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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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

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House of Lords

Thursday 30 June 2016

11 am

A minute's silence was observed to mark the centenary of the Battle of the Somme.

Prayers—read by the Lord Bishop of Chelmsford.

Schools: Religious Education

Question

11.07 am

Asked by ***Lord Taverne***

To ask Her Majesty's Government in what way the guidance produced by Dr Satvinder Juss on the implications of the High Court's ruling in *R (Fox) v Secretary of State for Education* is "inaccurate" as they have stated.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, the Government believe that Dr Juss's guidance is inaccurate in a number of respects, not least in its suggestion that the need to accord equal respect means that the teaching of other principal religions must be balanced by compulsory and systematic teaching of a non-religious world view to the same extent. We do not accept that it is appropriate for such views to be presented to schools as statements of fact. It is right for the Government to say that they do not agree.

Lord Taverne (LD): My Lords, first, I must declare an interest as a member of the British Humanist Association and apologise for the obscurity of the Question. The case referred to was a very complex but important case in which the judge ruled in favour of three humanist parents who challenged the Government's policy that non-religious views could be excluded from schools' curricula of religious studies. The judge found that the Government had made an error of law and that such studies should be pluralistic and should include non-religious world views. Dr Juss of King's College London issued guidance on those lines.

Will the Government explain why they have condemned this guidance, which on the face of it is a fair interpretation of the judgment? More generally, it is of course right that children should be taught about religions of the world and about the importance of Christianity in the history of this country, but is it really the Government's view that children should not be encouraged to think critically and make up their own mind and should not be made aware of the views of a very large and growing number of people in this country who do not subscribe to any religion?

Lord Nash: The case was on a very narrow, technical point, but the noble Lord may be pleased to hear that all six GCSE-awarding bodies' GCSE content includes development of students' understanding of wider beliefs, including a non-religious world view. The judge made clear that there was no challenge to the content of the GCSE and no requirement in domestic or human rights law to give equal air time to all shades of belief. We do not accept the wider interpretation that Dr Juss places on the case.

Lord Harrison (Lab): Do the Government not recognise that their advice to schools may in itself contradict the law, as just explained by the noble Lord, Lord Taverne?

Lord Nash: We issued clear guidance in December on this matter and we do not recognise that point.

Lord Hughes of Woodside (Lab): The Minister says that he disagrees with the judgment. Will he explain why the Government have reached that decision?

Lord Nash: Because the decision was based on a very narrow point, and Dr Juss's interpretation gives it a much wider aspect. It was a very specific case about the content of GCSEs.

Lord Cormack (Con): My Lords, as we have heard from three humanists in a row, may I be allowed a word? Does my noble friend not agree that it is very important that children should have a good grounding in the faith of their country, or of their particular group if they are Muslims or Jews or whatever, because they cannot challenge what they do not understand? It is right that adults should have the proper opportunity to challenge, but if they are challenging on the basis of flimsy information, that is not very sensible.

Lord Nash: I entirely agree with my noble friend. All children should be made aware of the basics of all religions as part of a broad and balanced education. It helps you to respect someone if you understand more about them.

The Lord Bishop of Chelmsford: My Lords, I address the House at this point in my capacity as a lapsed atheist. I make it clear that I welcome the place of non-religious world views in religious education; they are very important. However, will the Minister further agree that one of the best ways in which people can counter the race hatred, xenophobia and misunderstandings that we see in our society at the moment is by strengthening religious education in schools?

Lord Nash: I agree entirely with the right reverend Prelate. The Church has a good record of creating much inclusion in its schools. We have a considerably increased intake for the more academic, rigorous GCSE that we introduced.

Lord Lea of Crondall (Lab): My Lords, one of the most popular words at the moment is "binary", as in in/out. When it comes to the question of science and religion, it is a question not just of teaching doctrines but of the examination of the compatibility of, for example, Christianity with the Big Bang origin of the universe. It is not just a question of a binary argument about what should be on the curriculum.

Lord Nash: We have a settled policy that evolution should be taught in schools as an essential element of a rigorous modern scientific education. Outside science lessons there is scope for people to discuss beliefs about the origins of the earth and so on.

Lord Storey (LD): Will the Minister reflect on why, if the Government believe that non-religious beliefs have a full and important place in religious studies, they have moved to encourage schools and those who set syllabuses to ignore a legal judgment that sets out exactly that position?

Lord Nash: As I have said already, a much wider interpretation is being made of this narrow judgment than should be.

Baroness Browning (Con): My noble friend mentioned science in respect of religious studies. However, will he accept that science is quite properly evidence-based, while whatever faith a person is it is not called faith for nothing?

Lord Nash: I entirely agree with my noble friend.

Lord Blunkett (Lab): Will the Minister agree that what might combine both an understanding of the role of science and of religion in the world is good teaching of citizenship in schools so that young people can develop critical thinking skills in a way that enables them to apply them to their life and to the well-being of the community around them?

Lord Nash: I entirely agree with the noble Lord. The same could be said of PSHE and character education. We are looking at what more can be done to strengthen the curriculum to further prepare pupils for life in modern Britain through citizenship, PSHE, character education and other matters.

Consumer Protection: Online Ticketing

Question

11.16 am

Asked by ***Baroness Hayter of Kentish Town***

To ask Her Majesty's Government whether they will implement the recommendations of the Independent Review of Consumer Protection Measures concerning Online Secondary Ticketing Facilities.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): The Government's response to Professor Waterson's report will be published shortly and will give our position on each of his recommendations. I take this opportunity to thank Professor Waterson, who is professor of economics at Warwick University, one of Britain's top universities, for all his work and for delivering a thorough report within the tight statutory timetable.

Baroness Hayter of Kentish Town (Lab): My Lords, it is over a year since the Consumer Rights Act required secondary ticket sellers to provide full details of tickets, including face value and seat allocation. Despite that, viagogo, Seatwave, GET ME IN! and StubHub continue to sell tickets against the rules, ripping off fans. A Harry Potter £130 ticket sold for £2,000, and £150 tickets for England's first game in Paris sold for £6,000.

Noble Lords: Oh!

Baroness Hayter of Kentish Town: It is a good thing Iceland got rid of us. Black Sabbath tickets were sold at hugely inflated prices before they had even been released, and this month's cricket tickets were being offered in breach of the rules. The money goes to neither the sport promoters nor to the artists. Professor Waterson, to whom we also pay tribute, found that the law was not being enforced and called on the Government to act. Will the Government now accept their responsibility and do so?

Baroness Neville-Rolfe: As I said, the Government will respond shortly to the report and Professor Waterson recognised the positive aspects of secondary ticketing. There are issues of transparency and enforcement, which he highlighted and which will obviously come out in our response.

Lord Moynihan (Con): My Lords, I declare my co-chairmanship of the All-Party Parliamentary Group on Ticket Abuse. Does my noble friend agree with Professor Waterson that while the voluntary implementation of his recommendations is the best way forward, if the secondary market continues to flout the law, we should look on an all-party basis to strengthen the law to protect sport fans and concertgoers?

Baroness Neville-Rolfe: I thank my noble friend for all he has done to make this legislation exist and Professor Waterson's report to be tabled. We have certainly taken note of his recommendation that the primary and secondary ticketing markets should act, on a voluntary basis, on the issues that the professor has identified. I look forward to that being pushed forward. Clearly, we should try to ensure that these changes happen, because it is in the markets' interest that they act before we look to legislate further.

Baroness Burt of Solihull (LD): My Lords, it is clear that the online secondary ticketing industry is making a fat profit out of fans desperate to see their favourite entertainments. I am glad that the Government have announced a compliance review following Waterson. However, will the Minister ensure that trading standards is mandated and directed to enforce the law as it stands right now, otherwise what is the point of passing legislation such as the Consumer Rights Act in your Lordships' House if it will be ignored and flouted?

Baroness Neville-Rolfe: The Government will of course consult the enforcement bodies, including trading standards, before we publish our response. We are in discussion with them now. The noble Baroness makes

some good points, but of course the internet has fundamentally challenged the ticketing environment. Professor Waterson himself said:

"Britain may be an island, but it is not an internet island".

We have to recognise that and look forward.

Lord Skelmersdale (Con): My Lords, what advice would the Minister give to those who suddenly get an email offering one of these tickets?

Baroness Neville-Rolfe: I think my noble friend's comment shows how careful people have to be. Of course, the Euro 2016 tickets are not covered by this legislation. One of the good things in Professor Waterson's report is a list of hints and tips to help consumers. I should not anticipate our response but I hope that the project group will move forward in that area.

Lord Foulkes of Cumnock (Lab): Might the Minister look into whether we can learn from practice in other countries—Iceland, for example?

Baroness Neville-Rolfe: The ticketing system underpins the success of our events and our tourist events, in music as well as in sport, and I am sure the secondary sites will be a good source of tickets for Icelanders as they progress through the tournament.

Lord McFall of Alcluith (Lab): My Lords, is there a case for using technology here to ensure that the ticket sellers reveal the identity of their websites?

Baroness Neville-Rolfe: Provisions are laid down in the Consumer Rights Act, which we introduced in this House. Technology is changing things. One thing that can be looked at is ID, but potentially that will have problems under the Data Protection Act if people's names are published. However, other technological advances, such as the use of wrist bands and biometrics, are coming along. My message would be that we should take these into account in trying to reduce fraud and improve enforcement in this important area.

Health: Diabetes and Obesity

Question

11.21 am

Asked by ***Lord Harrison***

To ask Her Majesty's Government what steps they are taking to ensure that those with diabetes have adequate support to tackle obesity.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, it is for healthcare professionals to identify, in consultation with their patients, what support is needed to manage diabetes effectively. This includes people with diabetes accessing programmes to help manage their weight, eat healthily and be more active.

Lord Harrison (Lab): Can the Minister give us a date for the obesity strategy and, when it appears, can he ensure that in the reformulation advice to the food industry not only sugar but salt and saturated fat will be taken into account? Secondly, following Brexit, can he make a statement or at least write to me about the breakdown in the research being done across the whole of the European Union with our United Kingdom colleagues to defeat obesity and diabetes, as was worried about this morning by the former research director of the European Commission on the "Today" programme?

Lord Prior of Brampton: My Lords, it is still our intention to announce the obesity strategy soon. Clearly, there have been other events, which may create some delay, but we will announce the strategy as soon as possible. When we do, I am sure that there will be clear recommendations on diet that will include not just sugar but saturated fats and salt. Finally, as the noble Lord knows, I am arranging for him and the noble and learned Lord, Lord Morris, to meet people from the research community to discuss the outlook for research into diabetes, and I am sure that it will include any impact that Brexit might have.

Baroness Gardner of Parkes (Con): My Lords, will specialist diabetic nurses be involved in this? They are enormously valuable to patients and provide a very practical way of getting direct help to patients instead of involving consultants on all occasions.

Lord Prior of Brampton: My noble friend is absolutely right that specialist diabetic nurses have a huge role to play in helping to identify and then manage and treat people with type 1 and type 2 diabetes. I am sure that that role will grow over time.

Lord Rennard (LD): My Lords, projections show that, in 20 years, 40% of the UK population may be defined as being obese and one-third as overweight. Is it not therefore important that we introduce restrictions, very shortly or even now, on the marketing of junk food to children?

Lord Prior of Brampton: My Lords, that issue will be addressed in the obesity strategy, which comes out later this year. The levy that has been announced will, I think, lead to the reformulation of high-sugar fizzy drinks, which is a start in the right direction. It is largely a question of diet, as the noble Lord said, but also exercise and many other factors, which will be in the obesity strategy that comes out later in the year. Clearly, making it more difficult for young people to access junk food will be an important part of that strategy.

Baroness Masham of Ilton (CB): Does the Minister agree that diabetes is a very complex condition and can be very expensive to every country in the world? Does he also agree that many diabetics love sweet things? Will the Government stimulate more health education in schools so that children grow up learning about diabetes?

Lord Prior of Brampton: That is a very good point, and I hope that it will be covered in the obesity strategy for young people when it comes out later in the year. A key part of our diabetes prevention strategy is to identify more and more people who are at high risk of developing type 2 diabetes and give them a personalised programme to reduce the likelihood of their getting diabetes. We hope that, by 2020, 100,000 people a year will be on that programme.

Baroness McIntosh of Pickering (Con): Does my noble friend agree that we do not need to wait for the obesity strategy for doctors to recommend which diet, salads and fruits those borderline diabetes patients should be taking? Could not doctors be giving that advice now?

Lord Prior of Brampton: Of course they should be giving that advice, and indeed they are. There is also clear advice on the Public Health England website as to what is the right diet. Confusing messages have been given over the past couple of months. Therefore, I think it would do no harm to repeat in the obesity strategy what is the right diet.

Baroness Young of Old Scone (Lab): My Lords, is the Minister aware of recent emerging research that confirms the view that has been held for some time that if people with type 2 diabetes—and there are 3.5 million of them in this country—reduce their weight by 10% and take modest regular exercise, in a significant number of cases the effects and complications of their diabetes can be put into long-term remission with consequent reductions of pressure on NHS resources and capacity? Despite that, less than 10% of people with diabetes get any such help in reducing their weight and increasing their exercise, and therefore having the option and opportunity of turning off their diabetes. This issue has been raised significantly over the past five years. What urgent steps can the Minister outline, rather than simply relying on local action that is clearly not working?

Lord Prior of Brampton: The noble Baroness is clearly right that weight reduction can reverse diabetes. My father, for example, has lost weight and his diabetes has, effectively, been put into remission. There is no question that it works. However, it is very difficult to lose weight once you are overweight. The figure is that only one in 210 people with a BMI of over 30 can reduce it to a normal level; hence the emphasis that the Government are putting on explaining this to children and young people before they get fat. That is the critical place to aim. However, I entirely agree that greater access to structured education programmes is very important.

Baroness Finlay of Llandaff (CB): I fully endorse that reply from the Minister, but will he also ensure that the guidance includes recognition of emerging research that children, if they never become obese, have a different type of fat—brown fat—which maintains a higher metabolic rate and therefore decreases their long-term risk of diabetes? The importance of avoiding obesity in the first place, particularly in children and in women, in pregnancy and post pregnancy, is the only way that we will stop this ever-growing curve of diabetes associated with adult obesity.

Lord Prior of Brampton: I entirely endorse the words of the noble Baroness, which I am sure will be reiterated in the obesity strategy when it is announced later in the summer.

Lord Watts (Lab): My Lords, does the Minister agree with me that far too much attention has been given to sugary drinks, the consumption of which has been in decline for the past 10 years, and not enough attention given to other unhealthy foods that are causing the problems?

Lord Prior of Brampton: I think that the levy on sugary drinks has been universally welcomed as a start. That the proceeds of the levy will be put into the sport premium in primary schools and lengthening the school day in secondary schools is all for the good. If we are to address obesity, it has be across a very wide front.

Lord Roberts of Llandudno (LD): My Lords, with the cuts in education budgets and consequent reduction in the number of nurses in schools, who are able to keep a special eye on diabetic pupils, will the Minister give an instruction that is helpful to education authorities and schools to replace somehow the specialised nursing staff who have done such a great job over the years?

Lord Prior of Brampton: My Lords, I cannot address the specific issue of the number of nursing staff in schools, but the Government are well aware that encouraging children to eat well and take exercise is a crucial part of any obesity strategy. As I said, our strategy will be revealed later in the year.

Constituency Boundary Revisions

Question

11.31 am

Asked by ***Lord Tyler***

To ask Her Majesty's Government what steps they will take to ensure that constituency boundary revisions take full account of the electoral registers on 23 June.

Baroness Chisholm of Owlpen (Con): My Lords, Parliament has approved that the current boundary review should be based on the December 2015 registers. Unless there is a defined date and a set of registers to assess, it is impossible to run a review. Changing the date now would risk the work of the Boundary Commissions not being implemented for the next election, meaning that it would be fought on demographic data from 20 years ago rather than last year.

Lord Tyler (LD): My Lords, will the Minister take this opportunity to confirm that if there were to be a general election this year or next, it would be on the

basis of the present constituency boundaries with no reduction in the number of Members of Parliament? Does she recall that when the register was looked at in December 2015, the Electoral Commission made it quite clear that some 2 million people had been excluded, while last week we were told that some 2 million additional people had come on to the register? Would it not be extraordinary to use those previous figures, which are now so out of date as to be bogus and demonstrably unfair, as a basis for allocating the new constituencies, to an extent where people will think that it is gerrymandering? Those were not ghost voters who voted last week, as Ministers implied would be the case earlier last year. Would it not be ridiculous to use out-of-date figures in this context?

Baroness Chisholm of Owlpen: It is important to remember that there are always similar upturns in registration—for instance, ahead of a general election, as publicity and media coverage drive up registration activity. There are always peaks and troughs throughout the year and registers for the boundary reviews are necessarily a snapshot. Let us imagine the expense if we kept updating them every couple of months. A great many recent amendments to the register will be people who have moved but want to ensure that they can vote at their local polling station. Moreover, a number—we do not yet know how many—may be applications from people who have already registered and are therefore duplications.

Lord Pearson of Rannoch (UKIP): My Lords, will the Government also take steps to ensure that our electoral system becomes vaguely democratic? After all, there is not much point in messing around with the register if the system itself no longer works. I say that because at the last general election, UKIP received one-third of the Government's vote, but only one seat in the House of Commons. Surely that proves that our first-past-the-post system, although it may have worked when we had only two parties, at the moment disfranchises two-thirds of the electorate.

Baroness Chisholm of Owlpen: The noble Lord certainly gets top marks for pursuing the same question over and over again. My answer is the same as it has always been—there is no change. It is important to remember that equalising the size of constituencies in the boundary review means that everyone's vote will carry weight. If we let some constituencies stay smaller than others, voters in them will have more power than people in the bigger ones, and the boundaries will be based on data that are 20 years out of date. That cannot be fair or right. The principle of equally sized constituencies was endorsed by the Committee on Standards in Public Life and will ensure the vital demographic principle of one elector, one vote.

Lord Kennedy of Southwark (Lab): I declare an interest as a councillor in the London Borough of Lewisham. The noble Baroness's response today has been disappointing. How does she justify redrawing boundaries for the House of Commons using electoral data when millions of valid entries on the register will not be taken into account, due wholly to the decision taken by this Government to reduce by one year the transitional period?

Baroness Chisholm of Owlpen: I do not want to make a political point but this appears to be a cynical delaying tactic. In the previous Parliament there seemed to be a conspiracy to delay the boundary review by legislating to put it back until 2018. Here, we have new excuses to push it back again, but to do so would mean that the next general election would be fought on incredibly outdated constituencies. We need to move ahead and have the boundary review in place by 2018. We need to be able to put our candidates into their constituencies in time to fight the 2020 general election. This has been decided as the way forward. For goodness sake, let us just go ahead and do it.

Lord Cormack (Con): My Lords, I do not dissent from what my noble friend has said. However, can I again make a plea for the Government to look in an open-minded way at the issue of compulsory registration, which would solve many of the problems that have been referred to? That way, if people did not register they would be liable to a penalty. It would be entirely right and proper to insist upon compulsory registration. I beg my noble friend to have an open mind on that.

Baroness Chisholm of Owlpen: As my noble friend knows, my mind is always open. However, in this case, I do not think there will be any change.

Lord Brown of Eaton-under-Heywood (CB): Is the work being undertaken by the Boundary Commission on the basis of a 650-constituency Parliament, or is it adaptable to a 600-constituency Parliament? What, therefore, would be the result of giving or not giving effect to the proposed reduction regarding the present work of the commission?

Baroness Chisholm of Owlpen: If I understand the noble and learned Lord's question correctly, the work is based on boundary reviews being carried out so that the number of MPs will go down from 650 to 600.

Lord Rennard (LD): The Government acted speedily a few weeks ago to extend the deadline, allowing another 400,000 people to be included in the voting register. Should they not now act speedily to ensure that the 2 million-plus people added to the electoral register since 1 December are included in the boundary review? They could, as they did in 1992, simply speed up the process of the Boundary Commissions, put a little more resource into it and make sure that we get what they say they want—boundaries based on equal numbers of electors in each constituency—but only by letting the Boundary Commissions act on the basis of the registers as they now are, not as they were last December.

Baroness Chisholm of Owlpen: There simply is not time. It was decided that this is the way forward and it is going to happen. The Boundary Commission started its work in February of this year and it will be completed

[Baroness Chisholm of Owlpen]
in time for 2018. Any delay would mean that we do not get it done in time for the election. The noble Lord, Lord Tyler, said in 2010 that votes should have equal value and equal weight, whether they are in the furthest reaches of rural Cornwall or in the inner cities, or in England, Wales, Northern Ireland or Scotland. Any delay will mean that that takes longer and longer to happen. We just need to get on with it.

Business of the House

Motion on Standing Orders

11.39 am

Moved by ***Baroness Stowell of Beeston***

That Standing Order 40(1) (*Arrangement of the Order Paper*) be dispensed with on Tuesday 5 July to enable the debate in the name of the Lord Privy Seal to be taken before oral questions.

Historical Child Sex Abuse

Motion to Take Note

11.39 am

Moved by ***Lord Lexden***

That this House takes note of the case for introducing statutory guidelines relating to the investigation of cases of historical child sex abuse.

Lord Lexden (Con): My Lords, I sought this debate because of the deep public disquiet that has arisen over the manner in which a number of allegations of historical child sex abuse have been investigated. Public concern tends to be at its strongest in relation to instances of alleged child sex abuse, to which this Motion refers, but of course it ranges beyond them to other cases as well. It is unlikely that concern will diminish until action is taken to provide reassurance.

The number of historical allegations under investigation rose sharply following the discovery of the foul Savile crimes. Much police time has been and continues to be devoted to them. In September 2014, a quarter of the major incident detective team of Greater Manchester Police was working on cases of alleged historical abuse. There are a large number of suspected offenders to be investigated. Some will be innocent, others will be guilty, but it can often be extremely difficult to determine where the truth lies.

The difficulties and the damage that is done if they are not successfully addressed have been most usefully highlighted in an authoritative recent report produced by three academics and published by the Centre for Criminology at Oxford University. The report is entitled, *The Impact of Being Wrongly Accused of Abuse in Occupations of Trust: Victims' Voice*. The victims in this context are of course those who were wrongly accused. The report documents the distress that has been inflicted on many men and women from all walks of life and backgrounds—people whose voices are rarely heard on the national stage. Here they speak of loss of income, unemployment, family break-up and mental breakdown.

The report leads us to the heart of the matter with which this debate is concerned. It notes a cultural shift towards believing allegations of abuse, adding that the presumption now is in favour of believing those who present themselves as victims. It notes, too, that some reports assert that victims' accounts are being accepted at face value as evidence of the guilt of the person accused, with little attempt to find corroborating evidence. It is but a short step from such practices to the diminution, if not the reversal, of that most basic of our rights: that we are innocent until proved guilty. Is there a danger that that step might be taken in relation to the investigation of historical sex abuse allegations?

Indeed, it seems that it has in fact been taken in some police forces. The Metropolitan Police's website proclaimed last year that:

> "Our starting point with allegations of child sex abuse is to believe the victim until we identify reasonable cause to believe otherwise".

This month has brought a powerful reminder of some of the principal causes of the disquiet that has arisen. Sir Cliff Richard has been told that he is not to face charges arising from the investigation of allegations relating to purported events going back more than 30 years. The allegations were made two years ago in a blaze of publicity created by the police and the BBC acting in grotesque collusion before he had even been interviewed. Such a media circus should never have occurred. Could it have been the fact that the initial complainant was aged under 16 at the time of the allegation, which created the temptation that led these two public organisations to take action at Sir Cliff's expense? How can we ensure that nothing of this kind happens again? Sir Cliff has spoken movingly of the harrowing distress that he endured during the two years that he had to wait to hear his fate, which was that "insufficient evidence" existed on which to bring charges against him. His innocence has not been fully and unambiguously restored.

Those of us in political or parliamentary life will never forget other astonishing police behaviour. The manner in which Field Marshal Lord Bramall was treated shocked us all, as did the distress inflicted on Lord Brittan during his final illness and the additional pain suffered by his much-loved wife after his death. The sight of a senior police officer standing outside Sir Edward Heath's former home in Salisbury and exhorting those who had allegations to make to get in touch will not fade from the memory.

Nor we will forget the ludicrous, large-scale police operation undertaken on the word of a fantasist to track down a murderous ring of paedophile politicians in Dolphin Square, London. Just a little light research would have shown that much the same story, minus murder, had been manufactured 20 years earlier. I myself was given a role in that first fable.

It does not follow from all this that allegations of historical or recent sex abuse should be investigated with a light touch. Stringent and thorough inquiries must be made to punish evil deeds committed in the past, but is the fundamental principle of innocence

until proven guilty entirely safe? Dame Lowell Goddard, whose inquiry will be of such importance, referred recently to the balance which must be struck between encouraging the reporting of child sex abuse and protecting the rights of the accused. It is not evident that all our public authorities are striking the balance correctly today.

This point has been borne in upon me forcefully by the case of Bishop George Bell, which suddenly came to public prominence last October. Indeed, I think it deserves even more prominence than it has so far received, in view of the stature of the man accused and the manner in which a single, uncorroborated allegation of child sex abuse against him, stemming from purported events more than 50 years ago, has been dealt with by the Church of England authorities.

Born in 1883, George Bell has been described as,

"the one undeniably great figure",

in the 20th-century history of the Church of England. He was Bishop of Chichester for nearly 30 years until his death in 1958, bringing fame to that diocese as his reputation grew. But for the public controversies that his monumental work at home and abroad aroused, he would almost certainly have become Archbishop of Canterbury in 1944.

His interests were astonishingly varied. He was a patron and friend of, among other creative figures, John Masefield, TS Eliot and Gustav Holst. He was one of the first and foremost leaders of the ecumenical movement after the First World War. He was, for some 20 years, a Member of this House, where some of his major public pronouncements were made and where he was held in the highest respect. He was continuously involved in combating injustice and suffering in Germany before and during the Second World War.

Before 1939 no one did more to sustain and defend German Christians and Jews of all kinds in the face of Nazi persecution. During the Second World War he led the protests against the bombing of entire German cities which visited punishment on both the just and the unjust. This brought him much criticism, but no one questioned the deep Christian integrity of this saintly man. He said in 1943:

"The Church has still a special duty to be a watchman for humanity, and to plead the cause of the suffering, whether Jew or gentile".

A great life is the subject of much study after it is over. In this generation it has been closely examined by Dr Andrew Chandler, a leading historian of the Church of England, who recently published an outstanding new life of Bishop Bell, drawing on his vast archive at Lambeth Palace. Everything that Dr Chandler has examined reinforced the view that this was an unblemished life, a model in every respect of what a great Christian leader should be, in private as well as public affairs. How can a bishop retain his greatness if he is found guilty of a cardinal sin? Here, surely, is a man who has a special claim to the most careful treatment if posterity should ever have cause to doubt his virtue.

Reason for doubt did arise, first in 1995 and then again in 2013. Investigations since then, conducted in secret by unnamed experts under processes that are unknown, led the Church to the conclusion that it should settle a civil claim arising from a single allegation of child sexual abuse in the late 1940s and early 1950s. Compensation was paid to the anonymous complainant in the case, whom the Church refers to as "the survivor". A statement announcing what had happened was issued last October.

I am a member of the George Bell Support Group, composed of distinguished QCs and other lawyers, Members of both Houses, academics and senior Church figures. The group published a report on 20 March, after examining in detail the processes that led to the Church's statement last October. We called for an inquiry into the allegations against Bishop Bell. The Church authorities have not replied to the report. Two days ago, however, they announced an independent review into the case.

I look forward very much to the information that the right reverend Prelate the Bishop of Chelmsford will no doubt provide about the review in his contribution to this debate. I hope he will be able to answer a number of key questions about how the review will be conducted. First, will the reviewer have legal experience relevant to child abuse cases? Secondly, will the review be willing to receive written evidence and submissions? Thirdly, will the review acknowledge that the burden of proof in civil proceedings rests with the claimant? Fourthly, what provision will be made to prevent the exercise being no more than a review of the processes set out in the Church's practice guidelines which led to the statement last October? Fifthly, will the concerns raised by the Bell group's report be addressed?

The occurrence of a series of highly controversial and disquieting investigations in both Church and state in recent years must lead us finally to question the adequacy and effectiveness of the guidelines that the police and the Crown Prosecution Service have produced and use. The College of Policing has devised what is known as authorised professional practice guidance which sets out how the results of an investigation are to be evaluated. The Crown Prosecution Service has produced guidelines under which consultation is advised between the police and the CPS at an early stage in large and complex child sexual abuse cases—something which should surely occur as a matter of course.

Then there is College of Policing guidance on managing such complex cases. It has some significant features. They include,

"media interest and its impact on an investigation",

and the avoidance of action that would involve trawling for witnesses. As regards the media, where such intense concern has arisen, this official guidance states that,

"save in clearly identified circumstances, or where legal restrictions apply, the names or identifying details of those who are arrested or suspected of a crime should not be released by police forces to the press or the public. Such circumstances include a threat to life, the prevention or detection of crime or a matter of public interest and confidence".

I am not at all confident that that advice is entirely clear. It certainly seems to provide unduly wide scope for media intrusion on those under investigation. The guidance could usefully be reviewed in the light of what has happened in recent years. Many would feel that an explicit ban is needed on the deplorable media

[Lord Lexden]
stunts in which the police have been involved and on sustained, irresponsible trawling for evidence. The House of Commons Home Affairs Select Committee has recommended a prohibition on naming a person suspected of a sexual offence until they are charged.

Perhaps what we need most of all is a clearly written and readily comprehensible code of conduct, perhaps with statutory backing, for the police and public authorities investigating allegations of historical abuse: a document wholly free from the impenetrable jargon that so many parts of our public service have come to love, and readily accessible to the public it is designed to serve. At the heart of such a code should be the firm reassertion of that basic and precious principle, the presumption of innocence. I beg to move.

11.53 am

Lord Dear (CB): My Lords, it is a privilege to speak in support of the Motion proposed by the noble Lord, Lord Lexden, which, as noble Lords will already have concluded, identifies a number of serious fundamental failures in our current system. First, I turn to the case of Field Marshal Lord Bramall. All of us will remember him as a Member of this House until his retirement two years or so ago. I remained close to him during the problems that arose as a result of his investigation. I should put on record that I was able to advise him constantly during that period and to give advice, when it was necessary, to his legal team. As such, I saw the unhappy case from the inside, from a particularly privileged position. As far as I am concerned, that investigation was mishandled from the very beginning. There was only one complainant: the man who is referred to under the nom de plume of Nick. There was no corroboration to Nick at the time, or indeed since. There was no early check made on the veracity of Nick. Checks that were carried out some time later indicated that his evidence was likely to be flawed; indeed, it is on record that some referred to him as a fantasist.

Of course, it is a matter of record, as the noble Lord, Lord Lexden, has already identified, that there is a very heavy duty on the police to investigate cases of this sort. Indeed, it was always Lord Bramall's position that he expected nothing less. He did not seek preferential treatment at any stage, despite his staggeringly well-known record in public life. But when it comes to carrying out an investigation, it surely is totally inappropriate to turn up at his house in a small market town with marked police cars, with 20—no less—officers in white scenes of crime suits to carry out a search of his property, in a blaze of publicity. I shall mention publicity in another context in a moment.

At that time Lord Bramall put forward the names of a number of his staff who were serving with him at the time that the allegations concerned—drivers, secretaries, staff officers, protection officers and so on—all of whom could have spoken in some detail about where he had been and whether it was possible for him to have committed those offences. Those interviews were not carried out for something like five months after he first put that information before the police. The inquiry dragged on, as we all know, for around 10 months. It could have been—indeed, I contend it should have been—terminated at around the three-month point. Eventually a file was put to the DPP to review the evidence. I can say without any fear of contradiction that there was no evidence other than the one allegation made by the man, Nick, and, as we know, there was no apology for a very long time, until one was dragged out in a very tardy fashion. He was, in effect, put on a hook as bait for others to come forward and say, "Yes, me too".

I use the words "bait on a hook" because that is exactly how Sir Cliff Richard has described his experience in recent weeks. It was a different force—South Yorkshire Police—and I know little about that case, other than what I have read in the newspapers, and therefore have no personal inside knowledge of that investigation, except to say that it has a marked similarity to the Bramall case, almost holding up a mirror, as it were. There was the blaze of publicity that we all remember when Sir Cliff Richard's house was photographed from a helicopter, with cameras from television companies, and a two-and-a-half-year inquiry. Again, as he put it, eventually the bait—him—was reeled in due to insufficient evidence. I would think that almost certainly there was no evidence other than the one complaint. Frankly, this is not good enough.

Sexual assault is a very serious allegation. When it involves minors, it becomes more serious and the duty on the police to investigate becomes even more pressing. But there is a fundamental principle that the noble Lord, Lord Lexden, has already identified—the need to preserve the legal tenet that you are innocent until proven guilty—which requires the investigators to hold the whole situation in balance. Until I realised that the noble Lord, Lord Armstrong of Ilminster, was going to speak, I was going to identify some of the circumstances concerning the investigation of Sir Edward Heath. I understand that he will speak to that later. All I will say at this stage is that I fully concur with what I believe he is going to say: in that instance I do not believe that the actions of Wiltshire Police were either proportionate or appropriate.

It is not only the police that I would take a stick to on this occasion; the case of Bishop George Bell has already been mentioned. Here I claim some sort of inside knowledge, in that I too am a member of the George Bell group. As the noble Lord, Lord Lexden, has already told your Lordships, it is a group comprising senior figures from the Church of England, Members of the House of Lords and of Parliament, historians, investigative journalists and two QCs. I should perhaps ask your Lordships to note that those two QCs are, in one case, a retired judge, and in the other a man who was until recently the chairman of the Bar of England and Wales. So they are no slouches so far as the investigation of evidence is concerned.

Bell has been dead for around 60 years and the group is very concerned that there is apparently only one complainant, a lady named as Carol under a nom de plume. We believe that if she was indeed assaulted, it could not have been by Bell. All the geography, the timing and so on speaks very clearly: it points to the activities of a cleric who may well have been occupying

the nearby theological college, next to the Bishop's Palace. It seems to the group that there is a huge problem here, which the Church of England has not identified. As your Lordships have already heard, in the last few days the House of Bishops has launched an inquiry, which I understand is standard procedure when a bishop is involved in allegations of this sort.

I go back to a statement made by the Church of England on 22 October last year. In my considered opinion, that statement was slippery. The public were assured that the process of inquiry had been thorough; it was not. The allegation was presented as something very solid indeed; it is not. The statement actively incited a public judgment of guilt while allowing the Church room for manoeuvre. I would contend that that, at the best, is disingenuous. Nothing about the actual process was exposed to public scrutiny. There was complete silence as to how the decisions were reached. The independent experts, as they were called by the Church of England, were then and remain anonymous. No one has been left in a position to judge their authority and the statement on 22 October did not acknowledge the true legal standing of those reports. At that time, it quoted at length the complainant's solicitor's view and that of the Bishop of Chichester, both of whom were treating the allegation as proven.

Since that time, as has already been alluded to by the noble Lord, Lord Lexden, the Church has refused to answer questions because it insists that there is a legal requirement of silence. Both the eminent QCs in our group have challenged that view. The Church has refused to answer questions because, it says, it would compromise the complainant; but the complainant herself, under anonymity, has undermined that by giving interviews to the press. It has refused to answer questions because of the impending Goddard inquiry; but that view is undermined by a spokesman for that inquiry who said—I paraphrase—that, "The case of Bell will be nothing to do with us". So we face a body which, on this occasion, is simply unaccountable and deeply resentful of the most authoritative external criticism. It has misrepresented the arguments of its critics, rather than face up to them squarely, and provided absolutely no information about its processes or identified those responsible for them despite the fact that the reputation of a significant figure has virtually been trashed.

I turn back to the statement saying that we can expect an investigation into this by the Church itself. A diocesan spokeswoman has said:

"There is absolutely no suggestion that this review is about what decision was made".

So if we are going to look not at the decision but at the process, it seems to me—I shall be interested to know what view is expressed later—that there is a grave doubt whether the same players will be marking their own homework. Quite clearly, as the noble Lord, Lord Lexden, said, the reviewer—the chairman of the review body—needs to have legal experience. It is no good having somebody who was involved in that process also involved in a review of what they themselves had conducted earlier.

I return very quickly to the problems that I identified in the Bramall case. There was clearly a lack of leadership and an overreliance on management procedures in that example. Only 10 or 12 years ago, shortcomings like that would have been identified, first of all, in the Police Staff College by changing the curriculum and insisting on different procedures being followed. However, we cannot look to the Police Staff College any longer, because it has been sold by the Home Office and there is nothing in its place. We would have expected, 10 or 12 years ago, advice perhaps to have come from the Home Office in the form of what were then called Home Office circulars—advice to all the police forces in the country, which was really quite powerful. That sort of advice has now been delegated to police and crime commissioners. The College of Policing—different from the Police Staff College—is embryonic and so far has not produced anything which is particularly convincing.

As a result, with no Home Office overview and instead the device of looking towards chief constables and PCCs, who are understandably preoccupied with local issues, the only overview that one seems to detect from the Home Office is value for money and collaboration agreements which lead to it—and not an interest, I should say, of any great depth in national standards of recruitment, training and, particularly, procedures.

That being the case, it gives me great pleasure to support the Motion put forward by the noble Lord, Lord Lexden, and to congratulate him on securing this time. I reflect on the fact that we are here to protect the complainant and the accused together and that there is a very strong case for a code of conduct—whether it be statutory or persuasive matters not, so long as it is powerful—that will bear on this issue and the quasi-judicial bodies that would be encompassed within it, for example the Church.

In conclusion, I say only that it seems we have lurched as a society from the extremities of the mishandling of the Savile case into the extremes identified in the current cases, and we need to put the balance point back where it belongs.

12.07 pm

Lord Carey of Clifton (CB): My Lords, I am grateful to the noble Lord, Lord Lexden, for securing this debate and for his excellent introduction. It is a privilege to follow my noble friend Lord Dear, and we are in his debt for his very clear speech. I too am very troubled by the ease with which complaints going back years can trash, tarnish and destroy reputation, careers and lives. We have had evidence of that in recent years, as we have heard, with the accusations against Lord Bramall, Lord Brittan, the DJ Paul Gambaccini and Sir Cliff Richard.

In the case of Lord Bramall, the accusation was dropped without a word of apology from the police. The charges against Lord Brittan and Paul Gambaccini were also dropped. As we have heard, Cliff Richard's case was more deplorable: without any warning, combined action by the police and the BBC devastated the life of this well-known person, giving him, in his own words "two years of hell". A week or two ago, the police dropped all charges because of lack of evidence. For Cliff Richard, that is not sufficient. He rightly demands that his name be cleared and a fitting apology given. It is good to note that he has been seen at Wimbledon this week.

[Lord Carey of Clifton]

We expect better in a land under the rule of law and in a democratic society where justice prevails. However, in the case of a dead person, the questions are much more difficult as the individual is no longer here to answer the accusations. I refer to Bishop George Bell, the Bishop of Chichester, one of the most distinguished Church leaders during the war years. He often spoke in this House and, in the words of his excellent biographer, Dr Andrew Chandler, was "ever the Christian internationalist".

George Bell was happily married to Henrietta for 40 years. It was a close and enduring marriage in which Henrietta supported her energetic husband devotedly. Not a whiff of scandal dogged his career. His was a life of constant work and activity. Although often embroiled in controversy—he clashed often with his own church and political leaders of the time—he was the man of deepest integrity. He died in 1958. Thirty-seven years later, in 1995, a woman under the pseudonym of Carol made complaints against him that when she was a five year-old, the bishop abused her. I have no wish to denigrate her, because her experience could well be true, but was the bishop the culprit? The Church of England seems to be certain of it, because last October, as we heard, a legal civil claim was settled by the Diocese of Chichester and a sum of money given to the complainant. The Bishop of Chichester made an unreserved apology to "Carol" expressing his "deep sorrow" and acknowledging that,

"the abuse of children is a criminal act and a devastating betrayal of trust that should never occur in any situation, particularly the church".

So Bishop George Bell was judged a paedophile and a pervert. The trashing of his memory and magnificent career is now well under way. George Bell House, in the diocese, a centre for vocation, education and reconciliation, has been renamed 4 Canon Lane. Bishop Bell school has been renamed Saint Catherine's School. At the University of Chichester, the George Bell hall of residence has been renamed, as has the George Bell Institute. The man described by Ian Kershaw, the leading historian of the war years, as,

"the most significant English clergyman of the 20th century",

is now being ruined, in the words of supporters of George Bell in the Chichester diocese,

"by an anonymous, unpublished claim, upheld by a non-court which won't explain its decision".

The worrying thing is that the Church of England has admitted that, given the positively ancient nature of these allegations, there cannot possibly be a test of the evidence to a criminal standard of proof. It has instead applied the civil standard: a balance of probabilities. However, even the civil standard relies on a person having a defence, someone to bat for them, and we have no evidence that the safeguarding officials of the Church of England—mentioned by the noble Lord, Lord Dear—who oversaw the supposedly painstaking investigation looked at any evidence. For example, I question whether they ever considered his extensive travels or his household arrangements, which might have thrown up some question marks about the nature of the allegations. They did not question a surviving relative or, even more devastatingly, Canon Adrian Carey—no relation—his chaplain for two of the years that the claimed abuse happened. Canon Carey strongly refutes any suggestion that anyone working in the palace "would often take the little girl with her when she went to work". He never saw a child in such circumstances, and it is not clear in what capacity the child's relative can possibly have worked at the palace in the evenings. This leaves many of us deeply unhappy with the process which the Church of England has undertaken. We sympathise with the complainant "Carol" but are unable to believe that even the lesser standard of proof has been properly applied.

I am distressed to make this observation of my own Church, but it seems to me that in this particular instance, its procedures have had the character of a kangaroo court and not a just, compassionate and balanced investigation of the facts.

A few days ago, as we have heard, the Church of England announced that an independent review would be set up to reconsider the George Bell case. The timing of the announcement might suggest to my mischievous mind that it is intended to fob us off. I hope I am wrong about that. However, I make a plea to the Church to ensure there is a clear, objective and open investigation, in which senior legal expertise is applied, to satisfy us all that justice has been served and above all, that the process be as open as it possibly can be.

Returning to the wider issue of the Motion moved by the noble Lord, Lord Lexden, the cases of Cliff Richard, Paul Gambaccini, Leon Brittan, Lord Bramall, as well as George Bell, mean that there is a strong case to be made for a new approach to historical sex abuses. When a complaint is brought, we should not expect the police to regard it as credible and true but to investigate it with an open mind, pursuing the evidence wherever it leads to build a case which the prosecuting authorities believe has a chance of obtaining a conviction. Similarly, I suggest that the type of civil action that the Church used in Bishop Bell's case should never be used in this way again. Surely there is also a strong case to be made for not revealing the identity of the accused until he or she is charged, because unless such changes are made, none of us is safe. Each one of us—however faithful we have been to our partners and to our ideals of right and wrong—will be at the mercy of mischievous and cruel accusations.

12.17 pm

Lord Cormack (Con): My Lords, we have just heard a most impressive and sombre speech from the noble and right reverend Lord, and I hope his words will be heeded by my noble friend when he comes to reply to this debate. We are, all of us, in the debt of my noble friend Lord Lexden for introducing this subject and for the manner in which he did so. We also had a very chilling speech from the noble Lord, Lord Dear, who talked about his association with Lord Bramall and how he had been able to advise him.

I was brought up—these things have been referred to before—to regard two propositions as being utterly necessary foundations for any civilised society. Any man or woman is innocent until proven guilty, and it is better that a guilty man or woman goes free than an

innocent one is punished, and we should all bear that in mind. In recent years, in the emotional panic that has followed the Savile case we have lost our bearings, and no institution other than your Lordships' House is better equipped to restore the moral compass of the nation.

All of us know of the extraordinary bravery of Bishop Bell. I was brought up to regard him as a really great figure in the land. I knew that he exasperated my greatest hero, Churchill, on many occasions, but again it is the hallmark of a truly free society that even in time of war a moral leader can do what George Bell did. That his reputation should have been so tarnished and trashed on the flimsiest of evidence, with no proper due process, makes me, as a lifelong Anglican, deeply ashamed that those in authority in the Church to which I am proud to belong should not have insisted upon a more thorough investigation before anything was said in public.

I make no complaint about the investigation of complaints. Of course, if an allegation is made to the appropriate authorities, that allegation should be thoroughly investigated. But no public statement should be made, particularly when the person concerned is long dead, unless there is virtually irrefutable proof. We all know the great things that Bishop Bell did, but now it seems that every place that bears his name is being transformed. We heard some of the examples given by the noble and right reverend Lord, Lord Carey, in his speech.

However, it goes further than that, does not it? I do not think that I have ever been angrier than when I saw that police officer standing at the gate of Arundells, the home of the late Sir Edward Heath, in effect making a public appeal. Of course, I do not want to transgress on the speech of the noble Lord, Lord Armstrong of Ilminster, who will be much better qualified than I am to go into details, but it is shameful that so much money is now being wasted on trawling through papers to try to discover the merest reference to something when nobody has suggested that that something exists. We are dealing with Salisbury in the 21st century and not with Salem in the 17th. There has been too much in recent years of the atmosphere of the witch hunt. Of all the rogues in English history, few bear comparison with Titus Oates or Senator McCarthy. Are theirs the ideals that we should seek to uphold?

I knew Edward Heath reasonably well, in so far as anybody could, although nowhere near as well as the noble Lord, Lord Armstrong, did, of course. He stayed in my home and I had many conversations with him. I believe the allegations to be utterly without foundation. While I make no complaint about investigations taking place, as I earlier made plain, that they should be the stuff of headlines is completely wrong. Again, we all in this House knew Lord Brittan, whose last months were made miserable and difficult when, as he struggled with a fatal illness, story after titillating story appeared in the media. I have enormous admiration for the courage of his widow, whom many of us know, for the way in which she coped. Did she get a proper apology?

I hate this formula, which was used again recently in the case of Sir Cliff Richard, that there is "insufficient evidence to proceed", from which it is perfectly possible to draw the inference, "guilty, but don't do it again". That is so wrong. There should be more fulsome and proper apologies. If there is no case to answer, there is no case to answer, and if there is no case to answer it is because the man's innocence, which cannot be disproved, has been underlined. It should be underlined without churlishness, ambiguity or half-heartedness.

Of course, there are many other cases. The noble and right reverend Lord, Lord Carey, referred to Paul Gambaccini, who appears to have had an exceptionally miserable and distressing time. At the end, he is back on the radio now, and very good, but can he be given back that time of misery and have substituted for it a time of joy? Of course he cannot.

I mention it with some diffidence, but one case concerned a very recent Member of your Lordships' House, who sat on the Bishops' Benches: Michael Perham, then the Bishop of Gloucester, whom I knew when he was Dean of Derby and we both served on the General Synod. He was a good and decent man who could not even properly say farewell to his diocese because accusations on which the police decided to take no action had been made and publicised. I hope that the procedure for looking into these things by the Church of England will be thoroughly examined in the case of the living as well as of the dead, because the last year or so of Michael Perham's episcopate was a time not of the joyful saying of farewell to those whom he had served well but a time of isolation, deprivation and misery. Nobody can be proud of that.

I very much hope that the calls that have been made by previous speakers for some form of code of conduct will be heeded. I very much hope that those in high authority in the police will realise that the handling of the Nick accusations did lasting damage to the police, and rightly so. "Credible and true"? We all know those words, by whom they were uttered and about what they were uttered. It is shameful that that should have been the case. The moral guardians of the nation must include the Church of England, our established Church, in which I so firmly believe. It needs to get its own procedures properly arranged so that we cannot traduce the reputation of the dead or put in misery the lives of the living without proper proof.

My noble friend Lord Lexden has performed a signal service to your Lordships' House this morning. We are having a sombre and sober debate, which is right, and I hope that we will see some proper results from it. I hope above all, in the context of today's debate, that we will have a sensitive and considered response from the Minister.

12.28 pm

Lord Armstrong of Ilminster (CB): My Lords, I should like to express my total agreement with those who have congratulated the noble Lord, Lord Lexden, and thank him for raising this matter on his Motion today. It is a serious matter and his proposals for resolving the problem certainly need to be very closely considered. I can see that there are difficulties about such guidance, but it is very badly needed.

I will confine my comments to the case of Sir Edward Heath. Your Lordships will know that, in the absence of any close relatives of his, I have expressed publicly

[Lord Armstrong of Ilminster]
my view that Sir Edward Heath was not guilty of any criminal offences of child abuse, and that remains my view. It is not my view only but the view of many others, and that is the position from which I come. I fully acknowledge that that is not evidence, unless there is no other evidence which is contrary to it, but it remains my belief that Sir Edward Heath was not a child abuser in that way or, indeed, in any way.

Much has been said today about Wiltshire Police's investigation—Operation Conifer, they call it—of Sir Edward Heath's case, particularly of the way in which a senior officer of Wiltshire Police stood in front of Sir Edward's house in The Close in Salisbury, in effect appealing for witnesses to come forward. Since I last spoke about this in the House, I have had the advantage of a long meeting with the chief constable of Wiltshire Police on the matter. It was a confidential meeting and I do not propose to breach that confidence but, in fairness to him, I should like to put it on record that he has apologised for the conduct of that officer outside Arundells and he repeated that apology in our meeting the other day. He cannot of course tell me, your Lordships or anybody else what allegations are being investigated, nor do I expect him to do so.

However, the fact is that the inquiry has been ongoing for some time and is very wide in terms of the number of people being interviewed in connection with the operation. I have described it as a fishing expedition, and the chief constable was not wholly able to convince me that it was otherwise. The police have interviewed, are interviewing, or have proposed to interview a great number of people. The operation has already cost £400,000 and is likely to run for at least another six—probably 12—months and cost more than £1 million. A number of retired policemen and other people from outside the force have been recruited to help conduct the investigation. From the number of people and the breadth of the interviews, it looks much more like a fishing expedition than an inquiry—indeed, if I may put it this way, a dynamite fishing expedition and not a skilful casting of the line, which would be entirely understandable and right in this situation. I am sure that the chief constable thinks that what is going on is proportionate; I have not been convinced of that myself. I hope that he will, as he has said that he would, keep a clear eye on that aspect of the operation.

The existence of Operation Conifer became known partly, but not only, because of the disgraceful activity of the senior officer standing outside Arundells. There were other reasons as well, such as the publication by the Independent Police Complaints Commission of a report as to whether another investigation had been put off or stopped on account of the possible damage to the reputation of Sir Edward Heath. That was found to be unfounded, but the publication of the report of course drew attention to the fact that the matter was being investigated.

It has been said that such operations should be conducted in confidentiality and that there should not be revelations to the media. What happened in the case of Sir Cliff Richard—and, likewise, what happened with the officer standing outside Arundells—was shameful. If you are going to conduct an operation such as Operation Conifer, with a wide range of interviews, it is perhaps optimistic to hope that the existence of the operation can remain confidential. A number of people are being interviewed, and they will talk among themselves. It is almost inevitable these days that some echo of that will reach the media and the police force concerned will find itself pursued by the media.

I think the chief constable would allow me to say that he assured me that his force was not proposing to search the archives of Sir Edward Heath, which are now in the Bodleian Library. They would only wish to find out, if they could, details of his diary—where he was on particular days. Some of that information from when he was Prime Minister certainly exists in the National Archives. I do not know whether anything of it is left in the archives in the Bodleian Library.

The chief constable emphasised to me that the duty of the police in these matters is not to judge but to produce evidence—to find and pursue evidence that will corroborate other evidence. It is not their business to judge the results of that; that is for the prosecuting authorities and, ultimately, for a judge and jury. But of course, in the case of a man who has been dead for over 10 years, that is almost a travesty of justice. As the noble Lord, Lord Lexden, pointed out, we are at risk of turning upside down the standard principle that you are innocent unless you are proved guilty.

The police inquiry could produce evidence only if Sir Edward was still alive; no doubt that evidence would come before a court if it was sufficient, and it would be tested in the procedure in the court. That is impossible, because Sir Edward has been dead for over 10 years. We have the judicial inquiry led by Justice Goddard, and no doubt the result of the Wiltshire inquiries will eventually go to that body. However, that is not a very good substitute but a separate assessment of the balance of probability on the evidence; the best one can hope for is in effect a verdict of not proven. The situation seems very unsatisfactory in that historical allegations—which in this case have to be more than 11 years old, and are probably much older—are still floating around, being pursued, and reflecting on the memory and the probable innocence of a man of the stature of Sir Edward Heath.

12.38 pm

Baroness Butler-Sloss (CB): My Lords, I am relieved that this debate is taking place and I am grateful to the noble Lord, Lord Lexden, for managing to bring it before this House. We should look calmly and frankly at the very difficult problems which are emerging with increasing regularity. I agree with what was said by the previous speakers.

We live in troubled times—and I do not refer only to the referendum. Ever since the shocking case of Jimmy Savile and others we have become accustomed to serious allegations of sexual abuse being made against well-known figures. We must recognise that many people, male and female, who were sexually abused as children have only recently been able to disclose that abuse, many years after the shocking events took place. It is brave of them to do so, and they have to relive the dreadful behaviour by adults they trusted, who abused that trust. Such allegations

must of course be very carefully and rigorously investigated, and many of the allegations of historic abuse which are now being made have resulted in prosecutions and convictions. We need to remember that among those convicted was a diocesan bishop.

However, the question arises of how to deal with allegations made against those who have died, some of them many years ago. I suggest that a distinction should be made between the management of allegations against a living person and those against one who is deceased.

As noble Lords will know, there are two standards of proof—the criminal, which is of course a higher standard, and the civil standard of proof, which is on the balance of probabilities. As has already been said several times today, there is a firm commitment in English criminal law to the principle that a person is innocent until proved guilty in a criminal court. In cases where the balance of probabilities is applied, we must recognise the importance of looking carefully at the inherent probability or improbability of the allegations, as was said in the Judicial Committee of the House of Lords, the predecessor of the Supreme Court, in a case called Re H in 1996. It happens to be a case in which I was in the Court of Appeal and it was appealed to the House of Lords. In that case, the noble and learned Lord, Lord Nicholls, said:

> "The more improbable the event, the stronger must be the evidence that it did occur before, on the balance of probability, its occurrence will be established".

Of course there will be cases where there is a strong body of evidence against a deceased person, but the words of the noble and learned Lord should be carefully considered.

The issue that causes me considerable concern is where the balance of probabilities is applied to historic cases of child abuse in which the alleged perpetrator is dead. I was taught as a young barrister "audi alteram partem"—that is, one has to hear both sides. Jimmy Savile may have been an exception because the volume of evidence of many, many victims built up to a horrifying degree, and there are other cases, but in general, with a few or particularly only one person making the allegation, however convincing, the authority or organisation dealing with the allegation has a duty to recognise that it may be able to get the story only from one side.

Consequently the authority, organisation or agency with the unenviable and difficult task of dealing with allegations against a person who may have died many years ago needs to have a policy and indeed a formula. In particular, it needs wording which makes it clear that it should listen to and recognise the seriousness of the allegations and give appropriate support to the person making those allegations, but generally—I should perhaps say always—it should resist the temptation to say that the account is convincing and is to be believed. Even on the balance of probabilities, if one side cannot be heard, that in my view is a step too far.

The authority also has to be absolutely aware of the media's ability to elaborate and distort the statements. Great, great care must be taken not to allow the media to convict the deceased alleged abuser based on the loose language used in the authority's statement. I understand that the Church of England did not actually say that Bishop Bell was a sex abuser but it appears not to have taken steps to correct the media impression.

I have no views on whether, if the evidence of sexual abuse is strong, the victim should be compensated. In some cases it is clearly the right thing to do. I know from my report on sexual abuse in Chichester that the evidence against one priest who died was very strong, and compensation in that case was, in my view, entirely appropriate. It is not necessary for me to refer any more to Bishop Bell. I am more concerned about a better way of dealing with historic allegations against a deceased person in future and to correct the balance.

I am relieved to learn that the Church of England is now holding an internal inquiry on how the Bishop Bell case was dealt with. I hope that it will include how the Church will deal with similar issues in the future, and that it will ask the right questions. I hope that it will also look at the language that the Church and its representatives will use, and remind them of the importance of caution in everything that is being said.

This is a problem that will not go away, and it is quite clear that the method of dealing with it somehow or other has to be improved. I am not sure how easy a code of conduct would be to achieve but it is, undoubtedly, a sensible suggestion that requires careful consideration. However, I am not convinced that statutory guidelines would be the right way forward.

I wonder whether your Lordships will allow me to tell the House a personal story. When I was a Court of Appeal judge, I was cautioned by the police in relation to an accident that occurred in Cardiff. They cautioned me in the Royal Courts of Justice in London in respect of a silver Honda Civic, with my number plate, which had turned right without giving any warning and knocked over and injured a cyclist. I said that I was in London on the day in question, sitting in court, and told them to ask the registrar. "We have done so", they said. Then I told them where I was in the evening and that there was no way I could have got from trying a case in London to Cardiff. They said, "We know that, and we also know that the woman who did it had long hair"—I have always had short hair—"and was at least 20 years younger than you". The reason for telling you this is that I then received a letter from the police saying that there was insufficient evidence to prosecute me.

12.46 pm

Lord Judge (CB): My Lords, what a pleasant story to lighten up rather a gloomy morning.

I do not want to discuss any individual case. I share the anxiety of the noble Lord, Lord Lexden, about the number of cases where disquieting situations have been identified. Perhaps I will begin by saying that the presumption of innocence survives death.

I hope it will be of interest to the House if I discuss briefly the context in which we have arrived at where we are, in which the Crown Court is packed, day by day, with cases alleging sexual abuse going back many years. It starts from this: when I was called to the Bar, the general assumption was that a child's evidence really should not be heard. The obstructions were huge

[LORD JUDGE]

and, when you did get to court, there were further obstructions. Let me start with the ones at court, because there is not time to deal with them all.

Something that the noble and right reverend Lord, Lord Carey, said reminded me of this. In 1958, Lord Goddard made it absolutely plain that it was ridiculous to suppose that the jury would attach any value to the supposed evidence of a child of five years old. Notice the word "ridiculous"—it is not moderate. That sounds like the five year-old girl spoken of as Carole. I do not know anything about what she did, but the reason I am describing this is that it exemplifies the then broad attitude to complaints made by children.

There was a competency test if a child came to give evidence. The judge solemnly asked questions about whether the child believed in God and hell-fire. Depending on the judgment that the judge made, the child could be sworn—or not. If the child was not sworn, there could be no conviction without corroboration, to which I will come. Five small boys or girls saying, on separate occasions, "The history master touched me on my bottom", if they were all unsworn, could not provide support for each other. There could be no corroboration, although five little children happened to say that the history master happened to be doing this thing to them. As to the rules of corroboration, you have to imagine that only a legal technician could invent them.

Let us take the issue of distress. Distress is sometimes a sign that something has gone wrong, is it not? But the jury had to be directed: "Well, distress, members of the jury … Well, children often do suffer distress, so there may not be anything specific about it. Anyway, distress can be easily feigned, as you know". Of course, it is true. We were treating children as though they were more likely to lie and make things up than adults. I regret to say that adults make things up and lie just as often as children. We then got to the solemn warnings to the jury, assuming the evidence got to the jury: "Now, you may think that little boy or little girl was a very impressive witness, but I must direct you on the dangers of convicting on the evidence of a child. And if it is a sexual offence, it is doubly dangerous to convict on the evidence of a child". As to the courts' arrangements, I still remember a stepfather coming into the court—it was not Crown Court; it was the Court of Session—bringing with him the 13 year-old stepdaughter he was alleged to have indecently assaulted. What kind of start to giving evidence against your stepfather would that be? The other problem was that a statement taken from a child could not be used in evidence, so six or nine months after the event the child had described in the witness statement, nobody said, "Have a look at your statement". Six to nine months later, much of the periphery will have disappeared from the memory of a child, but of course the periphery is not what the issue is.

The whole process in court made life difficult and, although I am talking about courts, they simply reflected public views on these issues. Children invented allegations. History masters did not do dirty things. It was very easy for the child to invent and their allegations could not be true. Some of your Lordships will remember Esther Rantzen's great efforts to heighten this issue on a television programme and I wonder whether your Lordships will be true to their consciences and remember wondering at the time whether she was exaggerating. I bet that, if you are true to your consciences, you will say, "That is what I thought". We are now reaping the whirlwind consequent on silencing children who had complaints of serious sexual crime to make. The whirlwind is no place for calm justice, and that is part of our problem.

Another part of our problem is how we address the issue. Put simply, let us have no more historical sexual abuse cases, by which I do not mean today but that in 2035 we are not examining allegations made in 2001, 2002, 2003, 2004 or 2005. The process of reforming our system has been amazing when I compare the world that I was brought up in at the Bar—and it was the whole of my time at the Bar right until I left it in 1988—with where we are now. It is much better. But the processes still move with the alacrity of a disenchanted snail. His Honour Tom Pigot, the former Common Serjeant of London—he is not with us now—produced a report in 1989 which just about everybody who has read it thinks is a strong way forward to enable justice to be done: not to convict the innocent but to enable the matter to be properly looked at. In 1991, there were some small changes; in 1994, there were some small changes. In 1999, we had the Youth Justice and Criminal Evidence Act, which allowed for a pre-recording of the evidence of the child to be taken as the evidence, so the child would be interviewed and there would be the child's story. Tom Pigot recommended that the cross-examination, too, should be pre-recorded—in 1989, mark you. In 1992, Western Australia introduced the system that Judge Pigot and his committee had recommended to us in 1989. In 2010, some marvellous research in Australia demonstrated that this process was not inimical to justice. There was no suggestion that there had been an increase in the miscarriages of justice—nothing like that.

Where are we in our jurisdiction? We now have a pilot scheme in Leeds, Kingston and Liverpool. Judges I have heard about think it is admirable, that the process is very good. Let us take one simple advantage. If the child is giving evidence of assaults in which he or she has been involved or been a witness to involving a number of defendants, the trial may be split for obvious reasons. This way round, you have the child's evidence-in-chief and the child's evidence in cross-examination. The child does not have to go through the process four times even though there will be four trials. It is admirable. You have the child's evidence as it is, fresh. It is of course open to objection and to cross-examination—the processes have not changed.

There is one more plus, which I emphasise because it goes to the heart of whether there will be allegations in 30 years' time of sexual abuse now which have been silenced. Once you have all the child's evidence, you can then decide whether the child should have treatment. If the child has to be cross-examined it is difficult to arrange for treatment, if it is necessary, because by the time of the trial the child will be slightly confused, inevitably, about what was treatment, what the treatment was and whether the reiteration of the story to the psychiatrist, psychologist or whoever has changed the story. There is a great tendency in the system to say,

"No, don't let us have treatment until the process is complete". However, once the evidence is there, you can get on with whatever is needed for the child.

Please do not misunderstand me. I am not saying that every allegation is true, that false allegations are not made or that mistakes will not be made. We must bring Pigot to the cross-examination issue and pre-recorded testimony into effect as soon as possible. It has been waiting since 1989. I cannot say more than that. The longer it goes on, the longer we will have the process I have outlined, with the difficulties in relation to treatment and getting a contemporaneous story, which is more likely to be true than a non-contemporaneous story, and so on.

One day it will happen. One day—this is not in Pigot's report—I hope it will be quite unnecessary for a child ever to go to court to give evidence in the physical surroundings of the court building because the evidence will be there. The child will not be needed. Of course you build in discretion for the judge to say, "Yes, this is a case where, I am afraid, we must have the child here", but it is not necessary once you have it all on tape.

These disquieting situations involving the historical sexual abuse of children which have been referred to have produced the whirlwind that puts us where we are. The presumption of innocence remains. The need to investigate modern, ancient or middle-aged allegations of sexual crime with assiduous fairness remains. There is no presumption. What is needed is an open mind and for us to bring our own system in the court up to date.

12.58 pm

The Lord Bishop of Chelmsford: My Lords, I, too, thank the noble Lord, Lord Lexden, for bringing this debate before us and for the considered and careful way in which people have made their contributions. I agree with the noble Lord, Lord Cormack, that this House has an important part to play in setting our moral compass on the issues we are discussing.

I wish to make it clear that I and the Church of England welcome the introduction of some statutory guidelines for responding to historic allegations. As we in the Church are acutely aware, this is a difficult and sensitive area, so responding well to such allegations is extremely important. If there was statutory guidance on such cases, it would be easier to respond well and consistently. That said, we are all aware that the Independent Inquiry into Child Sexual Abuse may make relevant recommendations, and it might be that the Government wish to wait for them before issuing guidance in this area.

The noble Lords, Lord Lexden and Lord Dear, the noble and right reverend Lord, Lord Carey, and others have raised the specific case of Bishop George Bell, and I want to reflect briefly on it. The Church acknowledges his principled and courageous stand during the Second World War against the saturation bombing of civilians and the extraordinary contribution he made to peace, at no small personal cost. We also acknowledge the very significant part he played in the ecumenical movement. I feel this keenly myself. I served for a short time as a priest in the Chichester diocese and I am one of a small group of bishops who are active in the peace movement, so in a small way by comparison, I have known what it is like to be misunderstood and vilified for that witness. Bishop Bell has been someone from whom I personally have drawn enormous inspiration. It is therefore a very painful blow to me, as it is to many in the Church and in wider society—as has been evidenced by some of the things others have said in this debate—that a man of such extraordinary gifts could also have been so flawed. But the Church, of all institutions, should not find it conceptually difficult that great gifts and talents may coexist with great flaws.

The decision to publish the allegation against Bishop Bell was not taken lightly, but we believe that it was the right decision in the circumstances. The Church, through a safeguarding core group which considered the evidence against him, tested over a period of 18 months the allegations made by someone referred to as "Carol" so far as possible over such a distance of time. Of course, as has been said, the process was greatly hampered by the fact that Bishop Bell and others were dead. Here, I want to thank the noble and learned Baroness, Lady Butler-Sloss, for her speech. We in this House and the Church need to consider very carefully what she said.

It also needs to be said that the core group did have the benefit of legal advice, the views of Sussex Police, evidence about the survivor's connection with the Bishop's Palace at Chichester and medical reports. Church staff also examined the Bell papers held in Lambeth Palace library. The legal advice was that, had the claim been tested by a court, on the balance of probabilities, Carol would have won her claim. In those circumstances, the proper thing to do was to settle the case rather than putting a survivor through the harrowing process of giving evidence. Having settled, the Church had to make the existence of the case known to allow for other survivors to come forward, if there were any, and because of Bishop Bell's considerable status. If the Church had chosen to remain silent and the information had subsequently come out by another route, the Church would rightly have been criticised for instituting a cover-up and placing Bishop Bell's reputation above justice for the survivor.

Saying all this gives me no joy at all, but we are hampered in commenting further on the process because of the importance of protecting Carol's confidential information. We cannot answer many of the points that have been made without revealing information that could lead to her identification. However, the Church remains satisfied of the credibility of the allegation. As is good practice after any serious allegation, the Church has announced an independent review of the process that was used to assess the allegation made against Bishop Bell. I fear that I cannot answer all the specific questions that were asked in the course of this sombre and helpful debate—a debate that, I stress, I welcome—but I will make sure that answers, where possible, are given. However, I can comment on a few points that were raised.

First, it is not for the Church to breach the survivor's confidentiality. She did choose to speak to the press, but that was because some in the George Bell Group

[The Lord Bishop of Chelmsford]
had made hurtful comments about her. I need the House to be clear that we are not marking our own homework. The reviewer who will undertake this review is independent. I cannot tell noble Lords who that is, because the reviewer has not yet been appointed.

Lord Cormack: I apologise for interrupting but I would be most grateful if the right reverend Prelate said whether he is willing, with his colleagues, to arrange a private meeting with those of us who have spoken in this debate and who are very concerned about this matter, at which he would be able to say in confidence things he feels unable to say on the Floor of the House.

The Lord Bishop of Chelmsford: I am able to say yes to that for myself; what I am not able to do is speak for those who are overseeing this case for the Church of England. Although I am happy to be standing here and speaking for the Church of England today, some noble Lords will realise that I am the duty bishop this week and I have not been directly involved with any of these investigations. I am not saying that to distance myself, but I simply cannot speak for others on the question that the noble Lord has raised, though I give him my assurance that I will raise it with those who are overseeing this case.

I now turn to a couple of other things that were raised in the debate. It was suggested that the review might be a knee-jerk response to something that has happened. That is unfair. We are aware of the importance and sensitivity of this case. It also happens now to be standard practice for us to do such reviews when a bishop has been accused. My own dear friend, Michael Perham, Bishop of Gloucester, was mentioned in the debate. That happened with his case. For the record, I ought to say that it was the police, not the Church, that released Michael Perham's name.

Miscarriages of justice happen, people do things wrong and people investigating them get things wrong, but to call the prayerful, careful, sensitive and serious investigation "a kangaroo court" was a really rather unhelpful slur in an otherwise serious and helpful debate. There is a review taking place; it is a review of the process, which will enable us to learn lessons for future cases. New statutory guidance about the handling of such cases would be of great assistance to the Church of England, to many other institutions and to our nation.

Lord Carey of Clifton: Will the right reverend Prelate say something about the independent review? The majority of us who have spoken believe that there has been a miscarriage of justice; is there any chance that the independent review will reconsider the decision that was made by the civil court action?

The Lord Bishop of Chelmsford: It is my understanding that the independent reviewer, who, as I say, has not yet been appointed, nor called for submissions, will review the process. What he or she does after that is a matter for them.

Lord Lexden: I am grateful to the right reverend Prelate. Will he ensure that the Bell group's report is fully and properly considered in the places where it needs to be considered, and that as full a response as possible is forthcoming? It is a most serious and full document, and for it to be set on one side by those to whom it was directed would be a grave and unfortunate matter. I urge the right reverend Prelate to make sure that that process of setting aside the carefully considered report does not happen.

The Lord Bishop of Chelmsford: I thought that I had finished speaking but I am happy to continue if your Lordships wish.

Noble Lords: No.

1.10 pm

Lord Paddick (LD): My Lords, I, too, am grateful to the noble Lord, Lord Lexden, for giving us the opportunity to debate this important issue. Many noble Lords will be aware that I was a police officer for more than 30 years. It is important to remind the House of that. I am also a confirmed member of the Church of England, which might come as a surprise to some people. I have not been excommunicated as far as I know, although I may have given the Church just cause to do so. However, I am a reasonably high-profile gay man and noble Lords might think that I would therefore be a prime target for the sort of unfounded allegation that has been made against some others who have been mentioned today.

The noble Lord, Lord Lexden, talked about the impact on people who are wrongly accused of this sort of offence, and the real danger of a reversal of burden of proof. It is very important to stress that. He also mentioned the case of Sir Cliff Richard, where a decision was taken not to take any further action after a period of two years. The absolutely appalling collaboration between the police and the BBC, which involved a BBC helicopter filming the invasion of Sir Cliff's home while he was abroad—the first he knew of it was when he saw it broadcast—was a terrible way to carry on. I agree that the conclusion of insufficient evidence, which is always cited in these sorts of cases, is not enough. I will come back to that.

The difficulty is that the public perception, encouraged by many people in the media, is that if an allegation is made or somebody is arrested, there is no smoke without fire. Having reasonable cause to suspect, which is the level that is necessary for a police officer to arrest somebody—it is a very low level—does not mean that that person is guilty, even though that appears to be implied by some of the media coverage. That important issue needs to be addressed.

Many have talked about the case of Bishop George Bell. I confess my ignorance in that I know nothing about the bishop or his character. All I would say is that my experience is that, despite somebody's apparently impeccable character, that individual could have one flaw that is kept secret but could undermine all the other evidence of their good character. A police colleague with whom I shared a section house—a police barracks—was a very dedicated, quiet and pleasant individual.

During a firemen's strike we could not understand why he was the first officer on the scene in many cases until he was discovered with a can of petrol and some matches. That is an example of how somebody can do something completely out of character. We should not ignore that fact either.

The noble Lord, Lord Dear, talked about what he considers to be the mishandling of the investigation of Lord Bramall. There is a case to which I shall refer in a moment of which I have personal knowledge. My professional judgment is that that police investigation was also mishandled. The noble Lord, Lord Dear, made particular reference to marked police cars going to an address and people carrying out a forensic examination over an allegation that had been made 10 or 20 years before. In terms of proportionality, what sort of forensic evidence did the police expect to get from that search, compared with what they were likely to actually get from it?

The noble and learned Baroness, Lady Butler-Sloss, made an extremely important point—if I may say such a thing to the noble and learned Baroness—about the difference between allegations against people who are deceased and those against people who are alive, and the fact that it would be very difficult for the other side of the case to be put in those circumstances. The noble and right reverend Lord, Lord Carey of Clifton, put it very succinctly: clearly, it is far more difficult when the person accused has passed away and cannot defend themselves, particularly against a civil action that is decided on the balance of probabilities. That is something that really needs to be addressed.

The important issue for me, which I want to concentrate on, is where the accused is still alive. This is a very complex issue—far more complex than perhaps some of today's debate has indicated. The care of victims of child abuse has to be paramount and they have to be believed and supported. Someone who honestly believes that they have been the victim of child abuse, albeit they are now an adult and it happened many decades ago, needs help and support. However, what also needs to be taken into account is that they might be mistaken in the identification of the perpetrator or even about whether the thing happened at all. But that should not make any difference to the care that is given to that victim, unless the allegation subsequently proves to be deliberate or malicious.

However, we must change the way that we deal with the accused. The police are in a difficult position, partly of their own making and partly, as the noble and learned Lord, Lord Judge, said, because of the historic way in which the criminal justice system as a whole has tended to disbelieve child victims in particular. It is not that long ago that there was a fly-on-the-wall documentary of Thames Valley Police, investigating rape allegations when the noble Lord, Lord Imbert, was the chief constable. Those rape survivors were generally not believed by the police in the same way that child victims were not believed. That resulted in the now noble Lord, Lord Blair of Boughton, and a female colleague, Thelma Wagstaff, producing a book which revolutionised the way that the police dealt with rape investigations. It has not been universally applied, according to the accounts of some rape victims, but it has certainly made a significant difference.

One of the things that the noble Lord, Lord Blair, asked me to do when he was first appointed Commissioner of the Met was to carry out a review of rape investigation in the Metropolitan Police. We looked only at adult victims because at that time there were few allegations of the rape of children. We identified, for example, victims who had learning difficulties or who were sex workers, who the police officers investigating thought might not make good witnesses or might not stand up very well to cross-examination, so they tended to be disbelieved because the police thought that their evidence could be challenged in court. This was something that clearly needed to be addressed and I think there are parallels here with the situation of the victims of historic child abuse.

This is partly a result of the adversarial judicial system that we have, where the legitimate role of a defence counsel is to cast doubt on the testimony of the prosecution witness. The problem is that perpetrators also know that people with learning difficulties, and perhaps children and sex workers, may not be as believed as other victims—and that makes them even more vulnerable to such attacks. The police must recognise this. We must believe victims and do everything we can to protect and care for them, whatever their abilities as witnesses. One of the main conclusions that we came to in that investigation of rape was that it was not the desire of every victim of rape for there to be an investigation. They wanted to be believed and cared for, while the thought of going through the ordeal again in court was too much for some. We have to bear that in mind and, again, there are parallels with these sorts of cases.

Perpetrators must know now that they will be arrested and questioned and their conduct gone into because, whatever the credibility of an individual witness, if there is more than one allegation of this kind, the situation is different. The noble and learned Lord, Lord Judge, talked about a case where five young people all made a similar allegation but, in those days, none of them was believed. The difficulty for the police service has become how to find other survivors of the same perpetrator. The Savile case lifted the lid on this practice when it became apparent that, because of the perpetrator's position relative to that of the survivors, the survivors had not been believed. They had not been cared for or protected. That has made the police acutely sensitive to the accusation that they do not take seriously the victims or survivors of child exploitation. I believe that it has resulted in a situation where they feel that they need ruthlessly and relentlessly to pursue allegations of historic child abuse, particularly where the alleged perpetrator has a high public profile.

I was involved throughout the case of Paul Gambaccini, from shortly after his arrest until its conclusion. I would say that that case, too, was mishandled. It was apparent from what Paul Gambaccini told me, right from the word go, that the allegations were incredible, for want of a better word. Yet it took months and months of his being bailed and re-bailed before the police were able to say that they would not take the case any further. The welfare of those accused must also be taken into account.

[LORD PADDICK]

There is of course a temptation for the police to publicise it when they arrest somebody, if there is no other corroborating evidence, in order to get other people to make similar allegations against the same individual. But surely the way for the police to do that is to encourage every victim of child sexual abuse to come forward and for them to maintain those allegations on a database that is accessible by all forces. If the survivors are in different parts of the country but make similar allegations against an individual, the dots can be joined up—rather than conducting the sort of fishing expedition with dynamite that has been referred to and happens now.

Guidelines are given to the police and the Crown Prosecution Service about these sorts of cases and those guidelines clearly need to change. Unless and until somebody has been charged, the identity of the perpetrator should remain confidential. If the police want other victims or survivors to come forward once the person has been charged, that is fair enough. It may be that no further action is taken. The noble Lord, Lord Armstrong of Ilminster, talked about a far-ranging investigation where the identity of the perpetrator might come out in public before a charge. The term "insufficient evidence" is not enough: we need to have a form of words around the fact that there was no supporting evidence for the allegation that was made, if that is the case. This is more complex than some noble Lords have said, but clearly there is a need for change. Both the College of Policing and the Crown Prosecution Service need to look at this very carefully.

1.25 pm

Lord Tunnicliffe (Lab): My Lords, I, too, thank the noble Lord, Lord Lexden, for bringing this debate before us. I find myself agreeing, at least in part, with the noble Lord, Lord Paddick, in his essential point that this is more complex than might be judged from some of the contributions. It seems to me that the essence of this whole area is the dilemma between victims and the accused, and the interests of society as a whole. It is an extremely complex area, and I hope, because of the diversity of inputs, we have something of a balance in terms of that complexity.

I was a little distressed with the first five contributions, not because I felt they were wrong or insincere in any way but because they focused so much on the harm of injustice to the accused. That is absolutely right, but I shall go on to talk a little about the victims' side in this. I thank the noble and learned Baroness, Lady Butler-Sloss, and the noble and learned Lord, Lord Judge, for bringing the debate back into the centre by talking about the victims, the problem of time, people who are dead being accused and particularly the issue of children. I have seen ways of handling child victims used elsewhere in the world that are much better than our own practices, which would prevent some of our problems.

I also thank the right reverend Prelate the Bishop of Chelmsford for explaining the really difficult dilemma the Church of England faced. It may not satisfy noble Lords, but at least it gave some perspective. I am a bureaucrat and could see myself in the middle of that dilemma, thinking "Where do we go, how do we make this as fair as possible, whose interest do we have to defend?". Finally, I thank the noble Lord, Lord Paddick, for giving us the operational perspective on just how difficult these things are.

The scale of the historical child abuse that has emerged is deeply harrowing and difficult to comprehend. Lord Justice Goddard, who chairs the Independent Inquiry into Child Sexual Abuse, has described the inquiry's task as "daunting". Institutions that have a responsibility to safeguard children and vulnerable adults must take responsibility for their safeguarding practices and procedures and for any failures in these procedures. The Goddard inquiry into child sexual abuse will support the process of accountability for institutions that have previously failed in this duty. The inquiry is expected to draw conclusions about the patterns of child protection failings across a range of institutions in England and Wales, including the police, the criminal justice system and the Church of England. The findings of the inquiry must be studied closely.

Contemporary police forces have, in the main, done their best to investigate instances of historical child abuse, and the current guidance supports that. The College of Policing provides operational guidance to the police. It has detailed guidance—authorised professional practice—on investigating child abuse and safeguarding children, which contains a section, "Delayed reporting of child abuse allegations". The College of Policing explains that the APP is authorised by the professional body for policing—the college itself—as the official source of professional practice. Police officers and staff are expected to have regard to the APP in discharging their responsibilities. There may be circumstances, however, where it is legitimate to deviate from APP providing there is a clear rationale for doing so. Guidance is just that—guidance. The police need discretion in how to investigate. Of course, any breach of professional practice, despite not carrying criminal liability, could have an impact on the inclusion of evidence, and the police must carry out their investigations with this understanding.

It must be remembered that in March 2016, the chief executive of the College of Policing, Chief Constable Alex Marshall, published a letter addressed to chief constables, commissioners, police and crime commissioners and the heads of public protection units. This followed discussion of the investigation of historic child sex abuse allegations between the College of Policing, the National Police Chiefs' Council, the Home Office, the Metropolitan Police Service and Her Majesty's Inspectorate of Constabulary. The chief executive's letter stated that a,

"succession of high-profile cases concerning non-recent child abuse has focused public attention on the approach police take to victims, first at the point of reporting, and then in investigating crime. In cases involving sexual offences, substantial efforts have been made to improve the confidence of victims to come forward and report crimes to the police. It is important that progress is not lost".

It is vital that the Government accept the need of the police for additional funding to investigate effectively the sudden and extreme increase in the number of historic child abuse cases recorded by the police.

Norfolk Constabulary Chief Constable Simon Bailey, the National Police Chiefs' Council's lead for child protection, said in March 2016 that there had been an 80% rise in child sex offence allegations in the three years to 2015. There were 70,000 investigations in just the past year, with historical complaints making up 25% to 30% of the total. Mr Bailey told The Times:

"The average cost of each investigation is £19,000, so the police force is now spending a billion pounds a year on cases. If it continues at this rate we will be investigating 200,000 cases at a cost of £3 billion by 2020".

There have been errors made in investigations, which have been well illustrated in today's debate, but overwhelmingly it must be remembered that it is victims who have struggled for justice.

In addition to greater police funding to investigate child sexual abuse, there must be consideration of and funding for provision of support for victims of abuse. These victims can live with the physical, emotional and psychological impact of the abuse for the rest of their lives.

A common call, which has been repeated today, when errors by the police are made or where they drop an investigation following a complaint of historical abuse, is for alleged perpetrators to receive anonymity. However, it cannot be forgotten that victims of sexual crimes are likely to be highly vulnerable and unlikely to come forward. For instance, Rape Crisis states that only around 15% of those who experience sexual violence choose to report to the police.

The criminal justice system must encourage victims to speak out. We know that publishing information about police investigations into alleged abusers encourages other victims to come forward. Furthermore, cases are often built from this vital information. However, the police must carry out investigations into alleged abuse responsibly and brief the press responsibly. The Labour Party is adamant that the Leveson 2 inquiry into unlawful and immoral conduct between the police and the press must go ahead once criminal prosecutions have ended. This will help scrutinise and create recommendations on the ways in which the press and the police should work together. Can the Minister assure me that part 2 of the Leveson inquiry will go ahead and will consider the concerns expressed by so many noble Lords today?

1.33 pm

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I, too, am grateful to the noble Lord, Lord Lexden, for initiating this important debate and to all noble Lords for their contributions. It has been a wide-ranging discussion.

I will start by acknowledging that the issues raised by this debate are both complex and sensitive. In any situation where reputations may be at risk, perhaps unfairly, it is no surprise that there is passionate engagement in the rights and wrongs of every case. Indeed, it is right that there is debate on such issues. I am sure that we all agree that allegations of child sexual abuse, whether recent or in the past, are exceptionally serious matters. It is of course for the police to investigate such allegations. The Government have been absolutely clear that where an allegation of child sexual abuse has been made, it should be reported to the police, so that it can be thoroughly investigated and the facts of the case established. The police are guided in their investigations by the authorised professional practice issued by the College of Policing, referred to by the noble Lord, Lord Tunnicliffe, a few moments ago. The creation of the College of Policing has been an important pillar in our programme of police reform. The college is independent from government and its role is clear: setting high professional standards, sharing what works best, acting as the national voice of policing, and ensuring police training and ethics of the highest possible quality.

The college produces authorised professional practice guidance to the police on a wide range of policing issues. There is authorised guidance on the investigation of complex cases, which include the investigation of child sexual abuse. Separate guidance exists on managing relationships with the media and a revised version of this is currently out for consultation until 8 July this year. The new version will include guidance on when the police can provide details of a suspect ahead of any charges being brought and, as many of your Lordships have noted during this debate, that is a critical issue, of course.

The college has the power to place this practice guidance on a statutory footing, should it choose to do so. It has power—subject to the Home Secretary's agreement—to recommend that regulations are made which will apply to all members of police forces. Stronger still, it has powers to make codes of practice, which chief constables must have regard to in the exercise of their functions. A code of practice is a statutory document and, should a chief constable not comply with such a code, they would be open to challenge. As I said, the decision to seek any statutory provision would be a matter for the college itself, which is independent of government.

Because it is the police who are the proper authority to investigate such allegations, the Government have no plans to extend or issue statutory guidance on investigating child sexual abuse more widely to other public bodies or institutions. As noble Lords of course will be aware, we have seen an increase in the reporting of recent and non-recent allegations of child sexual abuse connected to institutions and organisations. It is absolutely right and proper that these institutions should look into the circumstances of any such allegations. They should review their safeguarding responsibilities and make any necessary changes, whether that be in additional security, ensuring effective identification of risk to children and young people or more general safeguarding measures.

Institutions might need to investigate claims as the result of civil proceedings being brought against them. How they do this is essentially a matter for each organisation or institution on a case-by-case basis. Each body will have its own circumstances and procedures, both now and in the past, by which it must be guided. I do not believe that central prescription in the form of statutory guidance would assist them in undertaking this important duty. Indeed, imposing a unilateral process on so many disparate organisations may lead to less transparency and fairness rather than more.

[Lord Keen of Elie]

It would not be appropriate for me to comment specifically on the particular cases highlighted during this debate, but I understand the concerns of my noble friend and others in this place about the process of these investigations. As noble Lords will now be aware, the Church of England announced on 28 June that an independent person will be appointed to review the processes used in the Bishop Bell case. However, my noble friend Lord Lexden will be aware that this was a civil, rather than a criminal, matter. It was entirely open for the complainant in that case to pursue a civil claim. Once that claim was issued, it was for the Church of England to consider the facts of the case and to decide whether to settle or to go to trial, and for the claimant to decide whether to agree to a proposed settlement. The parties to any civil dispute are entitled to reach a private settlement. They do not need to initiate any legal proceedings to do so and settlement of a dispute out of court is common. Of course, litigation should be a remedy of last resort. The role of the state in this context is to provide the court system to determine disputes that cannot otherwise be resolved.

I turn to some additional comments made by noble Lords during the debate. If my responses are short, it is not because I consider their contributions to be slight. The noble Lord, Lord Dear, brings a wealth of policing experience to his observations on operational matters, and I would not seek to comment on those matters in this context. The noble and right reverend Lord, Lord Carey of Clifton, suggested that civil action should never be used but, with respect, those who claim to have been the victim of a wrong must in a free society have access to courts of justice that can resolve the issue of that wrong.

My noble friend Lord Cormack referred to the need for more extensive and direct apologies. I aspire to a situation in which there is no requirement for apologies. The noble Lord, Lord Armstrong of Ilminster, spoke of the fact that, as witnesses are interviewed during the course of an inquiry, knowledge of an investigation will find its way to the media. That is, of course, the case. There are differing difficulties, depending on whether the person accused is still alive or is dead. If the person is still alive, they at least have the resort to the law of defamation in circumstances when a false accusation is made and repeated in the media. However, when a person is dead, they have no such opportunity.

The noble and learned Baroness, Lady Butler-Sloss, pointed out that, particularly in the case of historic allegations, it is necessary for the police and the Crown Prosecution Service to proceed with particular care. Of course, its job is not to seek conviction but to seek the truth. Careful and rigorous investigation is always required, and I would not comment further on such matters.

The noble and learned Lord, Lord Judge, alluded to the difficulties in the past of dealing with the evidence of young children when accusations of this kind were made. In a way, it is because we have improved our ability to deal with child evidence that we have unleashed this tidal wave of historic cases. It is only now that we appear to be able to cope properly with the evidence of people speaking to events that happened many years ago. One hopes that the numbers will dissipate as we engage with the historic cases that we have. The noble and learned Lord referred to the second part of the Pigot report. In light of the trial that has gone on in four of our courts over the last few years, we are evaluating the results of the pilot with a view to rolling that out nationally. The evaluation report is expected to be published soon; I acknowledge to the noble and learned Lord that it has perhaps been a little time in coming.

The noble Lord, Lord Paddick, suggested that we must always believe victims. I would perhaps put that in a slightly different way. We must always take allegations seriously, but there is always the danger that the accused will become a victim. We must bear that in mind as well, in this context.

Finally, the second part of Leveson was raised by the noble Lord, Lord Tunnicliffe. I observe that that was pressed by the Opposition to a vote in the House of Commons during the passage of the Policing and Crime Bill on 13 June, and I reiterate what was said at that time. The Government will consider the way forward following the conclusion of criminal proceedings connected to part 1 of the Leveson inquiry.

Lord Elton (Con): I apologise for intervening at this stage. I have become very rusty since I took the PACE Bill through this House many years ago, but my noble friend said that the code of practice for chief constables, issued from within the police force, had a statutory power. Does that not mean that it is therefore subject to consideration by Parliament under the provisions for other statutory instruments?

Lord Keen of Elie: I endeavoured to say that the codes of practice emanate from the College of Policing, and it would be open to the College of Policing to seek to put them on a statutory footing. They are independent of government, and it would be for the college to take that step. I am obliged to the noble Lord, Lord Dear, for nodding in agreement.

1.45 pm

Lord Lexden: My Lords, we have been discussing a range of acute difficulties created by the whirlwind to which the noble and learned Lord, Lord Judge, referred. The *Hansard* record of this debate will provide a rich source of material for future reflection and consideration. I thank all noble Lords who have made this debate so important and memorable. I hope that idea of a police code of conduct, which was mentioned by a number of speakers, will not be lost to sight. I am most grateful to the Minister for his careful and considered reflections on the position today regarding guidelines and the difficulties that would lie in the way of rapid progress towards a statutory state of affairs.

For me, this debate has highlighted the particular care needed in investigating allegations against the dead. The Church of England authorities must recognise that decisions reached behind closed doors by secret processes simply will not pass muster in this age of much-vaunted transparency. If the review of the Bishop Bell case, which is to be most warmly welcomed, is to make real progress and allay concerns, it will need to take careful account of points made in this debate.

I reiterate the suggestion made by my noble friend Lord Cormack that a meeting of those of us who are particularly concerned might very well be a useful means of making some progress. Above all on this great matter, I must finally stress that the Bishop Bell case needs fundamental reconsideration. That is what the group of which I have the honour to be a member has pressed for, and the case for that fundamental reconsideration will continue. I thank the House for making time for this very important debate.

Motion agreed.

Public Institutions

Motion to Take Note

1.48 pm

Moved by ***Lord Fairfax of Cameron***

That this House takes note of the role of openness and transparency in reinforcing confidence in public institutions.

Lord Fairfax of Cameron (Con): My Lords, it is an obvious truth that openness and transparency are desirable attributes of public institutions. As far as this House is concerned, one of the places that is recognised is in paragraph 10 of the Code of Conduct, which sets out the general obligations of a Member to register and declare their interests and then goes on to say:

"The test of relevant interest is whether the interest might be thought by a reasonable member of the public to influence the way in which a Member of the House of Lords discharges his or her parliamentary duties … The test of relevant interest is therefore not whether a Member's actions in Parliament will be influenced by the interest, but whether a reasonable member of the public might think that this might be the case".

The importance of the Code of Conduct is recognised in the first sentence of the report of the Committee for Privileges dated 13 April 2016, which is ironically entitled *Undermining Public Confidence in the House*. It reads as follows:

"A central purpose of the Code of Conduct is to provide the openness and accountability necessary to reinforce public confidence in the House of Lords".

The relevance of this, and the reasons that I balloted for this short debate on this important topic of public interest, is that while it may have a topical EU context, I believe that the principles at stake are of much wider relevance. Since rejoining this House eight months ago, I have had a particular, personal experience of a public institution apparently rejecting the principles of openness and transparency. This is a matter of concern to me and I thought it only right to draw it to the attention of this House and, therefore, the public. I apologise if some of my remarks are rather specific and detailed.

This came about after I spoke last autumn in the first debate on the referendum. Having myself just completed that lengthy and exhaustive declaration of interests, with which all your Lordships will be familiar and which all new Members of this House have to complete, I was surprised to note that some Members speaking in that debate who were former EU Commissioners did not, when speaking, declare the pensions that they receive from the EU. I looked into this further and discovered that there was a specific exemption from the Committee for Privileges and in the code exempting such Members from declaring such pensions and that the committee had confirmed this exemption on several occasions. This resulted in my writing a letter, co-signed by 30-odd Members of this House, to the committee in March this year setting out the reasons why we thought this exemption was, in 2016, inappropriate and, frankly, wrong. A copy of this letter is in the Library for those noble Lords who would like to look at it later.

That letter made a number of points. I have another quote, if your Lordships will forgive me. Paragraph 58 of the *Code of Conduct for Members of the House of Lords and Guide to the Code of Conduct* states:

"Members are not required to register pension arrangements"—

I think that we are all familiar with that—

"unless conditions are attached to the continuing receipt of the pension that a reasonable member of the public might regard as likely to influence their conduct as parliamentarians".

And here is the important sentence:

"Such conditions attaching to pensions from European Union institutions do not normally require the pension to be registered or declared in proceedings in the House".

In other words, as we wrote in our letter, a Member is not at the moment normally required to register or declare a pension from EU institutions, even if the receipt of that pension by such a Member is subject to conditions that a reasonable member of the public might regard as likely to influence their conduct as parliamentarians.

My next point that I draw to your Lordships' attention is very important and is contained in Article 213 of the treaty of Rome. This, in my submission, makes this situation different from all other pensions that are exempted from the normal obligations of disclosure. It states:

"The Members of the Commission shall refrain from any action incompatible with their duties ... When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom … In the event of any breach of these obligations, the Court of Justice may … rule that the member concerned be … deprived of his right to a pension".

That is key, because the nuisance that I am trying to point out here is not only that, if a former EU Commissioner and Member of this House is speaking, the fact of his or her being in receipt of an EU pension needs not be disclosed, but that this financial sword of Damocles is also unknown. In this era of transparency, I submit that this is inappropriate.

My third point is that this matter was considered, I have found out, about 10 years ago by the Sub-Committee on Lords' Interests under the noble and learned Lord, Lord Woolf, who is, as many noble Lords will know, a very distinguished Law Lord. He looked into this exemption and his report contained a very simple conclusion—please forgive me for another quote; it is only one sentence, recommending that,

"Members of the House in receipt of pensions from the European Union should as a matter of course declare such pensions as a financial interest when taking part in debates, Statements and Questions on European Union matters".

[Lord Fairfax of Cameron]
The curious thing is that is an unequivocal recommendation, but the committee rejected it and has done so ever since.

As noble Lords have heard, normal pensions are exempted from obligations of disclosure. For the reasons I hope I have set out, we consider this situation to be different. However, the Committee for Privileges disagrees with us. As a new Member of this House, albeit the second time round, I was genuinely surprised—

Lord Watson of Richmond (LD): Is there a scintilla of evidence that the receipt of pensions from the European institutions has ever influenced the position of a Member of this House or that the European authorities have threatened such a Member for expressing a view?

Lord Fairfax of Cameron: Anyone who listened to that question will realise that I cannot say that there has been but, as the noble Lord heard, in the Code of Conduct the question is whether a reasonable member of the public might think that such was the case if they knew the facts.

Lord Pearson of Rannoch (UKIP): My Lords, perhaps I can help the noble Lord on that question. There is no doubt that the European Commission has threatened people with the loss of their pension if they do not toe the EU line. One of those people is the redoubtable and wonderful Marta Andreasen, who noble Lords may remember was the chief accountant of the European Union and as such refused to sign its fraudulent accounts. She was threatened with the loss of her pension. Another is the former French Prime Minister, Madame Édith Cresson, who had an arrangement with her dentist which was less than wholly proper. When she came to trial in front of the Commission, it decided not to take her pension away because she had gone through enough suffering. I wanted to help the noble Lord with his interjection, which supports our side of the argument rather more than his.

Lord Fairfax of Cameron: As I was saying, I, as a new Member of this House—albeit the second time round—was genuinely surprised when I received the letter of rejection from the committee, because I honestly thought that the arguments we had set out in our letter in this day and age were frankly unanswerable, and there are further reasons for so saying. This is of course now 2016, after the expenses scandal and the seven Nolan principles of public life. What once may have been acceptable, if it ever was, no longer is. This exemption, in my submission, is now out of date. To paraphrase my noble friend Lord Lexden, who spoke in the previous debate, it does not pass muster any longer.

Secondly, I refer to the *Survey of Public Attitudes Towards Conduct in Public Life 2014* contained in the briefing pack provided by the Library for this debate. It contains two quite telling sentences:

"Overall, the survey suggests that the public continue to have a very poor valuation of the current standards in public life";

and,

"Overall, the survey paints a fairly bleak picture of the public's perceptions of standards in public life".

In its April 2016 letter in reply to ours, the committee simply stated that it had previously considered this matter on three occasions and that it,

"could not identify a material development since it last considered the matter which should cause it to reconsider its position".

There we have it: a particularly important committee of this House, comprised, as noble Lords will see when they look at its composition, of some very senior and distinguished Members, professes to respect openness and accountability while at the same time by some of its decisions apparently rejecting the principle of transparency. I am led to go on to say that it is no wonder that the public have the low regard for standards in public life that is noted in the briefing pack, as noble Lords have just heard.

As soon as I heard that this debate had come up in the ballot and I got the date for it, I gave notice to the chairman of the committee and implicitly invited him and any of his committee members to attend but, as far as I am aware, none of them is in the Chamber today.

Baroness Hayter of Kentish Town (Lab): Will the noble Lord tell us whether he also notified about this debate all the people against whom certain aspersions are being cast?

Lord Fairfax of Cameron: If I heard that correctly, I think that this is a matter of public interest and I am simply ventilating a decision made by the committee.

Baroness Hayter of Kentish Town: Do I take that as a no?

Lord Fairfax of Cameron: Yes. I am obviously not casting personal aspersions. I think that the court of public opinion will judge this matter.

Baroness Hayter of Kentish Town: I am sorry to hassle the noble Lord. I am sure he heard that what I asked him was whether he had alerted the people who might be caught by this accusation to the nature of this debate. I think that most people thought it was about something quite different, and I am asking whether he had alerted the people who might have an interest in the case he is making to the content of this debate.

Lord Fairfax of Cameron: I had not alerted those people on all sides of the House who might be caught by this, but my comments are not directed at them; they are directed at the decisions of the committee.

Notwithstanding what the noble Baroness has just said and what other Members of this House who are listening may feel, I believe that this is a matter on which the court of public opinion will draw its own conclusions. As to the subject of this debate, I took advice about how to frame the ventilation of my concern on this topic, and I think it was the Table Office that advised me to address it in this way. While it is rather specific, I think that it raises general principles of transparency, openness and perhaps accountability.

Lord Brooke of Alverthorpe (Lab): My Lords, I am grateful to the noble Lord for letting me intervene. I am in receipt of a pension from a Civil Service trade union and I regularly participate in debates relating to employment. I observe that there are scientists in receipt of pensions who participate in debates in this House. I notice, too, that there are people in receipt of health service pensions. In general, rather than specific, terms, which the noble Lord has just come to, is he arguing that this debate is about a general application right across the board, or is he focusing solely on the EU?

Lord Fairfax of Cameron: In my submission, this situation is different because of the provision about forfeitability. That is the key point because, as I understand it, there is an exemption for most other pensions. The key point here is that any member of the public who was listening would not know that one of the noble Lords taking part in the debate was in receipt of a pension that they were not obliged to disclose but, more particularly, that if they said one word that the ECJ objected to, they could have that pension forfeited. That is the mischief that I am talking about and it is utterly different from the situation that the noble Lord has referred to.

I think that I have made myself clear. I have genuine concerns. I am raising this subject at an interesting time, but in fact it has come up because I am a new Member and had not come across it before. Although it is curious that it should come up now, in the era of transparency and openness in which we live it is a matter that is worthy of debate. Unless it be thought that this is a party matter, I am authorised to say that several Members of this House who countersigned the letter that we wrote have expressed their agreement with my words, including the noble Baroness, Lady Jones of Moulsecoomb. I beg to move.

2.05 pm

The Lord Bishop of Chelmsford: My Lords, I thank the noble Lord, Lord Fairfax of Cameron, for introducing this debate. I am still relatively new to this House, so you may not know that if there is a stick lying on the ground with a label on it saying, "wrong end", I am prone to pick it up. I was drawn by the title of this debate and therefore went to the Library to read the briefing pack, which was fascinating. Its conclusion opens by saying that overall, the survey suggests that the public continue to have a very poor valuation of current standards in public life; respondents generally gave negative answers. That is something we should be concerned about.

My contribution will be over in 10 minutes and then you can get on with the debate that obviously some of you want to have, but I want to speak about what I see as the moral and spiritual dimensions to this issue.

When my middle son was seven—he is now 22 and one of the most examined children in history—he sat the first of many tests: the dreaded SATs, which parents of my generation will know about. He attended a wonderful Church of England primary school in Huddersfield, where we were living at the time. To avoid undue pressure on the children, the school sensibly played down the fact that it was a test and encouraged us parents to do the same. Amazingly, we did. When the day came, he hardly knew what was in store or its significance. When he got home that day, he said, "Dad, what a funny day it's been". He told me that the whole class had been marched into the hall where they normally have their lunch and been given some "special work" to do. But what really surprised him was that, before they did the special work, the teachers had impressed upon them that they were not allowed to help each other. It was his first foray into the values of an overly competitive adult world, where you learn how to be an individual and a consumer but rarely a community.

Hitherto, this school, like virtually every other school in the country, prized as a core value helping each other. More than this, it was a Church school, where loving your neighbour as yourself was at the heart of the school's ethos. However, in the world of the exam, we have another name for that value whereby we help our neighbour if they are struggling: cheating. Do not get me wrong: of course we need exams—that is not the point I am making. However, this seems to me to be a helpful little parable for our time. As we grow up, as targets and league tables take their toll, and as many feel left behind, the value of collaboration—helping each other—is superseded by another value: competition. We stop seeing ourselves as a community and learn to see ourselves as individuals set against each other in a dog-eat-dog world. This affects everything. Little wonder then that we in public life, who appear to be dining at the top table, are therefore often judged harshly and there is great delight when we fall.

It also affects so much of our public discourse. Our ways of interacting with one another are often combative and adversarial. That is the way we have learned to do things. In this of all weeks, we need to see national and global solutions for the new place we find ourselves in. Thinking merely in terms of winners and losers disfranchises half a nation. However, at the same time, it is interesting that many of today's most successful businesses, like our very best schools, prize collaboration as a way of encouraging enterprise, harnessing creativity and, in so doing, developing different and more collaborative models of leadership. We also see this in some of our best local authorities and councils. My well-being and success are now intrinsically bound up with the well-being and success of others and of the whole. I discover that, when I am trusted, I am much more likely to trust others. Incidentally, that is why our Select Committees here are such a joy to be part of. If the public saw this side of our political life rather than the bear pit of PMQs, we might begin to change perceptions. But we need only to look around ourselves at the layout of this space, let alone of another one. Here, at the centre of public and political life, we are formed and schooled in a way of making decisions that is not primarily about reaching consensus and finding a common mind but about winning an argument.

Let us place this alongside the other influences that I have mentioned—not least the dispiriting weight of always being viewed as a consumer. You cannot drive 100 yards down the road nowadays, let alone switch on your phone or open a magazine, without somebody

[The Lord Bishop of Chelmsford]
trying to sell you some new great lifestyle. The world is kind of saying, "If you bought this fast car, or if you wore that perfume, or if you got those designer-label jeans, you would be happy". Well, none of it works—or perhaps to be more accurate, it works just enough to get you addicted. All this has created what I see as a nation of junkies, lusting for the wealth to deliver the goods that they think will buy them happiness and then realising that it does not really work.

Then there is the increasing professionalisation of political life, where other influences and experiences are fewer than used to be the case. Add all this together and there is an inevitable disconnect between different groups of people in our country, and we are part of that. There is also a disconnect between the public and the private: between the things we value and the way we do things in, let us say, our schools and our families—even the things we experience in some of our more innovative businesses—and the things we do and see in public. This breeds cynicism and we should not therefore be surprised when the evidence shows us that the perception of the public, albeit an unfair one, is that we cannot be trusted.

But what if our families and schools were right? What if this way of doing things is best and what if we allowed it to shape our public life? I quoted Wilfred Owen earlier today; let me now quote WH Auden. In his wonderful poem "In Praise of Limestone", he said this:

> "The blessed will not care what angle they are regarded from,
> Having nothing to hide".

The transparency of life, where I am the same person at home and at work, when the door is closed as well as when the door is opened, is formed in us by values of responsibility and ownership—by ownership here I mean not of goods but of ourselves and our actions—and by collaboration. It is where we know that we belong to each other and are accountable to each other and, I suppose most of all, accountable to ourselves, able to look ourselves in the eye over what we have said and done. This is, thank God, taught and valued in all our schools. It is the elusive ethos that parents and politicians crave, but it is often lacking, or at least diminished, in public life, where we have allowed a separation of who we are in one place from who we are in another, and where the values we espouse at home are not always the values we espouse at work.

I spoke to a woman recently—I think this is wonderful—who said that her rule of thumb in elections when deciding who to vote for was, would she let them babysit her children? That is quite a good test to apply. I can certainly think of worse reasons.

I conclude with one last story because parables often help more in these matters than anything else. I heard recently about a teenager who was caught stealing pens from WH Smith. He was arrested and cautioned. His parents were distraught. "I cannot believe it", said the father, "My son a thief. If only he had told me that he needed some pens—I could have brought him some back from the office". No amount of principles, protocols, guidelines or codes, useful though they are, will make a difference if we have not allowed the fundamental value of seeking the common good, loving and valuing our neighbour as ourselves, to form our personhood and shape our institutions. Rebuilding trust and changing perception is a spiritual and moral issue, and it begins in the heart. Until we have decided to be one person rather than several, there will be no change at all.

2.16 pm

Lord Norton of Louth (Con): My Lords, I, too, congratulate my noble friend on initiating this debate. We have only had two speeches and I am already wondering how my noble friend Lady Chisholm will manage to respond.

I shall follow the Motion in addressing confidence in institutions and avoid addressing the wider, but major, question of restoring confidence in our politics. That merits a later and extended debate in the light of current events. Political parties are institutions operating in public but they are not public institutions.

I wish to focus on confidence in one particular institution—namely, Parliament—although my comments may have a wider resonance. The most recent Hansard Society audit of political engagement revealed a welcome increase in the proportion, to just over half, of respondents who claim to know at least "a fair amount" about Parliament. Almost three-quarters agreed that Parliament,

> "debates and makes decisions about issues that matter to me".

Most of those questioned, none the less, are not satisfied with how Parliament works. Only 32% are satisfied, and only 29% are satisfied with how MPs generally do their job. MPs, Matthew Flinders has argued, have become a demonised group.

In terms of trust, Eurobarometer data show that only one-third of those surveyed in the United Kingdom tend to trust Parliament. The figure is slightly above the EU average but still lagging behind Scandinavian legislatures and a number of west European legislatures. My starting point, therefore, is that there is a problem of trust. The situation may not be critical but I would argue that it is unhealthy.

The point I wish to develop is that greater openness and transparency are necessary but they are not sufficient. There is a clear case for making institutions more open and transparent. Doing so is important for people knowing that they are open and transparent. It is important also for public accountability. Openness and transparency help reduce the likelihood of waste and corruption. There is clearly a cost in terms of money and resources, but it is a worthwhile cost for fulfilling those purposes. It may be cost-efficient in so far as openness and transparent help to tackle inefficiency and corruption.

Parliament is notable for the extent to which it has sought to be open and transparent. We are far more open than many legislatures. Votes are roll-call votes; how Members vote is a matter of public record. So, too, is what they say. Plenary debates and committees are generally held in open session. *Hansard* provides a valuable transcription, and one that is available within a matter of hours. Long gone are the days when the reporting of parliamentary proceedings was a punishable offence. The media can report what goes on, while we have moved to embrace the broadcasting of proceedings and to exploit social media to let people know what we are doing. We have invested substantial resources in

the parliamentary website. Members of the public can watch proceedings on BBC Parliament or on the internet through "Democracy Live". All these put us way ahead of many other legislatures.

Investing in these resources is important and necessary, but clearly it is not impacting greatly on public confidence. To have a significant impact we need to be proactive and not simply passive. Making material available is necessary, but we should not assume that people are keen to have access to that material. Some are, but the problem is that nowadays members of the public have a great many sources vying for their attention. Parliament is hardly the only body utilising social media. We cannot assume that if we put material on the public record the public will be avid consumers of that material.

We have to compete in a much more competitive environment in terms of attracting interest, we have to compete against a cynical attitude towards politics, and we have to work in the world of the print media, where declining income means that less attention is paid to politics and more to sport and human interest stories. Expenses scandals will act as a magnet for media interest, but not the parliamentary scrutiny of Bills, even though that activity may have far-reaching effects on the citizens of this nation.

If we are to restore confidence, we have to go out and make our case. We have to inform and explain, but we have to get people's attention in order to do that. Parliament has an admirable outreach programme. There is now the dedicated education centre. We have in this House the Peers in Schools programme. This year, the parliamentary outreach teams are working on building links with BME communities. In the Commons, the Backbench Business Committee and the Petitions Committee are serving to pursue issues that engage the commitment of different groups in society. There are thus steps that we are taking to build links and let people know what we are doing.

What is being done is commendable; we need, though, to build on it. That involves looking both outwards and inwards. We need to be outward-looking and proactive in reaching out to members of the public, be it generally or organised in particular groups. That may entail—indeed will entail—investing more resources, not least in social media. It may mean being more ambitious in what we say as well as in how we say it. That in my view means utilising Members more to make our case. Officials are wary of going beyond providing descriptive data, but Members can be more outgoing in what they say and are able to challenge critics. We need therefore to harness the resource that is the membership of the two Houses. We cannot expect people to have confidence in Parliament if we do not have confidence in ourselves. In recent years, parliamentarians have adopted a bunker mentality in the light of media criticisms. We need to come out fighting.

We need to be inward-looking in terms of ensuring that our practices and procedures, and indeed our behaviour, are worthy of trust. We cannot simply assume that what we do is likely to attract the trust of citizens. We need to review what we do and how we do it. We sometimes behave in the Chamber in a way that suggests that we have forgotten that we are being televised. People are not necessarily impressed when we become overly parochial. We need to be aware of the wider environment and indeed of the superior needs of the House. The House is more important than any individual Member, however important some individual Members may consider themselves.

In some areas, this House is falling behind the other place; in some areas, we are playing to our strengths. I think particularly of the use of ad-hoc committees for post-legislative scrutiny. That, in my view, is the sort of thing we should be doing. We need to ensure that our procedures and how we conduct ourselves are reviewed regularly, not least with a view to ensuring that we are operating in a way that is likely to enhance rather than undermine public confidence. In short, we need to ensure that we are as open and transparent as possible. That is necessary but it is not sufficient. We need to move beyond the passive. We have to take our case to the public, rather than assuming that they will take an interest in what we do. We have to explain why Parliament matters and how members of the public can not only follow what we do but feed in their opinions. It is not just a question of openness but also one of engagement.

For the public to trust us, to have confidence in us, we have to be seen to be fulfilling our job of calling government to account. Good government needs an effective Parliament. It is also important to stress that it needs an effective Opposition. The Government are elected through Parliament and rest for their legitimacy upon Parliament. It is therefore in the Government's interests to take Parliament seriously. Much of what I have said is a matter for the two Houses, but my noble friend Lady Chisholm may wish to put on record the Government's commitment to having Ministers and civil servants engage fully with the work of both Houses. In terms of trust, it is in the Government's own interests to do so. There are times when Ministers need to be reminded of that. Parliament and government rest on public confidence. Recognition of that is especially important at the moment. We are not acting in a vacuum.

2.27 pm

Baroness O'Neill of Bengarve (CB): My Lords, I, too, had taken this debate to be rather broader than the question of the declaration of interest, let alone one specifically about the sources of pensions. It is not irrelevant, but I think that this is, as the noble Lord, Lord Norton of Louth, has just shown us, something of very much broader concern. We are, I suppose, 30 years out from what is taken by some to be a revolution in accountability and transparency. I have no doubt that that revolution was, in many ways, made possible by the advent of forms of IT—it was much easier to make far more public. It is, I think, reasonable to ask ourselves: is it working? Are more accountability and transparency having the effects we hoped they would have—not just in public institutions or in Parliament, but much more generally, in all institutional life and perhaps beyond institutional life?

I do not think it is actually that new—we have had some forms of accountability and transparency for decades, perhaps centuries. After all, what is financial

[Baroness O'Neill of Bengarve]
audit of a company, what is the publication of accounts, except accountability and transparency? Yes, we all know that it has a very limited focus and there is an awful lot you cannot learn by reading a company's accounts, even if you are more of a forensic accountant than I am. However, we have to ask ourselves, many years out, whether this attempt to extend accountability and transparency has worked the way we thought it would. Has it increased public confidence? The evidence is very mixed and some of it is very discouraging.

It is a commonplace to say, "Oh, by the way, trust has declined". I am cautious about saying that, because the empirical evidence we have is extremely mixed and people tend to rely rather too much on opinion pollsters, who ask questions about generic attitudes. They ask, "Do you trust doctors?", "Do you trust politicians?", Do you trust the media?". People say, "No" or "Yes", or they rate trust on a one to five scale, and we all know those scales. However, when you look at the time series—and we have it for a few, such as politicians and journalists—you discover that the people who are most mistrusted now were also most mistrusted 25 years ago. Conversely, judges and nurses, who were among the most trusted, remain among the most trusted. I shall come back to this but we might want to think a bit more critically about what we are trying to look at when we talk about trust.

What should we do if we hope to have greater public confidence? This may be the wrong question. Accountability and transparency might surely be expected to have more effects on trustworthiness than on trust. That seems intuitively the case. If I know that the information about my institution or my conduct is going to be public, one would hope that I would be a bit more careful about whether I behave in a trustworthy way. Whether other people trust me is, of course, up to them. Trust is something that others give, not something that I can control. There is no automatic read-across in my view from accountability and transparency to that magic goal of more trust, although there might be a better connection to trustworthiness.

I shall take accountability and transparency separately. A good question would be, "Does accountability always increase trustworthiness?". The answer seems to be, "Sometimes it does, but not always". We have quite a lot of let us call it, rather simply, unintelligent forms of accountability around, and this Parliament is responsible for increasing their number in a very generous way. I give noble Lords just one little example from schools. It is the classic example of forms of accountability that create perverse incentives. A performance indicator for schools is the number of A to C passes at GCSE, and there are other benchmarks for primaries, sixth forms and so on. What does a rational school do? Well, they want to get more A to C passes per pupil. So a very good thing to do would be to put the pupils in for less demanding subjects and to withdraw those who will not exactly shine from taking too many, or too difficult, subjects. A metric that was meant to improve children's education thereby ends up damaging it. Perverse incentives are littered across our system of accountability. Of course, they do not improve trustworthiness—people feel that the schools are not doing a better job by children—but nor, probably, do they improve trust.

However—this is much lower profile but I suspect that it is more serious—the attempts to increase accountability have a deadening effect, even when there is not the high-stakes disaster of the perverse incentive, simply because of the burdens of compliance becoming too great for too many people who should be looking at the task they are doing and the people they are meant to be serving. I give noble Lords an example. A few years ago I chaired a little inquiry into the safety of maternity services in England and Wales. One of the midwives said in evidence, "The problem really is that it takes longer to do the paperwork than to deliver the baby". There is one thing that a midwife is meant to be doing—namely, keeping an eye on the mother in labour and on the newborn, not doing the paperwork. That, I fear, is an example of a rather dangerous burden of compliance, but we all know the word "tick box" now. Tick-box compliance is with us for a reason—namely, we thought that more compliance and more accountability would always be better, so we ratcheted up and up. Should we wonder, then, that people have to spend so much of their time—and misspend their time—doing the compliance? If noble Lords read—as I did recently—*Swimming with Sharks*, which is about the 2008 crisis in the financial sector, they will discover something very interesting about compliance. When the author, a Dutch journalist called Joris Luyendijk, started asking people in banks, "What sort of animal are you?", the traders said, "I'm a lion", "I'm a wolf", "I'm a fox", "I'm a bird of prey—an eagle, perhaps", but in compliance the people said, "I think I'm rather like a beaver. Beavers don't have much time for servicing others, they're too busy chewing". So we have to be pretty cautious about stupid forms of accountability—and we have fantastic numbers of them.

Does increasing transparency increase trustworthiness, even if it does not increase trust? Not always. Consider how often your Lordships have encountered the minutes of an institution—a public institution or, for that matter, a commercial institution—and thought, "Well, these minutes are mightily bland and uninformative". But we should ask why they are bland and uninformative. They are bland and uninformative because somebody told the person who was writing the minutes that they really should not be too sharp-edged or create any controversy and that they should damp it all down, forgetting that a minute is valuable only if it is an accurate document of record. That is where the transparency that is so commonly the case for organisations now—you have to publish the minutes—can be damaging.

However, sometimes more transparency does increase trustworthiness. Publishing a list of interests is quite a good idea, although I note that throughout the institutions many people confuse the question of whether people have interests with the question of whether they have conflicts of interest. They are quite different things. An interest is a standing interest; a conflict arises in a particular situation and has to be dealt with.

I will give your Lordships an example of where a lack of transparency does lead to a lowering of trust. Consider the state of Delaware. Delaware has almost as many corporations registered in it as citizens. Why? Because you do not have to declare the names of the directors—no transparency, it is not in the public domain. That is why any corporation that wishes to do something that its directors might not wish to have attributed to them will incorporate in Delaware. It is just a small example of offshoreness, albeit within the jurisdiction of the United States. In general, declarations of interest and the identification of conflicts of interest can be helpful because they help us know who is responsible for what.

Does transparency increase trust? The empirical evidence is extremely poor on this point. It looks as though transparency often reduces trust. Of course, there has been only sporadic research but it is not very convincing. I think we know why. The noble Lord, Lord Norton of Louth, touched on this. Very often transparency is just too little to increase trust or trustworthiness. Transparency can increase trust only if it is accompanied by, as the noble Lord said, engagement, dialogue and communication.

What is transparency? It may be fashionable but it is actually a matter of putting stuff in the public domain. That is easy in the age of IT. You can tip shedloads of stuff into the public domain, but guess what? It is not something that everybody reads. When I hear in an institutional context people saying, "We should be more transparent", I think, "You want to let yourselves off lightly, don't you? That won't be enough".

Why does it not work? First, it is often not accessible. People do not always find the stuff. Those of your Lordships who know how long it takes to become familiar with the website of any one of our government departments or any business that tries to do it well will realise that tipping it on to the website does not always mean that people find it. Worse, it is not merely that it is not in practice accessible to everybody; when they get there it is often not intelligible. That really does put people off from placing their trust. When they can understand roughly what it means, it is very frequently not assessable; that is, they cannot judge what it all comes down to.

A few years ago, I took part in a Royal Society working party on science as an open enterprise. Science depends immensely on communication and transparency, but we came through that thinking that mere transparency and openness are never enough. What we need is intelligent openness, which means taking account of which audiences there are and what they can follow—and following up on it.

If we were successful in being transparent, what could we achieve? Could we perhaps make it easier to make judgments of trustworthiness? I do not speak about trust but trustworthiness will need three things: evidence of honesty, evidence of competence and evidence of reliability. We are not going to get there by mere transparency. Too often, it is unintelligible and unassessable even if people find it. In short, transparency, that fashionable nostrum of the 1980s, has not delivered more than we should have expected. It might have delivered more or less what we expected but every time I hear someone say, "We should be more transparent and start to flood people with data", that is just not enough. Neither stupid accountability nor stupid transparency will work.

Finally, to take one last kick at something, the question: "How we should rebuild trust?" is very unfortunate. It is for other people to give or refuse trust; we can be trustworthy but they give trust. So that question tells me that people already have their PR hats on and are thinking, "How can we persuade other people to trust us?". It has a certain whiff of a conman's question. If we think about the well-known Mr Madoff, who made off with so many people's savings, can you not just hear him saying, "How can we rebuild trust?", and what would he mean by that?

2.41 pm

Lord Robathan (Con): My Lords, I compliment the noble Baroness, Lady O'Neill, and my noble friend Lord Norton on their very interesting, thoughtful and, dare I say it, rather academic and philosophical views of the wider issue that we are discussing. I am afraid I shall bring it back to the narrower issue in supporting my noble friend Lord Fairfax but the good news for the House is that I shall not detain it long.

In reinforcing my noble friend Lord Fairfax's point about the register of interests, I note for instance that my noble friend Lord Tugendhat—I have not told him about this but it is in no way critical—mentioned that he was in receipt of a pension from the Commission when he took part in the EU Committee report, *The Process of Withdrawing from the European Union*, an extremely useful document. I mention that because I do not see the problem with it. Indeed, there is no problem at all, so I back up my noble friend Lord Fairfax on that. Perhaps I may cite my noble friend Lord Lexden, who took part in the previous debate. He said more than my noble friend Lord Fairfax says. He said that it,

"simply will not pass muster in this age of much-vaunted transparency".—[*Hansard*, 30/06/16; col. 1700.]

I agree with the noble Baroness but that is what he said. It would be better if people were open when they have an interest that could be a conflict of interest—not that it necessarily is.

Leading on from that, I wish to concentrate on the latter part of the Motion on,

"reinforcing confidence in public institutions".

Narrowly, I want to talk about confidence in this institution. I have been a Member for only eight months; it is a unique and pretty strange but very privileged position. It can work and I am happy to defend the House of Lords but we do not have constituents to whom we answer, nor are we accountable at elections for our actions and views. However, we are accountable in a more general sense.

I particularly want to pick up on my discovery in the last few months that my view, which was that leaving the European Union was the right thing for this country—I am sure everybody would agree that we should always try to do the right thing, whether in politics or in our personal lives—was in a minority. Having a minority view is fine but I found that my

[LORD ROBATHAN]
view was rather derided and I found myself criticised and actually heckled for expressing that view. I met a wall of hostility. Similarly, when the noble Lord, Lord Pearson of Rannoch, stands up, he tends to be rather derided. There is nothing the matter with people disagreeing, but it is quite worrying when the overwhelming view in this House is out of touch with the majority view of the British public.

In reflecting my own view, my judgment was of course paramount, because I believe it was the right thing to do, but I hope that I at no stage derided the more than 16 million people in this country who took a contrary view. But to see the view of the 17.5 million of my fellow citizens so derided, in this House or elsewhere, is surely wrong. For those who read the London *Times*, there is an article by David Aaronovitch today which basically says the people have spoken but they have got it wrong and we have to go back and try it all over again. I am sorry, but the people have indeed spoken.

I will go further. One noble Lord, before the referendum, told me that we would have to stop any legislation coming forward should the country vote for out. I assumed he must be joking. But not at all, he thought that was right: after the largest participation of the electorate in a democratic vote since 1992, he was keen to ignore the result because it did not coincide with his views. If we want to reinforce confidence in this House and this public institution, we need to consider—dare I say it—less arrogantly the view of the British people. That is not to say that we have always to agree with them, but we who are fortunate enough to be here are here to serve the British people.

In the Commons yesterday, one Member of Parliament was booed because he took a contrary view and was in favour of leaving. In this House it has been less vocal, but there has been chuntering whenever noble Lords express views contrary to the settled view of this House on the EU. Formerly, as a Member of Parliament, I would talk to my constituents every weekend, as one has to, in the street, in the supermarket, at advice sessions, at events or whatever. I should like the House to know that I still talk to them in the street, in the supermarket or wherever. I suggest that we in this House need to listen rather more to the British people. It is not that they are always right, but we need to listen to them and understand from our privileged position that we owe it to the British people—our people—to take a more balanced view of what they want.

Your Lordships overwhelmingly opposed what has turned out to be the majority view of the British electorate in the referendum. Of course we should not abandon principles—far from it, we should stand by them—but nor should we dismiss the concerns of our fellow Britons. If we wish to reinforce confidence in this institution, we should take greater note of the views of the people of this country, whom we are here to serve.

2.48 pm

Lord Brooke of Alverthorpe: My Lords, I am grateful to the noble Lord for giving me a peg on which to hang another item that relates to the fundamental subject that he has raised. I give notice that in September this year I will introduce a Private Member's Bill that seeks to amend existing legislation on lobbying, transparency and openness. If we are truly to have a better relationship with the public, I hope that will help us to go in that direction. The public need access to real facts, so that when they take their decisions they are basing them on real hard facts that they understand. My Private Member's Bill will be along those lines.

Why does lobbying and transparency matter? Lobbying is an estimated £2 billion industry in the UK, and most of this money is spent by big business. As profit-making entities, it is entirely rational for companies to lobby, whether against a threat to their business from government—the sugar tax is a very good example of that—or because government is providing an opportunity for profit, such as the opening up of the £110 billion NHS budget, which is a big opportunity for business.

There is nothing inherently wrong with that, and companies should be allowed to seek to be heard by the Government, but those of us who participate in Parliament and the public at large should be allowed to know just who is being approached, what is being said and what influence is being brought to bear. The present legislation in this country does not permit that, and as a consequence much is happening that we should know about but do not know about.

Take the lobby for the alcohol industry, of which I have some knowledge. It enjoys enormous influence in government, in large part a consequence of the significant resources that it devotes to lobbying, which far outstrips those of the public health advocates—of which, I openly declare, I am one. The lobby in favour of fracking is another with a sizeable budget and many well-connected political insiders on its payroll, resources that community and environmental groups opposed to fracking cannot match in any way. These are the kind of issues that we should seek to open to wider debate.

I have only two minutes to speak on this topic. I am grateful to have the opportunity to do so, and I hope that the House will be willing to participate in a much fuller debate on the Bill later in the year.

2.50 pm

Lord Pearson of Rannoch (UKIP): My Lords, briefly, I support what the noble Lords, Lord Fairfax and Lord Robathan, said about noble EU pensioners not declaring that interest in our debates about EU matters and in our register of interests.

I suppose that when the noble Baroness, Lady Chisholm, replies for the Government she will say that this is not the Government's problem: that the decision about this disgraceful state of affairs is for our Committee for Privileges and Conduct to take. Indeed, she will be right if she says that. With regret, I agree with the noble Lord, Lord Fairfax, that it would have been helpful if the noble Lord, Lord Laming, the Chairman of Committees, could have joined this debate to explain to your Lordships' House and the wider world why the Privileges Committee has yet again ruled that these pensions do not have to be declared, even if their beneficiaries can lose them if they fail,

"to respect certain obligations arising from the office that they held".—[*Official Report*, 6/3/03; col. *WA31*.].

That was published in *Hansard* on 6 March 2003, so this question has been rumbling around for some time. If they fail to respect the obligations arising from the offices that they held, they can lose their pensions. That means if they fail to uphold the interests of the European Union in debate in your Lordships' Chamber.

I will not name them, but one can think of one or two who take part in our debates and who never bother to mention this interest. In fact, they go out of their way not to mention it. If a noble EU pensioner were to get up in one of our debates and say, "Goodness me, it suddenly strikes me that Lord Stoddart of Swindon has been right all along. This European project has failed and should be wrapped up as soon as possible, and what's more I could even tell you a little extra scandal about it here and there", he would be in real danger of losing his pension, so he will not say that. He will not go anywhere near as far as that. He will not openly criticise the project of European integration on which his pension depends.

That is what makes these EU pensions so rare, perhaps unique, and this is why under our code of conduct it must be obvious to a normal member of the public that they should be declared. Nevertheless, I look forward, with patience, to the noble Baroness's reply.

2.53 pm

Lord Paddick (LD): My Lords, thankfully I got wind of what this debate was really about, as opposed to what is on the Order Paper. I do not know much about EU pensions. All I know is that the Privileges Committee of this House considered this issue in 2004, 2007, 2010 and again, it would appear, this year, and came up with the same conclusion. The other thing I would say on the subject is that we are a self-regulating House. I therefore suggest that the noble Baroness, Lady Chisholm of Owlpen, should say simply that it is not a matter for the Government, it is a matter for this House.

Taking it slightly wider on pensions, I remember signing my contract as a senior police officer, when I was appointed as a deputy assistant commissioner, where I had to undertake not to discuss anything that I learned during the course of my employment outside the police service for X years to come. As a consequence of having signed such a contract I, along with many other senior police officers, published my autobiography within months of leaving, on the word of the then chief executive of the Metropolitan Police Authority, who told me that the contract was not worth the paper it was written on.

More seriously, what I also did when I joined as a constable in 1976 and did again when I retired as a deputy assistant commissioner in 2007, was sign the Official Secrets Act, which again was an undertaking not to reveal sensitive issues that I had experienced during my service. I might be tempting fate, but so far I have not been arrested for revealing what might be considered sensitive things, not least in this House. To be honest, to suggest that Members of this House would not act on their honour and express their honest opinion in debates because they were in receipt of a pension from wherever it is I think is an absolute disgrace. The problem of trust is not—

Lord Robathan: I am grateful to the noble Lord. First, I think his analogy is stretching it a bit far. I am in receipt of an Army pension. Nobody can take it away from me, as it happens, any more than they can take away his police pension. But the point—surely he understands this—is about perception. I am sure that all the former Commissioners here are honourable people, but it is the perception that is left hanging there when they do not declare their interest.

Lord Paddick: I am grateful for the intervention. As a matter of fact, were I found guilty of a serious criminal offence, which breach of the Official Secrets Act is, I could quite easily have my pension withdrawn from me. I suggest that the problem of trust—

Lord Pearson of Rannoch: Would that make the noble Lord less likely to breach the Official Secrets Act? That is what we are saying; the fact is that these pensions are unique in that you can lose them if you do not go on upholding the interests of the European communities. That is what puts you at risk of losing this pension and that is why they should be declared in your Lordships' House.

Lord Paddick: My Lords, I refer back to what the noble Baroness, Lady Hayter of Kentish Town, said—which was, in effect, "What is the problem that we are trying to solve here?". Where is the evidence that people who are in receipt of these pensions have not spoken openly and honestly about their experiences because they are in receipt of that pension? Where is the evidence?

The problem, as I see it, with the public not trusting politicians—and we have had a very good example of it during the EU referendum campaign on both sides—is that politicians tend to express subjective and partisan views that quite clearly do not hold water. Perhaps we should be debating that issue rather than the one that the noble Lord is proposing today.

2.59 pm

Baroness Hayter of Kentish Town (Lab): My Lords, first I thank the right reverend Prelate the Bishop of Chelmsford for raising the standard of the debate, if I may say so, and also giving us an insight into why his sermons are so popular.

A noble Lord: It was not a sermon.

Baroness Hayter of Kentish Town: No, but he has good stories.

I thank the noble Lord, Lord Fairfax, for at least the subject of this debate, although his contribution did not bring much credit to the House. I regret that he did not notify people who would be affected by it. Let us name one of them, because we know who we are talking about. The idea that anyone does not know that my noble friend Lord Kinnock was a Commissioner

[Baroness Hayter of Kentish Town]
seems to me extraordinary. I am going to put that subject to one side, because I think that the noble Lord, Lord Paddick, has said what needed to be said.

The title of the debate was beautifully written, and the issue is at the heart of our democracy—the openness of government and public institutions, whether those are elected bodies; the Civil Service or Parliament itself, as the noble Lord, Lord Norton, has said; that plethora of public bodies that contribute to civic society, including police, schools, regulators, the health service and social care; or, indeed, private bodies that receive public money, including landlords whose tenants are in receipt of housing benefit, and farmers, who get a lot of public subsidy. Some openness on those is equally important. Indeed, we might note that companies and banks are also active in the public arena, and society needs to know more about their shareholdings, tax payments—or non-payments—and payments to political parties, as well, perhaps, as their rates of pay. Some of those are public issues that go to the heart of trust.

It is the particular function of your Lordships' House to hold the Government to account, and there are issues about the Government's openness, whether about lobbying or public appointments, including to this House, in addition to the funding of the political party that forms the Government. Labour has a good record on increasing transparency, which is vital to accountability, as well as to fighting corruption. We implemented Nolan, and introduced transparency to party funding. Transparency is essential in a democracy, but I take very much the points made by the noble Baroness, Lady O'Neill. Some of those points are absolutely central, and we need to think again. Transparency of itself does not produce accountability; it may be a tool in accountability but, in the short term, it can actually undermine trust in democracy if it reveals scandals, given that the biggest factor that undermines trust in politics is corruption or the perception of corruption. However, tackling such behaviour, and having the right regulation in place, can both drive up standards and—although it may take some time—increase trust.

We have already heard some figures about the lack of trust. More than half the respondents to Transparency International's Global Corruption Barometer said that our Government are "entirely" or "to a large extent" run by a few big entities acting in their own best interests. More than half feel that Parliament is "corrupt" or "extremely corrupt". Given that the latter is, I believe, completely not the case, it demonstrates how perceptions are more important than fact—perhaps the one point on which I would agree with the noble Lord, Lord Fairfax. For this reason, each lobbying scandal further erodes public trust in decision-making. People are well aware that big money talks and has influence, and that decisions are likely to be taken that please people with big money rather than the public interest.

I think—and I think the public think—that vested interests enjoy easy access to government, while the views of the public and critical outsiders are often seen as views to be managed, rather than actively considered. The result is that too many decisions are based not on evidence but on the opinion of insiders with a private interest. Sadly, many politicians do not recognise this, which is why all lobbying should be open and declared.

We on this side were bitterly disappointed with the lobbying Act, which tied lobbying by charities up in red tape, while leaving big business free access to government and the Civil Service. I absolve the Minister completely from any involvement in that. Indeed, it was a Liberal Democrat Minister who took that ridiculous Bill through this House. Why was it ridiculous? It excludes the activities of in-house lobbying, so that big interests which are big enough to have their own public affairs teams—defence, the drinks industry, which has already been mentioned, construction, pharmaceuticals and health providers—do not have to go on to the statutory register of lobbyists. It is only consulting firms that have to register, and even then only if they lobby a Minister or a Permanent Secretary. We have ex-Permanent Secretaries in the House, but none of them is in his place today. They, and any civil servant, will know that you lobby not at Permanent Secretary level, but at senior civil servant level, and it is unlikely that most consultant lobbyists would see a Minister, because at that stage the client would front up the meeting. Even if a consultant lobbyist meets a Minister, they have to reveal only their list of clients, not the particular client on whose behalf they lobbied and not on what issue. Supposedly, Ministers should disclose meetings with lobbyists through their published diaries, but they are so opaque and so late that it is impossible to work out what issue was being discussed, and meetings here in Parliament, without civil servants present, do not even have to appear on that declaration.

Furthermore, business can lobby special advisers, chairs of Select Committees, Members of your Lordships' House or MPs without anyone having to know. So will the Government fully support, not just at Second Reading, the Private Member's Bill proposed by my noble friend Lord Brooke of Alverthorpe which, as he said, will have its Second Reading on 9 September? It would produce a serious register of all paid professional lobbying of politicians and senior civil servants. If the Government will not give it their full backing, why not? Without that, we can have no transparency in government decision-making. Otherwise, we have to ask how a Minister who received IEA funding could then make a policy decision—in this case, to reduce lobbying by charities—with the press release announcing it actually starting by quoting the very IEA which had funded his office.

One part of decision-making is public appointments, where the Government have decided to give more power to Ministers over outside independent judgment. Will the Minister explain how this meets any government desire for openness, transparency and fairness, given that it smacks of jobs for friends? How can someone known to be associated with the out campaign be appointed to the Charity Commission, be involved in its advice that charities should not campaign on the referendum—a move widely seen as stopping environmentalists supporting European action—and then be re-appointed despite this apparent conflict of interest? Incidentally, I believe that a registered charity sent all Members of your Lordships' House a booklet

advocating out, yet the Charity Commission, to which, needless to say, I wrote the next day, failed to respond to my query about whether it was in breach of its guideline.

On appointments closer to home, your Lordships' House has raised on a number of occasions the extraordinary number of Peers appointed by the present Prime Minister, and I assume we are about to get some more with a resignation list. Those appointments are in the gift of the Government, but surely we need more openness and transparency about them. Separately, his Government sought to cut the private funding going to the Labour Party while leaving completely untouched the limitless money that individuals seem to be able to give to his party. The Government, who have extended the vote to Brits living abroad no matter how many decades it is since they last were last here, let alone when they last paid any tax here, continue to refuse to say whether those non-doms will be able to send as much of their largesse as they fancy to his political party. Surely it is in no one's interest for our parties to be funded by secret, offshore individuals.

In 2011, the Government signed the Open Government Declaration, which states:

"We acknowledge that people all around the world are demanding more openness in government … and seeking ways to make their governments more transparent, responsive, accountable, and effective",

and that:

"We uphold the value of openness in our engagement with citizens to improve services, manage public resources … and create safer communities".

Can the Minister summarise what steps the Government have taken since 2011 to translate these fine words into actions?

This was not quite the debate that some of us envisaged when we saw its title, but I am glad that we have had this opportunity—and I am very glad that the noble Lord, Lord Fairfax, has given me the opportunity to put a couple of questions to the Minister.

3.11 pm

Baroness Chisholm of Owlpen (Con): I would like to congratulate—I think—my noble friend Lord Fairfax on securing this debate and I am grateful to all noble Lords who have taken the time to attend and contribute to it today. I have listened with interest to all the comments and views and I will try to answer some of these first.

My noble friends Lord Fairfax and Lord Robathan and the noble Lord, Lord Pearson, all talked about EU pensions—I think that they know what I am going to say. The provisions of the code are a matter for the Committee for Privileges and Conduct and, ultimately, the House itself. As such, it is not the responsibility of the Cabinet Office. I would not want to pre-empt the Lord Chairman on this subject so I cannot really add much. However, the Committee for Privileges and Conduct has looked at this question on several occasions, as the noble Lord, Lord Paddick, mentioned, stretching back more than a decade. The committee has consistently maintained the position that is now set out in the code. I am well aware that my noble friend is already aware of this and I can only suggest that he takes up the subject again with the Lord Chairman.

The comments by the right reverend Prelate are why I enjoy these debates. Noble Lords can come in here and suddenly hear a speech of such interest, which is funny, amusing and intelligent, that they realise why they are in this House. That was certainly the case today. He mentioned that when someone is trusted, they are much more likely to trust others—I could not agree more, it is a very good statement. Everything that he said was thought-provoking and Auden's poem hits the nail on the head. I also agree that I certainly use the marker of whether I would let somebody babysit—in my case, I am referring to my grandchildren now, but it used to be my children. It was an excellent speech.

My noble friend Lord Norton mentioned raising matters in both Houses. We certainly recognise that the Government have a critical role in leading by example and setting a high bar for others. This was also mentioned by the noble Baroness, Lady O'Neill. We have to take steps to increase transparency around government activity, such as publishing ministerial meetings and interests, gifts and hospitality. We must remember the seven principles of public life, which are a very good bar to keep in mind. We cannot expect the public to have confidence in Parliament if we do not have confidence in ourselves. I happily agree that Ministers' engagement in both Houses is vital in building public engagement.

The noble Baroness, Lady O'Neill, also mentioned UK-registered companies. They will indeed need to declare their interests and persons of significant control on the register, providing real transparency about who benefits from a business.

The noble Baroness, Lady Hayter, brought up several points, some of which I will have to write to her on. On party funding, the Government cannot impose consensus on the political parties but we are open to constructive debate and dialogue on how we can further strengthen confidence in our democratic process and increase transparency and accountability.

Lord Pearson of Rannoch: On the Minister's answer to the noble Baroness, Lady Hayter, if she writes to her about the Prime Minister's use of his patronage to appoint Peers—far too many—to your Lordships' House, could she copy me in on that? As I think she knows, my party has an interest in that matter.

Baroness Chisholm of Owlpen: I certainly will.

On the point about lobbying raised by the noble Baroness, Lady Hayter, and the noble Lord, Lord Brooke, I will be interested in the noble Lord's Private Member's Bill when it appears on 9 September. I certainly cannot now say that we will agree with everything, but of course we will listen and take soundings, and we will be interested in what the noble Lord has to say. As he and the noble Baroness, Lady Hayter, know, the register is designed to shine the light of transparency on those who seek to influence the Government and will complement the existing government transparency regime whereby Ministers and Permanent Secretaries proactively publish details of their meetings. The register requires people who are paid to lobby government on behalf of others to disclose their clients on a publicly

[Baroness Chisholm of Owlpen]
available register. The register also enhances scrutiny by requiring them to declare whether they subscribe to the code of conduct. Both the register and published meeting information include names of the organisations in question and are published in open, searchable formats. It is also possible to search the register for specific organisations.

The noble Baroness, Lady Hayter, also mentioned public appointments. The Gerry Grimstone report put forward recommendations to strengthen the process. That will increase transparency, and it retains a critical role for the independent Commissioner for Public Appointments to make sure that public appointments are open and transparent.

The UK aspires to and can rightly claim to be the most open and transparent country in the world. Our democracy and governance is stable, robust and held to account by a strong, free press and an ever-growing range of ways to understand and scrutinise the decisions government makes and the way it operates.

Baroness Hayter of Kentish Town: I congratulate the noble Baroness on keeping a straight face at that moment.

Baroness Chisholm of Owlpen: I am not keeping a straight face. I am smiling—but I always smile.

The confidence with which our public institutions are held is the foundation that allows our great democracy to function. While government may have significant legal power to impose its will, it operates effectively with the people it serves with the consent borne of confidence and trust.

There are of course many examples of countries around the world where confidence in public institutions has been fatally eroded, often because of corruption or mismanagement, and where the ability to govern effectively is destroyed, hampering economic development and destroying prosperity. Confidence in public institutions is then precious, and the Government are committed to continually deepening openness and transparency to support it.

The noble Baroness, Lady O'Neill, talked about this. I suggest that transparency and openness are different but connected parts of how modern government and institutions should function. Transparency, where the workings of institutions can be seen and understood, underpins openness, where government and institutions work with and alongside the people they serve to deliver the best possible services and outcomes. However, I agree that transparency should be used as a tool, as the noble Baroness, Lady Hayter, said, and we have to be careful to use it with other things as well.

The UK should, rightly, be proud of its status as a global leader on both transparency and openness. The Government continue to push at the boundaries of the information they publish and they strive to ensure that citizens can fully participate in making the decisions that affect them. For example, the UK leads the world in the release of open data and has recently been ranked number one in the World Wide Web Foundation's Open Data Barometer for the third year running.

Open data—the release in a structured format of key government data licensed in such a way as to allow anyone to use them—allows the public meaningful, open access to important data about how our public institutions function. These data on how public money is spent and on how well key parts of government are performing, as well as, importantly, data of high value held by government about things such as the transport network, create significantly greater opportunities for government to be held to account and, crucially, allow others outside government to come forward to build new data-driven products and services using previously hidden government data. One example of that is the tool Citymapper, a smartphone application developed in the UK that takes into account a wealth of open transport data to help you get from A to B in the fastest possible time.

The economic benefits of transparency are clear but perhaps it is harder to measure the impact of greater transparency and openness on public confidence in institutions. What seems indisputable is that trust in public institutions is growing. Research by Edelman as part of its annual Trust Barometer shows that since 2012 trust in government has risen. More strikingly, research by Ipsos MORI shows that civil servants in particular have seen a large increase in trust since 1983: only 25% said they trusted civil servants to tell the truth in 1983 compared with 55% now.

Lord Brooke of Alverthorpe: Are these the polling companies that forecast the outcome of the last general election and the result of the referendum?

Baroness Chisholm of Owlpen: Is the noble Lord casting aspersions on what I say? As my noble friend Lord Norton mentioned, sadly, in the same research it is revealed that politicians are still among the least trusted groups in the UK.

It is clear, then, that there is much more to do—more data and information to open up and publish and more opportunities for citizens to become involved in developing the policies that affect them. As the Minister for the Cabinet Office recently stated:

> "We want to build a Britain where the citizen is an editor as well as a reader".

Only through increasing openness and transparency can that be made a reality.

One mechanism by which government is approaching this task is the OGP—the Open Government Partnership. This is a very exciting initiative. The OGP was formed in 2011 by the UK and seven other countries to promote transparency, empower citizens, fight corruption and harness new technologies to strengthen governance. It has now grown to the extent that it has been taken up by 69 countries. It exists to ensure that each participating Government work closely with citizens to develop open-government reforms that matter to them.

In May, the Government launched their third Open Government National Action Plan. Among other things, it made ambitious commitments to tackle corruption, including establishing a public register of company-beneficial ownership information for foreign companies which already own or buy property in the UK or

which bid on UK central government contracts. As part of this plan, the Government also committed to implement the Open Contracting Data Standard for the Crown Commercial Service, becoming the first G7 country to apply this new type of data release about public procurement to its central purchasing authority. In addition, this new standard for transparency will be applied to HS2.

When implemented, these commitments will provide unprecedented transparency about the real owners of the companies buying property in the UK and bidding on public contracts, as well as detailed, structured and more usable information about how government buys goods and services.

It is such transparency that can provide the hard data to reinforce confidence in our institutions. It is for this reason that the Government have placed significant emphasis on the better use of their own data so that the public can be confident we are doing all that we can to ensure we deliver better public services. The Government's digital services data programme has been created to address this challenge and ensure that through the more effective use of data, the Government can make better operational, policy and economic decisions.

Significant work is required to deliver on that promise, and in practical terms this means that we need to do the following things. First, we must ensure that all parts of government are equipped to make better use of data, having the technology and skills to use new and innovative data science techniques. Secondly, we must ensure that the infrastructure of data in government—how they are stored, found and accessed—is up to date and that the policy and governance around how data are created, used and released is fit for purpose, allowing us to maximise the benefits of increased data use in government and the wider economy, while ensuring that is done in a safe and ethical way.

These measures, taken together with a continuous drive to release more information on open data, are vital tools to reinforce and grow confidence in government. We are delivering the most transparent, effective and open government ever. Through initiatives like the Open Government Partnership and the work of the digital services data programme, along with countless other parts of government all pushing in the same direction, we will continue to improve supporting ever more people to hold government to account.

There is no doubt that these are big issues and that we are working with powerful tools. However, used properly, data can build a better, more efficient government that more effectively meets the needs of those it serves, and so deliver institutions fit for the 21st century.

I know that there are some questions I have not answered, including that from the noble Baroness, Lady Hayter, on charities. I am afraid I will have to get back to her on that as I do not have enough information to give a full answer. I thank all noble Lords for taking part and, if there is anything else that I have not covered that noble Lords have mentioned, I will of course write to them in the near future.

3.27 pm

Lord Fairfax of Cameron: I thank all noble Lords who spoke in this debate for their varied contributions and the Minister for her comprehensive reply. Although I admittedly majored on one aspect of transparency in this House, I am glad also to have stimulated a wider debate on this important topic. I am sure we will return to it in the future. I beg to move.

Motion agreed.

House adjourned at 3.28 pm.

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