some much needed joined-up thinking. More recently, the Government attempted to devolve power in the service away from London out into 10 regional offices across England and Wales. While I recognise that greater powers in the regions could bring new opportunities to think creatively and do things differently, I am concerned that such a state of affairs may lead to the needs of people with learning disabilities being undermined even further at a time of growing budget constraints and additional pressures on the probation service.

It is now nine months since the publication of the review by the noble Lord, Lord Bradley, of people with mental health problems or learning disabilities. I welcome the cross-government action plan which was launched in November following consultation on this report, but we need to ensure that, despite the pressures on public expenditure, we continue to make rapid progress in this field, thus making a substantial difference to many thousands of people's lives and benefiting society as a whole.

The final point I wish to make goes to the root of the problem with the prison, probation and police services. Quite simply, it is the lack of learning disability awareness training. As matters stand, the training that is available for prison staff takes place in just one single day. For staff in the probation service, it is even less. We hoped the 1984 PACE Act would make the bobby on the beat more aware of his or her obligations when arresting a person with a learning disability, but I have my doubts.

That, of course, is where this sad story begins. It is extraordinary. Despite all the recent and current disability legislation, the majority of professionals, in whatever capacity, seem to be totally unaware how to approach a person with a learning disability. Thus, they echo the Venerable Bede and admit:

"Of what follows or what went before, we are utterly ignorant".

I referred earlier to "Reluctant Heroes" and Wormwood Scrubs. The first laugh in that Army farce came when the curtain went up on Act 1, showing a Laing hut with smoking stove and three beds under three lockers. On one locker a recent occupant had chalked:

"Abandon hope all ye who enter here".

Unhappily for those unfortunate people with a learning disability encountering our criminal justice system, that despairing quotation, written in the 13th century, applies to this very day.

3.08 pm

**Baroness Howe of Idlicote:** My Lords, I add my thanks to my noble friend Lord Ramsbotham for this opportunity to discuss a vital service that I worked with and respected highly during the 20 years that I chaired an inner-London juvenile court and also when I served on the Parole Board. My noble friend and

other noble Lords have indeed painted a worrying picture, one that I am sure that the Minister will take very seriously indeed. I will speak more specifically on training within the probation service.

It is more than six years since the noble Lord, Lord Carter of Coles, laid out his plan for NOMS, and I and many others raised doubts over how feasible such a scheme was at that time. In the years since, my doubts have turned to alarm at the breakdown of the once effective and valuable probation service. Training has by no means been isolated from the wider disintegration of the service; as we all know, it has repeatedly been revamped over the past 20 years and another new system is to be introduced this spring. The general trend of these changes has been a move from a high-quality degree system to cheaper, on-the-job training in a much more complicated structure.

Most worrying is the seeming belief of the Government that the crucial role of probation officer can be done by less skilled people, when in fact they need excellent interpersonal and communicative skills to direct offenders to a more positive future. The sheer quantity of change is a matter of concern in itself. Equally worrying, the new system of training will apparently entail all learning being done remotely via computers. I will also highlight a number of other concerns about this crucial aspect of the service.

First, since 2002, the number of probation service officers—those who are less qualified and should, in theory, deal only with offenders who are considered to pose less risk—has risen by around 70 per cent. By contrast, the number of fully trained probation officers is falling. This adds up to less experienced, less senior and less well trained probation staff on the front line. There is now a small concentration of that skill and experience in those dealing with offenders deemed most dangerous, while the rest, who represent 80 per cent of offenders, are left with less well-trained staff.

These problems were highlighted by the Sonnex case. Daniel Sonnex was placed as a tier 3—that is, medium-risk—offender, despite the fact that he had in the past attacked a pregnant woman and her partner in order to extort money. Daniel Sonnex's probation officer had a caseload of 127 and only nine months' experience, while, 10 years ago, such a probation officer would have had a caseload of 30 to 35.

Such allocations are symptomatic of my second concern, about a system with too many overarching rules that lacks an intimate knowledge of each individual offender. Indeed, as pointed out by my noble friend Lord Ramsbotham, reports say that offenders may see probation officers for as little as 15 to 30 minutes a week. This is hardly surprising given the rise in the probation caseload from 197,000 five years ago to the current all-time high of 245,000 today. In Lewisham, the borough of Daniel Sonnex, only one of the 22 case workers had more than two years' experience.

The Ministry of Justice is now insisting that up to 70 per cent of all court reports are produced on the day. This and the lack of experienced probation officers means that the quality of many reports will be reduced and the information available to courts will not be as detailed. Ironically, this is likely to lead to a greater use of custodial sentencing.

Another related concern is the rise in the use of indeterminate sentencing. It is widely agreed that those with indeterminate sentences should have a permanent and experienced probation officer. Yet, given their shortage, delays in assessments for the Parole Board will be inevitable, leading to yet further strain on the prison system. The Government will of course point to the 70 per cent rise in funding for the probation service. But, as we know, the money has unfortunately been spent on a vast, failed IT system, consultants and huge increases in premises and bureaucracy instead of training.

My third concern is for the job situation of current trainees. There were going to be 625 additional trained probation officer jobs this year, but this does not seem to be happening. The number of TPOs who will not find work once they have completed their course is still unknown, but what we do know is that 50 have already left the service, having been warned of unemployment if they remain. It is also surely intolerable that probation service officers who have taken up the challenge to become full probation officers and then cannot find jobs at this level either have to continue as probation service officers and lose around £6,000 a year or leave the service. Each trained person costs £95,000 and if they cannot find work and so leave, millions of pounds will have been wasted. I hope that the Minister will be able to update us on what the real situation is. Unsurprisingly, both trainees and NAPO have complained about the lack of support that these trainees receive. Specific trainees are beginning to talk about how low morale is on the ground. All of this adds to a baffling and scandalous waste of resources.

All of the recent history reconfirms my belief that training should return to a much deeper, more academic system that includes placements and produces probation officers who can utilise a host of skills in building strong relationships with offenders. If we are serious about cutting crime and improving the lives both of victims and offenders, we need a well-trained, well-resourced, localised probation service that is known in the community. It is just that which we have not got. It should be obvious that training will always be at the root of either the success or failure of the service.

3.15 pm

**Lord Mayhew of Twysden:** My Lords, once again, the noble Lord, Lord Ramsbotham, by securing this debate, has enabled us to examine a pillar of our criminal justice system. I, too, am enormously grateful to him for that. The probation service is a load-bearing pillar of our system, and in recent years its load has been massively increased by successive restructuring, reorganising and reordering measures, to say nothing of an excessive flow of criminal justice legislation. That process has been devastatingly referred to already by the noble Lord, Lord Ramsbotham. The important point to note is that these burdens have emanated not at the behest of local authorities, or of the lay magistracy, with which the old probation committees were so valuably associated, but from central government.

In the few minutes available, I will focus on only one aspect of this process, the de facto exclusion of magistrates from the new probation trusts. These trusts

[LORD MAYHEW OF TWYSDEN]

derive from the Offender Management Act 2007 and replace the probation boards which were set up only in 2001. Some are already in place, and all boards must have given way to trusts by September of this year. I will come in a minute or two to describe how this exclusion, which I believe to be very retrograde, has come about, but I want first to register with the Minister who will reply to the question whether it was ever intended. Certainly, there was no hint of it when the noble and learned Baroness, Lady Scotland, spoke at Second Reading. She said:

“It will enable us to commission probation services from a range of providers in the voluntary, charitable, public and private sectors. It will do this by lifting from probation boards the statutory duty for providing probation services. We will create new public sector bodies: probation trusts. Regional offender managers, acting on behalf of the Secretary of State, will commission services”.—[*Official Report*, 17/4/07; col. 123.]

There is no hint there that the contribution of lay magistrates to the work of probation boards might be dispensed with when the new trusts replaced them. How, then, has this happened? The root of the answer lies in Section 5(2) of the 2007 Act, which provides that the purposes of a probation trust must consist of or include the making or performance by the trust of contracts with the Secretary of State for the making of those probation provisions which are his statutory responsibility under the Act. In short, every trust has got to be able to make probation contracts with providers.

It is true that the Act itself does not expressly exclude magistrates from the trusts, but this insistence on making contracts with providers of probation services has, as I understand it, attracted the jurisdiction over magistrates that is conferred upon the senior presiding judge. And my understanding—can the Minister confirm this when replying?—is that the senior presiding judge has recently ruled that it would not be appropriate for a magistrate to be a trust member because of the risk of a conflict of interest in allocating contracts. But are not magistrates every month of the year used to meeting potential conflicts of interest and to conducting themselves appropriately when such a conflict is perceived?

Be that as it may, will this exclusion really matter? Let us look at the aims under Section 2 of the Act, to which the Secretary of State must have regard when he is carrying out his functions. They are the protection of the public, the reduction of reoffending, the proper punishment of offenders, ensuring offenders' awareness of the effects of crime on the victims of crime and the public, and the rehabilitation of offenders. I suggest that in each and every one of these the magistracy may confidently be relied on to make a valuable contribution and they have done for many a long year.

That is not surprising because they handle year on year about 97 per cent of all criminal trials. They are drawn from the local community. They are aware of local circumstances, local pressures and the state of public confidence locally in the administration of criminal justice. They themselves enjoy the confidence of the public they serve and from whom they are drawn: if it were not so they would not have been around for some 700 years. Therefore to the question of whether their exclusion will really matter, the answer has to be yes, it will.

Did Ministers know or foresee that local magistrates were to be excluded and if so were they content? If they were not content, in any event, let us now have a one-clause Bill permitting, if it does not require, magistrates to be members of probation trusts. This gravely undermines a pillar of the criminal justice system.

3.22 pm

**Lord Dear:** My Lords, I would like to join in the universal chorus of thanks to the noble Lord, Lord Ramsbotham, for securing this debate and also for taking us on what must be described as a tour d'horizon of the problem and also the quite awesome firepower in his sustained barrage on the problem—because problem I believe there most certainly is.

Exactly a week ago this evening, I found myself on my feet in an august establishment in Wimpole Street presenting a paper to the Medico-Legal Society. It had asked me as a one-time police officer to take a critical look at policing, and I tried to be suitably critical. In my suggestions for improvement of that service, I found myself saying very forcefully what I believed then, and believe today: that one of the best things you can do to improve policing is to improve the quality of the probation service. I said that because the police service has, with everyone else in that field, been hampered for years by the revolving-door syndrome. I will not go into the detail of that—we all understand the problem of constant reoffending, often referred to as the revolving door.

After the presentation of the paper, I found myself in the reception, with a glass in my hand, talking to a small group that comprised a district judge and a couple of magistrates. The district judge did not agree. He said the service he got from the probation service was first class. The two magistrates could not wait to jump down his throat and tell him just how bad the service was from their standpoint in two totally different court areas. What one saw there in microcosm was that the probation service is still, despite all its problems, giving a good service most of the time at the top of the system, at the more serious end of the system, but it is failing dramatically towards the bottom. I will come back to that if I may.

I mentioned the criminal justice system. Most of us who play on that playing field know that there is no system there in reality, but the component parts have to rely on one another willy-nilly to get on. The police have always relied very much on the probation service to help them. As has already been alluded to, to some extent, by other noble Lords, in the 1950s and 1960s, for sure, probation officers were mature, worldly wise, and, significantly, officers of the court. They were involved in the system, they were trusted, they were respected and they were successful. That changed to some extent in the 1970s when probation and social work training became coterminous and it seemed to some of us that probably probation officers were moving too far towards the work of social workers. Following the Coleman review in 1989 things began to move back—the pendulum seemingly began to swing back towards the median and acceptable point. Perhaps it swung too far. In 1995, the Home Secretary said that

social work was not an appropriate qualification for probation officers. I will not comment on that, but the balance point was being reached until we had the creation of NOMS in 2004. We have heard a lot about NOMS and I will not repeat it, save to say that the 2004 point signalled a rapid downward spiral and a disintegration of morale in the probation service.

One may look at the horror stories—it is a bit unfair, but they encapsulate much of what we are looking at—such as the case of Dano Sonnex, who was convicted of a particularly unpleasant murder in June last year. He was being supervised by a probation officer in Lewisham who had only qualified nine months previously, yet who was carrying a case load of 127 cases. Ten years previously, a similar probation officer would have carried 30 or 35. In that office of 22 probation officers, only one had more than two years' experience, the IT system did not work and there was a high sickness rate. We were told that this was an unusual set of circumstances. I do not believe that. I think that one could find other cases, if one lifted lids up and down the country, that would approach that sort of thing—a tick-box, process-driven culture, preoccupied with bureaucracy.

This situation has arisen despite increasingly frequent signals in research by people such as Ansbro in 2006, Craissati and Sindall in 2009, Robinson and Burnett, who reported that skilled staff felt marginalised, right through to the report from HM Inspector of Probation in November last year. He found that in London, very few front-line staff have more than three years' experience, and that 15 minutes a week with an offender is not good enough.

Looking at success rates, it is clear that probation can work. Prisoners coming out of prison have a 60 per cent chance of reoffending. Coming out of standard supervision programmes, they have a 50 per cent chance of reoffending. Properly run probation programmes reduce the reoffending rate to around one-third—34 per cent. We must push hard for that as our goal.

Faced with the present situation, the police, and the public that they serve, are disenchanted, dismayed and disbelieving. We are told that crime is reducing, and it is. There was an announcement today that crime had yet again dropped. Nevertheless, there is a fear of crime. It is connected to the category of anti-social behaviour that includes binge drinking, yobbery and minor crime. Most offenders, unless they are properly handled, will go on to reoffend at a higher level. The police are not coping with that set of problems. They cannot do so without reducing the pressure on the streets. To do that, one must focus on the probation service, which is failing to deal with what I call the "crime incubator". Those who come through that go on to reoffend.

The value of the police and probation services working together is best seen in local criminal justice boards, where local partners come together and get a locally constructed programme that works on the ground, as seen by those involved at the time. That has a key role in the whole of the restorative justice programme.

In conclusion, I will say that the various components that form a community order are better managed in an integrated framework. Within that framework, the probation service is essential, and joint working with the police is desirable. Only if we get those two things in place will we see a better quality of life on the streets for us all.

3.29 pm

**Baroness Gibson of Market Rasen:** My Lords, I, too, will begin by thanking the noble Lord, Lord Ramsbotham, for instigating the debate. I can think of no one better to do so.

In all the debates over recent years about the criminal justice system, costings and effectiveness have been vital factors. I will concentrate on them today. Greater efficiency and cost benefits have been key components of proposals for changing services, including the probation service. Have the changes worked? Let us examine the current position on costs.

The latest figures show that it now costs at least £40,000 per year to keep a prisoner in prison. That compares with about £4,000 per year for a supervision order. If a person is placed on probation with a condition attached—say, attending a drug rehabilitation course, or anger management, or for domestic abuse—the cost will rise by another £2,000 to £3,000. It costs around £15,000 to £20,000 per year to keep someone in a probation hostel. Therefore, the real cost of incarceration for a year could exceed £40,000. The figures for adult prisoners are based on devolved budgets for each institution; therefore the costings do not include the NOMS headquarters or the regional structures that support it. Other expenditure, such as on audits, and other relevant Ministry of Justice funds are also held centrally and therefore not taken into account when working out the cost of each prison place. There are real and legitimate concerns about how the costings are worked out, and there needs to be an independent review of the real cost of prisons and probation.

The prison population continues to rise. It reached a peak of 85,700 last year; as usual, the figure has fallen slightly over the Christmas period. Since the introduction of the indeterminate public protection sentence, five years ago, the number of prisoners on IPP has grown; it now stands at 5,800. That figure is increasing by 140 per month, yet since that sentence's introduction fewer than 100 prisoners have been released and one-third of prisoners have already passed their earliest release date. That is having a disproportionate effect on those with mental health issues, learning difficulties or drugs problems. The prison population is likely to grow by 1,500 each year through IPP alone, unless measures are taken to reduce it elsewhere.

The probation service could act as a safety valve, but it is facing a 4 per cent cut during 2010-11 and further cuts in subsequent years. The service is already struggling to fulfil its statutory duties and the courts, especially the magistrates' courts, are bound to take heed of that. The loss of confidence in the ability of the service to supervise offenders is bound to lead to a rise in the short-term prison population. Last year, more than 75,000 people were sentenced to 12 months

[BARONESS GIBSON OF MARKET RASEN]

or less; at least two-thirds of those had severe problems with drugs, alcohol or both. Given that a community penalty with a drug requirement costs £7,000 or £8,000—compared to at least £40,000 for someone in prison—a switch of resources would seem wise, especially during a recession.

The Government's own offender management strategy evidence shows that drug programmes delivered in the community have a significant positive effect on reoffending rates, as do offender behaviour programmes. The latest statistics show that 50 per cent of people completing a probation order are reconvicted within two years, compared to 66 per cent of those who are imprisoned. However, the figure falls by a further 13 per cent for drug programmes and by 16 per cent for offender behaviour programmes in the community. Surely, it would therefore make sound economic sense to invest in probation rather than decreasing its budget. In the medium to long term, the taxpayer would be saving money. I would be pleased to hear my noble friend's view on that.

Here, I place on record my thanks to the National Association of Probation Officers for its comprehensive briefing. A survey conducted by NAPO last year found that 80 per cent of the 42 probation areas were reporting problems with providing the supervisory service that the courts require because of budgetary constraints. Delays in starting programmes were particularly worrying for domestic violence, alcohol, unpaid work and even community sex offender programmes. The maximum wait for a start on a domestic violence programme varied from 13 to 42 weeks, and 17 areas reported that programmes relating to unpaid work were not available instantly because of severe waiting lists. Five areas reported that it was taking months to get individuals on drink impaired driving programmes. In some cases the order finished before the programme started, which meant those offenders were never treated. As the former president of the Royal Society for the Prevention of Accidents, I am particularly worried about this finding.

NAPO believes that the situation is getting incrementally worse the more the cuts bite. This is bound to have a negative effect on reoffending rates. NAPO also believes that the probation service has no real voice in the NOMS structure and its influence has been waning since the merger of the prisons and probation services in April 2008. This raises an obvious question. Will the Minister say how many probation staff are working in NOMS headquarters and will he compare that number with the number of those with a Prison Service or Civil Service background?

There was always a fear among probation service personnel that they would be in the minority under the new NOMS structure and it appears that they are. Under these circumstances, I believe, as does NAPO, that there is an urgent need for the probation service to have its own operational arm with its own director, its own directorate and its own head of department. There could be shared services, of course, for such things as finance, HR and even the maintenance of buildings, but the time for a rethink on NOMS is needed most urgently.

3.36 pm

**Baroness Stern:** My Lords, I, too, thank the noble Lord, Lord Ramsbotham, for ensuring that this important matter is debated. I very much agree with him that the changes made to the probation service in the past 10 years have been ill thought-through. They are not based on evidence or experience and in the current climate they will be unsustainable, as the recent excellent report from the Justice Select Committee on justice reinvestment makes clear.

Many changes for the worse and failed ambitions have been identified by noble Lords. I would like to look at one aspect—that is, the model that currently underpins government policy. This is a very mechanistic model, unrelated to people or places. To make the task controllable and measurable, the Government have defined it as follows: first, allocate your offenders to an officer; then put their details onto a computer programme; then get the computer programme to sort them out into four levels of dangerousness; then, depending on the level, make a decision on whether they are seen by a professionally qualified person or an unqualified person and for how long they are seen—it seems that the choice is between 15 and 30 minutes a week; and then allocate them to an intervention programme.

The success of this activity is measured in several ways. The last annual report for the National Probation Service was for 2007-08. There is no report for 2008-09 because the National Probation Service ceased to exist. It sets out the 15 national performance indicators: seven relate to doing the things described above on time; six relate to ensuring the completion of a number of interventions; one is about staff sickness, which should be reduced; and one is about how many of the offenders get a job and keep it for four weeks. So, one of the 15 is about a real outcome.

The Minister will no doubt say that the probation service work is not shaped by these indicators, and of course much good work goes on around this framework and—more likely—in spite of it. But that is the Ministry of Justice model that lies behind the management of the probation service and the measuring of its outcomes.

I understand that the Government are now also measuring reconviction rates in each area every three months as a performance measure, presumably as part of the three-monthly reports that the noble Lord, Lord Ramsbotham, described. In that context, I commend to your Lordships a paper by the very respected professor at Leicester University, Carol Hedderman, entitled, *How Not to Assess Probation Performance: Constructing Local Conviction Rates*. It suggests that at least that aspect of measuring performance is not sound at all. Professor Hedderman concludes that the data cannot be used as a measure of anything. The whole process of measuring the performance of criminal justice agencies is complex, and much of the information that we are given is highly questionable. Has thought been given to involving the UK Statistics Authority in assessing the validity of reconviction statistics and their use as a measure of performance?

That mechanistic approach is clearly damaging, and totally remote from the reality in most parts of our society, as the right reverend Prelate said. Many

noble Lords have said that we need a substantial rethink and a new understanding of how the non-custodial part of our penal system should operate. We need to rebalance the probation service away from the mechanistic model and towards a model that is responsive to people and places. The former Lord Chief Justice, the noble and learned Lord, Lord Phillips, told the centenary probation conference:

“The job is not primarily about meeting targets, or satisfying business cases, or enforcing community punishments, or breaching those who do not comply with orders, or risk assessments. These all may be part of the job, but if building relationships is not at the heart of the exercise, the exercise will be likely to fail”.

The Minister may say that that is fine, but sounds a bit woolly. I assure him that the idea that what makes people change is usually connected to a relationship of some sort is well supported by a large body of evidence. We need a shift from computer programs to the use of professional judgment. We need another look at the role of professional staff, who are a scarce resource. Does the Minister know of any other probation service where most of the offenders are supervised by unqualified people? We need an end to national management and control. Probation should be a local service, but with a powerful central voice, a media presence and a research and development capacity. We must have an end to targets that are about process and distort the work of everyone in the service.

A most welcome report from the Centre for Social Justice has set out such a model. It calls for probation boards to reopen offices in those deprived areas where most of the people who will be supervised live. From these offices, the service can begin to rebuild its local knowledge of offenders, their families and communities. The probation service must start undertaking home visits again. The service must rethink its role and identity to become, to cite the report,

“a benign authority, rather than an offender manager”.

The importance of the probation service in promoting a safer society cannot be overestimated. The work to rebuild it needs to start as soon as possible.

3.43 pm

**Viscount Tenby:** My Lords, it is a pleasure to take part in this debate on the probation service, and I am grateful to my noble friend for providing the opportunity to do so, and for opening it with an incisive analysis of all the problems besetting the service today.

I should start by declaring an interest as a magistrate, now retired. In making this admission, I say straight away that there is nothing more quickly out of date than a retired magistrate, and this is especially true in an era that has seen the introduction of criminal justice Bills on an annual basis.

However, I am sure that some things remain constant. Among these are the high standards of the probation service. In more than 25 years, on what was a large Bench, I could have counted on the fingers of one hand the occasions on which I and my colleagues fundamentally disagreed with probation recommendations. Of course, we may have been lucky with our local service, and our very able and charismatic chief probation officer in quick time became the national chief probation officer, but I am sure that our experience

is by no means exceptional. I am sorry that my noble friend Lord Dear last week came across two current magistrates with a contrary and, I hope, minority view.

That is all the more reason for failing to understand why this part of the criminal justice system has been so shabbily treated over the years—attacked as a matter of course by some tabloids which continue to see the service as an underperforming part of social services which is able at will, and irrespective of other criminal justice agencies, to let loose serious offenders on some whim. Downsized by politicians in Whitehall, increasingly given less influence and representation in the many reconstructions of the criminal justice system in recent years, probation staff may well wonder what they have to do to become appreciated. Nowhere is this clearer than in the Prison Service-dominated membership of NOMS, which has no place in senior management for the probation service.

None of this is new. I remember a plan dreamt up some years ago by another Government to make it unnecessary for future probation recruits to have any qualifications, certainly of degree or diploma standard. The popular press had for some time been banging on that anyone with a modicum of common sense and any experience of being in authority, such as former warrant officers in the services, could do the job as well, if not better. I would not be so ungenerous as to point out that politics is the only career for which qualifications of any sort are unnecessary. Be that as it may, a late, well respected Member of this House, Lord Allen of Abbeydale, and I went to see the then Home Secretary, the right honourable Member for Folkestone and Hythe, to make clear, among other things, what a disastrous effect this step would have on the service's morale. Not only did he receive us with his usual courtesy but, praise be, he agreed with us, for no more was heard of the plan, and it was quietly dropped.

The relationship between the magistracy and the probation service is very special and, given the nature of our criminal justice system, the two services interact daily on a very large scale. It was good to see evidence of that interaction in a recent joint venture—the Local Crime: Community Sentence project—to inform the outside world about the role of magistrates and probation in community sentencing.

Accordingly I am sad that, once trust status has been awarded to probation boards, magistrate participation may end, as the noble and learned Lord, Lord Mayhew of Twysden, said. I understand, but do not necessarily agree with, the problem of members of the judiciary being part of a body engaged in the tendering process—though, like the noble and learned Lord, I think that that point rests on flimsy ground. However, when the Minister answers the noble and learned Lord, will he also answer this? Would not the best of all worlds be achieved by appointing a Bench advisory representative to maintain the vital link? Perhaps the Minister will also comment on whether that is a possibility.

While on this subject, I understand that six applications for trust status have been granted so far with the remainder due for assessment this year. NOMS says

[VISCOUNT TENBY]

that it has contingency plans for those who fail. Can the Ministry give an indication of what those plans are; or is this one of those occasions so beloved in modern, safe society when everyone gets prizes?

I understand my noble friend's concern about the Government's intention to alter the ratio between fast-track pre-sentence reports and standard ones. So long as the requirements of justice are met, there is nothing intrinsically wrong with fast-track PSRs, or stand-down PSRs, as they used to be known in my day. Indeed, Benches are as irritated by unnecessary delays in court as anyone else and probably more so; but fast-track PSRs should not be used as a cost-cutting exercise, or for any purpose other than a legal one. That is an important point.

We hear from various sources about the many understandable anxieties among those who work in the probation service as regards inadequate funding despite government assurances to the contrary; increased case work due to reorganisation within the system; and apprehension that the new centralising structure represented by regional DOMs will threaten initiative and independence. The magistracy is committed, as a matter of the greatest priority, to the delivery of local justice, and I believe that the probation service shares this worthy aim. Benches know the areas they serve, their strengths, their weaknesses and, above all, their sensitivities. After reducing probation areas from 42 to 10, can the same now be said of the probation service?

I share the widely held dismay at the phasing-out of the National Probation Directorate some years ago and, even more so, at the removal of the post of director of probation last March. If I had a wish list, it would be for a period of calm and certainty in organisation, a period of assured and adequate resources for the service and, by no means least, a period in which there is national acknowledgement of the important, vital role that the probation service plays as one of the four pillars of the criminal justice system in this country.

3.49 pm

**Lord Rosser:** My Lords, I too welcome this debate. I had an involvement with the National Offender Management Service board and the Probation Trust Programme which ended late last year.

The probation service has seen a number of changes over the past few years, with the creation of the National Probation Service, the introduction of the National Offender Management Service and now the move to trust status. It also finds itself in a potentially more competitive environment where questions are being asked about whether more services could be provided more effectively by the voluntary or third sectors in particular, and where directors of offender management are contracting with probation areas and trusts for the provision of probation services under service-level agreements. Good performance is related to delivery to the service-level agreements. The performance measures are split into four areas: public protection, offender management, interventions and operational capability resource use and strategy. I do not share the view that these are inappropriate or

meaningless measures of performance, and I applaud the work and efforts of probation staff in raising performance levels in many areas.

The probation service has to compete for resources in just the same way as other agencies in the criminal justice system and the health and education services. It needs to show that it is able to give a valuable and worthwhile return in terms of outcomes achieved through the use of the resources it has. My view is that the probation service is more than capable of meeting the challenges it is already facing and will continue to face.

I have positive thoughts about the National Offender Management Service and about the move to probation trusts. For too long we allowed the often wide variations in performance between probation areas to continue, without probing sufficiently deeply into the reasons for such variations and whether they were justified. Indeed, I am not sure that the information was always there in sufficient detail for proper assessments of such a nature to be made. Under the National Probation Service, greater emphasis started to be placed on assessing and comparing the performance and practices of the large number of different probation areas, as well as looking at the position of the probation service nationally. Reoffending rates do vary between probation areas, and it has been legitimate and valid to ask why, while acknowledging that it is not only the probation service that can impact on reoffending rates.

Probation has usually been regarded as a service with its roots very much in the localities each probation area serves, and that continues. I certainly do not disagree with that approach, unless it means fragmentation with no central direction, strategy or accountability for what is also a national service, and one which operates very much in a goldfish bowl.

The moves to trust status for probation areas and the need to achieve a required level of performance to gain trust status have led many probation areas to take a long hard look at how they operate, function and deploy their staff. In addition, they are looking at how they work with other organisations and bodies—such as the Prison Service, courts, police, voluntary and third sectors, local authorities and the community as a whole—which are either a part of the criminal justice system, or which also have a key role to play in the rehabilitation of offenders, reducing reoffending and protecting the public.

The outcome of such exercises has varied from one area to another, but common themes have been a reduction in layers of management, action to raise the performance of all areas to those of the best performing, more effective deployment of staff and ensuring that required resources are directed at the management of high-risk offenders. Contacts with other bodies and organisations involved with offenders and their rehabilitation have also been developed and strengthened, since it is not only probation officers who play a role in programmes for offenders and spend time with them. In a small number of cases, these exercises have led to amalgamations of probation areas.

Far from being concerned at the changes that have taken place, I believe that the creation of the National Offender Management Service has been a step forward, and that there is clear evidence of the progress being

made. Excluding the shared services or activities being provided for prisons or probation as a whole, the cost of the management and administration role of the National Offender Management Service headquarters and regional offices comes to just under £125 million out of a total NOMS budget of, I believe, some £5 billion. That figure of £125 million is to be reduced to some £100 million by the end of the next financial year. There is a director of offender management in each of the 10 regions to which budgets have been devolved from NOMS headquarters. The director is responsible and accountable for the work of NOMS in that region—this means the work of the probation service, the Prison Service and the contracts that NOMS has. This devolving of power provides for more flexibility, more local initiatives and more competition, bearing in mind that for a number of activities the probation service in the area concerned is not the only provider available. Directors of offender management and NOMS headquarters are applying a more robust approach to costings and laying down minimum standards and specifications that need to be met so that there can be the effective benchmarking of costs in the probation service and in prisons.

The overall reoffending rates are also moving in the right direction, with reductions—in some categories, significant reductions—in the adult reoffending rate within one year of completing custodial sentences and court orders. There was a reduction in the frequency of adult reoffending of some 20 per cent between 2000 and 2007, and reoffending rates for juveniles are also significantly down over the same period.

The 2010-11 probation budget of £870 million, which was announced at the end of October last year and is just over £25 million above what was originally projected, is a reduction of just over 2.5 per cent year on year, but it is at the lower end of the savings that are being sought in the public sector and is a reflection of the importance of the probation service, on which spending increased in real terms by nearly 70 per cent between 1996-97 and 2007-08—I make no apology for saying that—with case loads increasing by just over 50 per cent over the same period.

The probation service is moving forward. It is very committed and has very able and capable people at all levels, who through their dedication have achieved a great deal. The changes that have been made over the past few years and that continue to be made have also contributed to giving us a probation service that regularly achieves virtually all the targets that it has been set, although not surprisingly in the current circumstances there are difficulties in achieving targets on securing employment for offenders, and it delivers a service that has resulted in a reduction in the frequency of reoffending. We should be prepared to recognise just what has been achieved by all those involved with and in the probation service.

3.56 pm

**Lord Woolf:** My Lords, first, I will disclose my interests. I have the privilege of being chairman, president and patron of various organisations that work in the criminal justice field. I am the lifetime president of the Butler Trust, which for many years has identified and given awards for exceptional work in prisons and now

extends that to the probation service. I agree with the noble Lord, Lord Rosser, that the probation service is still doing good work, but I am afraid that it does so despite the havoc that has been wrought on that profession over the years.

Like others taking part in the debate, I am grateful to the noble Lord, Lord Ramsbotham, for giving us this opportunity. I strongly endorse his opening remarks. He is a pillar, if that is the right word, in his support for the criminal justice system, and after being one of the most distinguished of our Chief Inspectors of Prisons he has gone on to make a huge contribution. When he was appointed, I remember that it was thought that the then Home Secretary thought that appointing a judge as Chief Inspector of Prisons would mean that he was getting a tough soldier who would achieve his purposes. He did get a tough soldier, but that soldier did things that the Home Secretary thought were on the liberal side and who was tough on things that were being done incorrectly, making a nonsense of basic principles.

Perhaps I am being unduly vain but I also refer to the Strangeways report, for which I was responsible. After the inquiry, all parties at the time thought that the report had got it right by emphasising that criminal justice would benefit by being tackled on the whole not nationally but locally. For a time after the report we made progress down that route. It is a tragedy that the vision that the Strangeways report was meant to promote was not followed successively thereafter.

I say that notwithstanding the fact that I had had hopes that when NOMS was established during the period when I was Chief Justice, and I was therefore consulted, it would have a basic rationale to bring together the different parts of the criminal justice system. Taking what has been said already about the need for each part of the criminal justice system to support the other parts, I thought that purpose would be achieved. Unfortunately, I believe it was seriously damaged by the fact that the first head of NOMS left after a short period of time. If anyone could have made NOMS work, it was Martin Narey, who went on in other fields to make a huge contribution in this area. But NOMS did not have the benefit of leadership of that sort of individual and not having it has proved to be a serious disadvantage.

When I started as a young advocate, the probation service was just that which has been described today. Probation officers had great experience, which was based locally. A young advocate, such as myself, was taught by his pupil master that the best thing he could do if retained for a defendant was, when he got to court, speak to the probation officer. The probation officer would know the facts about the offender and what could be achieved in that community for that individual. I hope I remembered that guidance and that one or two of my clients, but I fear not all, benefited from my efforts to do just that. It is on a local basis that you can get the necessary results if you are to prevent a person from reoffending.

There can be no dispute that the prevention of reoffending, which is made so much more difficult by the overcrowded state of our prisons, is the major problem that we face if we are to achieve what we should with our criminal justice system. That is true

[LORD WOOLF]

for the courts in the same way as was described by my noble friend Lord Dear in relation to the police. Both are dependent on the probation service.

It is right that time and again we come to occasions when there is an opportunity to think again. We are about to have a new Government, who I hope will think again, whatever their complexion. In that regard, I would draw attention, as has my noble friend Lady Stern, to the excellent report, *Cutting Crime: The Case for Justice Reinvestment*, prepared by the Justice Committee of the other place. In that report, there are clear signposts as to the way forward. I hope that the new Government will read those signposts.

4.05 pm

**Lord Dholakia:** My Lords, we come to the conclusion of the debate. I thank the noble Lord, Lord Ramsbotham. He has succeeded in underlining the immense value of the work carried out by the probation service. Almost all noble Lords who have spoken are clear about the need to ensure that the service is adequately resourced to carry out its vital work of protecting the public and reducing reoffending. I appreciated the contribution of the noble Lord, Lord Birt. The decision-making process in Downing Street bears no resemblance to its outcome. What a shambles: we have had six Home Secretaries in 12 years, and none has grasped the urgency of the situation. It is about time we took this issue seriously because again and again we have seen the usual suspects—I now include the noble Lord, Lord Birt, in those—talking about the issue and yet not bringing about fundamental change.

Last Tuesday's *Daily Telegraph*, not the most liberal newspaper in the country, published an interesting article by Mary Riddell on prisons. She cited the number of vulnerable inmates who have died in our prisons and talked about other disturbing statistics. Forty-seven per cent of adult prisoners are reconvicted within one year of release. That figure rises to 60 per cent for people serving sentences of less than one year and reaches as high as 75 per cent among children. Even more frightening is the fact that the Ministry of Justice is committed to spending up to £4.2 billion in creating 10,000 extra prison places by 2014, which would take the prison population to 96,000. In the present economic downturn and recession, this simply does not make sense.

I echo the noble Lord's concern about the reduction in probation service funding from £894 million this year to £870 million in 2010-11, particularly as this comes at a time when many probation officers are struggling with high caseloads and problems with staff morale. I acknowledge, as does every one of us, the constraints that will apply to all areas of public expenditure over the next few years. But it is important to help resettle those who commit crime, even if it is not a popular vote catching issue. If we are not careful, the budgets will be reduced to such an extent that the resettlement process will be hampered for a long time to come. This makes it particularly important that the resources available for criminal justice expenditure should be used in the most cost-effective way. I suggest that a strategy to achieve this should include the following elements.

First, we need determined measures to reduce this country's excessive use of imprisonment. At a cost of around £40,000 per prisoner per year, custody is by far the most expensive way of dealing with offenders. This country has 154 prisoners for every 100,000 people in the general population compared with 96 in France and 90 in Germany. Many of the less serious offenders whom we now imprison could be better and more cost-effectively dealt with by community sentences supervised by the probation service. Supervision programmes which challenge and change attitudes to offending help offenders to restrain aggressive and impulsive behaviour, develop employment-related skills and tackle addiction problems. These factors are more likely to reduce reoffending than a short prison sentence. This is particularly so if community sentences are combined with help with accommodation, benefits and the other practical needs of offenders. It should be an explicit aim of government policy to reduce the prison population to levels nearer those of our European neighbours, thereby freeing up additional resources for community supervision programmes. Of course we are aware of successive Governments relying on the slogan "Prison Works". This is a myopic view and does not take into account the social and economic factors that result from such a policy.

Secondly, we must ensure that the most intensive probation programmes are focused on offenders who would otherwise have received custodial sentences. Although the probation service's caseload went up from 159,200 in 1997 to 243,400 in 2007-08, this did not lead to a reduction in the prison population. In many cases, community sentences replaced fines and we have seen a fall in the number of offenders fined over the past decade. We need to ensure that all probation areas are operating effective "gate-keeping" systems in order to ensure that, wherever possible, an intensive community sentence is considered, rather than looking at prison.

At the same time, the Government should reinforce the credibility of the fine by introducing a means-related "day fine" system of the kind which operates in a number of other European countries. These systems fix fines more precisely in line with offenders' means and the evidence shows that they give courts the confidence to use fines more frequently for offenders at all income levels. We need to ensure—a point so ably made by the noble Lord, Lord Ramsbotham—that that the paperwork which probation officers are required to carry out is kept within reasonable bounds in order to maximise the amount of time that probation officers spend face to face with offenders. The current edition of *NAPO News*, the magazine of NAPO, the National Association of Probation Officers, talks about a survey carried out for the National Offender Management Service which shows that only 24 per cent of probation officer time is spent in direct contact with offenders. There must be something fundamentally wrong that the majority of time is being taken in dealing with paperwork—an appalling misuse of the time of professional probation officers.

My final point is about voluntary organisations. These have particular expertise in areas of practical help such as accommodation, employment, education, mental health, addictions, mentoring and support for

offenders' families, all of which can make a crucial difference to the likelihood of reoffending. I hope the Minister will have some comments to make on that.

The measures I have outlined should help to ensure not only that the probation service is properly resourced to carry out its vital task of public protection, but also that the resources provided for probation services are spent in the most cost-effective way.

4.12 pm

**Lord Henley:** My Lords, I thank the noble Lord, Lord Ramsbotham, for introducing this debate and, before I get on to what he had to say, congratulate him on the very impressive list of speakers who have been encouraged to speak this afternoon and who ranged widely over a whole raft of problems facing the probation service, which the Minister will, in due course, have to answer. I commiserate with the Minister; he is not, as we all know, responsible for this; he is not even the principal spokesman for this department in this House. We well understand why it is that his colleague, the noble Lord, Lord Bach, cannot be here today and I am sure the noble Lord will do his best to answer all the questions that have been put by the speakers this afternoon.

We have had a very wide range of speakers. The noble Lord, Lord Judd, started off by asking for more to be done in the way of educational resources in prisons and in the whole process. I think that that is something that ought to be addressed. The noble Lord, Lord Birt—the noble Lord, Lord Dholakia, was rather amusing about it, quite rightly—took us through the decision-making process that took place in the early days of Blair thinking and confessed that it was possibly one of the best examples of the law of unintended consequences. As I see other noble Lords nodding around the House, many would agree with that.

The right reverend Prelate the Bishop of Southwark raised the very important question as to whether punishment was taking precedence over rehabilitation; again, something about which we would welcome hearing from the Minister. The noble Lord, Lord Rix, with his great experience as president for many years of Mencap, talked about the problems that many people face. I think the figure he quoted was that more than a third of people in the prison system have learning difficulties.

We heard about the importance of training from the noble Baroness, Lady Howe of Idlicote, with her great experience as a magistrate and in other matters. My noble and learned friend Lord Mayhew spoke about the exclusion of magistrates from probation trusts. Again, the Government will have to address that, because it became clear from what my noble and learned friend said that that was not intended at the time—or certainly did not seem to have been intended, given what he quoted as being said by the noble and learned Baroness, Lady Scotland.

The noble Lord, Lord Dear, spoke about the reliance of the police on the probation service. That was echoed by the noble and learned Lord, Lord Woolf, who spoke about his experiences as a young advocate. He referred to the need to be able to talk to probation

officers and the importance of localism in terms of the probation officer. That was echoed by the noble Baroness, Lady Stern. I could go on, but the noble Lord, Lord Tunncliffe, will have taken notice of what has been said and will address these matters when he speaks. However, the call by the noble Viscount, Lord Tenby, for a period of stability might be the point that noble Lords on all sides of the House should take most note of.

In his opening remarks, the noble Lord, Lord Ramsbotham, stressed the turbulence that the service had faced in recent years, particularly under the current Secretary of State for Justice, who has had responsibility in this area as Secretary of State for Justice and in an earlier incarnation as Home Secretary. The noble Lord took us through the history of the probation service since before 1997, although obviously I was most interested in its history since then. He stressed the marginalisation of the probation service within NOMS. It is a sorry story—a sort of Grand Old Duke of York story, with the current Secretary of State with whatever hat he is wearing marching to the top of one hill, bringing the troops down and then marching to the top of another hill. That issue will have to be addressed in due course.

I should refer to the six points made by the noble Lord, Lord Ramsbotham, which he put to me, or, rather to the Opposition, as issues that whoever forms the next Government would have to address. All that I can say at this stage is that I listened to the First Secretary of State at Question Time, who seemed to be predicting a Conservative victory at the next election. I would never predict anything of that sort and I do not know what the outcome of the next election will be. However, without commenting at the moment, I shall certainly pass on to my friends and colleagues in the shadow team on justice the suggestions of the noble Lord, Lord Ramsbotham, as to what he thought was important within the probation service.

I have only two questions to put to the Minister. I should be grateful if he could address them when he comes to reply. The first relates to the Sonnex case, mentioned by the noble Baroness, Lady Howe, and the noble Lord, Lord Dear. The Minister will remember that a report was commissioned by the Secretary of State in light of the failings outlined last year as a result of the Sonnex murders. The report found that in only 54 per cent of cases was the London Probation Service performing its role of protecting the public to a sufficiently high standard, and there was a further decline in the year since those brutal murders. I should like the Minister to outline what steps the Government are taking to show that, following that report, there is a real improvement in the workings of the probation service.

My second point is about funding. Obviously, the Opposition can make no commitment on the level of funding that will be available. We have not seen the books and do not know quite how serious will be the problem that we might inherit. However, it would be useful if the noble Lord could confirm what the current figures are and what they have fallen from. In answer to a recent Written Parliamentary Question regarding the likely level of expenditure on the probation service in the next five years, the Justice Minister, Maria Eagle, said:

[LORD HENLEY]

“The budget for the National Probation Service for the 2010-11 financial year is £870 million. Planning for the next spending review period, that is 2011-12 to 2013-14, will be considered as part of the next comprehensive review”.—[*Official Report*, Commons, 11/11/09; col. 480W]

The Secretary of State confirmed those figures at recent departmental questions in another place on 5 January. That budget equates to a reduction, as I understand it, of 2.7 per cent year on year, consistent with the savings expected across public services but is £26 million more than the original indicative budget. I should be grateful if the Minister could confirm those figures and give some indication of when the Government hope to give an idea of what they are projecting for the future.

4.21 pm

**Lord Tunnicliffe:** My Lords, I, too, thank the noble Lord, Lord Ramsbotham, for the opportunity to debate the probation service. The Government are committed to protecting our communities and reducing reoffending. It was, in large part, due to the hard work and dedication of probation staff that the frequency of adult reoffending was reduced by over 20 per cent between 2000 and 2007.

Ensuring that probation is adequately resourced to deliver its vital service has been a long-term priority for the Government. In the past 12 years, we have increased probation funding by more than 70 per cent. Over the same period, case loads increased by 53 per cent. We have continued to prioritise investment in the probation service. The 2010-11 probation budget of £870 million announced in October 2009 is a good settlement. The budget provides an additional £26 million above our original planning assumptions. Directors of offender management are working with probation chiefs to ensure this additional funding is targeted on front-line delivery. The settlement equates to a reduction of 2.7 per cent year on year and is at the lower end of savings requirements across the public sector.

It is vital that we continue to invest in the future of the probation service, not only in cash but by ensuring that new people continue to join the profession. Since 1998 over 12,000 probation officers have qualified. The rise in staff in probation of nearly 50 per cent over the same period has therefore been supported by a regular injection of freshly qualified staff. This is in stark contrast to the position in 1997 when no probation officers graduated, following the suspension of the arrangements for qualification. In the past two years we have, for the first time, experienced a situation where we have been unable to offer jobs to all newly qualified probation officers, which is regrettable. We have, however, gone to great lengths to ensure that these staff find suitable work in probation or associated professions. We have set up a national clearing system to match vacancies to graduates and the vast majority of newly qualified probation officers now have appropriate employment.

We will introduce a new vocational qualification for probation officers from April 2010. This will enable both external entrants to the profession and existing probation staff to qualify while working as probation service officers. This will make sure that there is both a development path for those already working in probation

and a vocational entry path for people who want to become qualified probation officers. All probation service officers who complete the training will be guaranteed permanent contracts of employment when they qualify.

The public have a right to expect public services to improve over time and the probation service is no exception. The Offender Management Act 2007 placed additional emphasis on delivering better local services and better value to the public by using the principles of commissioning and competition. It also provided the legislative capability for creating locally based independent probation trusts.

All of the 42 boards in England and Wales have been through a rigorous assessment process to achieve trust status, and many will vest in April of this year. Probation trusts will provide services both directly, using employed staff, and through local commissioning from other providers, many of whom are from the third sector.

In order to achieve the standards to become trusts, they have demonstrated how they will reduce their layers of management, freeing up moneys to invest in local front-line delivery. Current plans indicate that a 9.1 per cent reduction in management and back-office costs will be delivered in 2010-11. Probation trusts are designed around a local delivery model with devolved authority. We will continue to support probation trusts to get closer to their communities, and, as they continue to develop as independent bodies, they will earn more freedom and flexibility of operation over time.

Probation trusts will be strong public sector providers which can compete, specialise and locally commission services. We are already seeing evidence of this with some of the first-wave trusts having won competitive contracts for new offender services. The early trusts have been very active in local commissioning, and are now expanding into more local multi-agency partnerships to join up with health, education and local government services. This enables these organisations to better address the complex mixture of factors that have to be changed to reduce offending behaviour.

Changing the behaviour of offenders to prevent reoffending is the best form of public protection. Probation delivers the community part of that service, but it is recognised that close working with prisons to manage offenders at all stages of their sentence is also vital.

The National Offender Management Service Agency—NOMS—was created to join up the way in which prison and probation services work together, to deliver end-to-end offender management as part of a restructured Ministry of Justice. The aspiration to create an offender management service to avoid duplication of effort, to increase effectiveness of delivery, to improve public protection and to continue to reduce re-offending is the right approach.

The NOMS Agency has been in existence since April 2008 and, in that time, in co-operation with our partners, we have seen significant and measurable progress in all of these areas. In cost reduction terms, the new regional structures replaced two former structures, delivering a saving of £10 million pounds. In delivery of services, the implementation of schemes to divert offenders from prison to serve their sentences in the

community are resulting in improved reoffending rates when compared with short-sentenced prisoners. These schemes have been piloted in a number of areas across England and Wales and the results have been very positive.

Each English region and Wales has a director of offender management who is responsible for commissioning services and managing performance. They are required to ensure that the appropriate services are delivered both to reduce local re-offending rates, and to provide the public with safe, protected communities. By looking at offender management as a single service delivered by two parties, prison and probation, these locally based directors are able to commission a range of services, such as prison places, community payback and specialised programmes. They do this using public, private and third-sector providers. In Wales, for example, the South Wales Probation Trust won a contract to provide specialist programme delivery into both a private and a public-sector prison following a competitive process. Delivery models such as these leverage the strengths of probation, provide demonstrable value and increase the range of interventions in prisons. NOMS is also implementing new, improved common offender assessment systems across prison and probation.

It is important that, in building the NOMS Agency, we have ensured that we have skilled professionals from both probation and prison backgrounds. The agency has an active programme of secondments from probation areas to NOMS, and probation staff are recruited into substantive management posts. Representation is at all levels, including seconded chief officers and former chief officers who are working at director and deputy director level in the agency, managing key areas of operational policy and practice. The agency will continue to recruit probation staff at all levels as vacancies occur, on both a seconded and a substantive basis.

I hope that I have answered many of the questions that were raised by noble Lords but I shall touch on one or two of them. The noble Lord, Lord Ramsbotham, suggested that we should have a more independent national probation system. There has been no merger of prisons and probation. The probation boards are about to become independent probation trusts; 27 have been approved so far. The distinctive roles and skills of prison and probation have always been preserved in NOMS. The noble Lord referred to local area agreements providing good local links. He will be pleased to hear that local measures linking community priorities and probation trusts' local delivery are being developed.

Concern has been expressed about offender assessment times. We want to free probation officers from unnecessary bureaucracy. In August, we made major changes to the offender assessment system—the system used to determine both risk and requirements to change offending behaviour. The changes shorten the time it takes to complete an assessment, but by drawing on research we have improved the assessment as a predictor of general and violent offending.

The noble Lord, Lord Ramsbotham, referred to the rationalisation of NOMS. The restructuring of the NOMS national and regional headquarters will deliver £17 million-worth of savings a year, and an additional £14 million from national headquarters next financial

year. The accurate figures for NOMS are set out in the agency's annual report and accounts, but 94 per cent of all agency staff—that is, all the staff working in NOMS—are engaged in front-line probation and prison work. As regards regional HQs, we have nine English and Welsh regions. Moving NOMS staff out of headquarters to the front line has been part of the reorganisation.

The noble Lord, Lord Judd, made a compelling case for a whole suite of things that are needed to improve outcomes. I am sure that many of us sympathise with some of the points that he made. The point about the importance of rehabilitation and addressing offenders' needs is well taken. That is the most effective means of reducing reoffending and protecting the public. Indeed, the point about individual contacts having the most impact is also well taken. The aim of NOMS is end-to-end offender management. We are seeking to understand and address these needs in the community and in custody in order to reduce reoffending. We achieved a 20 per cent reduction in reoffending between 2000 and 2007.

The noble Lord, Lord Birt, gave us an interesting insight into Downing Street decision-making and referred us to the Carter vision. He claimed that the vision had evaporated. The Government feel that the vision may have taken longer to come about and has some way to go, but the trust process is happening and we are starting to see the results of that. That transition is producing benign improvement in the management of probation services. The Offender Management Act 2007 and the creation of the NOMS Agency sets out a clear framework for probation trusts as primary providers of probation services commissioned by directors of offender management and others, including the third sector.

The right reverend Prelate the Bishop of Southwark referred us back to 1876 and recalled how long probation officers and people like them have worked in our communities receiving little thanks for their work. I agree with him. We must all start to value these sorts of people in our society. Social workers have similar problems in many ways. They deserve much more thanks than we give them.

What is the nature of probation? Is it restorative, punishment or protection? It is inevitably all three. Probation does play a role in some punishment; it plays a key role in protection; but the restorative element is the most important and has to be our long-term objective.

The role that a community plays in our society is well understood. We share the right reverend Prelate's view that it is important. That is why the Government have recently made, in respect to probation, a statutory partner in local crime-reduction partnerships, so that local agencies can work effectively together to make the best use of resources. That is a theme that a number of noble Lords have touched upon.

We all respect the tremendous work the noble Lord, Lord Rix, does in the mental health field and with respect to prisoners. We take the points he made. So far we are intending to work with a number of pilots. We recognise that identifying offenders with learning difficulties is very important. The screening tool pilots are being looked at with interest. In addition, awareness

[LORD TUNNICLIFFE]  
training for conditions such as autism is being rolled out in Wales across court services, prisons, probation and police. We must do more to progress, and progress is being made.

The noble Baroness, Lady Howe of Idlicote, touched on her experience, explaining how important it is to take this issue seriously, and how the Carter plan started out down that road. We feel that we are improving the training and the handling, and the whole concept of NOMS adds to the vision of the Carter plan.

I will now touch briefly on the Sonnex case. The Government have already apologised for the significant failings on the part of London Probation and police which led to the Sonnex tragedy. The review carried out into the failings of London Probation made it very clear that those failings were not due to lack of resources. They were due to poor management as a result of an inexperienced offender manager responsible for supervision being overloaded. London Probation had been subject to targeted improvement at the time of the murders. It was subsequently made subject to direct improvement. Under the new chief officer performance in London has particularly improved.

The noble Baroness also touched upon the IPP situation. It is true that we have not made the progress we feel we should have made in these areas. Nevertheless, the figures show real progress. Of 2,460 prisoners, more than 2,000 have now completed one or more programmes. The Government have put in £3 million over each of the past three years to address this issue. The prison and probation inspectorates will publish a joint review of the management of these offenders in the next few weeks and we will carefully consider the best response.

The noble and learned Lord, Lord Mayhew, raised the issue of magistrates. This is a matter for the senior presiding judge who is to discuss the matter shortly with the Magistrates' Association.

The noble Lord, Lord Dear, said that he found some parts of the service failing dramatically at the bottom, but better at the top. In recent years, it has been more geographically patchy and that is why the new commissioning, the trustee process, the transformation process is designed to improve the service from top to bottom. Each year probation increases its delivery of sentences and court services. Satisfaction has improved over recent years.

I agree with the noble Baroness, Lady Gibson, that diverting offenders from custody makes sense in certain types of offence. The Government are funding a series of initiatives and pilots to that end.

The noble Baroness, Lady Stern, raised the issue of computers. These are devices to help human beings make better decisions, using well proven and better algorithms. They are working well and have a worthwhile contribution to make.

On the issue of probation trusts, I can tell noble Lords that the programme to turn boards into trusts is on time, and that announcements will be made shortly.

To the noble Lord, Lord Rosser, I can say nothing: his was a brilliant review of the service, perhaps better than mine. I note the thoughtful words of the noble

and learned Lord, Lord Woolf. The centre is preventing reoffending. We must continue with that. The noble Lord, Lord Dholakia, spoke thoughtfully about budget reductions. They are being properly and sensibly managed.

Finally, the noble Lord, Lord Henley, said that we needed a period of stability. I could not agree more. We should stabilise NOMS. It is a good thing, and the transition story is a good story, not a sorry story. I hope that my comments on Sonnex will satisfy the noble Lord. I answered his final question in my opening remarks.

**Lord Mayhew of Twysden:** My Lords, I appreciate the difficulty of the Minister's position. Perhaps I may remind him that earlier I invited him to say whether the Government intended that magistrates should be excluded from probation trusts, or whether they would even be content to be excluded. He did not deal with that, but simply said that it was a matter for the presiding judge. Will he expand on that?

**Lord Tunncliffe:** My Lords, I do not have knowledge of the Government's intention. If I can usefully divine that, I will write to the noble and learned Lord.

**Baroness Gibson of Market Rasen:** My Lords, perhaps I may remind my noble friend of the question that I asked, which is fundamental to the debate, about the background of NOMS headquarters staff. He may not have the information with him today, but it would be helpful for the House to know how many of the NOMS headquarters staff have a probation service background. Perhaps he will let me know in due course.

**Lord Tunncliffe:** My Lords, I will do that.

**Lord Birt:** My Lords, I appreciate that the Minister is having trouble sitting down. However, perhaps he would like to comment on the notion expressed by several Members of the House of having a head of profession for probation officers.

**Lord Tunncliffe:** My Lords, we have no intention of creating a head of profession. We believe that the probation experience that we are ensuring is at the head of NOMS, and distributed through it, is sufficient to achieve and maintain the standards that we look to achieve. I must remind the House that I am technically limited to 20 minutes and that I am trying to sit down.

4.43 pm

**Lord Ramsbotham:** My Lords, I begin by thanking all the Members of the House who have taken such trouble and made such wide contributions to the debate. I admit that there was a second purpose of holding this debate, which was to send a message to the probation service that Members of this House understand the problems that they face and think that it is extremely important that they are brought to the notice not only of Ministers but of everyone, through the columns of *Hansard*.

I mentioned that in 2005 there was a so-called consultation on the probation service. Of the 756 people who responded, 99 per cent opposed what the Government were trying to do. If one reads the responses—I have

not read them all, but I have read a number—one is left with the same impression as I am left with today, when 94 per cent of the House, if my maths is correct, have taken one line, while the noble Lord, Lord Rosser, who gave us the view from NOMS, took another. It is not my purpose to comment on that, except to say that it is important for those people who are responsible for an operational service to listen to the views of the people on the ground.

I thank the Minister for what he said in summing up—I commiserated with him at the start, because this is not his particular responsibility—but I was enormously disappointed to hear masses about commissioning, services and performance management, but not a single mention of the face-to-face contact between trained supervision and offenders that is at the heart of what probation is required to do. I wish that end-to-end offender management, which is trotted out the whole time, was put into proportion, because it applies to only one-fifth of the probation service load. That is the one-fifth of people who also do a part of their sentence in prison. To dominate the four-fifths of what is done by the niceties of the one-fifth seems to me to be disproportionate and dangerous.

I hope very much that not just this Government but the Opposition—the noble Lord, Lord Henley, was kind enough to mention this—will look carefully through what has been said from the Floor. I hope that they will look at what has been represented by my noble friend Lord Dear on behalf of the police, what the noble and learned Lords, Lord Mayhew and Lord Woolf, and my noble friend Lord Tenby said about the courts, what my noble friend Lady Howe said about training, what my noble friend Lord Birt said about the vision that never came to anything, what, in particular, my noble friend Lady Stern said about the dangers, what the noble Baroness, Lady Gibson, said on the costs and on how the vision is being distorted, and what all the other speakers said. That is because in what was said is something that must not be disregarded by those who have a responsibility to the public, protecting them by producing a service that really tackles the problems posed by offenders.

I can remember very few debates in which so many wide aspects and so much agreement has been greeted, if I may say, by such a stonewall or stubborn defensive bat from the Government. I hope that that will not be their approach to what has been said today because, as I said at the beginning, it is hugely important to send a message to the probation service that what it is doing is appreciated—and appreciated for what it is doing, not for what people think that it is doing.

When the Minister said that all the people will be guaranteed employment, I hope that that message goes through, because last year cohort 10, as the next group of people joining the service after training is called, came to see me because those people were not being guaranteed employment. They were on their way to see Jack Straw, as a result of which money was added to the budget and they got employment. We must never put the people potentially coming into the probation service in that form of uncertainty again, because to give them uncertainty of employment is to send uncertainty through the service. People are not

things; we should never forget that. I again thank everyone who has taken part in this debate and I beg leave to withdraw my Motion.

*Motion withdrawn.*

## Contaminated Blood (Support for Infected and Bereaved Persons) Bill [HL]

*Third Reading*

4.49 pm

### Clause 2 : Blood donations

#### *Amendment 1*

*Moved by Baroness Masham of Ilton*

**1:** Clause 2, page 2, line 22, at end insert “the blood supply is made safe through the implementation of prion filtration and that”

**Baroness Masham of Ilton:** My Lords, the noble Lord, Lord Morris of Manchester, is president of the Haemophilia Society and I am a vice-president. We both feel that blood safety is an absolute priority, particularly for the groups of people who rely on a regular supply of clean, safe blood. I congratulate the noble Lord, Lord Morris, and the noble and learned Lord, Lord Archer of Sandwell, on their tireless efforts in championing the rights of people with haemophilia.

Amendment 1 aims to make a minor change to Part 2 of the Bill regarding the measures that need to be introduced to ensure that people with haemophilia are not given contaminated blood or blood products in the future. The amendment seeks to ensure that all diseases are covered by widening the potential range of solutions to blood diseases that can be used.

The current wording of the Bill proposes that people with haemophilia are offered a blood test for a list of conditions including hepatitis B, hepatitis C, syphilis and variant Creutzfeldt-Jakob disease—variant CJD. The challenge is that at present there is not a reliable blood test for variant CJD, unlike for other viral infections and blood-borne diseases. Detecting the infective prion that causes variant CJD is extremely difficult and as yet no one has been able to develop a test that would be reliable or effective.

However, an alternative approach to a blood test has been developed to ensure that all donated blood is free from the infective prion that causes variant CJD. This approach, prion filtration, effectively cleans the blood removing all prion whether infective or not. The P-CAPT filter has been designed to work directly with the existing technologies used by the UK National Blood Service and has been CE marked since 2006, meaning that it has passed EU-wide safety and efficacy testing, as required for it to be legally used in the UK.

In October, the Government’s blood safety advisory body, SaBTO—the Advisory Committee on Safety of Blood Tissues and Organs—published advice stating that there is now sufficient evidence that the P-CAPT prion reduction filter reduces infectivity and successfully cleans blood to remove the infective prions that carry variant CJD.

The haemophilia group has had a really terrible time with HIV infection, hepatitis C and variant CJD and the risk of it. We must surely do all that we can

[BARONESS MASHAM OF ILTON]  
to protect those people. I am pleased that the noble Lord, Lord Morris of Manchester, my colleague of many years over matters relating to disability, is supporting this amendment. I wish the Bill godspeed and I beg to move.

**Lord Morris of Manchester:** My Lords, I am most grateful to my good friend the noble Baroness, Lady Masham of Ilton, for proposing this important amendment. As she said, we have worked in close rapport for over 40 years to enhance the status and improve the well-being of chronically ill and disabled people—she made her maiden speech on the Bill I enacted in 1970—which of course makes this an evocative moment for us both.

I diverge from her only very slightly today. She said before the debate that she was sure she was pushing an open door. In fact my door is off its hinges and I was delighted to add my name to hers as a signatory of this amendment. Thus I can be brief in my response, pointing as the noble Baroness did, to the emphasis placed in my speech on 17 March on the importance of prion filtration in removing the causative agent of variant CJD.

This debate takes place against a backcloth of human suffering on a scale that most people can barely imagine. A small and stricken community of barely 5,000 people, already disabled by a rare, lifelong blood disorder, haemophilia patients have twice been infected en masse by contaminated NHS blood and blood products. Ninety-five per cent of them were infected with hepatitis C, and one in four with HIV. Of the 1,243 haemophilia patients infected with HIV, only 361—29 per cent—are still alive. The much higher number of deaths among the hepatitis C-infected patients is still increasing.

As of now, an estimated 1,974 haemophilia patients have died from being infected in the worst ever treatment disaster in the history of the National Health Service. Should anyone dispute that assessment, they should look at the finding of distinguished statisticians that the contaminated blood disaster involved the haemophilia community in a loss of life more savage in proportion to the number of people at risk than the Black Death.

It is in that context that the sombre new threat of a third scourge facing the haemophilia community must be judged. Many hundreds of haemophilia patients have now been told by the Department of Health that they were prescribed blood from donors who subsequently died of variant CJD; indeed, a post-mortem on one such victim found variant CJD in his spleen.

The amendment addresses the new scourge and plainly warrants the support of this House.

*Amendment 1 agreed.*

**Clause 6 : Regulations, short title, commencement and extent**

*Amendment 2*

*Moved by Lord Morris of Manchester*

**2:** Clause 6, page 4, line 5, leave out subsection (1) and insert—  
“(1) Regulations made by the Secretary of State under this Act are to be made by statutory instrument.

(1A) A statutory instrument which contains any regulations made under this Act is subject to annulment in pursuance of a resolution of either House of Parliament, unless it is an instrument to which subsection (1B) applies.

(1B) A statutory instrument which contains, whether alone or with other provisions, any regulations made under section 2(5) or 4 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

**Lord Morris of Manchester:** My Lords, this amendment to Clause 6 addresses the Delegated Powers and Regulatory Reform Committee’s suggestions that in relation to Clauses 2 and 4, the affirmative procedure should apply. That is provided for in my amendment. I entirely accept the committee’s view, and I beg to move.

*Amendment 2 agreed.*

*A privilege amendment was made.*

*Motion*

*Moved by Lord Morris of Manchester*

That the Bill do now pass.

**Lord Archer of Sandwell:** My Lords, it would be wrong to allow this moment to pass without a tribute to my noble friend Lord Morris. It is not the first tribute that he has received in a long and distinguished career, but without him, there would have been no inquiry, no recommendations, no Bill and no debate. We ought to include a tribute to the noble Baroness, Lady Masham, who has given unstinting service over a very long period to those who have suffered in this way.

Having intervened at this stage, perhaps I should declare an interest. The purpose of the Bill is to implement certain recommendations. I was privileged to chair the inquiry which made those recommendations. It is certainly not my intention at this stage in our proceedings to embark on an embellishment of them, but perhaps I may be allowed to assure your Lordships that we did not overlook the fact that this is not the ideal moment to press the Government for further expenditure. What we had in mind was that those we are discussing have suffered a shattering tragedy, as my noble friend said, of proportions that it is difficult to envisage. One of the consequences is that many of them are now suffering severe financial embarrassment. I believe that the test of a country is whether, when times are hard, the burden falls on those who have already suffered or who are most vulnerable, and that is what is on trial today. This is an important Bill not only for those whom it is intended to benefit but because it is a test of the priorities of our community.

*5 pm*

**Lord Thomas of Gresford:** May I be permitted to associate myself with everything that the noble and learned Lord, Lord Archer, said about the noble Lord, Lord Morris, and the noble Baroness, Lady Masham? I should not let this moment go without paying tribute

to the noble and learned Lord, Lord Archer, for the way in which he marshalled the evidence and produced a highly influential report which we hope will, in due course, lead to some justice for those who have been damaged, inadvertently, perhaps, by the state.

**Lord Morris of Manchester:** I am most grateful to my noble and learned friend. All the recommendations of his independent public inquiry into the contaminated blood disaster are embraced by the Bill. I commend him and his colleagues in the inquiry team, including the admirable Dr Norman Jones and Judith Willetts, on the excellence of their report.

I warmly acknowledge today all the help given to me in promoting the Bill by Sarah Jones in the Public Bill Office of your Lordships' House. She could not possibly have been more helpful and the haemophilia community joins me in paying high tribute to the constancy of her support. Many other officials of the House hastened the passage of this important measure and the haemophilia community feels much indebted to them too.

I have been highly fortunate in the backing for the Bill of noble Lords in all parts of this House, and I know noble Lords will understand why that of my noble friends Lord Corbett of Castle Vale and Lord Rooker has been so important to me. Moreover, I know they would want to join me in paying tribute to noble Lords all across the House who have put such enormous effort into speeding the Bill's passage. They include the noble Lord, Lord Thomas of Gresford, the noble Baroness, Lady Morris of Bolton, and, of course, my dear and inspirational noble friend Lady Campbell of Surbiton. They would all join me in appreciating the role of my noble friend Lady Thornton, whose awareness of the depth of anguish and despair in the haemophilia community is well understood across the House.

My final words in this debate are about the ministerial statement made last week by Mike O'Brien, as Minister of State at the Department of Health, on the victims of the thalidomide disaster, and I am grateful to him for his kindly references to my role in achieving the original settlement. The public apology made by the Government and the announcement of new help for the surviving thalidomiders must very strongly support the case for the Government now to endorse the provisions of this Bill. That is not only my view, but that of everyone I have heard commenting publicly on the measure.

*Bill passed and sent to the Commons.*

## Rehabilitation of Offenders (Amendment) Bill [HL]

*Committee*

5.05 pm

### Clause 1: Amendment of the Rehabilitation of Offenders Act 1974

*Amendment 1*

*Moved by Lord Dholakia*

1: Clause 1, page 1, line 10, at end insert—

“(e) a sentence of imprisonment for public protection;

(f) a sentence of detention for public protection;

(g) an extended sentence of imprisonment;

(h) an extended sentence of detention;”

**Lord Dholakia:** My Lords, this amendment is designed to exempt sentences of imprisonment for public protection and extended sentences from the provisions of the Rehabilitation of Offenders Act and to ensure that certain sentences will continue to be exempt.

The first type of sentence covered by the amendment is a sentence of imprisonment or detention for public protection. These are indeterminate sentences passed on offenders who have committed serious violent or sexual offences where the court considers that the offender poses a significant risk of serious harm to members of the public. The second type of sentence covered by the amendment is an extended sentence of imprisonment or of detention. These sentences are imposed in other cases where the court considers that the offender poses a significant risk of serious harm to the public. These sentences consist of the appropriate custodial term for the offence plus an additional extended period of a length which the court considers necessary to protect the public from serious harm from the offender.

On 11 December, during the debate on Second Reading, the noble Lord, Lord Bach, said:

“We made imprisonment for public protection available to the courts to deal with dangerous offenders who are considered to present a significant risk to the public through the commission of further serious offences. Frankly, it would be anomalous to go forward with any reform that took no account of indeterminate sentences whatever. I doubt that anyone would disagree that such sentences should never be regarded as spent”.—[*Official Report*, 11/12/09; col. 1305.]

I am proposing this amendment to my own Bill to meet the Minister's point in full by exempting these sentences from the provisions of the Bill.

I hope it is in order for me to speak now to my Amendment 2; I shall move it formally at the appropriate time. This amendment leaves out the clause of the Bill which would allow a sentencing court to exempt a conviction from the provisions of the Rehabilitation of Offenders Act if it considered this necessary to protect the public from serious harm. I originally included this provision in the Bill because the Home Office review group recommended that such a provision should be considered in its report, *Breaking the Circle*, in 2002. The Government accepted the proposal in its response to the report in April 2003. However, the provision is now unnecessary as a result of my earlier amendment to exempt sentences of imprisonment for public protection and extended sentences from the provisions of the Rehabilitation of Offenders Act. In cases where a court considers that the offender poses a significant risk of serious harm, it will pass one of these sentences and they will not be covered by the Act's provisions. This makes my proposed new subsection (9A) unnecessary.

Proposed new subsection (9A) was criticised, also at Second Reading, by both my noble friend Lord Goodhart and the noble Lord, Lord Bach. The Minister said:

“One important omission is the need to consider the position of new indeterminate sentences. That was raised by the noble Lord, Lord Goodhart, who has strong and definite views on

[LORD DHOLAKIA]

those sentences, but they exist—they are in law. If there were to be such a change, there would have to be some way of dealing with them and we agree with him that Clause 1(9) may not be the most appropriate method”.—[*Official Report*, 11/12/09; col. 1304-05.]

I am happy to be persuaded by the arguments of both noble Lords and to delete new subsection 9A. I am persuaded that my earlier amendment is a simpler and less cumbersome way of dealing with cases in which there is a significant risk of serious harm. I beg to move.

**Lord Ramsbotham:** I support the amendments, which are entirely sensible for another reason, too; if the Bill is to get through before the election, which I sincerely hope it will, the removal of possibly contentious parts of it will help. The amendments in no way weaken the rehabilitation programme for the offences, with which no one can argue. As they are sensible, they deserve the support of the whole Committee.

**Lord Tunnicliffe:** My Lords, as we said at Second Reading, we acknowledge that the Bill reflects the Government’s thinking as set out in 2003. However, we are not convinced that it necessarily represents the best way forward for reform of the Rehabilitation of Offenders Act in a very changed landscape. Since 2003, there has been comprehensive reform of the adult and youth sentencing frameworks, as well as a new scheme for vetting and barring people who wish to work with children and vulnerable adults.

In reforming the Act, there is always a delicate balance to be maintained between the resettlement of offenders and public protection. The Government take the view that they need to take a fresh look at the Act in the round, and that this should be informed by full public consultation.

We have no objections to the amendments. It clearly makes sense to exclude imprisonment for public protection, and indeterminate sentences where release is determined by the risk presented by the offender, from the scope of the Rehabilitation of Offenders Act. There is also a strong case for excluding extended sentences from the scope of the Act. On a technical point, the drafting would normally include a reference to the defining

legislation for each sentence, and there should be a reference to the corresponding court martial punishments in the Armed Forces legislation.

I, too, will speak to both amendments, with the leave of the House. In 2003, we were minded to consider a provision such as the one in subsection (9) whereby a court would disapply the Act in specific cases where it considered that the offender posed a serious risk to the public. However, further reflection suggests that such a mechanism would be likely to be cumbersome and expensive. In addition, the availability of public protection sentences for dangerous offenders probably negates the need for the courts to have such a power. We therefore consider it sensible to delete subsection (9).

However, the Government retain their general reservations about the Bill. We will neither support nor oppose it, as is usually the case, but we do consider that a thorough new review of the Act and its current context will be necessary before we can consider any reforming legislation.

**Lord Dholakia:** My Lords, I am grateful to the Minister for the arguments that he advanced at Second Reading. That is nothing new, but I am delighted that he sees nothing wrong with my amendments.

*Amendment 1 agreed.*

*Amendment 2*

*Moved by Lord Dholakia*

2: Clause 1, page 4, line 3, leave out subsection (9)

*Amendment 2 agreed.*

*Clause 1, as amended, agreed.*

*Clause 2 agreed.*

*House resumed.*

*Bill reported with amendments.*

*House adjourned at 5.16 pm.*

# Grand Committee

Thursday, 21 January 2010.

**The Deputy Chairman of Committees (Baroness McIntosh of Hudnall):** I remind the Committee that if there is a Division in the Chamber, the Committee will adjourn for 10 minutes from the time of the Division Bell.

## Child Poverty Bill

Committee (2nd Day)

2 pm

### Clause 6 : Interpretation of terms used in relation to targets

#### Amendment 9

Moved by **Lord Morris of Handsworth**

9: Clause 6, page 3, line 9, at end insert—

“(ba) the circumstances in which a child living in communal accommodation may be regarded as living in a qualifying household;”

**Lord Morris of Handsworth:** Let me say at the outset that I welcome the provision of income-related target-setting provided for in the Bill. However, I regret that the income targets will be related to children only in a narrowly defined definition of “qualifying households”. Amendment 9 seeks therefore to widen the definition of the “qualifying household”.

The definition as provided for is set out in the draft statutory instrument child poverty target 2010. The draft regulation requires a qualifying household to have a postcode and to receive no more than 50 items of mail per day. That is, in my view, a perverse provision, because it does not in any way reflect the reality of life in modern Britain. The qualifying criteria start with a set of stereotypical assumptions that we are all part of a nuclear family with 2.5 children living in white, middle-class suburbia. Nothing could be further from the truth.

To make my point, I can do no better than to quote the summary of the scrutiny report on the Bill by the Joint Committee on Human Rights, of which I am a member:

“The Government have provided sufficient information to show that children who live in communal accommodation or who live in accommodation without a postcode, such as Gypsy and Romany children, are unlikely to be encompassed by the definition of children in qualifying households”.

What the Joint Committee is really saying is that if you link the principle of qualifying households to a postcode, Gypsy and Romany children, for example, and many other groups, will be left out. The definition of qualifying household means that children in communal accommodation such as children’s homes, children in bed and breakfast accommodation, Traveller children and children of asylum seekers in detention centres will not be included.

To date, when challenged on the point of the limitation on the qualifying household, the Government’s response is that a wider definition is not practicable and would cost too much. On that point of cost and practicability, the Joint Committee says:

“We are not persuaded by the justification provided by the Government which rests on the costs and impracticability of surveying children who do not live in qualifying households. We recommend the inclusion in the Bill of a target or targets that would apply to children not living in the defined qualifying households”.

Indeed, the Joint Committee states in its report that the use of targets which exclude large groups of children from the criteria of qualifying households is potentially indirectly discriminatory and, as such, it questions whether the Bill is compatible with Article 14 of the human rights convention. The Government, in response, indicated that it is not discriminatory because the qualification would be set out in qualifying statutory instruments. I have already quoted from the draft instrument, and it does not in fact take the Government’s argument any further. The draft instrument says that it is a postcode with less than 50 items of post on any one day. So I believe that that is the end of the Government’s argument that they will be looking at secondary legislation to define the statutory qualifying household.

In conclusion, the amendment seeks to widen the definition to include children in communal accommodation or communal households, as we believe that they have as much right to be included as any other children. They have not taken any action to put themselves in that situation and therefore they should not be excluded. It is on that basis that I seek to widen the definition of qualifying household. I beg to move.

**Baroness Walmsley:** My Lords, I thought that it might be for the convenience of the Committee if I were to group my Amendment 26 with those of the noble Lord, Lord Morris of Handsworth, in order to expedite our progress a little—something that I am sure we are all interested in doing. I have included it in this group because I share the noble Lord’s concerns, and my amendment partly addresses the same concern as that held by the noble Lord, Lord Morris.

Amendment 26 is intended to kill two birds with one stone. The definition of a “child” in Clause 25 currently excludes 16 and 17 year-olds, which means that vulnerable young people may not be covered by the scope of the UK child poverty strategy. In addition, as the noble Lord, Lord Morris, pointed out, children living in communal accommodation will not have their income measured and so may not be included. I believe that all children and young people up to the age of 18 should benefit from these strategies, so I have tabled Amendment 26 to that end. However, I have addressed a different part of the Bill from the one addressed by the noble Lord. My amendment relates to Clause 8, where the strategies appear.

The effect of my amendment would be, first, that 16 and 17 year-olds who are in danger of living in poverty, such as those not in education, employment or training, care leavers and those living independently who are very poorly paid, would all benefit. Secondly, the UK’s strategy would be in accordance with the

[BARONESS WALMSLEY]

UN Convention on the Rights of the Child, which defines a child as a person under 18 and affords all children the right to an adequate standard of living. Thirdly, it would future-proof the legislation against changes to the benefit rules, on which the current definition of which children over 16 are included depends. Fourthly, it would cover children in communal accommodation, such as asylum seekers, those in children's homes and Gypsies or Travellers, who are not covered by the surveys on which income is measured.

We cannot assume that young people not in education or training will be supported by their families, or indeed that their families will be in a position to do so. Of course, by definition, we cannot assume that about young care leavers either, as they may not have a family to support them. Young workers receive a lower national minimum wage, and in future they will have to take part in education or training for part of the week, so their earning time will be further restricted. Therefore, all these three groups are very susceptible to poverty and I need not repeat the evidence, which the Minister well knows.

The Minister kindly told us in a meeting that he offered us that the strategies in Clause 8 are the means by which the Government will include these people—that is, those outside the Bill's definition of a child and outside the household surveys. Therefore, I have chosen to make a small but significant alteration to the wording of Clause 8 in order to make it quite clear that the strategies developed under that clause must include all children as defined by the UN convention.

One might think that I should also have proposed similar amendments to Clause 10 relating to Scottish children and Clause 11 relating to children from Northern Ireland. Indeed, depending on the Minister's reply, I well may still do so. However, I believe that the Assembly for Wales has taken care of all children in Wales.

I also looked at the clauses relating to local authorities in Part 2 and found the wording to be similar to the wording elsewhere in the Bill. Clauses 21 and 22 mention "child poverty needs assessments" and "child poverty strategy". I assume the same under-16-only definition applies to the meaning of "child" in those clauses.

Also, Clause 24 refers to measurements of households, which concerns me because at every level the Government are failing to mention those who do not live in normal households. For the moment, I propose this neat amendment to Clause 8 and thereby give the Government the opportunity of demonstrating that they mean what they say when they tell us that "every child matters". I was tempted to delete the words "as far as possible", but I resisted the temptation because, had I done so, there would be no chance whatever of the Government accepting my amendment. I hope that the Minister will accept it because it may save him considerable embarrassment next time the Committee on the Rights of the Child inspects this country's compliance with the convention. I cannot imagine that this failure will not be picked up and criticised by the committee on that occasion.

The noble Lord, Lord Morris of Handsworth, and I both want our amendments on the face of the Bill, so I hope that they will be accepted. However, if I should

be unlucky and the Minister does not look kindly on my amendment, at the very least, I would like an assurance from him that the guidance to local authorities and other partners will make it clear that 16 and 17 year-olds and those in communal accommodation must be covered by their strategies.

**Baroness Afshar:** My Lords, I support the amendment because it is surely not the intention of the Bill to make marginal children invisible. Of all the children who actually need help, the greatest numbers are asylum seekers and Gypsies, who have virtually no access to other resources. I assume that this is not the intention of the Bill. Therefore, it is important to make it clear in the Bill that those children are included and their well-being is at the centre of the Bill.

**Lord Freud:** My Lords, the noble Lord, Lord Morris of Handsworth, made some important points when introducing his amendment and identified yet another serious flaw in these four targets. He is quite right to raise the possibility of many children much in need of support who will fall through the holes of this provision as currently drafted and who will go uncounted. Overlooking children who should certainly be included in an assessment of child poverty is a real danger of the Government's decision to legislate on such a complex issue in only 30 clauses. By defining the success or failure for future government around the four financial targets, the Bill unavoidably biases any UK strategy to the households covered by those targets. The noble Lord's amendments highlight that some children are almost impossible to catch in surveys and any assessment of their circumstances will be generalised and potentially misleading. Does that not cast doubt on the wisdom of measuring all success and failure against those four targets?

The Minister will no doubt point out, once more, that any measures taken under Clause 8 or Part 2 need not restrict themselves to the households covered by Clauses 1 to 6. But "need not" and "will not" are two very different matters. The Bill has been introduced as an influential Bill that will actively focus the Secretary of State's attentions towards child poverty. How can the Minister accept that and yet remain unconvinced that its provisions will not actively focus attention on the households that it specifically identifies?

**The Earl of Listowel:** My Lords, I support the drive behind these amendments, particularly what the noble Baroness, Lady Walmsley, said. I want to take this opportunity to hear from the Minister what has been done for Traveller children. The concern is that many of them are not receiving the education that they should receive. Their parents did not get an education either, so they are therefore unable to gain good remuneration in their employment. There is a generational problem of lack of access to education resulting in poverty.

This is an important issue that the Bill should certainly not miss. I look forward to the reassurances that I hope the Minister will offer, particularly on improving the access to education of Traveller children. I know the Government have taken some steps to improve it.

2.15 pm

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton):** My Lords, I thank my noble friend Lord Morris and the noble Baroness, Lady Walmsley, for these amendments, which give us the opportunity to discuss an important area of the Bill. I am delighted that the noble Baroness is resisting temptation today. I am not sure that my noble friend would see this as an opportunity for the noble Lord, Lord Freud, to have another go at the targets and seek to undermine them, leading inexorably to his conclusion that he does not feel bound by any of them. However, we will see where that debate heads at the end of the Bill.

I say to my noble friend Lord Morris that it is not the case that there is a narrow definition of “households” for the purposes of the Bill. Something like 98 per cent of households are within the definitions in the surveys we are studying and cover the vast majority of children. Neither does that approach assume that all families are alike. The definition covers, for example, children on local authority Traveller sites, asylum seekers in families who have been placed in social housing and children in care with foster families, although clearly it does not cover all children.

Amendment 16 seeks to add a further regulating power to Clause 6 which would enable the Secretary of State to make regulations setting out the circumstances in which a child living in communal accommodation may be regarded as living in a qualifying household. While this is not quite its effect, it is clear that the purpose behind the amendment is to ensure that the survey used to measure progress against the child poverty targets in Clauses 2 to 5 covers as many children in communal accommodation as possible.

Let me make it clear that our goal is to eradicate poverty for all children and that the framework that the Bill establishes for achieving this goal, using national child poverty strategies and imposing duties on local government to tackle child poverty, applies to all children in the UK. To ensure accountability for and progress towards this goal, Clauses 2 to 5 define targets for a range of poverty indicators.

As I am sure noble Lords appreciate, these targets will be effective only if progress towards them is measurable. That is why they do not apply to children who are not covered by the surveys that we use to measure poverty. Targeting for these children would not be measurable and, therefore, would be an ineffective way to ensure that experiences of poverty are tackled. The Bill therefore sets out that targets apply only to children living in qualifying households. These will be defined in regulations in terms of the households covered by the surveys used to measure poverty.

When this amendment was debated in another place, there was considerable sympathy with what it was seeking to achieve. However, it was also recognised by Members on all sides of the other place that, for the reasons I have explained, it is incredibly difficult, if not impossible, to work out how poverty for these groups should be measured given that the targets in the Bill are based on household income data. Given

these difficulties, it was suggested that these children should be addressed by the clauses referring to socio-economic disadvantage.

The surveys which will be used to measure progress are the best instruments available for measuring the household income of children across the UK, but they do not cover children who reside in communal establishments. That definition is assumed to be equivalent to the communal establishments set out in the draft regulations which have been made available to noble Lords in the Peers’ information pack.

There are a number of different circumstances under which a child may be living in a communal establishment—an issue touched upon by many noble Lords—and I shall try to address each of them in turn. For many children living in communal establishments, the concept of household income is simply inapplicable. There would be no way of allocating a household income for children living in residential care homes, young offender institutions, asylum centres and other similar communal settings, and so the concept of income poverty could not apply.

However, in many of these cases, statutory minimum standards apply to ensure reasonable standards of living. For example, in residential care homes, minimum requirements include healthy meals, clothes of an individual’s choosing and sufficient financial resources to fund leisure activities and trips. For children living in households in communal establishments such as women’s refuges, there are obvious ethical reasons why it is not appropriate for interviewers to enter the premises and ask individual families about their circumstances.

Households with children which reside in communal establishments such as bed-and-breakfast hotels are not covered by the surveys because the cost and difficulty of including such households in them is considered to be disproportionate to the additional information that would be gained. Even if such establishments were covered by the surveys, they comprise such a small proportion of the population that it is almost certain that the change would have no impact on the child poverty statistics used to measure progress against the target.

The number of such households continues to fall. The Government have set a national target to halve the number of households in temporary accommodation by 2010, as part of their aim to increase long-term housing supply and affordability. The number of such households with children has fallen from 5,240 in the first quarter of 2003 to 510 in the second quarter of 2009.

The Family Resources Survey is subject to comprehensive methodological reviews, which include assessment of the coverage of the survey and whether it can be improved. The Office for National Statistics is reviewing the feasibility of extending coverage of some surveys to include communal establishments such as bed-and-breakfast accommodation. If this is considered feasible and is adopted by the surveys used to measure poverty for the Bill, the Bill is designed so that the coverage of the targets can be amended to match the new coverage of the survey.

[LORD MCKENZIE OF LUTON]

Clause 6(4) requires the Secretary of State to ensure that the targets have as wide an application as is reasonably practicable. However, it is recognised in that provision that the targets can apply only to households which can be surveyed,

“having regard to the statistical surveys that are being or can be reasonably expected to be undertaken”.

If there is evidence that wider coverage has become practicable, the Secretary of State is required to ensure that the targets match this coverage.

I hope that my noble friend Lord Morris is assured that where children reside in communal establishments either it is not appropriate for them to be covered by the targets or continuing review processes are in place to ensure that if and when it becomes practicable for surveys to cover them it will be reflected in the Bill.

I also reassure my noble friend that the well-being of many of the children not covered by the targets is monitored or assured in other ways. For example, we monitor a range of outcome and well-being measures for looked-after children who live in accommodation not covered by the surveys; we have minimum statutory standards for looked-after children in residential care; and the Government have a target to reduce the number of households living in temporary accommodation, including bed-and-breakfast accommodation.

Amendment 16 would require the Secretary of State to ask for advice from the commission regarding appropriate levels of survey coverage before regulations are made defining qualifying households. Survey coverage is relevant to the regulations because qualifying households will be defined based on which households are covered by the surveys used to measure the child poverty targets. The role of the commission is to provide advice on the child poverty strategy and the child poverty targets. However, it is not appropriate for the commission to have a role in defining terms which appear in the Bill, which is what the amendment would involve. There is no guarantee that any member of the commission would be appropriately qualified to advise on the technical issue of what statistical surveys can reasonably be expected to be undertaken with regard to coverage of households.

Paragraph 1(4)(b) of Schedule 1 requires the Secretary of State to have regard to the desirability of securing that the commission has experience of child poverty research, but there is no requirement to ensure that the commission has in-depth knowledge of the coverage of the surveys which are used by government to measure it.

I assure noble Lords that there are already sufficient safeguards in place to ensure that the definition of “qualifying households” set out in regulations reflects the widest survey coverage that is reasonably practicable. First, the surveys which gather the statistics used to measure progress against the targets in the Bill must meet National Statistics quality standards. The coverage of these surveys is regularly reviewed, and wherever coverage can be improved without excessive cost or detriment to the survey, changes are made. Secondly, Clause 6(4) requires the Secretary of State to have regard to what statistical surveys can reasonably be expected to be undertaken. Finally, any regulations made under subsections (1)(a) and the proposed new

subsection (1)(ba)—if this amendment was made to the Bill—are subject to affirmative procedures, and so Members of both Houses will have the opportunity to debate them.

I am grateful to the noble Baroness for tabling Amendment 26, since it provides another useful opportunity to explain to noble Lords the meaning of the duty in Clause 8(2)(b) and the reasons for its inclusion in the Bill. Clause 8(2)(b) states the second purpose of the child poverty strategy, which is to ensure, as far as possible, that children in the UK, “do not experience socio-economic disadvantage”.

The noble Baroness referred to “as far as possible”. That is included because it would be impossible to have, and legislate for, an absolute. I hope she would acknowledge that point. This complements the other requirement for the strategy, as stated in subsection (2)(a): to comply with the duty in Clause 1 to meet the targets by 2020.

The duty to tackle the experience of socio-economic disadvantage among children was included for two reasons. First, as noble Lords are aware, it is not possible to measure a small number of children, as we have just discussed. It is regrettable but unavoidable for reasons that have already been explained. However, we fully recognise that these children may be among the most vulnerable and that any strategy to tackle child poverty must address their needs. The duty in Clause 8(2)(b) therefore extends the application of the strategy to all children in the UK.

In its recent report on the Bill, the Joint Committee on Human Rights welcomed the inclusion of this duty. Page 20 of the report says that the committee,

“accept that this part of the Bill will benefit all children living in poverty and not just those who are caught by the targets”.

To set out the Government’s commitment to alleviate child poverty in legislation, it is necessary to set measurable targets and these can relate only to measurable children. Including a duty to prepare and publish a strategy in relation to all children demonstrates that the intention of the Bill is to address poverty experienced by all children, and not to discriminate against any groups. I hope noble Lords are reassured by that.

The second purpose of including the duty to tackle socio-economic disadvantage is to broaden the focus of the Bill beyond tackling income poverty alone. Socio-economic disadvantage is difficult to define precisely, as was discussed earlier today. I am aware that noble Lords debated its meaning at some length in the first Equality Bill Committee debate last week. For the purpose of this Bill, we may consider that it broadly relates to a child’s access to material and social resources, and their ability to participate in society. A person who is affected by socio-economic disadvantage will be in an unfavourable economic and/or social position, relative to someone else. Over the long term, lack of access to stimulating and enriching experiences and opportunities may adversely affect children’s development and well-being. As they grow up this is likely to impact on their outcomes in such key areas as education, health, employment and income.

Some noble Lords have argued that the Bill looks in the wrong direction by tackling the symptoms rather than the causes of poverty, but I do not accept that

description. While it is true that the targets focus on income poverty, although I contend that the combined low-income and material deprivation target is broader than that, we have always been clear that provisions in the Bill go wider than tackling income poverty alone and that it is necessary to do so to ensure a sustainable end to child poverty. The duty to tackle socio-economic disadvantage among all children in the UK will ensure that the strategies published under the Bill describe actions needed to tackle the root causes of poverty, and Clause 8(5) lists what we have identified as those root causes.

2.30 pm

The amendment would have the effect of narrowing, in some respects, the application of the strategy to only those children under 18 who were entitled to child benefit, although I accept that that is not the intent. It would, for example, exclude from the second limb of the strategy children, as defined by Clause 25, who are aged 18 and 19 and entitled to child benefit. I understand that this is not what was intended; I believe that what it is trying to achieve—indeed, this is what the noble Baroness said—is the extension of the application of the strategy to all children under 18, irrespective of whether or not they are entitled to child benefit. Although the amendment does not achieve that, I will respond to the point that was made when it was moved.

Our aim is to end child poverty. Through the Bill, we wish to ensure that the measures taken to meet the targets and to ensure that children in the UK do not experience socio-economic disadvantage are relevant for all dependent children. The Bill has a focus on providing for the improvement of children's living standards. It is therefore right that the definition of a child used in the Bill relates directly to the financial support that the Government provide for families to support their living standards. Children under this definition are financially dependent on their parents. I contend that many young people who are over the age of 16 and are not in full-time education are capable of earning in their own right. They are therefore not necessarily dependent, and are therefore not covered by the measurement of child poverty.

There are very few 16 and 17 year-olds who are not eligible to receive child benefit. Those excluded are persons who are employed or who are in receipt of certain benefits, and persons whose education or training ceased more than 20 weeks ago and who are not registered for work, education or training with a qualifying body. However, I recognise the concerns expressed by noble Lords regarding the potential exclusion of some 16 and 17 year-olds, particularly those not in education, employment or training. I therefore assure noble Lords that, in practice, work to support young people will form part of a sustainable child poverty strategy. We need to ensure that these young people do not become the poor adults and parents of the future. Work is under way in other parts of the Government to take action to help this group, so they will not be forgotten.

The noble Baroness may be aware that by using the words,

“no child under the age of 18”,

in the amendment, the actual effect may also arguably be to confer on every individual child in the UK a legal right to not live in socio-economic disadvantage. This is neither realistic nor necessarily desirable. The Joint Committee on Human Rights agreed when it stated in its report on the Bill that,

“economic and social rights should not be fully justiciable and legally enforceable because that would be too subversive of the constitutional relationship between the courts and the democratic branches in this country”.

Instead, the Government should be,

“placed under a duty to make progress towards realising those rights”,

and that is what Clause 8(2)(b) does, as well as requiring us to report annually on that. I suggest that this clearly demonstrates that the existing duty in Clause 8(2)(b) is human rights-enhancing, as indeed are the provisions in the rest of the Bill.

I reiterate to noble Lords that the Government's goal is to eradicate poverty for all children in the UK and to ensure that they do not experience socio-economic disadvantage.

My noble friend Lord Morris talked about compatibility with the ECHR. I will not go through the detail of this, but I should say that we have considered that issue and do not think that the Bill is in breach of Article 15 of the ECHR. To engage Article 14 a person must show that they are within the scope of another ECHR article, and we consider that the Bill is not within the scope of any other article.

The noble Earl, Lord Listowel, asked about excluded groups and in particular about what support was being given to Traveller families. I shall briefly summarise the position. In terms of the numbers excluded for Gypsy, Roma and Traveller children, in total from the 2008 school census there are more than 3,800 Travellers of Irish descent and more than 8,600 Gypsy and Roma children, although anecdotal evidence suggests that that figure may be underestimating by some 20,000. The PSA 11 target aims to narrow the gap in educational achievement between children from disadvantaged backgrounds and their peers. Children from Gypsy, Roma and Irish Traveller backgrounds are captured by that target. Local authorities are required to set local targets for raising the educational attainment of black and minority ethnic groups, including Gypsy, Roma and Irish Traveller children. DCSF initiatives to improve the outcome for Gypsy, Roma and Traveller pupils include the National Strategies-managed GRT achievement programme and a range of other things, too. If the noble Earl is interested, I shall be happy to write to him further on that.

The noble Baroness, Lady Afshar, like my noble friend Lord Morris, was concerned whether by defining the targets as we have we would exclude some of the most vulnerable groups in our society from the impact of this Bill. I hope that I have explained that that is not the case and that the two legs of those strategies are important to meet those targets, but we will ensure that all children are brought within the scope of the eradication of child poverty. On that basis, I hope that the noble Lord will feel able to withdraw his amendment.

**Lord Northbourne:** Would the Minister agree that just because a particular outcome is not measurable, it does not make it less important than one that is measurable? In that context, I think that he probably agrees that it is important in this Bill to give an equal strength of importance to the important non-measurable outcomes as it is to the measurable ones.

**The Earl of Listowel:** I add to what my noble friend has said and, in doing so, express my gratitude to the Minister for his reply on Traveller children. I would be grateful for a letter, if that is possible; I was most grateful for the information that he provided and the general response that he has made.

I was moved by what he said in this debate to think how very perverse and unhelpful targets can be and how important it is not to over-rely on targets and to have rich targets, especially when dealing with children. I am reminded of this particularly because of a conference yesterday run by Barnardo's, called "Counting the Cost of Care", which looks at children in care. Martin Narey described how in the past the Government set targets to keep children out of care, so local authorities have a target to reduce the numbers of children taken into care. When he was commissioned by the Government to look at the issue, he and his colleagues were convinced that that must be the right direction. However, by going out into the field and talking to families, he discovered that children were being placed with families where the mothers were addicted to heroin and were having a terrible experience—but the whole drive was to return children to families, so that must be the right thing.

We have to be careful to choose the right targets and not to over-rely on them. With the education targets for looked-after children, it is right that they have performed very poorly compared with other children, but we have failed to take into account the fact that so many of them had such a difficult experience before being taken into care. The result of over-relying on achieving that target of four or five good GCSEs is that we have rubbished the foster carers and the whole system around caring for these children by saying, "We've put so much money in but they are not achieving the results we want".

I hope that in the course of this Bill we do not have reductive, simplistic financial targets but give strength wherever possible to richer targets, similar to those in the UNICEF report which was so well received and helpful. What is measured gets acted on—that is what I am always hearing. In a time of recession, the danger is that whatever is measurable will receive attention and action and the important other aspects of children's lives are ignored. A good factor in the UNICEF report was that it looked at time spent by children with their parents. In Italy, which performed best, children have regular meal times with their parents, which came through in the targets. So rich targets of that kind are helpful, but even they have to be treated with circumspection.

I am sorry for taking up the Committee's time at this point, but I hope that I shall not have to intervene later on, when we come back to this matter.

**Lord McKenzie of Luton:** I am grateful for each of those comments—

**Baroness Walmsley:** I am most grateful to the noble Lord for giving way. I agree with the noble Lord, Lord Northbourne, who made one of the points that I was going to make. On Amendment 26, the Minister could not have been clearer that the intention of the Bill is to improve the lives of all children, and I thank him for that. However, I am still slightly concerned about children who are not dependent, who are working, but who are earning very little money and whose circumstances may mean that they suffer many of the elements of deprivation that we are concerned about. I think I can assume that the Government intend to help those young people by other legislation outwith this Bill.

On these Benches we were slightly surprised to hear the noble Lord say that it was not desirable that no child should suffer socio-economic disadvantage simply because he is afraid that those rights would be justiciable. Coming as I do from a children's rights point of view on all these matters, I think it would be a very good thing if a child had a justiciable right to that sort of thing, which the UN convention offers the child. However, on that point, we could have more confidence in the common sense of the courts to not come up with decisions that are unreasonable in the current economic circumstances. I am most grateful to the Minister; he has reassured me and he has put on the record that all these strategies at every level—local, regional, devolved and national—must address the poverty of all children. I thank him for that.

**Lord McKenzie of Luton:** I am grateful to the noble Baroness for her support for our position. When I was quoting issues around the rights that children may have, I was quoting the JCHR report, so its view was advanced in that quotation, which is one that I support. The noble Baroness is right. We are talking about one Bill on strategies around child poverty, and inevitably there will be lots of things going on around government. At the moment, lots of effort is focused on young people who are NEETs. I think it is right to say that the figures around 16 and 17 year-old NEETs have reduced for the past three years. A lot of work is focused on trying to get young people into training or work or remaining in education. That will continue. The juxtaposition of children who are dependent on our definitions and other will inevitably be something that the strategies to deal with child poverty will have to address, and they will be encompassed within that.

The noble Lord, Lord Northbourne, and the noble Earl, Lord Listowel, picked up on the point about what is measurable and what is not measurable. In my response on that matter, I was trying to focus particularly on the income-related targets. If we have those targets, measuring whether we meet them has got to only encompass things that we can include within that measurement. That is not to say that there are not—as there are at the moment—a lot of PSA targets and subsidiary targets around a whole range of government business and aspirations, and that will continue. The noble Earl is absolutely right that sometimes targets—the noble Lord, Lord Freud, has pursued this line to some extent—can engender perverse behaviour. We need to ensure that is not happening in this case. The assurance is that strategy has to be refreshed every three years, and there has to be an annual report on that.

That report is not going to just be along those narrow income targets; it will be around the generality of the strategy.

2.45 pm

**Lord Morris of Handsworth:** My Lords, I thank the Minister for his well considered and detailed response. No one questions the Government's commitment to the best interests of children in broad, general terms; however, on this occasion the view is been taken, and is sincerely held, that the measuring tool is too restrictive and may not bring about the Government's desired outcome. It is for those reasons that the Joint Committee reached the conclusion that, if best justice is to be done to this worthwhile and noble cause, the Government should look again at the issue and perhaps bring forward a target or targets that would meet the required objective.

As I understand what the Minister said, the door is not closed for ever and a day; the issue of "household"—communal or otherwise—will continue to be a consideration. From that point of view, if the appropriate measuring tool emerges, clearly the Government will revisit the debate and the necessary adjustments will be made. On the basis that this debate will go on and be considered, I beg leave to withdraw the amendment.

*Amendment 9 withdrawn.*

#### *Amendment 10*

*Moved by Lord Freud*

**10:** Clause 6, page 3, line 10, at end insert "including revenues from the black economy"

**Lord Freud:** My Lords, before I launch into the amendment, I will take the opportunity to pick up on a comment the Minister made during the debate on the previous amendment and ask him to stop the peculiar habit into which he has fallen of stating our policies and, while doing so, carefully mis-stating them. It is a fantastical strategy that he has adopted in recent months.

**Baroness Hollis of Heigham:** Perhaps the noble Lord will help the Committee rather more than he has so far been able to do by telling us precisely what his policies are and what the costs and consequences will be.

**Lord Freud:** I am grateful to the noble Baroness for asking that question. I was about to do that.

The Minister said that we are not bound by any of the financial targets, but that is not what I informed him and the Committee of two days ago. I said that we will take the four financial targets, look to improve them and add one financial target. I was pleased to accept an offer from the Minister to discuss that target, as I am sure we will do in the days ahead. We also want to balance the Bill by setting targets in relation to the causes of poverty and adding them to the Bill. Unless it was mischievous—perhaps that is a non-parliamentary word—I cannot understand how the Minister can accuse us or me of not being bound by those targets. That kind of game is beneath him.

At the heart of the amendment is the question of how well we measure poverty—it picks up some of the points that we discussed in relation to the previous amendment. The specific issue that it addresses is whether many people lie when they answer the surveys and do not reveal black economy earnings. If they do, we are at risk of pushing support and help towards children and families who are perfectly well off. The IFS expressed the issue with great political correctness in its report, *The living standards of families with children reporting low incomes*, which was on behalf of the DWP. I shall quote the relevant paragraph in full so that we can all enjoy its delicacy:

"The second puzzle is that a substantial number of families manage to remain out of hardship even during prolonged periods of poverty ... Indeed, the length of poverty is not strongly related to the likelihood of hardship, which is contrary to the view that households can generally maintain their living standards for a short period of time after entering poverty. Of course, part of the explanation for both findings could be that some households have their income persistently mis-measured by household surveys".

Indeed. That is the point that I wish to explore.

The figures may be very high. I was fascinated to come across some research by Panayiota Lyssiotou, Panos Pashardes and Thanasis Stengos, published in the *Economic Journal* in 2004. It found that black economy activities conducted solely by self-employed people in the UK amounted to 10.6 per cent of GDP.

Their approach was to look at the under-reporting of income by the self-employed. The survey suggested that households whose heads are in blue-collar occupations on average report only 46 per cent of their income and that households whose heads are in white-collar occupations on average report only 61 per cent of their income. Both are self-employed groups.

The study used the relationship between the demand for goods and the level of household income estimated from data drawn from the Family Expenditure Survey, the FES. To the extent that certain household groups such as the self-employed under-report their income, their expenditure pattern would resemble that of better-off households known to report their income correctly, such as civil servants.

The findings of the research indicate that self-employment income reported by blue-collar households needs to be scaled up by a factor of 2.18 to correct for under-reporting, whereas the corresponding figure for self-employment reported by white-collar households is 1.64 per cent.

Considering that reported self-employment income is around 12 per cent of GDP, and that blue-collar households account for nearly 46 per cent of reported self-employment income and white-collar households for more than 54 per cent, the estimate suggests that self-employment-related black economy activities in the UK amount to 10.6 per cent of GDP. That is the equivalent of around £140 billion washing around unaccounted for, and it relates purely to the under-reporting of self-employed incomes.

I am aware that it is very difficult to lock down this information precisely. I remember writing a feature for the *Financial Times* in 1979, when I was an economic journalist, looking at the ways in which the underground economy might be measured. If your Lordships are enthusiastic, you can find the article: it is dated 9 April

[LORD FREUD]

1979—I know that some Members of the Committee are very enthusiastic about doing research. At that time, the chairman of the Inland Revenue, Sir William Pyle, offered a guesstimate of the black economy as a whole being 7.5 per cent of GDP. It is interesting that the Office of National Statistics is making significant strides in approaching the relevant datasets. I refer particularly to its fascinating report in this area from 2005, *Identifying Sources on Entrepreneurship and the Informal Economy*. There are suggestions that the figure may have risen recently, particularly with the recession. According to Professor Friedrich Schneider at the Johannes Kepler University, one of the world's foremost economists on this topic, the black economy's share of gross domestic product in the UK is set to grow from 10.1 per cent to 10.9 per cent this year alone. Interestingly, this is a very similar figure to that thrown up by the Lyssiotou study.

It would seem ludicrous for the state to rush around trying to help children who are living in families who are comfortably off, but who are careful to disguise the sources of their wealth and income. It would be particularly dangerous politically if this was done through income transfers, which is the Treasury's stated preferred strategy, at least until recently. Hard-working voters would see people whom they knew were shady operators being rewarded with additional government largesse. This amendment is designed to make sure that the Government get a realistic grip on the flows of black money when setting their anti-poverty strategy. I beg to move.

**Baroness Hollis of Heigham:** My Lords, this is a very interesting amendment. I do not think anybody would disagree with the noble Lord, Lord Freud, particularly when he is quoting, I suspect, Italian writers on the phenomenon of the continental system. I may be wrong; they may be Romanian or something.

**Lord Freud:** They are Greek Cypriot.

**Baroness Hollis of Heigham:** I stand corrected. I was not clear, from what the noble Lord said, as to whether he was talking about assumptions about the inability to draw a proper tax take from the self-employed because of corrupt cash transactions and so on, or he was concerned about the implications for benefits and income transfers, which is what we are dealing with today.

I do not think anybody would deny that, certainly, with the self-employed and payments in cash and so forth, there is a significant black economy. I would not wish to challenge the noble Lord's assumptions about the figures; I have no way of knowing whether he is right or wrong on that. He talked about low-hanging fruit taking the figure to more than 60 per cent. It is certainly the case that one of the big reasons why it is so difficult to be precise about poverty and get below 55 or 50 per cent is, as the noble Lord says, the disparity between reported income and reported living standards. I am surprised that he does not loop this back into his discussions on other amendments. It is not just that people are in the black economy. You may be dealing with shopkeepers who are living on their stock, or using wholesale rather than retail prices.

I remember a discussion on the Welsh hill farmers not that long ago when BSE was hitting across the country. Welsh hill farmers were reported as earning on average something like £7,000 a year. I was briefing colleagues in what was then a version of MAFF that they should be taking up working tax credit and child tax credit but, of course, they could not because they were living off their land. Their real income was well above their declared income and, being reasonably—though not entirely, I do not doubt—honest souls, they were therefore not claiming benefits which, on the basis of their income, they were entitled to. There are many dimensions to this issue, apart from those who are, perhaps rather deliberately, cheating the system.

That is my first point. The other thing that one picks up is how dependent people with very low earnings are on intergenerational and family loans, gifts, trading and care in kind. It makes it very hard to depart from the reported figures.

3pm

My first question is to the noble Lord. If we depart from the reported figures, as he says, and we have a putative assessment, a putative add-on to declared income of everyone who is self-employed for benefit purposes, that is not just rough justice but profoundly unfair. In some jobs, such as plumbing or gas-fitting, it may be easy to add to the black economy, but there may be other areas of self-employment where it is impossible to do so. His assumption would be to add maybe £20, £50 or £100 a week for all those declared incomes, whether or not they were actually received through the black economy. I suspect that that would force at least as many children into poverty as his assessment would save in terms of taxes on the taxpayer.

My second question is to my noble friend, and I think the noble Lord may not disagree with me, having seen some of his material on the dynamics of benefits. Would it not be a more appropriate way, particularly with lone parents, to tackle this through disregard so that we help to build fraud out of the benefits system for the lowest-paid? One territory is lone parents, who currently get a disregard of £20 a week and may do some part-time cleaning, pick mushrooms, see to caravans and boats in the summer season and so on. If they do not declare that, they are in the grey economy. As a result, there is again a nebulous quality to what their entitlements may be.

I was delighted to see my noble friend's response to the Welfare Reform Bill, reinforced by the Chancellor's commitment in the PBR, to be considering extending a £50 disregard to all lone parents. First, that would certainly address some of the problems that the noble Lord has raised regarding those who are in, if not the black economy, at least the grey economy, and would help to build fraud out of the system. Secondly, it would also help employers to have a more flexible supply of above-board labour. Thirdly, it would lift those parents out of poverty. Fourthly, it would help to train them into work by preparing them through mini-jobs. I hope that the noble Lord, Lord Freud, will join me in encouraging my noble friend to be as explicit as he can on this remedy for at least some of those who may perhaps be understating their incomes.

**Lord Kirkwood of Kirkhope:** My Lords, I am interested in the approach that the noble Lord, Lord Freud, takes. I encourage him to continue to freshen up the debate; it is a long time since I have heard anyone tackle benefits from the direction of talking about the black economy.

I start with a question of terminology. Can we talk about the “informal economy” rather than anything else? I do not want to be too correct about this, but it is more comfortable language.

I have a technical question for the Minister. We are now in Clause 6 and looking at the interpretation of terms used in relation to targets. It is not clear to me whether these are affirmative or negative procedure regulations. It would be helpful to know that, and I would be reassured if they were affirmative rather than negative.

Turning to the amendment, how on earth is this to be done? Leaving aside some of the side issues, I understand that the substantive point, as the noble Lord was arguing from an interesting and useful point of view, is whether we can really find out what is going on with household incomes in future. We are right in this Committee to look at ways to improve our knowledge about that. This is wider than just financial benefit levels, although we have had some useful debates about that in the past.

If we are going to look at the informal economy, what measures are we going to use? How is this to be done? We know a bit about the University of Essex expanding its longitudinal survey of Britain, and there may be opportunities to get things done differently. I am puzzled by how to begin to determine, on any kind of basis, any kind of valid information that we could act upon.

So my first point regards functionality. Supposing that we could do this, we might be able to target money away from those errant families that are in the informal economy. Actually, I think you should ring the police, or at least the benefit fraud unit, if there are people in the informal economy. That is my next point: if we are trying to encourage people to take up entitlements to benefits, absolutely the last thing you want to do is send a tax inspector round. A Treasury report was written for the Government in 2000 by Lord Grabiner, a distinguished Member of this House. I have a copy of it here. It is all about enforcement, and rightly so. It contains estimates of the extent of the problem, and the problem is great, which I do not think anyone denies. The headings under the summary of recommendations are “Prevention”, “Detection”, “Punishment” and “Publicity”. That does not sit comfortably with the eradication of child poverty, and I do not know how the two things would mesh in a way that would work.

This is a tax issue more than anything else. I think we have all known for a long while that self-employment is porous, and it is more so at the high end than at the low end. I suspect that GDP percentage losses to the economy occur at the high end, among the people who are rather wealthy, rather than among people who are self-employed as hairdressers or whatever, who are trying to rub along and make ends meet. I am being prompted to say that it will be happening with barristers

and the like. So there is disproportionality in that, but the point that the noble Lord makes about self-employment is understood and accepted.

I agree with the noble Lord that getting more information about what is happening with family incomes is the right thing to do, but I would want to know about the overhanging, and sometimes astonishing, levels of debt. If we are to look at the wider picture, we need to look at both sides. Of course, there are people who might be understating, moonlighting or ghosting, or whatever the terms are, in the informal economy, and HMRC deals with them daily, but we should also look at credit card debt, which has become fantastically inflated over the past five or 10 years. That also has to be weighed up, and it would be interesting to do so in order better to target benefits in the future.

I welcome the fact that we are taking a broad look at all this afresh and drilling into it, but how do you prevent people being frightened off claiming means-tested benefits to which they are absolutely entitled? If you have all the information that you want, it might make the problem harder to solve than the noble Lord may think, according to what he said when introducing his amendment.

**Baroness Afshar:** My Lords, I thank the noble Lord, Lord Kirkwood, for saying that this is about the informal sector, in which people of all colours participate. I want to make two points. First, the informal sector is the most insecure and uncertain sector in the economy. My understanding is that risk-taking is encouraged, and many people use tax avoidance in order to balance risk-taking. However, the greatest risk-takers are those at the very bottom, who take risks all the time. It seems to me that there is disproportionality there.

In terms of equality, it is simply unequal to guess someone’s tax. There is a wide range of literature on the moral economy of kin, whereby people do not pay one another and have been working for generations on the basis of recognition of their responsibilities and duties, which are reciprocal. This means that, to help their kin, people in very poor households often offer all kinds of care, including, not least, accommodation where the housing is very tight. The kind of guesstimates that would apply to the tax avoidance category would certainly discriminate against people who are doing their very best to ensure that their children do well. That is particularly true of migrant families, who forgo everything in order to offer their children a good education. Therefore, they might appear to be better off but we do not know the hardship that they go through in the hope that the next generation will fare better. I am sure that we do not want to discourage people who are doing their best to improve their situation.

**Lord Northbourne:** My Lords, I do not want to widen the issue too much and so I shall be extremely brief. On the question of measuring informal sources of income, or measuring sources of income at all, we have to take cognisance of the fact that the household is no longer a stable thing in today’s society—at least, some households are not very stable. I am not making a value judgment, but you can get a situation in which a mother lives with two, three or four children, all with

[LORD NORTHBOURNE]

different fathers, and the man who is living with her is not the father of any of them. Who is paying benefit and maintenance and who is paying rent? There are all sorts of issues in that area.

**Lord McKenzie of Luton:** My Lords, I thank the noble Lord, Lord Freud, for his amendment. Perhaps at the start I might just clarify one or two points. The purpose of offering the meeting was to convince the noble Lord that his persistent material deprivation target did not add anything to the measurements that the other targets had, rather than to sit with him and devise a fifth target. But I hope that he would still be happy to meet. If he tells me that he is committed to the other four targets, that is fine and I accept that entirely. I took it from one exchange that we had last time that, although an income-related target was something that he would support, he was not very specific about whether that was the income-related target that we had in the Bill. If he wishes to clarify that, it would be fine, but it has not been clear to date.

This is a fascinating area. The noble Lord raised the issue of the significance of income transfers, which are a key part of tackling poverty, but they would never be made on the basis of reported incomes in a survey. They are made on the basis of the usual strict rules that apply to benefits. I do not have the data to hand, but if he looks at the statistics he will see that benefit fraud has been progressively reduced in recent years through lots of concerted effort. On the other side of that coin, as we touched on with the noble Lord, Lord Kirkwood, we talk about benefit fraud as part of the informal economy but often do not talk enough about benefit take-up. This Government are the only Government in history ever to have benefit take-up campaigns, and significant progress has been made in some areas, but there is still progress to make in others, particularly around council tax benefit take-up. If we could crack that one, we would have made significant strides on pensioner poverty, for example. So we need to keep that in mind.

Amendment 10 seeks to include income from the informal economy—I believe that is a much better expression—in the calculation of a household's income. Given the obvious difficulties in defining the informal economy and the income streams flowing from it, the noble Lord will not be surprised by the fact that this information is not currently explicitly asked for in the survey of household incomes which we would use to monitor progress towards the child poverty targets. However, some respondents may offer this information; for example, if they work cash-in-hand, they may report this as their employment income.

The question of whether such revenue should be included in our measure of income was touched on in the Second Reading debate, where it was argued that survey respondents who depended significantly on the informal economy for their living could misreport their true incomes. This, it was reasoned, would affect how accurately our measures of income reflected the true living standards of the respondent. That is the basis of the noble Lord's amendment. The Government recognise that the issue may marginally affect the accuracy of our measures of income, and we wish to

emphasise our commitment to building up a fair and truly representative picture of households' living standards. However, we argue against the adoption of this amendment, for some practical reasons, if no others.

Asking interviewees explicit questions on unlawful income would impact on their willingness to participate in the survey. Indeed, any interviewee asked to provide such information, and in regular receipt of income gained in the informal economy, would be unlikely accurately to report the amount received. For these reasons, no other comparable surveys capturing information on incomes attempt to collect this information. Likewise, administrative data would not reflect the extent of the informal economy.

3.15 pm

The issue of ensuring that income is captured as accurately as possible by the survey, and that our measure of income accords with a household's living standards as closely as possible, was examined extensively as part of a national statistics quality review in 2004. We have a commitment to the accuracy of these statistics, and they are produced to national statistics standards. Additionally, we do not rely only on income measures of poverty. Children in families with a higher level of income through the informal economy would not experience material deprivation and would therefore not be considered to be in poverty on that measure.

To pick up on other points made by noble Lords, the noble Lord, Lord Kirkwood, asked about the nature of the order. It will be an affirmative order. Most of the regulations in the Bill are subject to affirmative orders. Only three are negative, and I think that we will be challenged on one of those as well.

My noble friend Lady Hollis raised the issue of income disregards. She made an important point because some of the drivers of unreported income in the informal economy are potentially issues around whether work pays. Disregards are an important component of that. As my noble friend is aware, we are looking at piloting increased disregards. We have increased disregards in relation to housing benefit and in relation to child maintenance payments, for example, so there is movement in that direction.

An interesting issue that arises from all of this is the assumption that, in aggregate, there is clearly an informal economy and income that is not captured in the tax system, which may have negative consequences in the benefit system. But I do not see the distributional impact of that and where it would fall would lead us to make different judgments in relation to our strategy. The conclusion would not necessarily follow that income from the informal economy may not be reflected in the surveys. In a sense, we can only speculate whether the proportion is a greater issue for those at the higher end of the income scale than for those at the other end.

Over a number of years, the Government have had a raft of measures to tackle tax avoidance. There are particular arrangements going on at the moment where overseas bank accounts and so forth are recommended to be in the purview of the Inland Revenue, and rightly so. Along the way we are often criticised for these measures because it can lead to quite complex legislation. There is always a trade-off between complexity,

whether in the benefit system or the tax system, and fairer collection. Clearly, as we have done, the Government need to continue to crack down on benefit fraud, and we certainly need to crack down on tax avoidance, so we would have common cause on that issue.

A point was raised in our last Committee about the process of the surveys. There was a suggestion that the way in which people's data were collected was a bit ad hoc. It is clearly stressed to interviewees that the data collected by the survey can be used only for statistical purposes and cannot be used to investigate unlawful income or tax irregularities. There are no explicit questions asked about income from unlawful sources, but there is nothing to prohibit respondents providing information on their income from informal economy sources. The respondent may say that they are receiving a benefit amount which, based on their personal and family characteristics, they would appear to be claiming fraudulently, but that amount is not corrected or adjusted in any way.

The noble Lord alights upon an issue, but what it tells us about the strategies that should be devised to focus on it does not take us very far. To actually adopt a specific requirement on the basis of this amendment would not be helpful or productive, but a continued effort to challenge the informal economy—the tax avoidance and evasion that goes with that, as well as benefit fraud—is something we must continue to be vigilant about.

**Baroness Thomas of Winchester:** My Lords, will the Minister clarify that the amount of unpaid benefit is in the region of £6 billion?

**Lord McKenzie of Luton:** I cannot confirm that figure off the top of my head. I can certainly get the latest data that we have, but I know that it is not an insignificant sum over a range of benefits; council tax benefit is one, while pension credit is a smaller issue but still a significant one. Housing benefit is also affected.

Sometimes the underclaiming arises because people do not necessarily take the point that some of these are in-work benefits as well as out-of-work benefits—that impacts on housing benefit and council tax benefit in particular—but the drive to have better take-up of those benefits is crucial to tackling poverty and income inequality. That is another feature of this debate: we are talking about poverty and relative incomes, but this touches upon income equality as well.

**Baroness Hollis of Heigham:** On that last point, I am sure that the Minister is right about the problems of persuading pensioners to take up benefits, first, because they think they may not be entitled to them—like council tax, for example, because they are sharing a household; secondly, because there may be a small debt at the end of the taper; or, thirdly, because of issues of stigma. We also agree, however, that, fortunately, the most careful and scrupulous of claimers—scrupulous, at least, in terms of attention to detail—are lone parents, and we know that, for most of the benefits that lone parents are entitled to claim, the take-up rate is 90 per cent, compared with pensioners whose take-up

is something like 70 per cent. With regard to child poverty, the underclaiming of benefits may be less of a problem than for older age groups. That does not mean that it is not a serious problem, but perhaps it is less important for this particular issue.

**Lord McKenzie of Luton:** My noble friend makes an interesting and pertinent point. I am grateful for that.

**Lord Freud:** I thank the Minister for that response. I should start again on our little side issue about whether we are making our intentions entirely clear. I have looked at what I said on Tuesday, where I did my best to be as clear as possible. I will read it out again—

**Baroness Hollis of Heigham:** Which column is the noble Lord referring to?

**Lord Freud:** I am on column GC130-31. I probably should not bore everyone by reading it all out again.

**Baroness Hollis of Heigham:** It was very good stuff.

**Lord Freud:** It was. I said that,

“we are trying to amend the Bill by the addition of some targets. Measurement is clearly important, but the risk is that the measures, being purely financial, drive state intervention in a particular direction ... We want a better balance of targets. We want to see targets that look to the causes of poverty, not only to the measures of poverty”.—[*Official Report*, 19/01/10; col. GC130.]

I think that I made it quite clear then, and I make it clear today, that we accept the need for financial targets. As noble Lords know, we are discussing some amendments now where we are looking to improve some of those targets. I do not think you could represent an attempt to improve specific targets as an attempt to destroy or fundamentally change those targets. Where an amendment seeks to add a target—

**Baroness Hollis of Heigham:** I am sorry to interrupt the noble Lord. He just said three seconds ago that he supports financial targets but wants to do x, y and z in addition. Which financial targets in the Bill does he support?

**Lord Freud:** I support the four financial targets in principle.

**Baroness Hollis of Heigham:** I—

**Lord Freud:** Let me just explain what I mean by “in principle”. I am looking to improve them in particular ways—we are in the middle of a discussion on one of the ways in which one could tighten them—and I am looking to add one where I think it would capture the very poorest children in a precise way, which would be immensely valuable. I am looking forward to meeting the Minister—this will be the high point of the next few days for me—where he will try to convince me that any additional financial target is entirely unnecessary and I will endeavour to convince him that it will add valuable information about the neediest children.

**Baroness Hollis of Heigham:** Forgive me; I am obviously being very obtuse about this. Is the noble Lord saying that he accepts the four targets in the Bill? Is his criticism of them only that they are not sufficiently fine-tuned, so particular considerations—for example of Gypsy or Traveller children on the one hand, and inappropriateness of income determination because of the black economy on the other—need to be brought to bear? Does the noble Lord support the four targets as specified, provided they can be delivered more accurately than he fears they may otherwise be?

**Lord Freud:** I can confirm that. I said that I introduced the fifth financial target as an additional target. It may be that, after discussion, if it is in any way acceptable to the Government, the Minister will decide to switch or subsume it. That is the only change in the structure of the targets. Having said that, I am exploring improvement of the precise nature of the process that we are now dealing with in regard to the black economy. I hope that is now utterly clear and that I shall never again in this Committee be accused of encouraging as much child poverty in the country as possible. That seems to be the general point.

The most enjoyable thing about this Committee is to watch the noble Baroness, Lady Hollis, giving a wonderful impression of a miniature Vesuvius every time I talk. I enjoy that more than anything else. I hope it goes on.

**Baroness Hollis of Heigham:** Does the noble Lord run for safety?

**Lord Freud:** Returning to the amendment and taking the point of the noble Lord, Lord Kirkwood, about what we call the black economy, I utterly accept renaming it. Now that he has raised the point, I remember in 1979 having a ferocious debate with the editor of the *Financial Times* about exactly what we would title a particular article. We ended up with the expression “underground economy”, not “black economy”. We will go to “informal economy”.

I regard this as important because it is more than a marginal issue, which is what the Minister said. It is more than marginal to have potentially £140 billion slopping around the economy, unmeasured and unaccounted for. It is very dangerous to have what is now a statutory target in an area where there is such poor definition of funds and income. That is why this is a very dangerous area to ignore. When you are out in the community, everyone knows people who have extra sources of income. If those people are wrongly rewarded for lying—which could be one of the processes—there will, in practice, be a backlash against the whole welfare state. That is the issue.

**Baroness Afshar:** My Lords, I am sorry to intervene but it seems that there will be an equal backlash if attempts by people to make the lives of the next generation better are seen to be penalised by a guesstimate. If somebody says “I guess that you are earning more because your daughter is better dressed”, it would cause outrage, not least from me and many others. It is a question of balance and fairness. Guessing, estimating

and saying that maybe one person is better off than another is a very unstable basis for fairness.

3.30 pm

**Lord Freud:** I thank the noble Baroness, Lady Afshar, for that intervention. I entirely accept that we cannot do this by saying, “Well, for everyone here we will add on 20 quid or 50 quid”, or whatever number. That would be a desperate process of averaging, and I accept the noble Baroness’s point that it would be deeply unsatisfactory and equally unfair from the other direction. However, amazingly, the Office for National Statistics is beginning to get to grips with the issue. In 1979, it put up its hand and said, “We cannot possibly get anywhere here”, but it is now beginning to get more of a grip. It has improved over the past 30 years, but not as much as it might have.

Inserting a requirement in the Bill that you have to worry about this area will encourage the state to understand the impact of informal incomes on the process. If you do not understand that, clearly you cannot do much about it; if you do understand it, you can fine tune the strategies. It is to be hoped that over the next 10 years we may learn more about how to do this—it would be a shame if we did not—because the figure involved is not marginal.

The points made by the noble Baroness, Lady Hollis, are smack on. I have not agreed so much with her for several amendments and I hope that we will agree on many more. In its report, *Dynamic Benefits: Towards Welfare that Works*, issued last year—which we shall debate later—the Centre for Social Justice dealt with the concept of disregards. It is interesting that the centre recommended it as one of the most efficient ways of doing several things, one of which is getting rid of the desperate disincentives to work or to getting back into the formal economy. Under the current system, we are almost begging people on the marginal rates of 90 per cent—more in some cases—to cheat the system. A methodology which discourages that kind of behaviour and brings flexibility back into the formal economy would make enormous sense. The amendment would encourage the Government to introduce a process which is structured in that way.

I cannot resist making the point that when the Minister referred to trying to prevent tax avoidance and all the complexities that go with it, he was playing a game with us. He is a formidable accountant and he knows that we are not talking here about the avoidance of tax but about the evasion of tax.

**Lord McKenzie of Luton:** Yes, evasion is a key issue, but avoidance could well involve seeking to convert income to capital, or to some other kind of asset which might be enjoyed but is not necessarily accountable as income for tax purposes or for any other reason.

**Lord Freud:** As the Minister knows all too well, avoidance is not to be found in the “informal”, “black”, “underground” or whatever economy; it involves trying to minimise your tax bill, usually using peculiar legal devices in Aruba, or somewhere else nice, to avoid paying tax. You certainly declare the money and the money is visible to the authorities. With evasion, the

money is invisible to the authorities, and that is the money that we are worried about. The Minister talked about benefit fraud being one area of the informal economy. In practice, nowadays the tax credit system is probably the big area where informal processes are at work, as has been given away by the fact that the disregards for income in the tax credit system have been whipped up to £25,000—I think that that is the figure; I am speaking from memory—because the state has simply been unable to get a grip on this matter. Rather than accuse everyone receiving or having to reclaim tax credits of making overclaims or underclaims or whatever, they have had to whip up the disregard level to an astonishing figure.

**Baroness Hollis of Heigham:** Only for one year. It is simply a rollover figure.

**Lord Freud:** But it is a huge figure. I end by saying that this amendment is designed to make sure that the authorities take this very important, non-marginal activity into account and that they do not just push it under the carpet, which is all too tempting to do. I do not know the extent to which we will wish to push this matter—I shall have to explore that further—but, for the moment, I beg leave to withdraw the amendment.

*Amendment 10 withdrawn.*

#### *Amendment 11*

*Moved by Lord Freud*

**11:** Clause 6, page 3, line 10, at end insert “including passported benefits and benefits in kind”

**Lord Freud:** My Lords, the concern that has generated this amendment is based on how best to help the poor, and poor children in particular. The targets that the Government are seeking to establish with this Bill are all effectively financial measurements, and the Government will be held to account on how well they do in reaching them.

A significant number of benefits in this country are benefits in kind and they are often passported based on the receipt of the primary benefits. These are not included in the financial measure as it stands. I refer to benefits such as free school meals, maternity grants, health costs, support in education and so on. This naturally raises the question of why we have selected 60 per cent of median line as a comparator and a target, when other countries may not include benefits in kind at all. This is an important point in its own right, as one reason that we have selected 60 per cent of median line is that it is possible to make a comparison with other OECD countries that use it. I am aware that on Tuesday the Minister said that it was used for other reasons as well, although I think he acknowledged that that was one of them. However, that is not the point that I wish to make here, and we have already had a debate about it.

My point is that, if we exclude these benefits from measurement, they will inevitably start to be eroded as more emphasis is placed on the financial measures which are part of the target. The source of the concern

is based on the findings of the 2009 OECD report, *Doing Better for Children*, which points out:

“Ill-thought out targets may arguably create less than appropriate policy responses”.

In this case, the example that it gave was how the state might push children just below the line to just over it. But one of the most important issues that it discusses is the cash versus kind policy choice. It is worth quoting that report in this area in full. It says:

“The relative efficacy of cash-v-kind may vary with the age of the child, with cash transfers superior for younger children and in-kind provision (e.g. via universal education) for older children. Certainly this is the revealed preference of many OECD countries. The relative efficacy of cash-v-kind can also vary across the risk or outcome distribution of children of a certain age. Children at greater risk may benefit more from in-kind services, because their parents may not be capable of functioning as agents acting in the best interests of their children with income transfers”.

Here is the problem. According to this evidence, the children most at risk may be helped most by services in kind, because their parents are not up to making the right choices for them. It may make sense to move between cash and in-kind services at different stages of a child’s development or household circumstances. As this Bill stands, however, this sort of flexibility could be gravely discouraged, because a move from cash to in-kind support could throw the child into apparent poverty on the income basis. I beg to move.

**Lord Kirkwood of Kirkhope:** My Lords, again, I am grateful for the creative and innovative approach that the noble Lord, Lord Freud, demonstrates on this. I am puzzled, however, by how he makes his case. For anyone who has watched the benefits system over the past 15 to 20 years, benefits in kind have been a mitigating factor, because the levels of income support have been so low. That is a clear objective. It started with the report of the noble Lord, Lord Fowler, in 1986, which produced the 1988 welfare Act. What flowed from that was a means of diminishing costs; it also simplified the benefit administration, because you did not have to duplicate applications, so it had force in that direction. But one thing that I am absolutely certain about is that passported benefits are an absolutely core part of the system right now; I refer to housing benefit and things like that, which have now been extended to tax benefits. It would frighten a lot of people to hear him talk of interfering with passported benefits, as he seems to suggest, unless he was very clear about what he was doing.

I understand the argument that he was making, intellectually. If everybody had a modest but adequate income and could be sure that they could live and meet their nutritional standards from day to day and week to week, I would be very interested in listening to him develop his argument. He may be right—but what he threatens to do, if he is not careful, is to impose passporting of benefits and vouchers and all the rest into situations in which people actually cannot cope at the moment. That would be a serious worry for me, and I suspect for others as well.

My second question is the same one that I had in the informal economy debate. How is this to be done? With the best will in the world, if I am in a household

[LORD KIRKWOOD OF KIRKHOPE]

where I have a Sure Start maternity grant, free school meals, a Healthy Start scheme and a child trust fund, how am I to fill in the family resources survey form when it comes round to try to identify what is available to me, or not, so that we can make these lofty decisions about whether it would be better to do all this in kind? How is it to be done? What mechanism is to be used? What questions do you ask? If you start putting together a form with every passported benefit on it, it will be a very difficult form to fill in. There are people who do not understand that they are getting benefits of a passported kind, so complex is the system.

Again, I am willing to be challenged by the kind of things that the noble Lord is saying, because it is right that we should think about these things afresh. There is value in that. Passported benefits are such a sensitive issue for millions of households in this country, and I would be very nervous about interfering with them in the way that is suggested in the amendment.

3.45 pm

**Lord Freud:** I want to respond to the noble Lord instantly, because I think he may not have understood the point that I was trying to make. My point is this: if you have a target which is based on financial transfers only, any bureaucracy that is driven towards performing to those targets will tend to look at financial transfers, and the importance of other, in-kind transfers, will be increasingly ignored. The risk is that in-kind transfers, which may be highly valued by people, will steadily, in a bureaucratic way, decline in relative importance because the bureaucracy is not driving to them; they do not exist. Targets, as we all know—we have had a lot of them in the past 10 years—can have perverse effects. They work; they force people to do things in certain ways. I am saying that these targets risk undermining in-kind provision because they are not counted.

**Baroness Hollis of Heigham:** I support the noble Lord, Lord Kirkwood. I think the noble Lord, Lord Freud, is running two arguments simultaneously, and I am not sure which he is after. Is he after a concern which was first expressed by the noble Lord, Lord Northbourne, and the noble Earl, Lord Listowel, and which we all agree with? It is the problem that if you have limited, tiny definitions of targets, if I can put it that way, people perform to them; such as how quickly you answer a telephone. That warps and distorts a more holistic approach. I think we all share that view.

If that is what the noble Lord is saying in response to the noble Lord, Lord Kirkwood, there is probably no distinction between us. Actually, his speech was laden with remarks about parents who fail to make the right choices and parents who do not cope properly, and the implication of what he was saying was that there was a case for perhaps a greater share of benefit provision being in kind rather than in cash, and that therefore you should make sure that you count that in. If that is not what the noble Lord is saying, I will not need to say anything further. If that is what he is saying, I would like to continue. Perhaps he can help me on that point before I waste the Committee's time by trying to rebut an assertion that he is not making.

**Lord Freud:** Let me take up the noble Baroness's point. I was actually quoting from the OECD on this. The simple point that it is making is that you are better helping some of the children who are absolutely the worst off in kind. What I am saying is that that kind of effective intervention, if that is what the policy should be, is actively discouraged by a set of targets that has no way of measuring the in-kind intervention as it stands.

**Baroness Hollis of Heigham:** I understand that perfectly well; I do not understand whether that is what the noble Lord is recommending.

**Lord Freud:** To be honest, I am not an expert on the most effective interventions for the most vulnerable children. There are some people in this room who I may consider to be far more expert. I do not know; but when I read a report that is of the quality and status of the OECD report that says that in-kind provision for the most vulnerable may be far more valuable than cash transfers—mainly because the parents are not able to use that money effectively—and when I see a set of targets that would rule out acting on such a recommendation, I get very worried.

**Baroness Hollis of Heigham:** Perhaps the noble Lord is overlooking the fact that the OECD reports have real problems—as he will know from the research of Jonathan Bradshaw—in equivalising between countries because in some, for example, people have to pay for their healthcare or education, whereas here they are, so to speak, goods in kind. That is the problem that the OECD faces. It is not that the British system is problematic, but parents in countries where they are expected to provide in cash what here is provided in kind may not always feel that they are able to afford to do so, particularly if they have very large families where different members may be prioritised. It may be more important to keep the man well fed so that he can work than to get the youngest child healthcare, because without the father working all the other children fall into malnutrition. I am not sure that the OECD is helpful in this regard as far as the UK is concerned.

I want to pick up the point made by the noble Lord, Lord Kirkwood. I would encourage the noble Lord, Lord Freud, to be very careful indeed about going down the path that has to some degree been explored with asylum seekers in terms of vouchers rather than cash. Behind that has to lie a judgment about the appropriate expenditure of income, and a lofty, white, middle-class, educated judgment might be preferred over the judgments of other people, who may be in very different circumstances.

I say that because I was very struck when I visited a social security office in my city of Norwich. I was talking to staff there—EOs and HEOs—about how they handled the social fund. It is a town with limited budgets and they had to prioritise, and we discussed how they prioritised their budgets from the social fund. They were mostly women and were very able, competent, kindly, well intentioned and completely scrupulous and professional. One would prioritise the lone parent who was struggling to buy white goods;

another would prioritise the unmarried woman trying to help elderly parents in the home with heating costs; and someone else would prioritise a person with a disabled relative. However, the person who prioritised the lone parent was herself a lone parent. The person who prioritised the care of an older person was herself caring for her elderly mum. The person who prioritised the disabled person herself had a disabled member in the family. That taught me that there is a real problem in the exercise of discretion and with standards because you are tapping into the dowry of experience that people bring to a particular situation and the situations with which they themselves can identify.

There was always a tension, from Donnison onwards—when, as the noble Lord, Lord Kirkwood, said, we moved away from supplementary benefits to income support—between the role of discretion and the role of standardisation. Whenever someone like Frank Field, whom I respect in many ways, calls for discretion, he is actually replacing not a perfect judgment by a decision-maker with the imperfect judgments of families but one form of discretion and personal experience with another. Sometimes it will be better, sometimes different and sometimes inferior.

I urge the noble Lord, Lord Freud, to be very careful of going down that route. Obviously one wants a degree of flexibility to offer tailored support, and a lot of packages recommended by advisers and personal advisers have exactly that. Tailored support is very desirable, but once it becomes a form of replacing benefit entitlement, it is open to the judgment of others as to whether people should get help in kind. That is a dangerous, treacherous and slippery road, and I cannot begin to imagine the judicial reviews that would follow from those organisations. I hope that the noble Lord will distance himself from it because it will make the so-called solution worse than the problem that he currently identifies.

**The Earl of Listowel:** I want to step into this discussion. I agree with everything that has been said about this very difficult and vexed question. The noble Lord, Lord Freud, drew attention to the comments in the OECD report on the danger of ill-thought-out targets not serving children well. Of course, that is something we all agree with, and the noble Baroness, Lady Hollis, was kind enough to highlight that it is a concern that my noble friend and I share.

This is a tremendously interesting debate. From my limited experience of working with children—I am not sure whether I can say this—I sense that some children have a healthier life because they get free school meals. Food is given to them. They may have breakfast when they get to school or something that they would not have at home, so these things can be tremendously important. I recall attending a conference recently at the Family and Parenting Institute in nearby Church House. An academic from a continental country described to us the type of in-kind support offered to new mothers. She showed us a photograph of the support offered, such as nappies for a year, different sets of clothes and all sorts of apparatus.

The interesting thing for the noble Baroness, Lady Hollis, and others to consider is that the families could choose to have that package or choose to have the money, but they would get a lot more for their buck with the package, so they tended to choose that. To some degree, that gets around the issue of outsiders making judgments about what is or is not good for people. However, I share the concern of the noble Lord, Lord Freud, that, by focusing too narrowly on financial matters and not giving attention to the benefit of providing services in kind, we may not be giving the best service to these families.

One other thing that comes out of the debate is the importance of people on the front line having excellent training. We must recruit the best, and their supervisors should also be experienced to help them to reflect on their practice. A key thing with social workers is that it is easy to extrapolate from one's own narrow experience and say, "This is right for this family because that is what happened in my family". It is easy to bring one's personal, narrow experience to bear on the lives of others, especially when one has such an influence on those people's lives. I am thinking about social workers. They may make misjudgments and that is why we need to recruit and retain the best people on the front line. We must give them excellent support so that they make judgments that are, as far as possible, in the best interests of their service users.

Another concern is that we use targets too heavily in this country. We measure things to the nth degree and have the most measured children in the world in terms of education results. We do not rely on the judgment of people on the front line. A recent example is that we have not valued CAFcass officers—the old guardians who were the elite of social work. They used to work in courts providing advice to judges, which was very much valued. With the best intentions, we have driven out many of those professionals and have arrived at a bureaucratic approach that is not delivering what we wish for. I am sorry to digress but there is a reasonable case for concern here and I look forward to the Minister's response.

**Lord McKenzie of Luton:** My Lords, this has been a fascinating debate and I thank the noble Lord, Lord Freud, for his amendment. I thought that it would be a rather techie debate beloved of us accountants, but it has been much more profound than that. My noble friend Lady Hollis certainly touched on the circumstances in which you might go about giving in-kind provision rather than cash, as did the noble Earl, Lord Listowel. The starting point of the noble Lord, Lord Freud, is that there is an assertion—by some at least—that in-kind benefits may be a better way of supporting people and helping them out of poverty than cash. The question is whether that is right and how you would go about that, with all the risks and dangers to which my noble friend and the noble Lord, Lord Kirkwood, alluded.

4 pm

A related question is: if in-kind provision rather than cash were determined to be a better route in some circumstances and such in-kind provision were not measured in the targets, would that drive adverse behaviour? One could envisage in some instances a

potential conflict between targets and a strategy, but I stress that the Bill is not only about meeting those targets but also about producing and delivering a strategy. It has to touch on a whole range of issues, including the building blocks. I accept that there could be instances of potential conflict between meeting a target on the one hand and delivering on a strategy on the other. That has to be resolved along the way, and may or may not be in relation to in-kind provision. The situation may evolve in the future, but it is not a reason for not having targets; rather, it is a reason for looking at how those potential conflicts can be resolved.

The amendment refers to, “passported benefits and benefits in kind”.

When I saw “benefits in kind”, I thought that we might at one stage be talking about company-provided vehicles, which is not an unrelated issue. The extent to which those “fringe benefits”, as we used to call them, are captured in the statistics is a subject of constant review. Passported cash benefits such as housing benefit and council tax benefit, where eligibility is automatic if an individual is entitled to income support, are included in the measure of income along with all social security benefits.

The noble Lord, Lord Freud, touched upon delivering services in kind. The Government are committed to measuring the effects of in-kind provision so that they continue to be considered as policy options in the fight against child poverty. As such, the cash values of certain benefits are included in the measure of household income that is currently used. For example, free school meals, free school milk and free TV licences for those aged 75 and over are captured in the data.

In measuring household income, the Government follow the principle that, where receipt of a benefit in kind can on average be accurately captured by the survey, and where the monetary value of that benefit can be sensibly imputed, we attempt to include its value. If receipt cannot be captured satisfactorily, or if the value cannot be established, the value should not be included. This issue was examined in detail as part of a national statistics quality review in 2004. We therefore agree with the objective of including benefits in kind. Attempts are under way to make sure that it is as accurate as possible.

The criterion used to assess whether benefits in kind should be included is whether the overwhelming majority of households would be expected to fund the benefit from their own finances had it not been subsidised. It must be quantified with some confidence and allow repeated and consistent comparisons over time. The receipt of benefit must be prevalent enough for its exclusion to lead to significant biases in the HBAI picture of income distribution as it changes over time. Capturing the data needed to measure it must not require disproportionate analytical effort. We support the thrust of the point on measurement that the noble Lord is pressing, but because we include, where feasible, the value of benefits in kind in our measurement of income, the amendment is unnecessary and I ask the noble Lord to withdraw it.

**The Earl of Listowel:** I may have been incorrect earlier. I said that the Government and local authorities had a target to reduce the number of children taken

into care. I think that they had more of an aspiration to do that and that they may have been considering a target.

**Lord McKenzie of Luton:** I apologise to the noble Earl for not having picked up that point. In any event, I would be happy to revert to him on precisely where we are on it.

**Lord Freud:** I thank the noble Lord for that full answer. He is showing his accountancy background when he thinks about his fringe benefits, on which I have no doubt he has done many calculations. This area is somewhat problematic for the welfare system. When people do the back-to-work calculations and often do not include the passported benefits, the adviser doing the calculations says, “Yes, it is worth you going back to work”, but the person gets back home and thinks, “Well, actually, I’m not sure”—because they will lose out on quite a few other things that have not been calculated. If we reformed the system on the lines that the noble Baroness, Lady Hollis, discussed earlier, with higher disregards and so on, getting monetary values for these figures when trying to sort out the system may be a very important part of it. I would make the point to her that it is one thing to have a presumption that we have some benefits in cash and some in kind. That is the state today. One worries about setting up a targeting system; one drives the system down one road or the other over 10 years. The noble Baroness will be more aware than I am of the daily pressures on politicians and bureaucracy to achieve particular targets. If they are not drawn up very precisely here, they will have effects.

**Lord Kirkwood of Kirkhope:** This is a puzzling point. The noble Lord may be saying that things will completely change when these new targets are in place. I would argue that we have had PSA targets for yonks, and I cannot think of a passported benefit that has ever been lost. Indeed, it is the other way around. With ESA, passported benefits were very carefully protected. My worry is that benefit levels would be so low that we will get more passported benefits, rather than fewer of them. The noble Lord has not persuaded me that passported benefits are more at risk just because we have targets.

**Lord Freud:** Let me make this absolutely clear. Some passported benefits are in cash and are counted. The Minister made that point. There are some that are not, which are the ones at risk. Clearly, housing benefit is counted, as is the council tax rebate, as we will be calling it shortly. I am talking not about those passported benefits, but about the ones that are not cash measured. The Minister explained clearly, for which I was grateful, how many of them were in the basic figure. I do not think that those are the ones under risk; the ones under risk are those that do not have a notional monetary value attached to them, perhaps because it is quite difficult to do. Those may appear at risk, when you look ahead over the decade, without the good will that you would hope for from those who run the system. If one sets up a statutory target system, one

must not assume good will in a bureaucracy and a government. One must assume that they drive behaviour; that is, after all, the intention.

The noble Lord, Lord Kirkwood, was actually getting at what we are driving at here, and I shall use his amendment later to raise the issue. It is the gap between minimum income standards and benefits rates. I am sure that he will refer to that as well. This is the hole that we are talking about; there is a slight mystery going on about how that is filled. This is just one of the ways in which we try to fill it.

Having said that, I am grateful for this important debate about getting these benefits in kind as a full part of the system, if it is decided that they are valuable, in whatever form. The noble Earl made the point that one can design these so that you can choose packages against a cash figure. Indeed, interestingly, the OECD report particularly recommended that approach, so it makes a lot of sense.

We have had a good debate. The Minister has made a clear response. The importance of “in kind” should be thoroughly measured but, for the time being, I am pleased to withdraw the amendment.

*Amendment 11 withdrawn.*

**Baroness Crawley:** This may a convenient moment for the Committee to break for 15 minutes.

**The Chairman of Committees (Lord Brabazon of Tara):** The Committee stands adjourned until 4.27 pm.

*Committee adjourned at 4.12 pm.*

4.27 pm

#### *Amendment 12*

*Moved by Lord Freud*

**12:** Clause 6, page 3, line 13, at end insert “so as accurately to reflect relative costs”

**Lord Freud:** My Lords, the amendment is driving at whether the method of equivalising households selected here is the best one. The decision was taken to use the modified OECD scale in 2006, which was a move from the McClements scale for measuring poverty. The McClements scale worked by giving the first adult a weight of 61 per cent, the second 39 per cent and then further weights to additional household members, ranging from 9 per cent for an infant to 42 per cent for an additional adult.

The modified OECD scale is much cruder. It assigns a value of 100 per cent to the household head, 50 per cent to each additional adult and 30 per cent to each child, regardless of age. According to Policy Exchange, the extra weighting of very young children in the modified OECD scale pushed up the child poverty rate by 100,000 children when the switch was made, according to the report *Poverty of Ambition*.

We here face a conflict between targeting and comparability. The modified scale was chosen because it made our figures comparable with those of other

EU states. However, targeting is different to comparing. If a scale is wrong and is a target, we will end up spending money and taking initiatives which are not targeted at the right people. If this was the case, we would be better off in using a scale which was a better match with the real world for the sake of our targets, and providing another set of figures for comparative purposes. It would, after all, be matter of a few strokes of the keyboard to adjust the figures to produce them in both ways.

The evidence that we are using the wrong equivalence scale is pretty strong. I am indebted to the excellent paper by Jonathan Bradshaw of the University of York’s Social Policy Research Unit for focusing the concern. He points out that the scale used for benefits and tax credits originated with the Rowntree poverty standard in 1936, as adopted in the Beveridge report and altered by successive ad hoc up-ratings. They have never, according to his paper been rebased against a minimum income standard, or any other evidence or understanding of what families need.

The McClements scale was based on an econometric analysis of household expenditure data from 1978 onwards. However the OECD scale was derived as a consensus of scales used by national Governments. This, according to Bradshaw, “had no basis in science”.

He continues:

“For reasons that remain obscure, the Statistical Office and the European Union (Eurostat) decided that their original scale was too generous to children and modified it”.

That is the ugly history of equivalence.

Bradshaw’s paper compares a minimum living standard with the modified OECD equivalence scale and concludes that the scale is,

“underestimating the relative needs of singles of working age and families with children. It therefore underestimates their poverty rates and overestimates the poverty rates of childless couples and single and couple pensioners. In fact the original OECD scale was a closer fit with MIS”—

minimum income standards.

The amendment seeks to make sure that we do not build in expensive distortions to our support for the poor simply to save a small amount of effort by our statisticians when they supply data that can be compared with that of other countries. I beg to move.

**Lord Kirkwood of Kirkhope:** My Lords, I am a great fan of Jonathan Bradshaw and the noble Lord, Lord Freud, has done the Committee a service by bringing this rather technical but nevertheless important subject to our attention.

There is a value in the consensus on the OECD figure but the noble Lord is quite right to say that there is no scientific basis behind it. Presumably the Child Poverty Commission would be able to commission figures of its own and, if McClements’s or any other figures were better, presumably it could make it its business to find out what they are and implement them. In this country we have a body of academic experts in this field which is second to none across Europe. There are many experts in the Scandinavian countries but they come from a different environment, as do many other European experts.

[LORD KIRKWOOD OF KIRKHOPE]

We have got good people and there are better scales; I do not see why the commission cannot take advantage of that. I am sure the Minister will confirm that there is nothing in the Bill that would stop the commission looking at other equivalence measures, if it felt that children were being under-represented. It is a technical business. I am not a statistician by any stretch of the imagination, but I have serious doubts, and I concur with the view of the noble Lord, Lord Freud, on this issue. We should look at it very carefully during the passage of the Bill.

**Baroness Hollis of Heigham:** My Lords, the noble Lord, Lord Freud, is right to remind the Committee that an academic debate about the equivalence scales is currently taking place. Although he did not mention it, it always strikes me as very odd when I am trying to work out—with or without help from other people—whether a particular benefit payment is above or below the 60 per cent line, when the key issue is whether the child is 13 or 14. At 14 they get a completely different equivalence scale—equivalent to an adult—from the one they get at 13. At that point, according to whether you are dealing with two children aged 8 and 13 or two children aged 8 and 14, it depends on whether the payment received is deemed below or above the 60 per cent line. There are clearly questions to explore.

Perhaps the noble Lord will help me with this issue. All the reports seem to say in common that within the benefits system couples without children—married couples, cohabiting couples, couples in stable relationships—are overprovided for in the benefits system rather than the reverse. Does not this suggest that he and others have misunderstood the issue of the marriage penalty, or the couple penalty, in benefit provision when, on his own evidence, they are already overprovided for compared to single people, such as lone parents with children? Does this not mean that he and his party have to rethink their whole policy area as a result of the helpful analysis he has given today?

**Lord Freud:** I always appreciate the noble Baroness's comments on my amendments. The interesting thing about this area is that, according to the MIS figures produced by Professor Bradshaw, the people who seem to be underpaid against any kind of income scale are those with children.

**Baroness Hollis of Heigham:** A large number of children.

**Lord Freud:** At every level. Funnily enough, the noble Baroness should welcome an approach that looks at rebalancing that because, if anything, it would provide more support for couples with children, rather than the opposite, which is what I think she was arguing.

**Lord McKenzie of Luton:** My Lords, I thank the noble Lord, Lord Freud, for his amendment, which, again, has prompted an interesting debate, if somewhat shorter than our previous one.

Amendment 12 seeks to specify that the method used to equalise household incomes—that is, to adjust them for household size and composition—should be accurate in reflecting relative costs of living. The Government wish to assure noble Lords that the methodology used to measure progress towards child poverty targets is as unbiased and technically sound as possible. As the noble Lord recognised, we use the modified OECD equivalisation scale, which is used for comparisons across Europe and was chosen after extensive consultation in 2002-03 on measuring child poverty. Although it was used for comparison, it was not driven for that particular reason, as I understand it. However, as my noble friend Lady Hollis said, there is an ongoing debate among academics about the performance of the OECD scale for different household types. I acknowledge the Joseph Rowntree Foundation report, which concluded that using the current equivalent scale underestimated the additional income needs of families with children and the extra costs of single-person households. Therefore, we were underestimating the poverty rates of families with children and single-person households and overestimating the poverty rates of childless couples and single and couple pensioners. I think that that was the import of the report.

The noble Lord referred to the scale that we used to use and the fact that we had changed from it. Regardless of the scale used—and the scale currently used is the international benchmark—the relative risks of poverty across household types tend not to change. The change in 2004-05 to the OECD scale had the effect of increasing the total number of children in relative poverty but in general did not change the risk characteristics of children most at risk of poverty. Therefore, the choice of equivalisation scale in that context does not overly affect which types of household are most in need and hence will not affect our policy responses.

Clearly this is a matter on which there will be ongoing significant debate and analysis, and we need to make sure that we use best practice when dealing with these matters. We have no plans to switch from the current equivalisation arrangements but we need to engage in that debate. I ask the noble Lord to withdraw his amendment.

**Lord Freud:** I thank the Minister for that response. I note that Clause 6(1)(e) states that regulations may be made about,

“how net household income is to be equalised”.

In practice, it leaves it free for the Government of the day, whoever they may be, to optimise the equivalence scale in the way they want. At one level, my amendment was probing in order to raise the importance of this issue. Interestingly, Professor Bradshaw in his conclusion said that the unmodified OECD scale is a rather better fit to minimum income standards than the modified one. As I read his conclusion, it was a fairly arbitrary change. The core point I wished to make was that choosing an equivalent scale for the convenience of making comparisons does not mean that we have to be tied to that scale when we are setting statutory targets that really matter for child poverty. I think that the Bill as it stands would allow that to happen but, before I withdraw the amendment, I ask the Minister to confirm that my understanding is correct.

**Lord McKenzie of Luton:** The noble Lord is correct to say that Clause 6(1)(e) states that regulations may propose,

“how net household income is to be equivalised”.

That is absolutely right. However, this does not occur just at the whim of the Secretary of State. Affirmative regulations would have to be laid and therefore there would be debate around it. I believe that we have included in the Peers’ information pack draft regulations which cover this point. It would not be just a case of a stroke of the pen of the Secretary of State. It would have to come before your Lordships’ House and the other place and there would be an opportunity for a full debate around that.

**Lord Freud:** I thank the Minister for that clarification. It is entirely appropriate that a matter of such significance as equivalent scale should be debated in the context of a regulatory framework; in other words, a debate without the whole paraphernalia of a Bill. That would clearly be a much shorter process, of which I would approve. However, that is a matter for Parliament to decide. The issue may be very technical but it is also very important. I am satisfied with the situation and I have explored the point. I beg leave to withdraw the amendment.

*Amendment 12 withdrawn.*

*Amendment 13 not moved.*

#### *Amendment 14*

*Moved by Baroness Thomas of Winchester*

**14:** Clause 6, page 3, line 18, at end insert “and the costs associated with disability”

**Baroness Thomas of Winchester:** My Lords, this amendment would ensure that account is taken of the costs associated with disability, either by excluding disability benefit from the measurement of income or by taking account of the costs of disability. The words in the amendment would be added to the end of the sentence which explains what “equivalised” means in relation to household income, so that account would be taken not just of variations in household size and composition but also the costs associated with disability.

We have just had a debate about equivalent scales. I acknowledge immediately that the whole business of equivalising incomes to take account of the costs of disability is not easy. People’s living standards are measured by their income and if there is a disabled person in the house the weekly income is likely to include disability living allowance, which is a non means-tested benefit. I declare an interest as I receive it. DLA is awarded for the higher costs of keeping mobile, if one is disabled, and for extra care, so it should reasonably be discounted as part of ordinary disposable income because it is not spent on what an able-bodied person would spend disposable income on. However, the figures are surprising in that it turns out that there is not much difference in the number and percentage of children in relative poverty, using income figures that include and exclude DLA. Why is this? We all know that the costs of disability are often high and that families with either a disabled adult or

disabled child, even with disability living allowance and possibly attendance allowance, are poorer. Perhaps the poorer families do not claim these benefits as much as better-off families do. I have spoken before many times about the daunting process of applying for DLA, even with the simpler forms. One has only to look at some statistics appertaining to disability. Just to repeat a few that I mentioned at Second Reading, families with disabled children are more than 50 per cent likely to be in debt; only 16 per cent of mothers with disabled children work, in comparison with 62 per cent of mothers with non-disabled children; and one in six families with disabled children goes without essentials, such as food and heating, due to lack of money.

*4.45 pm*

I fully accept that at the moment there is no agreed way in which to equivalise income to take account of the costs associated with disability, but we should surely know which are the households with children in which someone has a disability. If just knocking off someone’s disability benefits is not possible when assessing household income, should we not have a process to scale disability, such as happens with the numbers of people in the household and their ages? We should not just leave the whole question of the cost of disability to the material deprivation indicator, although I have an amendment to Clause 8 that would cover disability. This is an important matter, even if it is a difficult one, and I should be glad to hear if the Minister can give me any comfort. I beg to move.

**Lord Freud:** My Lords, once again I have a great deal of sympathy with the noble Baroness’s concern that financial targets do not become a wholly inadequate proxy for assessing the well-being and deprivation of children. As I noted when I responded to her Amendment 2, many costs are unavoidable for some families but not others, which will inevitably lead to significant differences between different families on exactly the same nominal income. I hope that the Minister will confirm that the Bill allows for discretion on whether disability benefit must be accounted for in the definition of household income. As I understand it, while household income is specifically defined in Clause 6, there is nothing to prevent a future Government ensuring that the regulations follow the noble Baroness’s amendment. Is that the case? If so, I should prefer to see remain the flexibility as currently drafted. There is already too much prescription in the Bill on what constitutes an acceptable income for widely differing families, and I should not want tie the Government’s hands to a potentially inaccurate equivalisation formula.

**Lord McKenzie of Luton:** My Lords, I thank the noble Baroness, Lady Thomas, for her amendment. I suspect that she has anticipated my response, but if she will allow I shall give it anyway.

The effect of this amendment is to equivalise net household income to take into account the costs of disability, when measuring progress on the four child poverty targets contained in the Bill. The rationale behind the amendment is that households with a disabled member, be that a disabled adult or a disabled child, often incur extra disability-related costs, which

[LORD MCKENZIE OF LUTON]

affects the amount of income they have to maintain their standard of living. We touched on the issue at Second Reading debate, and a very similar amendment was debated in Committee in the other place.

We recognise that families with a disabled member are significantly more likely to be in poverty than families with no disabled member. That is not acceptable, and the strategies that this Bill requires must address that issue. However, as the noble Baroness acknowledged, the links between disability and poverty are many and complex. Analysis by the Institute for Fiscal Studies suggests that it is not the presence of disability which makes families with a disabled member more likely to experience poverty; it is related to other factors, such as being in a workless household or lone parent family.

The Child Poverty Unit has carried out a thorough review of the evidence base to help us better understand the causes of poverty, including analysing which groups are most at risk of poverty. We anticipate that the strategy required by Clause 8 will outline whether specific action to meet the needs of the most vulnerable groups of children and families, including children in families with a disabled member, is required. This could include, for example, addressing the particular issues facing these families such as the difficulties in finding suitable childcare for disabled children, particularly older disabled children. We are confident that the strategies will help to address the issues facing these families. Indeed, it will be very difficult to meet the child poverty targets without considering particular measures for the groups most at risk of poverty.

As an aside at this juncture, arising from a conversation that I had this morning, I am trying to set up a mini-seminar with the Child Poverty Unit between Committee and Report to give it an opportunity to better and more fully explain the sort of work that it is doing. That may help to inform our deliberations further.

I would also draw noble Lords' attention to the draft regulations relating to the local needs assessment to be made under powers in Clause 21. A draft of these regulations was provided in the Peers' information pack, although I stress that we are currently working with partners in local government to develop these further. Noble Lords will note that the list of matters to be considered in a local needs assessment includes, on page 48, the number and proportion of children who live in a family where a child is disabled. The intention is to ensure that local authorities take the needs of disabled families into account when preparing their local child poverty strategies, which Clause 22 requires to be based on the needs assessment.

Returning to the amendment, I would like to be absolutely clear that we recognise that the issue of equivalising incomes to take account of the costs of disability is a difficult one. We recognise that there are additional costs associated with disability. However, as mentioned at Second Reading, research shows these vary significantly in level and nature, and there is no general agreement on how to measure these costs. Therefore, while we understand the difficulties of this

issue, there is currently no generally agreed method to equalise income to take account of the costs associated with disability.

I reassure noble Lords that this does not mean that the extra costs of disability are not picked up at all by the child poverty measures in the Bill. The combined low income and material deprivation indicator, set out in Clause 3, allows a fuller assessment of the living standards of those households facing particular difficulties due to high living costs, including those associated with disability. This indicator will capture families who have an income that is higher than that captured by the relative low income target, but who have a lower standard of living because of additional costs, such as those related to disability. I hope noble Lords will understand that due to the variable nature of the costs associated with disability, it is difficult to equalise income to take into account the costs of disability in the way proposed by the amendment.

The noble Baroness referred to the data about whether we included DLA and the fact that it did not make much difference to the outcome of the assessment. That is, in part, because it has an impact on median income as well as the income of individual households. The noble Baroness referred to the take-up of disability benefits. A good deal of work is being done to improve take-up of benefits. The Pension, Disability and Carers Service is taking the lead in discussing changes to the delivery of benefit advice and has met the Department of Health to explore practical ways of delivering benefit advice closer to the point of diagnosis—for example, in hospitals. From 2008 we would expect everyone with a long-term condition or need for support and their carers routinely to receive information about their condition that includes sign-posting people to information and advice about benefits.

In the five years to February 2009, the number of people receiving DLA increased by nearly 16 per cent—by more than 3 per cent in the last 12 months alone—and take-up of attendance allowance increased by around 2.4 per cent in the last 12 months. Progress is being made.

The noble Lord, Lord Freud, asked whether it is possible under the Bill to change what is included as income. The answer to that is yes, because what is regarded as the income of the household for a financial year is the subject of regulations—it takes us back to our discussion of the provision at Clause 6(1). The regulations would again be subject to affirmative resolution. We have circulated draft regulations with the caveat that discussion is still going on. A process is therefore in place and the items set down in Clause 6(1) are the subject of regulation. I could not conceive of the noble Lord having the opportunity to promote these things, but if they ever came his way, there is a mechanism for government to change these matters. I hope that the noble Baroness will withdraw her amendment.

**Baroness Thomas of Winchester:** I am very grateful to the Minister for that reply and to the noble Lord, Lord Freud, for his sympathy with my amendment. The Minister's reply was not surprising, but it was worth flagging up at this point the high costs faced by

people with a disability. I warn the Grand Committee that I shall return to this matter shortly. It is very good news that take-up of DLA is increasing, but, even so, it is still underclaimed because of the daunting nature of the forms. I just hope that some information about it will be made available in doctors' surgeries, where a lot who are not captured in hospitals or elsewhere, can be made aware. I shall study the Minister's reply. In the mean time, I beg leave to withdraw the amendment.

*Amendment 14 withdrawn.*

*Amendments 15 and 16 not moved.*

### **Clause 7 : The Child Poverty Commission**

#### *Amendment 17*

*Moved by Lord Freud*

**17:** Clause 7, page 3, line 25, after "the" insert "Family and"

**Lord Freud:** My Lords, the amendment would change the name of the commission from the Child Poverty Commission to the Family and Child Poverty Commission. This amendment and Amendments 46 and 75 aim to eliminate inconsistencies in the Bill, both in the drafting and in the Government's focus.

Quite rightly, the early clauses seeking to measure the income that benefits a child use the income of the household. This is unavoidable since, as we have heard more than once in your Lordships' House and another place, children do not have an income as such. The Government's research report quite rightly noted that, "because it is not clear how well the measures of living standards relate to the children, this report uses the formulation 'households with children'".

For a few clauses, therefore, the Government have accepted that children, and the families in which they are brought up, are inextricably linked, but this is not the case in later clauses. In my three amendments in this group, I have sought to ensure that the commission is able to keep families, not just children, at the front of its activities. It is extraordinary that the duties placed on this organisation do not suggest that it is at least as important to consult parents as it is children.

I am sure that the Minister will point out that if the commission wishes to consult the family as a whole, it may do so under catch-all Clause 9(4)(d), which is true. However, I am sure that he will admit that the Bill seems to imply that the commission's focus is on researching what children think they need and not on the difficulties that families might have in providing for those needs.

In another place, our honourable colleagues heard some very interesting evidence from a variety of organisations involved with the families whom this Bill is intended to benefit. One organisation in particular raised the question of the impact of maternal nutrition on the future health of the child. How can the commission be expected to provide advice to the Secretary of State if its duties do not cover such a matter? If the commission

is to be the expert body that we hope it will be, it must be able to inform itself about possible causes and not confine itself to the concerns of children. I beg to move.

*5 pm*

**Lord Northbourne:** My Lords, I am a little confused by the introduction to the amendment proposed by the noble Lord, Lord Freud, because he seems to have added a complication to the Bill. As I understood it, this is either a Bill about household income or it is a Bill about child poverty. However, the noble Lord has now introduced the idea of family poverty and family income. These days, families are not the same as households. They used to be but they are not today. We have to think clearly about what we are trying to do. Perhaps the noble Lord can clarify his thinking on this.

I do not know whether it would be extending the debate too much if I mentioned Clause 7(2), which states:

"The Commission's functions are those conferred on it ... under this Act".

That is extremely relevant to what I have been saying. Can the Minister explain, perhaps in writing, exactly where in the Bill those functions are clearly set out, because I cannot find them in any unequivocal form?

**Baroness Walmsley:** Before I comment, is the noble Lord, Lord Northbourne, intending to speak to his amendments in the group?

**Lord Northbourne:** I did not understand that I had an amendment in this group.

**Baroness Walmsley:** Amendments 48 and 77. It might be better if he spoke to them first.

**Lord Northbourne:** I certainly will speak to them. I had forgotten that this morning I was telephoned and asked whether they could be grouped.

The purpose of my amendments is very simple and very important. As it stands, the Bill makes a point of saying that the commission and the Secretary of State must listen to children and organisations which support and work with children. It is an objective that I totally support. However, we need to think very carefully about whether we want the commission to consult parents and families. If we do not include that in the Bill, I think that we will be making a huge mistake. The reality with young children is that their parents make the decisions. There is a relationship between household income and child poverty. Therefore, if parents' views are not sought on what happens to the money between it coming in and some of it being spent on the child, that will, in my humble opinion, be completely daft. I very much hope that the Minister will feel the same way about it and accept my amendments.

**Baroness Walmsley:** We on these Benches entirely agree with the noble Lord, Lord Freud, when he says that the welfare of children is inextricably linked to their families. However, not for the first time, we prefer

[BARONESS WALMSLEY]

the solution of the noble Lord, Lord Northbourne, to that of the noble Lord, Lord Freud. We support the call by the noble Lord, Lord Northbourne, for the commission to have an obligation to consult parents because, as he rightly said, they, more than anyone else, have more influence on what happens to children, and rightly so.

However, we cannot agree with the amendments of the noble Lord, Lord Freud, because the Bill is about children in poverty; his changes would make it a Bill about all families in poverty. Many groups of people who might legitimately call themselves families do not have children in the household. For example, a husband and wife, his elderly mother and her disabled sister may all be adults in the household. It would be inappropriate to insert the reference to “family” in the various places the noble Lord, Lord Freud, has suggested. That is not because we do not agree that families have an enormous influence on the welfare of children—of course they do—but because we feel that that wording is not appropriate in this Bill.

**Lord McKenzie of Luton:** My Lords, I thank the noble Lords for their amendments and the noble Baroness, Lady Walmsley, for her contribution to our deliberations thereon. The amendments are grouped together as they relate to families or parents in one way or another.

Amendment 17 seeks to alter the title of the Child Poverty Commission. As the noble Lord, Lord Freud, will be aware, the Bill we are debating is the Child Poverty Bill, which is about helping children out of poverty. Noble Lords will be aware that the title of the Bill was discussed in the other place, where honourable Members from the opposition Benches sought to change the name of the Bill to include family poverty. This was rightly resisted as the focus of the Bill must be on the child, not the child’s family. The lobby agrees with us. In its response to the Bill consultation, CPAG stated:

“The child poverty legislation is an opportunity to ensure policy clearly puts children’s needs first”.

The Bill will create the Child Poverty Commission, which will play a huge part in helping the Government formulate the most effective policies to tackle child poverty. The existing title, “Child Poverty Commission”, is important as it sets out clearly what the commission is being set up to address.

The noble Lord, Lord Northbourne, asked me to explain where the functions of the commission are set down. They are in Clause 9 and, in particular, at paragraph 17 of Schedule 1. They are focused on providing advice on the child poverty strategy and the targets to the Secretary of State and the devolved Administrations.

It is important to ensure that the work of the commission is focused on looking at what works best for tackling child poverty. While family poverty is important and, in practice, a large part of helping children in poverty involves engaging with their families, there will also be some areas that focus solely on the child—for example, narrowing the attainment gap in education. The Bill provides the best opportunity yet

for the focus to be on the child and remain on the child, which will enable society as a whole to tackle child poverty on the way to its elimination. Altering the name of the commission would dilute this focus and be misleading about its role. I hope noble Lords will accept my reassurance on that point.

Amendments 46, 75, 48 and 77 all relate to consultation with families or parents. Amendment 46 would require the Secretary of State, in preparing the UK strategy required by Clause 9, to consult directly with families or organisations representing children. Amendment 75 would require responsible local authorities, in preparing or modifying a joint child poverty strategy required by Clause 22, to consult directly with families or organisations representing children. Amendment 48 would require the Secretary of State, in preparing the UK strategy required by Clause 9, to consult such parents or organisations representing parents as the Secretary of State thinks fit. Similarly, Amendment 77 would require responsible local authorities, in preparing or modifying a joint child poverty strategy required by Clause 22, to consult such parents or organisations representing parents as the Secretary of State thinks fit. These amendments are similar to those tabled in the other place on Report.

As I have said, the Government’s intention has always been that the child poverty strategy should be informed by the views of children and their families, particularly those with direct experience of poverty. It is for that reason that we will accept the amendments tabled by the noble Baroness, Lady Walmsley, which explicitly put the requirement to consult directly with children into the Bill.

Article 12 of the UN Convention on the Rights of the Child confers rights for children to express their views on matters affecting them and for those views to be given due consideration. We are adhering to the convention and, accordingly, the Bill requires consultation with children. Since we accept that we will be consulting children directly, I do not consider that these further amendments would benefit the Bill.

Having said that, I assure noble Lords that in practice we are likely to consult the children’s parents or wider families, but I do not see that an explicit reference to either families or parents is necessary. I draw noble Lords’ attention to Clause 9(4)(d), which includes a provision for the Secretary of State to consult such other persons as he or she thinks fit. The noble Lord, Lord Freud, anticipated that that provision might be referred to. I have little doubt that the needs of parents and families will be considered through the process of consulting organisations representing children, as the needs of both groups are not mutually exclusive. There is also the requirement in paragraph 4 of Schedule 1 for members of the commission to have experience or knowledge of work with children and families experiencing poverty.

On a more practical note, Amendments 46 and 75 pose some drafting difficulties. It is not entirely clear what is meant by “families”, a point referred to by the noble Baroness, Lady Walmsley, and, for another reason, by the noble Lord, Lord Northbourne. Does this refer to all parents? If so, would that definition include parents of grown-up children? The word “family” also

applies to families that have no children, and there seems to be no benefit in requiring the Secretary of State to consult with that group of people—this is, after all, a child poverty Bill. A duty to consult families is effectively a duty to consult the general public at large.

I understand and appreciate the concerns that the noble Lord, Lord Northbourne, raised at Second Reading, that the Bill does not have enough regard for parents. I reassure him and other noble Lords that the views of children and their families are of the utmost importance to us, and indeed steer us in formulating our policy. The Bill is unashamedly focused on children. They are our focus and our priority, and it seems neither helpful nor appropriate to have in the Bill a requirement to consult parents as well as children.

I turn specifically to Amendment 77. It is not clear whether this is intended to make reference to the Secretary of State or whether it should instead say “the authority”, as do paragraphs (a) and (b) of Clause 22(6). Part 2 of the Bill places responsibility with local partners, as we believe that they are best placed to tackle local child poverty. It therefore makes sense for the local authority to decide which organisations to consult and not the Secretary of State, as proposed in the amendment. This may just be a matter of drafting. Even so, I am concerned that accepting these amendments would not help us to focus on the concerns and needs of the children that the Bill is about. It is consultation with children and organisations representing them that will help us to make our strategy more effective.

I strongly believe that the Bill already goes a long way to ensuring that the views of children and their families are properly taken into account. This will be strengthened by the amendments tabled by the noble Baroness, Lady Walmsley, which we will support. I hope that noble Lords will be able to withdraw their amendments on the basis of that reassurance.

**Lord Freud:** My Lords, in his response, the Minister begged the point at least three times that this was a child poverty Bill and therefore we must keep it confined to child poverty. The reality is that it is no such thing. If you were to define it correctly—here I am following a point that the noble Lord, Lord Northbourne, made on Tuesday—it is not a child poverty Bill but a relative households income Bill. That is what the targets measure. They do not measure child poverty, but the relative poverty of households. On that basis it becomes quite ingenuous to argue that you cannot accept particular things because they do not deal directly with child poverty. These targets do not deal with child poverty.

5.15 pm

I made it quite clear when I introduced this amendment that it was trying to eliminate an inconsistency in the Bill, which moves from targets that are based on relative household income—a target of a 60 per cent median income for households. That is not dealt with in these clauses. Of course, the relative household income Bill is a rather less exciting title and may not have appealed as much to the Government. If we are talking about child poverty, a Bill which confines itself to income targets of households and ignores child

well-being virtually entirely in the targets—as noble Lords know, we are trying to put such targets into the Bill—misses a huge opportunity.

I am most prepared to stand corrected on drafting. The noble Baroness, Lady Walmsley, and the noble Lord, Lord Northbourne, cavilled, though that is not a nice word—

**Baroness Hollis of Heigham:** They were reluctant to endorse.

**Lord Freud:** I thank the noble Baroness. They were reluctant to endorse the use of the word “family”. I accept the point of the noble Baroness, Lady Walmsley, that the Bill is not designed to capture the families of grown-up adults. Clearly, there was no intention to do so when I designed the amendment. If the amendment is inadequate, there is a way to capture the point, which is that we are looking at the child and parents as a unit. If that is of interest to the rest of the Committee, or even among the Government, I am prepared to come back at a later stage with an amendment that captures that concept. I would be willing to give way at this stage to the noble Baroness, Lady Walmsley, to learn her reaction to that proposition. I see the noble Baroness making a gesture. What a tragedy that we cannot have her words on paper at this point.

**Lord McKenzie of Luton:** Can I come back to the noble Lord on his point about this being a relative income Bill that should be labelled as such? The noble Lord knows full well that that is not the case. The heart of the Bill is about the strategy; it is about making sure that children do not experience socio-economic disadvantage. Yes, there are targets which help us to measure progress, and those targets are predominantly income-focused. The noble Lord has also looked aside from the material deprivation component of one of the targets. The heart of the Bill is about eradicating and illuminating child poverty in our country. That is what the strategies require. The building blocks are there for the framework to make that happen.

The noble Lord also mentioned well-being. If he looked at the draft regulations that we have circulated about local authorities and their needs assessments, he would see that they are a key part of how we will make progress on this. One provision says that the needs assessment must include for the local area and each part an assessment of well-being, as related to matters set out in Section 10 of the Children Act 2004. The noble Lord claims that this is all about relative income, but that is absolutely not the case. I hope that, after these debates, the noble Lord will accept that.

**Lord Freud:** My Lords, I thank the Minister. However, I will stay unrepentant on the point. The hard statutory targets in here are about relative household incomes, including material deprivation, which is a very closely related measure. There is a difference between us in this area. We are trying to incorporate in just as tough a way, in terms of statutory targets, an approach that aims to tackle the causes of poverty. That is a difference and we have gone through it on several occasions.

**Lord McKenzie of Luton:** If the noble Lord would permit me, we really ought to nail the idea that somehow the Government's intent and the thrust of this Bill is about not focusing on the cause of poverty. That is what the strategies are all focused on and should drive. The noble Lord may argue that we ought to try to measure that in a variety of ways—we can have a debate and maybe a disagreement on that—but to say that Clause 8, in particular, and what comes from it is not about focusing on the causes of poverty and addressing, challenging and changing them is far removed from all our discussions to date and from the reality of the Bill and everything that surrounds it.

**Lord Freud:** I thank the noble Lord for letting me respond to that. We have had many years of targets and we have learnt a lot about them. As the Minister will know, our party is very concerned about the impact that targets have had across the economy. The problem has been that unfocused targets produce effects that you do not want or expect. We have spent a lot of time discussing this. One of the reasons why we have put together a lot of amendments in this area is our concern that we may have a set of targets here that produce perverse outcomes of the kind that we have seen in other areas.

**Baroness Hollis of Heigham:** I remain completely baffled. What seems to be going on is that part of the time the noble Lord seems to accept that there is a difference between targets—which are about income and are tight, precise, quantifiable, measurable and, we hope, deliverable—and strategies, which deal with the much broader issues of the child's well-being, which we all want to see ensured. This goes back to a much earlier debate when the noble Baroness, Lady Walmsley, and I said that we can all add to the list. The noble Lord cannot turn strategies into targets and then think you are actually doing something useful. All you can probably do is say that the number of teenage pregnancies has gone down, or the amount of addiction has gone down, or the incidence of mental ill health has gone down. The noble Lord seems to spend his time moving between the vocabulary of targets and the vocabulary of strategies and trying to turn strategies, which are much more holistic—that is why they are treated separately under the scrutiny of the commission—into targets. You cannot quantify, measure or deliver strategies in the way he wishes. That is why they are not targets.

**Lord Freud:** I am very grateful indeed to the noble Baroness, Lady Hollis, for that point. We are coming back to this again and again; we are right to do so because it is the heart of the issue. The heart of the issue is that if you have purely financial targets, the way in which they can, and most likely will, be interpreted is that they can be financially adjusted. Our concern is that research tells us that a pound earned is worth more than a pound transferred. In other words, we want to get into a position where we are supporting families to become independent rather than transferring money because we have failed to make them independent. We would like to have the emphasis—

**Baroness Afshar:** I am slightly worried about that statement because evidence shows that since the 1930s

the single most effective contributor to alleviating child poverty has been family allowance, which I am sure is hard-earned by mothers but which might be defined as handed out.

**Lord Freud:** Again, I am grateful to the noble Baroness, Lady Afshar. I am slightly hesitant because I cannot quite place who it was, but I think it was an analysis by the Child Poverty Action Group that came out very clearly showing this balance between the different values of pounds. I will come back with a precise reference on that when we next meet.

What we are driving at is that it is perfectly possible to have measures of some of the things that are most closely correlated with poverty. It may be that we do not have them well enough yet but over a 10-year span it is perfectly possible to build that evidence base, whether it is on how many people are addicted and to what or on other issues. If they are addicted, it is not just a question of saying, "Ooh, they are addicted," and the figure has gone up or down; one needs to develop strategies to reduce the figures. We may find that the most effective way of doing that is to put a large number of treatment centres in to try to solve particular problems that come up on the key factors that correlate with poverty.

That is the reason. The financial targets do two things: they are targets and they are manipulable. You can do things with income transfers. The IFS has told us that if you were to do it purely through income transfers it would cost £19 billion in 2020. I think that is an underestimate. I have seen other estimates of £30 billion to do that. We risk having an unbalanced Bill because we have only the financial targets; we do not have this balancing set of targets based on the real causes of poverty. There is a difference between us and I am happy to acknowledge it.

**Lord McKenzie of Luton:** We could spend for ever on this and doubtless we are going to come back to it time and again. Notwithstanding what the noble Lord has just said, to assert in the midst of that that the Bill is not focused on the causes of poverty is not sustainable. The noble Lord may think that our targets are inappropriate and that other targets might be produced in the fullness of time that would better help us to measure progress—we may differ on that point—but to say that we are not focused in this Bill on the causes of child poverty simply is not the case. He has made some assertions around a pound of income transferred and a pound of income earned. For a long time, since 1997, it has been at the heart of this Government's policies to focus on the importance of work where people are able to engage in it. The noble Lord himself was an adviser to one Secretary of State. I do not have his statement with me but perhaps at the next Committee session I will bring it along and quote all the fulsome things he said about the real progress that the Government have made in these areas. The significance of work and how it helps people out of poverty is not a disagreement between us in principle. However, I urge the noble Lord please not to continue with his assertions that the Bill is not focused on the causes of poverty, because it is.

**Lord Freud:** Maybe we could each withdraw sets of assertions about each other, but for the time being on this particular matter I beg leave to withdraw the amendment.

*Amendment 17 withdrawn.*

5.30 pm

*Amendment 18*

Moved by **Baroness Walmsley**

**18:** Clause 7, page 3, line 39, at end insert—

“( ) In formulating its advice, the Commission must consult children and have regard to their wishes and feelings.”

**Baroness Walmsley:** In moving the amendment, I will speak also to Amendments 47, 56 and 76, which I grouped with it in the hope of expediting progress—partly because they are all about the voice of the child. For that reason, I hope that we can polish off this group fairly quickly. We have had a delightful amount of agreement across the Room on the last three amendments and I thank the Minister for adding his name to them. That now means that the Government, the devolved Governments and local authorities all have to speak directly to children in working out their strategies.

However, Amendment 18 is about the commission. In another place, the Government introduced an amendment to enable the commission to request the Secretary of State to commission research on its behalf. That will fill in any gaps in knowledge, provide information, develop expertise and help the commission to be able to provide better advice. If the Secretary of State refuses that permission, the Government will have to explain why. All that is very welcome.

However, we feel that it must be clear that the commission can call witnesses. In particular, it needs to be able to listen to children and their parents directly. Indeed, it is vital that the commission is obliged to listen to the voice of the child in the same way that the Minister has just agreed that the Government themselves, the devolved Governments and local authorities must. It is inconceivable that the commission could reach conclusions about what advice to give Ministers without consulting children directly. The sorts of people that have been appointed to the commission are the sorts of people who know very well how to consult with children directly. I am puzzled about why there is no mention of a duty to consult children in the section on the commission.

Will the terms of reference specify that the commission can and should call on children and their families to provide evidence? Indeed, will the commission have adequate resources to do that? Perhaps the Minister can say so. I beg to move.

**Lord Freud:** My Lords, as the noble Baroness, Lady Walmsley, notes, her Amendment 18 has been overtaken by the later amendments that have been accepted by the Minister. Notwithstanding my criticism of the drafting of these paragraphs when we debated the last group of amendments, I agree entirely that children and children’s groups should be consulted in the drawing up of the strategy.

As I hope I made clear on Tuesday, one of my primary concerns with the Bill is that it focuses attention on the income of a household in place of the experience of the child within that household. Consultation is an important part of ensuring that the material deprivation criteria used to measure the second target are appropriate. It is also critical in assessing whether a measure is achieving its desired purpose or is failing to make a difference on the ground.

I would be interested in hearing a little more from the Minister about the methods used by the Government to consult children directly rather than through the organisations that represent them. Does direct consultation happen now, or does the Minister anticipate the commission developing new methods of collecting views?

**Lord McKenzie of Luton:** My Lords, I will be brief about these amendments and thank the noble Baroness for moving them. As she is aware, we are in agreement and happy to accept those amendments. In relation to Amendment 18, however, I am afraid that we are not quite in the same place. It would require the commission to consult directly with children and have regard to their wishes and feelings “in formulating its advice”.

I reiterate that we are committed to listening to the views of children and young people when formulating policy. We always seek to consider their wishes and feelings. As I said, it will always be our intention that the child poverty strategy should be informed by the views of children, particularly those with direct experience of poverty. For that reason, we have accepted the amendments that I just identified.

However, as there is already a duty on the Secretary of State to consult directly with children, I do not see the benefit of imposing a similar duty on the commission. It is not necessary for the commission to undertake wide-scale consultation with children, as that would duplicate the consultation already being carried out by the Secretary of State, the devolved Administrations in Scotland and Northern Ireland, and local authorities. Indeed, one might argue that it would not necessarily be good value for money.

Having said that, it is worth mentioning that the commission can make fact-finding visits and meet individuals and organisations for the purposes of carrying out its functions as an advisory body. In practice this may well include talking to individuals, such as vulnerable children and families in poverty.

The Government place a high value on expert and independent advice to inform the development of the child poverty strategies. Therefore, the commission will be a body of experts. Its members will have a wide range of knowledge, expertise and experience in tackling child poverty and of working with families in poverty, as specified in paragraph 4 of Schedule 1.

I should now like to move on to the second component of Amendment 18—namely, that the commission must have regard to children’s wishes and feelings. I understand that in tabling this amendment the noble Baroness is probably picking up on references in the Children Act 1989. Section 22 of Part 3 of this Act places a duty on local authorities to ascertain the wishes and feelings of a child before making any decisions concerning

[LORD MCKENZIE OF LUTON]

him or her and to give due consideration to those wishes—and rightly so. However, I suggest that this is not directly applicable to the child poverty strategies and that it would be inappropriate to include such a duty in the Bill.

With children in care, the local authority fulfils some, if not all, of the traditional parenting role. It is therefore vital that it is responsive and receptive to the child's wishes and feelings. The independent reviewing officer needs to formulate an effective and personal childcare plan and can do this only through a thorough understanding of the individual child.

The child poverty strategy, on the other hand, is more about public service allocation, rather than taking actions attuned to the individual child's wishes and feelings, important though they are. I think that that is the distinction here and why that provision would not be particularly appropriate.

The noble Lord, Lord Freud, asked how we envisage consulting children in practice. It is likely that organisations representing children will carry out the consultation with children on our behalf. The Child Poverty Unit commissioned Save the Children to conduct consultation events with children and young people from across England to gather their views on the proposals and on the UK Government's consultation paper, *Ending Child Poverty: Making it Happen*. Drawing on its existing networks and relationships, Save the Children conducted some 10 consultation events. Children and young people were asked for their views on each of the building blocks and for their overall views on poverty, and they were also asked whether they thought anything was missing from the proposed strategy. Other means of consulting will doubtless also be developed. I think that a children's board is in existence.

The noble Baroness, Lady Walmsley, asked whether the commission's terms of reference will state that it will consult children. This matter is more appropriate for the terms of reference than for the Bill, but we will obviously take the matter away and consider whether it should be included.

Having said that, I am happy to support the earlier amendments and I ask the noble Baroness not to press the others.

**Lord Northbourne:** My Lords, I also support the earlier amendments. I take this opportunity to say that I had not realised that I was not going to be able to reply to my two amendments, and so I shall move them in their proper place. However, in the mean time, I think that the noble Lord is profoundly mistaken and I hope that he will think again.

**Baroness Walmsley:** My Lords, I thank those who have spoken in support of these amendments—in particular, the Minister. On Amendment 18, however, I cannot really accept his suggestion that if the commission were to consult children directly, that would duplicate what the Secretary of State was doing. Frankly, if the Secretary of State was doing all these consultations, the commission probably would not be needed. The commission is going to advise the Government on

things that the Government may not have thought of and therefore will probably not have consulted on. Therefore, I cannot really accept that statement.

On the matter of wishes and feelings, it is entirely appropriate that the commission—we are talking about the commission here, not the Government, the devolved Governments or the local authorities—should consult children directly about their wishes and feelings about aspects of poverty. Children may have strong feelings about certain manifestations of poverty that adults may not think they care about. We all know that children care about certain things more than we do, such as the brands of their trainers or their iPods, what colour school bag they have, how they wear their school tie and how short their school skirt is. Children have their own wishes and feelings about everything and there is no reason to believe that it would be any different about aspects of poverty, so I cannot really accept what the Minister said about that either. Does he want to reply?

**Lord McKenzie of Luton:** No one is saying that the commission is precluded from consulting with children. It is the particular requirement that we think is inappropriate. We would expect the commission to be a body of experts who would sometimes be able to come forward themselves with advice, so they may wish to consult. It is building in an obligation to do so that we think is inappropriate.

**Baroness Walmsley:** I accept that the Government are not precluding the commission from consulting children. Indeed, I hope that, should I not be successful in getting this into the Bill, they will allow it to do so. I thank the Minister for what he said about whether it should be put into the terms of reference that the commission should consult children directly. I beg leave to withdraw the amendment.

*Amendment 18 withdrawn.*

*Clause 7 agreed.*

### **Schedule 1 : The Child Poverty Commission**

#### *Amendment 19*

*Moved by Baroness Walmsley*

**19:** Schedule 1, page 17, line 6, at end insert “and approved by Parliament”

**Baroness Walmsley:** My Lords, I shall speak also to Amendment 21 in my name, which is grouped with this amendment.

**Noble Lords:** Amendment 20.

**Baroness Walmsley:** Amendment 20 is in the name of the noble Lord, Lord Freud.

**Baroness Hollis of Heigham:** I do not think Amendment 21 is grouped with Amendment 19.

**Baroness Walmsley:** It is. There was a mistake on an earlier list; I had asked for it to be grouped with this one, but it mistakenly was not. The latest version shows that it is grouped. Besides, I can speak to it anyway, can I not?

We now move on to Schedule 1, which is all about setting up the commission and its governance. My intention with these amendments is to ensure that the commission is as independent of government as possible. Schedule 1 shows that everyone on the commission is to be appointed by the Secretary of State. I ask you, how independent is that?

What can we do about it? We can give Parliament some say in who the chair is to be. The chair will be a very influential person, so it is vital that he or she has expertise and can sometimes stand up and tell the Government something they may not want to hear. In Amendment 20 the noble Lord, Lord Freud, has specified exactly how Parliament should do this. I find it more appropriate in Amendment 19 to put down the principle that Parliament should approve the chairman and leave it to Parliament to decide how to do it.

The second point in Amendment 21 is that the members should elect the deputy chair. I have a precedent for this: in the Apprenticeships, Skills, Children and Learning Bill, when the governance of Ofqual was being debated, the Government accepted a similar amendment from me for members to elect the deputy chair of Ofqual. I accept what the Minister said in response to this at Second Reading—that this body is not of the same sort as Ofqual. It is, however, just as important that it is independent. Indeed, the Government have committed themselves to it being independent, so why does the Secretary of State want total control over all the appointments?

We might believe the Government when they say that they want the commission to be independent if they gave way on some of these amendments. Without such concessions, I am afraid that I will continue to believe that the Government want a cosy committee of their placemen. Let us see a little slack being cut here, and perhaps we will be a little more convinced. I beg to move.

5.45 pm

**Baroness Hollis of Heigham:** My Lords, I gently suggest to the noble Baroness, Lady Walmsley, that it does not work like that. In previous times, I was responsible for a couple of boards in the disability field—the DLA board and the industrial injuries board. I did not appoint members on behalf of the Secretary of State; I did not read their CVs and decide which one I wanted. It never worked like that. Despite the suggestions of the noble Baroness, those appointments, quite rightly, went through the public appointments system.

Under that system, a civil servant, possibly a medic in a case such as this and someone from the Office of the Commissioner for Public Appointments would adjudicate on a number of interviews. If there was, say, a short list of three people, they would give a point score and an assessment and the Minister would be expected to accept the person with the top point score. If you wished to deviate from that in any way you had

to have very good reasons for doing so, in which case issues such as gender balance, regional balance or other criteria which were not in the original job description could be brought into account, and the Secretary of State would then tick it off. That is how it is done. All this vocabulary about it being cosy or needing independence does not bear any relationship to what actually happens.

**Baroness Thomas of Winchester:** My Lords, this is very worrying indeed. I would hate it if the members of the commission were just to be people who scored a high mark on a civil servant scorecard.

**Baroness Hollis of Heigham:** They have an interview.

**Baroness Thomas of Winchester:** I should hope so. I feel very strongly about this. The Minister knows that I am a great champion of service user involvement but obviously the Child Poverty Commission is not analogous to an advisory body in the health and social care field. However, I hope that at least one member of the commission will have had some experience of the benefits system and that it will not be made up only of people with degrees in social science. It will need people with a wide range of experience and, if such people have to fulfil some kind of box-ticking exercise, that might put off at least one of the people we want to see on the commission.

I do not see why Parliament should not have some say in this. It is very worrying if it is all to be left to the Civil Service process. I understand that you cannot have Parliament deciding on every member of all these bodies, but surely we have a right to say who we think ought to be a member of the commission. I am not talking about the chairman or the deputy chairman but about one of the members. I am not suggesting either that this should be in the Bill, but I hope someone will notice what I am saying. I would like an everyday kind of person on the commission, not only clever academics.

**Lord Northbourne:** My Lords, I support the noble Baroness's amendment because it is important not only that the appointment should be independent but that it should be seen to be independent by the public and not only by those of us who know how the machinery works.

**Lord Freud:** My Lords, the noble Baroness's amendment and mine are very similar. I am glad that we are generally in agreement on this side of the Committee on this point. The question of the appropriate level of parliamentary scrutiny was raised in another place but I hope that the Minister will give us fuller answers than my honourable colleagues were able to extract during those debates.

There appear to be two different views of the commission running through the discussions on the Bill and, indeed, through the discussions we are now having. The first model, the one most people prefer—it is the preferred model on this side of the Committee—is of a strong independent body with teeth, established to give credible advice, impartial assessment of the success of a strategy and, where needed, appropriate criticism of government policy.

[LORD FREUD]

The second model is that of an expert umbrella group, established to collate and analyse data and instigate research in the areas that are lacking. Essentially, the commission under that format would be a valuable resource for the Government to utilise as and when they decided that it was needed. These two bodies are of course very different, and the Government have given us rather mixed signals on which model they intend to establish. These provisions and the statements that the Government have given lead me to think that model two is what they are after, but the Parliamentary Under-Secretary of State for Work and Pensions described the commission's role as facilitating the production of a strategy to enable the Secretary of State to fulfil her duties. This does not sound like a body that will ever cause the Government any trouble. The Government even had to be persuaded to allow the commission the power to commission its own research—a provision that I welcome and which we will discuss later.

Giving the chair of the commission the chance to have his appointment confirmed by Parliament would raise his or her profile to a position in which we could be assured that any advice or criticism that the commission might have to offer would be given the attention that it deserves by the Government. It would also confirm the impartiality of the appointment. Despite what the noble Baroness, Lady Hollis, says, accusations of cronyism are finding fertile ground among the public these days, and would be particularly damaging in this case. The commission will run across more than one Parliament, and its advice will be on measures that lend themselves to a rapid assessment of success or failure. Protection from accusations of being unfairly biased for or against the prevailing critical winds will be invaluable.

**Baroness Hollis of Heigham:** The noble Lord has talked about cronyism, but the reverse is true. The whole point of the public appointments procedure was precisely to clean up appointments so that there was no cronyism for the Minister's friends. What this is saying is that one, two or three people may be above the appointable line. If you do it any other way, it is who you know, as opposed to people coming into an open system, seeing a job description, applying for it and going through the interview process. I would not disagree with this at all, but there may well be a point at which the job description requirements, including the independence, appropriate skills and backgrounds, comes as part of regulations or comes to this House, as a letter to all people concerned. That is the way to do it, to ensure that the job description includes the possibility of the sort of people with the sort of background that we would like to see. To interfere with the public appointments procedure is to go back 10 or 15 years to cronyism, which would be quite disastrous. Could I suggest to noble Lords opposite that they focus on the issue of job description, rather than the mechanics of appointment, which are well established?

**Lord Freud:** I should like to thank the noble Baroness for that clarification. The simple point that I would make is that the attitude of the public and the media

towards this institution is now very different to how it was a few years ago, for obvious reasons, which I shall not rehearse as it is too painful. That context of giving Parliament the chance to scrutinise the appointment allows for public reassurance as to the credentials of any appointment. The rejection of this point by the Parliamentary Under-Secretary of State for Work and Pensions in another place was on puzzling grounds. She stated that pre-appointment hearings should focus only on posts where there is a strong public and parliamentary interest. Surely, the whole point of this Bill is to ensure that strong public and parliamentary interest in the reduction of child poverty is sustained over the next 10 years. So I would welcome clarification from the Minister on just how wedded to the first or second model the Government are.

Let me go on to Amendment 21, which is grouped with this one and which was tabled by the noble Baroness, Lady Walmsley, on the appointment of the deputy chair. Some disagreement among members is in the nature of bodies of this type and I do not think that such disagreement is harmful. In fact, I would welcome evidence of ongoing debate about new ideas. But at some point, the disagreement will have to be resolved and the advice of the commission given. The method of appointment suggested by the noble Baroness would make the minority view more likely to be heard. Having both the chair and the deputy appointed by the Secretary of State could lead to an unnecessary degree of uniformity within the body.

Finally, while we are discussing appointments, I would like to take this opportunity to ask a few practical questions. First, how large do the Government expect the final commission to be? In the Bill there is no upper limit at present. Secondly, we already have the Children's Commissioner whose job it is to promote the interests of children. How does that position and role fit with the role and position of the commission? I would also be interested to know whether the Government have given any thought to who might be a good fit for the position of chairman of the commission and how far the process is along in drawing up the job description and putting out feelers for potential applicants.

**Baroness Hollis of Heigham:** That would be cronyism.

**Lord Freud:** No. Having begun to learn the conventions, I will assume that there has been a formal intervention by the noble Baroness, Lady Hollis. The question is, "How far along in the process of drawing up a job description are the Government?" and perhaps remove my "feelers" from the question. With advice from her, gratefully received, I will leave it at that.

**Lord McKenzie of Luton:** My Lords, I thank the noble Lord, Lord Freud, and the noble Baroness, Lady Walmsley, for tabling the amendments. The noble Baroness confessed that she has form on this in relation to Ofqual. We have noted that. If she is praying that outcome in aid of her position, I might also say that if she is stressing precedence there is no precedent to require the chair of an advisory NDPB to be subject to parliamentary approval before appointment.

I can help the noble Lord, Lord Freud, because I understand from his contribution at Second Reading some of his concerns around the issue of progress on establishing the commission. Under an OCPA process that would normally take approximately six months. The noble Lord will understand that the appointment process could not formally begin until after Royal Assent. I am not sure why it should, but if it helps, it seems pretty unlikely that any appointment could be made before a certain event that will face the country in a few weeks' time.

**Lord Freud:** I assure the Minister and the noble Baroness, Lady Hollis, that we have not put out any feelers for chairing this particular commission. That is for clarification.

6 pm

**Lord McKenzie of Luton:** I am pleased to hear that. It would seem to be outwith the process if the noble Lord had done so. I will speak first to Amendments 19 and 20, which concern the appointment of the chair of the Child Poverty Commission. Amendment 21 would provide a power to the commission members, rather than the Secretary of State, to appoint a deputy chair. I am glad that there has been such widespread welcome for the establishment of the Child Poverty Commission. This was made clear on all sides of your Lordships' House at Second Reading. The commission has a key role in identifying barriers to addressing child poverty and advising the Government on the contents of their child poverty strategy.

Amendments 19 and 20, as has been identified, are similar provisions. Amendment 20 requires the Secretary of State to consult the relevant Select Committees before appointing the commission chair. Both amendments would then require the appointment to be subject to parliamentary control before it could be confirmed. I recognise the concerns expressed over the independence of the Child Poverty Commission and, in particular, the transparency of the appointments process for the chair. This was raised at Second Reading by the noble Baroness, the noble Lord, Lord Freud, and his colleague the noble Lord, Lord De Mauley, and was discussed in another place. I wholeheartedly agree that there must be an open and transparent recruitment process, and that the appointment must not be politically driven. I also recognise that Parliament has an interest in such an appointment, but I will explain to noble Lords why the amendments are unnecessary.

The appointment of the chair and, indeed, all members of the commission will be made with utmost care and transparency, in accordance with the principles set out in the code of practice for public appointments, published by the office of the Commissioner for Public Appointments. My noble friend Lady Hollis has given us the benefit of her experience of that process. The code is underpinned by seven principles derived from the work of the Nolan Committee on Standards in Public Life. They include openness and transparency, appointment on merit, independent scrutiny, ministerial responsibility and proportionality. The entire appointment process will be overseen by an independent person

approved by OCPA. This will ensure that appointments to the commission are made on merit, fairly and in an open manner, with criteria for selection published at the start of the appointment process.

I draw noble Lords' attention to paragraph 4 of Schedule 1, which requires the Secretary of State to aim for a commission that has knowledge and experience of child poverty policy, research and work with families. That is quite a broad remit. I hope that will provide some assurance to the noble Baroness, Lady Thomas, particularly that latter requirement about people who have worked with families. It is against these criteria that all applicants for this post will be judged. I hope I have demonstrated that the commission members will be appointed on merit, and will not be beholden to Ministers, political parties, stakeholders or special interest groups. I categorically refute what was said at Second Reading about being swayed by the political affiliations of applicants.

There is also an important point to be made concerning accountability for the appointment of the chair. The Secretary of State will be accountable to the House for the strategies to meet the targets set out in the Bill and, ultimately, for whether the targets are met. The Secretary of State needs to be confident that the work of the statutory body advising on the strategy is of high quality in its thoroughness, independence and timeliness. It is appropriate and logical therefore that the Secretary of State appoints members of the body responsible for advising on its content. Allowing Parliament to have the final say—

**Lord Freud:** I am sorry to interrupt the Minister. I have just realised that I did not know something that I would be grateful to have the answer to. When he said "the Secretary of State", which particular Secretary of State did he mean?

**Lord McKenzie of Luton:** I understand that it is technically not defined currently in the Bill. To give some assistance, I understand that, in law, all Secretaries of State are the same and interchangeable.

**Lord Freud:** I think I understood the technicalities. I was just interested in whether the Minister would give us an indication of what, under this Government, the plan was.

**Lord McKenzie of Luton:** I honestly do not know. I know that it does not fall to me to decide this. There is a serious point here about which Secretary of State will be responsible. If I can add any more information, I will write to the noble Lord.

Allowing Parliament to have the final say on making these appointments, particularly the chair, risks blurring those important lines of accountability.

Finally on this issue, given the general welcome to the commission, I think it important that we avoid using this Bill to reopen a debate on public appointments that has been had elsewhere. Noble Lords will be aware that in June 2008 the Government announced

[LORD MCKENZIE OF LUTON]

that pre-appointment hearings would be trialled for a small number of key public sector posts with executive or regulatory powers.

Following discussions with House authorities, a list of 60 or so key public sector posts was agreed. As these posts become vacant, pre-appointment hearings are being held on a pilot basis. It would be impractical and disproportionate to subject all public appointments to pre-appointment scrutiny by Select Committees. I think there are some 800 NDPBs. We are not in any way persuaded that the chair of this small and purely advisory body, however important the issue on which it is advising, falls into the category of posts that should be added to the agreed list of those where pre-appointment hearings might be trialled, particularly given the assurances provided by the OCPA process that I have outlined.

Of course, Committees of the House can invite whoever they like to give evidence, and the chair and other members of the commission, once appointed, will be able to give evidence to them about the advice they provide and the extent to which they think Ministers have regard to it.

On this basis I hope I have persuaded the noble Lords not to press Amendments 19 and 20. On Amendment 21, although it is not specified in the Bill we envisage that the deputy chair would effectively take on the chair's role in their absence. It therefore follows that the Secretary of State should retain the overall power to appoint the deputy chair, given the importance of the position and the confidence the Secretary of State must have in their abilities.

However, I understand the importance of a strong working relationship between the chair and deputy chair. That is why paragraph 1(3) of Schedule 1 requires the Secretary of State to consult the chair before any deputy is appointed. In practice, the Secretary of State is unlikely to appoint someone to whom the chair had strong objections, as this would clearly undermine the effectiveness of the commission. However, I have listened to what noble Lords have said today and acknowledge that we agreed that members of Ofqual, rather than the Secretary of State, should select a deputy chair. Realising the strength of feeling on this issue, I will consider further whether the independence of the commission could be strengthened by permitting it to choose a deputy chair from among its appointed members. I very much take the point that if we were able to do that, it would be positive evidence of our determination that it is independent. Without overstating that point, I may revert to it on Report.

The noble Lord, Lord Freud, asked whether the commission will have real teeth. It has a key role in identifying barriers to addressing child poverty and advising the Government on the content of its child poverty strategy. That is a particularly important role. The Bill requires the Government to appoint a commission that understands child poverty issues and is well equipped to provide advice. In the consultation process, stakeholders called for transparency. We responded by including a requirement for the commission's advice to be made public so that it would be possible to scrutinise how

far Ministers have had regard to it, in a very clear and transparent way, so it will be very clearly on the record.

The noble Lord referred to my colleague Helen Goodman's comments in the other place. She was trying to draw a distinction that the noble Baroness, Lady Walmsley, drew between a body such as Ofqual and one such as the Child Poverty Commission. That is not to say that members of the commission are not fulfilling an important public function—of course they are fulfilling a hugely important function—or that child poverty is not an important public concern. I have referred to the OCPA process and the timeframe that it might involve. We have not formally begun appointing the commission and will not do so until after Royal Assent. If that is some time in March, assuming that we speed up our deliberations, it clearly could not be done before that event, which I know we are all thoroughly looking forward to.

The noble Lord referred to the Children's Commissioner. The role of the Children's Commissioner is distinct from that of members of the Child Poverty Commission. Their focus will be on child poverty and the strategy, while the Children's Commissioner has the much broader role of reflecting on and promoting the views and interests of children.

I hope that I have dealt with each of the points that have been raised. The noble Lord, Lord Northbourne, indicated that he believes that it is important that the commission is seen as independent.

On that basis, I hope that I can urge noble Lords not to press any of these amendments today. We will look to return on Report to see if we can support the issue about the appointment of the deputy chair.

**Lord Freud:** I thank the Minister for the points that he has made. He dealt with the rather interesting point that we have a Child Commission and a Child Poverty Commission. Given our interest in not having quite so many quangos—I think he mentioned 800—it might make some kind of sense to put these two together. We might be able to discuss that later.

**Lord McKenzie of Luton:** The noble Lord might be interested to know that there has been a 6.7 per cent fall in the number of non-departmental public bodies since 1997.

**Lord Freud:** I am grateful for that.

**Baroness Walmsley:** I thank the Minister for his reply and all noble Lords who have contributed to the debate. I thank the noble Baroness, Lady Hollis, for outlining the Office of Public Appointments procedure, which I am well aware of. Indeed, I have been in contact with that office myself. It is an excellent procedure, and I must compliment the Government for introducing it; it makes the whole business of public appointments a lot more credible with the general public.

I am suggesting not interfering with or replacing it but putting something on top of it, just for the chairperson: a confirmation hearing by Parliament, in whatever way Parliament decided. It probably would be the

Select Committee for Children, Schools and Families, which has the opportunity, as the noble Lord, Lord Freud, said, to have a confirmation hearing for the Children's Commissioner—not that the Secretary of State took any notice of that. That is what I would like to see. If there are 60 appointments considered worthy of such a procedure, I suggest that the chair of the commission that advises the Government on the spending of millions of pounds to take hundreds of thousands—even millions—of children out of poverty is certainly as important as many of the appointments that are going through the pilot scheme for confirmation appointments.

This is a matter of transparency, public confidence and strengthening the power of Parliament. Over the past two Governments, the Executive has taken a great deal of power to itself, and we would like to see Parliament being able to rear its head and have a little more say in these important matters. Far from “lowering the lines of accountability”, in the Minister's phrase, it would raise the level of accountability to have a pre-appointment hearing for the chairman because Parliament is the most accountable body in the whole country.

However, I am grateful to the Minister for unexpectedly saying that he will consider the possibility of Amendment 20, and I look forward to hearing between now and Report whether he is going to bring forward a government amendment or whether he would like me to do that and add his name to it, which I am grateful that he did to my other amendments. It would add to public confidence that this was an independent organisation if we were at least able to get that. For now, I beg leave to withdraw the amendment.

*Amendment 19 withdrawn.*

*Amendments 20 and 21 not moved.*

**Baroness Crawley:** My Lords, this may be a convenient moment for the Committee to adjourn until 3.30 pm on Monday.

*Committee adjourned at 6.16 pm.*



# Written Statements

Thursday 21 January 2010

## Afghanistan: Roulement Statement

**The Minister for International Defence and Security (Baroness Taylor of Bolton):** My right honourable friend the Secretary of State for Defence (Bob Ainsworth) has made the following Written Ministerial Statement.

In his Statement to the House on 30 November 2009 (*Official Report*, col. 835), the Prime Minister announced that the UK's conventional military forces in Afghanistan comprise 9,500 personnel. That will be maintained with the next roulement of UK forces in Afghanistan, due to take place in April 2010. Headquarters, 6 (UK) Division will remain as Headquarters, Regional Command (South) but the current lead formation in Helmand, 11 (Light) Brigade, will be replaced by 4th Mechanized Brigade, which will command the majority of the units serving in Afghanistan. The forces deploying include:

Headquarters, 6 (UK) Division  
 4th Mechanised Brigade Headquarters and Signal Squadron (204)  
 Elements of 52 Infantry Brigade Headquarters and Signal Squadron (258)  
 Headquarters, 101 Logistic Brigade  
 Headquarters, 102 Logistic Brigade  
 Elements of 845 Naval Air Squadron  
 Elements of 846 Naval Air Squadron  
 Elements of 857 Naval Air Squadron  
 40 Commando Royal Marines  
 The Royal Dragoon Guards  
 The Queen's Royal Lancers  
 4th Regiment Royal Artillery  
 21 Engineer Regiment  
 1st Battalion The Scots Guards  
 The Royal Scots Borderers, 1st Battalion The Royal Regiment of Scotland  
 1st Battalion The Duke of Lancaster's Regiment  
 1st Battalion The Mercian Regiment  
 1st Battalion The Royal Gurkha Rifles  
 3 Medical Regiment  
 34 Field Hospital  
 1 Close Support Battalion Royal Electrical and Mechanical Engineers  
 101 Force Support Battalion Royal Electrical and Mechanical Engineers  
 Elements of 3rd Regiment Royal Horse Artillery  
 Elements of 5th Regiment Royal Artillery  
 Elements of 16th Regiment Royal Artillery  
 Elements of 32nd Regiment Royal Artillery  
 Elements of 39th Regiment Royal Artillery  
 Elements of 47th Regiment Royal Artillery  
 Elements of 33 Engineer Regiment (Explosive Ordnance Disposal)  
 Elements of 39 Engineer Regiment (Air Support)  
 Elements of 42 Engineer Regiment (Geographic)  
 Elements of 170 (Infrastructure Support) Engineer Group  
 Elements of 2 Signal Regiment  
 Elements of 10th Signal Regiment  
 Elements of 14th Signals Regiment (Electronic Warfare)

Elements of 16 Signal Regiment  
 Elements of 21st Signal Regiment (Air Support)  
 Elements of 5th Battalion The Rifles  
 Elements of 1 Regiment, Army Air Corps  
 Elements of 4 Regiment, Army Air Corps  
 Elements of 9 Regiment, Army Air Corps  
 Elements of 6 Regiment, The Royal Logistic Corps  
 Elements of 7 Regiment, The Royal Logistic Corps  
 Elements of 8 Regiment, The Royal Logistic Corps  
 Elements of 11 Explosive Ordnance Disposal Regiment, The Royal Logistic Corps  
 Elements of 12 Logistic Support Regiment, The Royal Logistic Corps  
 Elements of 17 Port and Maritime Regiment, The Royal Logistic Corps  
 Elements of 23 Pioneer Regiment, The Royal Logistic Corps  
 Elements of 24 Postal Courier and Movement Regiment, The Royal Logistic Corps  
 Elements of 27 Regiment, The Royal Logistic Corps  
 Elements of 29 Postal Courier and Movement Regiment, The Royal Logistic Corps  
 Elements of 5th Regiment Royal Military Police  
 101 Provost Company Royal Military Police  
 150 Provost Company Royal Military Police  
 Elements of 105 Military Working Dog Support Unit  
 Elements of 1 Military Intelligence Brigade  
 Elements of the Military Stabilisation Support Group  
 Elements of The Honourable Artillery Company  
 Elements of 100 Regiment Royal Artillery (Volunteers)  
 Elements of 101 Regiment Royal Artillery (Volunteers)  
 Elements of 104 Regiment Royal Artillery (Volunteers)  
 Elements of 106 Regiment Royal Artillery (Volunteers)  
 Elements of 101 Engineer Regiment (Explosive Ordnance Disposal) (Volunteers)  
 Elements of 6th Battalion The Royal Regiment of Scotland (Volunteers)  
 Elements of 4th Battalion The Duke Of Lancaster's Regiment (King's, Lancashire and Border) (Volunteers)  
 Elements of The London Regiment (Volunteers)  
 Elements of 150 Transport Regiment, The Royal Logistic Corps (Volunteers)  
 Elements of 159 Supply Regiment, The Royal Logistic Corps (Volunteers)  
 Elements of 160 Transport Regiment, The Royal Logistic Corps (Volunteers)  
 Elements of 148 Expeditionary Force Institute Squadron (Volunteers), The Royal Logistic Corps  
 Number 1 Royal Air Force, Force Protection Wing Headquarters  
 Number 3 Royal Air Force, Force Protection Wing Headquarters  
 Number 4 Royal Air Force, Force Protection Wing Headquarters  
 Number 5 Royal Air Force, Force Protection Wing Headquarters  
 Elements of Number 2 Royal Air Force Police Wing  
 Elements of Number 3 Royal Air Force Police Wing  
 2 Squadron, Royal Air Force Regiment  
 51 Squadron, Royal Air Force Regiment  
 Elements of 1 Squadron, Royal Air Force Regiment  
 Elements of 3 Squadron, Royal Air Force Regiment  
 2 Squadron, Royal Air Force  
 9 Squadron, Royal Air Force  
 13 Squadron, Royal Air Force  
 14 Squadron, Royal Air Force  
 Elements of 5 (Army Co-Operation) Squadron, Royal Air Force  
 Elements of 18 Squadron, Royal Air Force  
 Elements of 24 Squadron, Royal Air Force  
 Elements of 27 Squadron, Royal Air Force  
 Elements of 28 Squadron, Royal Air Force

Elements of 30 Squadron, Royal Air Force  
 Elements of 78 Squadron, Royal Air Force  
 Elements of the Tactical Supply Wing, Royal Air Force  
 Elements of 1 Air Mobility Wing, Royal Air Force  
 Elements of 1 Air Control Centre, Royal Air Force  
 Elements of 90 Signals Unit, Royal Air Force  
 Elements of 2 (Mechanical Transport) Squadron, Royal Air Force  
 Elements of 5001 Squadron, Royal Air Force  
 Elements of 3 Mobile Catering Squadron  
 Elements of Tactical Medical Wing  
 Elements of 1 (Expeditionary Logistics) Squadron  
 Elements of 93 (Expeditionary Armaments) Squadron  
 Elements of Tactical Imagery Wing

Volunteer and regular members of the Reserve Forces will continue to deploy to Afghanistan as part of our integrated force package and we expect to issue around 700 call-out notices to fill some 600 posts. On completion of their mobilisation procedures, the reservists will undertake a period of training and, where applicable, integration with their respective receiving units. The majority will serve on operations for six or so months. As part of this commitment, we expect up to 17 members of the sponsored reserves to be in theatre at any one time.

I shall make a further Statement on the units that we expect to serve under 4th Mechanized Brigade's planned replacement formation, 16 Air Assault Brigade, nearer the time of their deployment.

## EU: Agriculture and Fisheries Council *Statement*

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** My right honourable friend the Secretary of State (Hilary Benn) has made the following Written Ministerial Statement.

My honourable friends the Ministers for Marine and the Natural Environment (Huw Irranca-Davies), and Food, Farming and Environment (Jim Fitzpatrick) represented the United Kingdom at the Agriculture and Fisheries Council in Brussels on 20 November. Richard Lochhead MSP and Michelle Gildernew MLA also attended. Due to the European Council, the Agriculture and Fisheries Council was shortened to one day, with the majority of agriculture business now being taken in December.

On agriculture, the council approved Poland's state aid application enabling farmers to purchase agricultural land. The UK, Czech Republic, Slovakia, Estonia, Spain, Netherlands, Austria, Germany all abstained, agreeing with the Commission that the application was not justified, and on the overriding of state aid rules, but stopped short of blocking the application. Latvia and Hungary would now bring similar applications for approval at the December Agriculture Council.

There was a brief discussion to clarify member states' voting intentions with regard to the authorisation of GM maize for use in the EU. There was no qualified majority in favour of the authorisation and the proposal will now revert to Commission competence and be adopted.

A number of issues were raised under any other agriculture business. Belgium and France requested that export refunds for the fresh and frozen pigmeat be reactivated. Only the UK and Malta expressed dissatisfaction with the use of such market management measures. The Commission sympathised with the request but also did not agree with reactivating export refunds.

France outlined its support for the Commission's forthcoming Green Paper on forest protection, emphasising the importance of taking a holistic approach—covering everything from the benefits that forests bring in respect of climate change, to forest-based industries. A number of member states, including the UK, supported emphasising the importance of the EU forest action plan and a member state-led approach. The Commission agreed.

France requested more details about the parameters within which the Commission intended to prepare for and conduct the forthcoming WTO ministerial conference. The Commission emphasised that these were regular events and that trade colleagues within the council were informed of the Commission's approach.

Hungary, supported by the Czech Republic and Slovakia, presented a paper seeking to resurrect a proposal, previously rejected through comitology, that sheep and goats going direct to slaughter on intra-Community trade do not have to be electronically identified. The UK also intervened to sympathise and, while making it clear that it would not go back on its agreement not to seek further changes, urged the Commission to thoroughly review implementation of the regulation at the earliest opportunity.

With regard to fisheries and the technical conservation measures regulation, council reached political agreement (with the UK and Ireland voting against) on an interim compromise for 18 months only of the current annual provisions governing mesh sizes, gear types and catch composition, having failed to agree the main framework proposal. This was in the context of the impending entry into force of the Lisbon treaty, which would require co-decision with the European Parliament on this aspect of fisheries. An absence of any decision would have left a legal gap on such technical measures from 1 January 2010 given that current measures are in the annual fishing opportunities regulation, which will remain as a council-only decision.

The UK and Ireland worked very hard in bilaterals with the presidency and the Commission to find an acceptable solution. The Commission was inflexible, claiming that the relaxation of the relevant catch composition measures would be detrimental to haddock stocks. The UK asserted that this had no effect on fishing mortality and merely led to increased discarding. Regrettably, the presidency was not able to accept UK and Irish requests and a final compromise was agreed with no concessions offered. Agreement was reached by qualified majority, with the final formal adoption by written procedure by 30 November.

The Commission then updated the council on the progress of the annual fisheries negotiations with Norway. It explained that the negotiations were particularly

difficult this year after the Community's decision not to allow Norway to access mackerel in the North Sea. It is therefore possible that the negotiations will carry on into 2010 or even fail completely, with the danger of a precipitate rush to fish quotas and no access to each other's waters. The UK underlined the need for a balanced outcome on mackerel and the need for progress on the Danish discards initiative.

Next, the proposal fixing the 2010 total allowable catches (TACs) and quotas for the Black Sea was agreed. The TAC for turbot was increased to 96 tonnes from the 76 proposed by the Commission (a 4 per cent reduction, not 24 per cent) on condition that Bulgaria and Romania developed by 15 February 2010 national plans to control the turbot fisheries and landings. The Commission also announced that it would speak to Turkey about its introducing similar measures for turbot.

Finally, two issues were raised under any other fisheries business. The Commission had tabled a seven-page statement outlining its plans to combat seabird by-catch. The UK underlined the importance of this, calling for the Commission to publish a formal action plan, as this would give a chance for a full consultation with stakeholders including the European Parliament.

Italy called for the cut in bluefin tuna quota agreed at the recent International Commission for the Conservation of Atlantic Tuna (ICCAT) meeting to be phased in by 15 per cent per year.

### Questions for Written Answer: Correction Statement

**Baroness Thornton:** I regret that the Written Answer given to Lord Walton of Detchant on 21 October 2009 (*Official Report*, col. WA 77) was incorrect with respect to the number of consultants in the infectious diseases medical speciality.

The correct information is set out in the table below:

| <i>England at<br/>30<br/>September<br/>2008</i> | <i>All Staff</i> |            | <i>Consultant<br/>(including<br/>Director of<br/>Public<br/>Health)</i> |            | <i>Numbers<br/>(headcount)<br/>and full-time<br/>equivalents</i> |
|---|------------------|------------|---|------------|--|
|   | <i>No.</i>       | <i>FTE</i> | <i>No.</i>  | <i>FTE</i> |  |
| All Specialties                                 | 98,703           | 91,586     | 34,910  | 32,679     |  |
| General medicine group                          | 25,936           | 23,565     | 7,906   | 7,239      |  |
| Infectious diseases                             | 318              | 282        | 103   | 79         |  |

*Source:* NHS Workforce Census 2008, the NHS Information Centre, published 25.03.2009.

### Railways: Franchises Statement

**The Secretary of State for Transport (Lord Adonis):** I am today launching public consultations for the new InterCity East Coast, Greater Anglia and Essex

Thameside franchises. The formal accreditation process for bidders for Greater Anglia and Essex Thameside also starts today.

Our overall aim for the new franchises is to continue the existing operations and make improvements based on emerging value for money and affordability requirements.

The InterCity East Coast franchise will build on the new east coast main line timetable that is being introduced in May 2011 to take advantage of planned infrastructure enhancements to enable extra trains to run, to accelerate journey times and to introduce a standard interval clockface timetable. Further major service improvements are proposed from 2016, when super-express trains will be introduced, providing more capacity, more frequent trains and shorter journey times. Franchisees will also be asked for proposals to improve the overall passenger experience, including better stations, improved catering and simpler ticketing.

Passengers on the Greater Anglia franchise are set to benefit from longer trains, enhancements at stations, more security and other service improvements. The new franchise operator will have to consider quicker journey times between Norwich and London, improving the performance and reliability of long-distance services and introducing minimum catering standards on InterCity trains. It will also set national passenger survey targets for trains, stations and customer service, with a requirement to invest more to make improvements in those areas if it fails to meet those targets.

Passengers on the Essex Thameside franchise will benefit from longer trains and better security. The new operator will be expected to provide better service information for passengers and improved facilities at stations, including more secure cycle spaces and additional car parking facilities. It will also be required to monitor service quality and to ensure that stations and trains are cleaned and maintained to a high standard.

The new Greater Anglia franchise will begin operation on Friday 1 April 2011, Essex Thameside on Sunday 29 May 2011 and InterCity East Coast in autumn 2011. All three franchises are proposed to last for a franchise term of at least 10 years with provisions made to allow the termination of the contracts earlier if the franchise fails to deliver good-quality service to passengers. The franchise length may also be extended dependent on proposals to deliver investment and significant passenger benefit. Any such proposals would have to offer good value for money to the taxpayer.

The consultation documents set out the main challenges that the new franchises will face and highlight the key requirements that the department currently proposes to include within each invitation to tender (ITT). They set out proposals to increase peak capacity and to improve security, access to stations and overall service quality.

Responses to the consultations will inform the development of the invitation to tender that bidders for each franchise will be asked to bid against. We expect to publish the ITT for both Greater Anglia and Essex Thameside in summer 2010 and will award these

franchises in late 2010 and early 2011. The ITT for InterCity East Coast will be published in autumn 2010. The franchise will be awarded in summer 2011.

Over the coming weeks the department will be having extensive discussions with local interested stakeholders, via a series of stakeholder meetings.

All three consultations will run until 19 April 2010. Copies of the consultation documents, as well as the recently published discussion paper on general franchise policy, have been placed in the House Library and are available on the Department for Transport website.

### **Surveillance: Surveillance Commissioner** *Statement*

**The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon):** My right honourable friend the Prime Minister has made the following Ministerial Statement.

In accordance with Section 91 of the Police Act 1997, I have agreed to appoint the honourable Sir George Newman as a Surveillance Commissioner from 1 January 2010 to 31 December 2012. He succeeds the right honourable Sir Philip Otton in this role.

## Written Answers

Thursday 21 January 2010

### Climate Change

#### Questions

Asked by **Lord Dykes**

To ask Her Majesty's Government what plans they have to secure a legally binding climate change treaty to which all countries can be party. [HL1193]

**The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath):** My right honourable friend the Prime Minister has said that he will lead a global campaign for a legally binding treaty as soon as possible. We are working hard through a range of bilateral and multilateral channels (including the formal LNFCCC process) to build support for this.

Asked by **Lord Dykes**

To ask Her Majesty's Government what steps they are taking to inform the public about their and other G7 countries' stance on agreeing a binding climate change agreement. [HL1197]

**Lord Hunt of Kings Heath:** The "Act on Copenhagen" website is our primary tool for communicating with the public. We are continuing to publish on the website articles about the outcomes of Copenhagen and the ongoing process to agree a legally binding agreement.

My right honourable friend the Secretary of State hosted a post-Copenhagen Q&A event with stakeholders, campaigners and youth groups in London in December 2009 and made a Statement on the outcomes of Copenhagen to the House of Commons on 5 January, which I repeated in this House.

### Elections: Local Government

#### Question

Asked by **Lord Ouseley**

To ask Her Majesty's Government what proposals they have to increase the number of candidates at future local government elections from among young people, women and black and ethnic minorities, following the figures for the 2009 local elections. [HL1007]

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton):** The Government are taking a range of actions to increase the number and diversity of councillors. These include the following:

the Communities and Local Government funds the Leadership Centre for Local Government to roll out London Councils' "Be a Councillor" campaign across the country;

BAME Women Councillors' Taskforce was set up in 2008 to address underrepresentation of BAME women. The taskforce aims to raise awareness of the role of a councillor and to support BAME women into councillor roles through delivery of a national mentoring and shadowing scheme. The taskforce reported in October 2009, making recommendations to government, strategic partners and political parties. The Government will be responding to the report's recommendations shortly; Communities and Local Government is funding a local councillor shadowing scheme as part of the Department for Children, Schools and Families' wider Youth of Today programme. Young people work alongside councillors to learn leadership skills, have their say and make a positive difference to their local community. The scheme aims to bring young people close to understanding how decisions are made and inspire a new generation of leaders;

Communities and Local Government is funding Operation Black Vote (OBV) under the Empowerment Fund. OBV will receive a total grant of £250,000 to further develop its National MP/Leadership scheme, allowing 50 individuals a unique opportunity to gain insight into the civic and political arena. The 50 shadows will be expected to work with their communities, with the hope that they would reach about 100,000 people, inspiring more BME councillors, MPs, activists and leaders in the community. The programme will run over three years; and

Communities and Local Government is also funding OBV under the Tackling Race Inequalities Fund (TRIF) programme. OBV will receive £271,228 over two years until March 2011. The project will engage public sector workers, trade unionists, community leaders, councillors and students to ensure that they are more politicised and better organised, and broaden civic involvement from increasing voter registration to taking up posts as elected representatives.

### Forced Marriage

#### Question

Asked by **Lord Lester of Herne Hill**

To ask Her Majesty's Government whether they will publish the report of the review by the Ministry of Justice of measures to combat forced marriages, as reported in the *Guardian* on 9 January. [HL1179]

**The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach):** The Forced Marriage (Civil Protection) Act 2007 (the Act), received Royal Assent in November 2007 and was implemented in November 2008. The Act is a hugely significant step forward in tackling the harmful practice of forced marriage and protecting the rights of women, in particular, but of all individuals to choose whom and when to marry.

The policy paper *One Year On*, which provides an early review of the impact of the Act in the first year of operation, was published in November 2009. The policy paper is now on line at <http://www.justice.gov.uk/publications/10508.htm>.

Since implementation of the Act on 25 November 2008 up to 31 December 2009 a total of 107 forced marriage protection orders (FMPOs) have been made.

## Government: Office Equipment

### Question

Asked by **Lord Bates**

To ask Her Majesty's Government further to the Written Answer by the Parliamentary Under-Secretary of State for Communities and Local Government, Barbara Follett, on 9 December 2009 (*Official Report*, Commons, col. 390W), what was the average purchase price, excluding value added tax, of a 500 sheet ream of white A4 80 gsm photocopier paper paid by the Northern Ireland Office in the latest period for which figures are available. [HL1119]

**Baroness Royall of Blaisdon:** The average price paid across the Northern Ireland Office is currently £2.48 per 500 sheet ream of white recycled A4 paper.

## Government: Referendum on Independence for Scotland

### Questions

Asked by **Lord Foulkes of Cumnock**

To ask Her Majesty's Government what assessment they have made of whether any referendum on independence proposed by the Scottish Government is within its powers. [HL1143]

**Lord Brett:** No such proposals have been brought forward.

Asked by **Lord Foulkes of Cumnock**

To ask Her Majesty's Government what discussions they have had with the First Minister and other Scottish Ministers in the Scottish Government about the legislative competence of the proposed Bill on a referendum on independence. [HL1144]

**Lord Brett:** None.

## Health: Expenditure

### Question

Asked by **Lord Warner**

To ask Her Majesty's Government what the NHS expenditure was in cash and real terms on (a) acute hospital services, (b) mental health trust services, (c) general practitioner medical services, and (d) Primary Care Trust community services, for each year from 1996–97 onwards; and what proportion of total NHS expenditure those service areas represented in each of those years. [HL1343]

**Baroness Thornton:** The information has been placed in the Library.

## Health: Haematology

### Questions

Asked by **Lord Campbell-Savours**

To ask Her Majesty's Government what has been the cost to NHS providers of the withdrawal of the CoaguChek S Warfarin test equipment and its replacement with CoaguChek XS. [HL906]

To ask Her Majesty's Government what assessment they have made of the advantages to patients and the National Health Service of the withdrawal of CoaguChek S equipment and its replacement by CoaguChek XS. [HL907]

To ask Her Majesty's Government what consultation took place with the National Health Service on the withdrawal of CoaguChek S equipment and its replacement with CoaguChek XS. [HL908]

To ask Her Majesty's Government whether they will discuss with medical supply companies whether CoaguChek S strips for blood sampling can be procured from alternative sources of supply following the ending of CoaguChek S strip supplies by Roche Diagnostics. [HL909]

To ask Her Majesty's Government further to the Written Answer by Baroness Thornton on 5 January (*WA 51*), why the National Health Service can accept the withdrawal by Roche of CoaguChek S strips and equipment and its replacement by alternative equipment without being satisfied following tests that CoaguChek S equipment is not an accurate means for the testing of blood. [HL1082]

**Baroness Thornton:** CoaguChek XS is supplied by Roche and is an incremental upgrade of CoaguChek S.

Three documents evaluating CoaguChek S and CoaguChek XS are available on the National Health Service Purchasing and Supply Agency (NHS PASA) website ([www.pasa.nhs.uk](http://www.pasa.nhs.uk)). They are entitled:

“Patient self-testing using the Roche CoaguChek S” (MHRA 04002);

“Patient self-management using the CoaguChek S” (Report 05050); and

“CoaguChek XS System” (Report 06034).

In addition, both items of equipment are featured in a Centre for Evidence-based Purchasing buyers' guide, which is also available on the NHS PASA website. This document is entitled “Point of Care Coagulators for Monitoring Oral Anticoagulation” (CEP 07026).

Copies of all four documents have been placed in the Library. The links to these documents are as follows:

[www.pasa.nhs.uk/pasa/Doc.aspx?Path=%5bMN%5d%5bSP%5d/NHSprocurement/CEP/POC/MHRA%2004002.pdf](http://www.pasa.nhs.uk/pasa/Doc.aspx?Path=%5bMN%5d%5bSP%5d/NHSprocurement/CEP/POC/MHRA%2004002.pdf)

[www.pasa.nhs.uk/pasa/Doc.aspx?Path=%5bMN%5d%5bSP%5d/NHSprocurement/CEP/POC/Report 05050.pdf](http://www.pasa.nhs.uk/pasa/Doc.aspx?Path=%5bMN%5d%5bSP%5d/NHSprocurement/CEP/POC/Report%2005050.pdf)

www.pasa.nhs.uk/pasa/Doc.aspx?Path=%5bMN%5d%5bSP%5d/NHSprocurement/CEP/POC/Report%2006034.pdf; and

www.pasa.nhs.uk/pasa/Doc.aspx?Path=%5bMN%5d%5bSP%5d/NHSprocurement/CEP/POC/CEP07026.pdf

The department understands that this equipment is purchased directly by patients or may be provided to them at local level by the NHS. Information about costs to the NHS is not held centrally.

The department is unaware of any formal commercial arrangements in place between the NHS and the supplier and therefore the company will not have been required to make any formal requests to the NHS or patients to switch from the old to the new meter.

The department is unaware of any discussions held with the manufacturer and has no plans to discuss this product with medical supply companies.

This corrects the information given to the noble Lord on 5 January 2010 (*Official Report*, col. WA 51).

### Housing: Hyde Group

#### Question

Asked by *Lord Jones of Cheltenham*

To ask Her Majesty's Government what is their assessment of the Hyde Group's report Where are tomorrow's heartlanders? [HL1294]

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton):** My right honourable friend the Minister for Housing and Planning has welcomed the Hyde Group's report as an important and timely contribution. The report challenges perceptions that communities in social housing are "broken" or helpless, and shows how communities can be strengthened by the active involvement of tenants who know they are secure in their homes with long-term tenancies.

### Local Government: Finance

#### Question

Asked by *Lord Greaves*

To ask Her Majesty's Government whether the system of three-year settlements for local authorities will continue following the current settlement ending in 2010–11; and whether they will consider whether future settlements should be on a rolling basis, updated each year for the following three years. [HL1320]

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton):** Three-year settlements, introduced by this Government, have been very well received by local government. The Government have no current plans to change the basis on which settlements to local authorities are made.

### NHS: Foundation Trusts

#### Question

Asked by *Lord Greaves*

To ask Her Majesty's Government why they are requiring the East Lancashire Hospitals NHS Trust to make £50 million savings over the next three years. [HL1319]

**Baroness Thornton:** The department has not required the East Lancashire Hospitals National Health Service Trust to make £50 million savings over the next three years. I understand that this is an estimated figure, calculated by the trust itself.

### Northern Ireland: Equality Commission

#### Question

Asked by *Lord Laird*

To ask Her Majesty's Government further to the Written Answer by Baroness Royall of Blaisdon on 14 December (*WA 183*), why the Equality Commission's guidance to employers on monitoring employees and applicants for employment is not used for public appointments made by the Secretary of State. [HL868]

**Baroness Royall of Blaisdon:** The "residuary method" of monitoring, as defined in the Equality Commission's guidance, can be used by employers in certain circumstances to determine the community background of individuals for the purposes of the monitoring requirements contained in Part VII of the Fair Employment and Treatment (Northern Ireland) Order 1998. The Specification of Public Authorities Order 2004 determines the extent to which these requirements apply to particular bodies. The Secretary of State for Northern Ireland is not listed as a public authority in the 2004 order for monitoring purposes and therefore the monitoring requirements set out in the 1998 order do not apply to public appointments made by him.

### Parking

#### Question

Asked by *Lord Lucas*

To ask Her Majesty's Government whether they will place in the Library of the House (a) a copy of the head of the National Parking Adjudication Service's advice to local authorities on the High Court ruling that penalty charge notices should contain the date when the document was issued and the date when the offence took place, (b) a list of recipients of that advice, and (c) the list of the 80 authorities that the National Parking Adjudication Service's annual report listed as having disregarded that advice; on whose authority she was writing; and whether the advice was provided to appellants with hearings pending. [HL1292]

**The Secretary of State for Transport (Lord Adonis):** The Department for Transport does not hold such information. The Traffic Penalty Tribunal (formerly the National Parking Adjudication Service) is independent of the Government.

## Pensions

### Question

Asked by *Lord Kirkwood of Kirkhope*

To ask Her Majesty's Government what plans they have for an information campaign to discourage employees from opting out of the personal accounts occupational pensions scheme to be introduced in 2012. [HL53]

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton):** The Government believe that it is important that individuals can access information about their pension options. The department has commenced its communications campaign for working-age people, covering state pension changes that come into effect this April, and will move on to cover workplace pension changes and the option of longer working to help people to plan and save for later life. It is for the individual to decide whether to remain in the qualifying pension scheme to which they are automatically enrolled.

## Railways: East Coast

### Question

Asked by *Lord Moonie*

To ask Her Majesty's Government what are the values of the remuneration packages of the 10 highest paid employees of East Coast. [HL1164]

**The Secretary of State for Transport (Lord Adonis):** Staff remuneration is an operational matter for East Coast. I understand that the accounts of East Coast, which will include information on board remuneration, will be published in due course.

## Serious and Organised Crime and Police Act 2005

### Question

Asked by *Lord Haworth*

To ask Her Majesty's Government how many protected sites were designated under Section 12 of the Serious and Organised Crime and Police Act 2005 on 1 January 2010. [HL977]

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** Sixty-four sites have been designated under Section 128 of the Serious Organised Crime and Police Act 2005. A full list of all these sites can be found on the Home Office website at <http://security.homeoffice.gov.uk/legislation/current-legislation/terrorism-act-2006/criminal-trespass-sites>.

## Sport: Counterfeit Tickets

### Question

Asked by *Lord Laird*

To ask Her Majesty's Government what steps they will take concerning the sale of fake tickets for the 2010 FIFA World Cup. [HL946]

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** The sale of unauthorised tickets for regulated football matches, including the 2010 World Cup, is a criminal offence under the Criminal Justice and Public Order Act 1994. The sale of unauthorised tickets, both genuine and fake, has been and will continue to be the subject of police monitoring and investigations. Supporters should be aware that only tickets purchased from authorised vendors can be presumed genuine.

The Home Office and the police are working with FIFA, the South African Police Service and the FA to combat the sale of counterfeit tickets and otherwise to minimise opportunities for organised ticket touts to operate in connection with the 2010 FIFA World Cup.

## Visas

### Question

Asked by *Lord Laird*

To ask Her Majesty's Government for which college and course Umar Farouk Abdulmutallab unsuccessfully applied for a student visa to attend; and whether that college has ceased to be accredited by the UK Border Agency. [HL1328]

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** I refer the noble Lord to the Home Secretary's Statement to the House of Commons of 5 January 2010 (*Official Report*, Commons, col. 28).

Thursday 21 January 2010

## ALPHABETICAL INDEX TO WRITTEN STATEMENTS

|   | <i>Col. No.</i> |  | <i>Col. No.</i> |
|---|-----------------|--|-----------------|
| Afghanistan: Roulement.....                   | 61              | Railways: Franchises.....                    | 65              |
| EU: Agriculture and Fisheries Council.....    | 63              |  |                 |
| Questions for Written Answer: Correction..... | 65              | Surveillance: Surveillance Commissioner..... | 68              |

Thursday 21 January 2010

## ALPHABETICAL INDEX TO WRITTEN ANSWERS

|   | <i>Col. No.</i> |  | <i>Col. No.</i> |
|---|-----------------|--|-----------------|
| Climate Change.....   | 275             | Local Government: Finance.....                       | 279             |
| Elections: Local Government.....                            | 275             | NHS: Foundation Trusts.....                          | 280             |
| Forced Marriage.....  | 276             | Northern Ireland: Equality Commission.....           | 280             |
| Government: Office Equipment.....                           | 277             | Parking.....   | 280             |
| Government: Referendum on Independence for<br>Scotland..... | 277             | Pensions.....  | 281             |
| Health: Expenditure.....                                    | 277             | Railways: East Coast.....                            | 281             |
| Health: Haematology.....                                    | 278             | Serious and Organised Crime and Police Act 2005..... | 281             |
| Housing: Hyde Group.....                                    | 279             | Sport: Counterfeit Tickets.....                      | 282             |
|   |                 | Visas.....   | 282             |

## NUMERICAL INDEX TO WRITTEN ANSWERS

|               | <i>Col. No.</i> |               | <i>Col. No.</i> |
|---------------|-----------------|---------------|-----------------|
| [HL53].....   | 281             | [HL1143]..... | 277             |
| [HL868].....  | 280             | [HL1144]..... | 277             |
| [HL906].....  | 278             | [HL1164]..... | 281             |
| [HL907].....  | 278             | [HL1179]..... | 276             |
| [HL908].....  | 278             | [HL1193]..... | 275             |
| [HL909].....  | 278             | [HL1197]..... | 275             |
| [HL946].....  | 282             | [HL1292]..... | 280             |
| [HL977].....  | 281             | [HL1294]..... | 279             |
| [HL1007]..... | 275             | [HL1319]..... | 280             |
| [HL1082]..... | 278             | [HL1320]..... | 279             |
| [HL1119]..... | 277             | [HL1328]..... | 282             |
|               |                 | [HL1343]..... | 277             |

---

## CONTENTS

Thursday 21 January 2010

### Questions

|                                       |      |
|---------------------------------------|------|
| Afghanistan.....                      | 1091 |
| Cyclists: Safety.....                 | 1093 |
| Iran: Baha'i Community.....           | 1096 |
| National Insurance Contributions..... | 1098 |

### Questions to Secretary of State for Business, Innovation and Skills

|  |      |
|--|------|
| Universities: STEM Subjects.....         | 1100 |
| Enterprise Finance Guarantee Scheme..... | 1102 |
| Economy: Growth.....                     | 1103 |

### Counterterrorism: Foreign Office Budget

|                                      |      |
|--------------------------------------|------|
| <i>Private Notice Question</i> ..... | 1105 |
|--------------------------------------|------|

|                   |      |
|-------------------|------|
| Royal Assent..... | 1108 |
|-------------------|------|

### Fiscal Responsibility Bill

|                            |      |
|----------------------------|------|
| <i>First Reading</i> ..... | 1108 |
|----------------------------|------|

### Business of the House

|                                |      |
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| <i>Timing of Debates</i> ..... | 1108 |
|--------------------------------|------|

### Nuclear Disarmament

|                     |      |
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| <i>Debate</i> ..... | 1108 |
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### Probation Service

|                     |      |
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| <i>Debate</i> ..... | 1143 |
|---------------------|------|

### Contaminated Blood (Support for Infected and Bereaved Persons) Bill [HL]

|                            |      |
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| <i>Third Reading</i> ..... | 1180 |
|----------------------------|------|

### Rehabilitation of Offenders (Amendment) Bill [HL]

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|------------------------|------|
| <i>Committee</i> ..... | 1183 |
|------------------------|------|

### Grand Committee

### Child Poverty Bill

|                                  |        |
|----------------------------------|--------|
| <i>Committee (2nd Day)</i> ..... | GC 175 |
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| Written Statements..... | WS 61 |
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| Written Answers..... | WA 275 |
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