

Vol. 773
No. 22



Wednesday
6 July 2016

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Questions	
Sudan.....	2003
Bilateral Aid Review.....	2006
Litter.....	2008
Southern Rail: Service Cuts.....	2010
NHS: Junior Doctors' Contract	
<i>Private Notice Question</i>	2012
Report of the Iraq Inquiry	
<i>Statement</i>	2016
Supply and Appropriation (Main Estimates) Bill	
<i>First Reading</i>	2034
Outcome of the European Union Referendum	
<i>Motion to Take Note (Continued)</i>	2034
Grand Committee	
Children and Social Work Bill [HL]	
<i>Committee (3rd Day)</i>	GC 199

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

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

*This issue of the Official Report is also available on the Internet at
<https://hansard.parliament.uk/lords/2016-07-06>*

The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

© Parliamentary Copyright House of Lords 2016,
*this publication may be reproduced under the terms of the Open Parliament licence,
which is published at www.parliament.uk/site-information/copyright/.*

House of Lords

Wednesday 6 July 2016

3 pm

Prayers—read by the Lord Bishop of Ely.

Sudan Question

3.06 pm

Asked by Baroness Cox

To ask Her Majesty's Government what is their assessment of the current situation in Sudan in the light of continuing military offensives and aerial bombardments by the Government of Sudan in South Kordofan, Blue Nile and Darfur.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, we are deeply concerned by fighting and aerial bombardments in Sudan. We made it clear in our statement of 27 May, with troika partners the US and Norway, that the Sudanese Government have a responsibility to protect all their citizens. We welcome the Government's decision to sign the AU road map and announce a cessation of hostilities in the two areas, which has held so far. It is important that this is extended to the Darfur region.

Baroness Cox (CB): My Lords, in thanking the Minister for that very sympathetic reply, with some signs of hope, may I ask whether she is aware that I have recently visited the people of the Nuba mountains in South Kordofan and seen at first hand the destruction of schools, clinics, markets and places of worship caused by the continuing aerial bombardment of civilians by the Government of Sudan? I have actually entered the snake-infested caves where women and children are forced to hide from those bombs. One lady had recently been bitten by a cobra, and many people are now starving to death. May I therefore ask the Minister what evidence there is of any really significant positive results from the representations that Her Majesty's Government allegedly make to the Government in Khartoum regarding these continuing de facto genocidal policies in Darfur, the Nuba mountains and Blue Nile?

Baroness Anelay of St Johns: First—I hope this does not sound flippant, because it is not intended to be—may I wish the noble Baroness a very happy birthday? I wish that my present to her could be to say that all the problems had been resolved. What I can say is that there is a firm commitment by the United Kingdom to continue working with the troika to achieve the best result for all those in Sudan who have been suffering the depredations that she has outlined. It is important that international co-operation achieves a political solution—because, of course, it would not be a military solution that would hold long term. We go into our negotiations and talks across the piece in all these matters, and our support of UNAMID, with our eyes wide open but with determination and understanding.

Lord Chidgey (LD): My Lords, following Oxfam's statement that the Khartoum process represents Europe sacrificing its values, "on the altar of migration",

will the Government consider their position as chair of that process? And, following the outcome of the EU referendum, what is the position of the UK within the troika, given that there will no longer be European Union representation within that group?

Baroness Anelay of St Johns: My Lords, with regard to the technicality of the membership of the troika, we remain there very firmly, a strong partner of Norway and the United States; there is absolutely no doubt about that. As for the chairmanship of the Khartoum process, we will remain as chair until Ethiopia, I believe, takes over the role later this year in the normal way. We will continue to have a strong focus on the conflicts and human rights situation throughout Sudan.

Baroness Kinnock of Holyhead (Lab): My Lords, the Minister will be well aware that Sudanese military forces and militias continue, as they have done for the last 12 years, to use rape as a weapon of war in Darfur, as well as in other Sudan conflict areas. The Minister will also, I think, agree that the perpetrators of the mass rape of women and girls must and should be held to account. Will the Minister therefore agree to press for the Security Council to urgently authorise a much-needed investigation into the terrible abuses that have been committed?

Baroness Anelay of St Johns: My Lords, these matters are discussed at the United Nations and must continue to be so—they are part and parcel of the discussions in the Human Rights Council and the universal periodic review process. I cannot say that a resolution will be brought imminently within the United Nations, but I can give the noble Baroness an absolute assurance that these matters are always foremost in our discussions whenever human rights are raised. She is absolutely right to focus on the appalling violence that has been committed against women, girls, men and boys in this matter.

The Lord Bishop of Salisbury: My Lords, I should like to underline the points made by the noble Baroness in her opening question about the significance of deliberate and targeted terrorism by the Sudanese Government on their own people, particularly in the bombing in the Nuba mountains, where Anglican schools have been repeatedly destroyed. My own diocese, the diocese of Salisbury, has a link with what is now Sudan and South Sudan that goes back more than 40 years, and there is a delegation from the Anglican communion in Sudan this week. Will the Minister inform the House how the Government intend to continue to provide leadership in relation to humanitarian aid in this continuing crisis?

Baroness Anelay of St Johns: My Lords, our commitment to international humanitarian aid is undimmed; indeed, I know that we are looking to see how we can strengthen it further. The UK is the third-largest humanitarian donor in Sudan, having provided so far a total of £41.5 million to the humanitarian

[BARONESS ANELAY OF ST JOHNS]

response. We will certainly continue to do so, such as, for example, through the £6.6 million water and sanitation programme in Port Sudan.

Baroness Berridge (Con): My Lords, my noble friend has outlined the fact that there have been discussions relating to human rights abuses. UK parliamentarians including the noble Lord, Lord Alton, and I, as well as colleagues from abroad, have been involved in writing to the Sudanese authorities regarding particular cases in Sudan, and we have had some success. However, there seems to be a case of whack-a-mole going on whereby you make a representation about one person, who is then temporarily released, but somebody else is arrested. Will my noble friend please outline whether there have been discussions with the Sudanese authorities regarding how to bring about systemic change and, in particular, regarding the release of the human rights activists from the Centre for Training and Human Development and the two Christian pastors who are the latest to have been arrested?

Baroness Anelay of St Johns: My Lords, human rights defenders face persecution and wrongful detention around the world and Sudan is a place where we have acted through our embassy work to try to ensure that human rights defenders are not subject to this wrongful action. With regard to specific citizens, if the road map itself is successful then the Government of Sudan will of course have to show that they have a better human rights record than they have had heretofore.

Lord Alton of Liverpool (CB): My Lords, does the Minister recall that as long ago as 17 May 2012, my noble friend Lady Cox and I cited the view of Dr Mukesh Kapila, the former high representative of this country in Sudan, that the second genocide of the 21st century was unfolding in South Kordofan, Darfur being the first? In February of this year we raised the Human Rights Watch report detailing how civilians, including children, were,

“burned alive or blown to pieces after bombs or shells landed on their homes”.

One month ago, on 27 May, two days after the bombing of St Vincent’s school on 25 May, the noble Baroness told me that they had told Khartoum that they must, “distinguish between combatants and non-combatants and uphold International Humanitarian Law”.

What response have the Government had? When will President Omar al-Bashir, wanted for genocide, be brought to justice?

Baroness Anelay of St Johns: My Lords, first, the noble Lord will understand that I was extremely disappointed—using House of Lords language—that President Bashir was able to travel to Djibouti on 8 May and Uganda on 12 May without being arrested by those countries, which are signatories to the ICC. I hope they will reconsider if he ever travels to those countries again. We welcome the Government of Sudan’s more recent announcement on 17 June of a unilateral cessation of hostilities in the two areas. As we say, we would like to see it extended to Darfur, and we are working to make that a reality.

Bilateral Aid Review Question

3.14 pm

Asked by **Lord McConnell of Glenscorrodale**

To ask Her Majesty’s Government when they will publish the outcome of the Bilateral Aid Review.

The Parliamentary Under-Secretary of State, Department for International Development (Baroness Verma) (Con): As my right honourable friend the International Development Secretary confirmed last week, the outcome of the bilateral aid review will be published shortly, together with DfID’s other aid reviews. This enables us to present a more complete picture of our future plans and publish more detailed priorities for each country programme.

Lord McConnell of Glenscorrodale (Lab): My Lords, the confirmation by the Secretary of State that it would be in the early summer is indeed welcome, because the delay has been unfortunate. Can the Government confirm that these new bilateral plans will be targeted to seek the fullest possible implementation of the sustainable development goals agreed at the United Nations last September, and to building the institutional and government capacity in our partner countries to ensure that they can deliver on the goals themselves?

Baroness Verma: My Lords, the noble Lord is absolutely right—I will take his second point first—about ensuring that we build capacity and strengthen institutions in the developing world so that countries are able to make the programmes that we are working on in those countries work for them much more effectively and efficiently. On his first point, it is really important that we do not lose focus on the SDGs. That is the start of the process and I am pretty certain that, as we go forward, develop our programme plans and work with other multilaterals, others will also look closely at what we are doing and will, we hope, support our work to ensure that those goals are met and we end up leaving no one behind.

Baroness Northover (LD): My Lords, is DfID now looking at the implications of Brexit and the potential end of the UK’s major influence over the EU’s aid budget? If so, what are the implications for what the UK might do bilaterally now?

Baroness Verma: My Lords, we expect some challenges and change following the decision to leave the EU, which will affect some parts of the development work that we are undertaking, but it is a very small percentage of the work that we deliver through the European Development Fund. We will very much continue to work with our partners through multilateral institutions. I emphasise that we have committed ourselves to the 0.7%—that will be our commitment and we will continue to help shape global events and work with our multilateral partners to do so.

Baroness Goldie (Con): My Lords, does my noble friend the Minister agree that our commitment to overseas aid is not only a very important matter of

principle but, particularly in the wake of the post-EU referendum turbulence, a timely and tangible reaffirmation of the outward-looking and compassionate country that we want the UK to be? In that context, I observe that some early good news from her department would be a welcome and positive signal.

Baroness Verma: My Lords, my noble friend is absolutely right: we want to be seen continuing with the excellent work that we do as a global leader in this field. It is important that we also make sure that we do not take our foot off the pedal in ensuring that others also step up and have the same ambition as us. Yes, there are conversations to be had about the fact that we will now be leaving the EU; however, I re-emphasise that we will continue to work very closely with all our multilateral partners.

Lord Collins of Highbury (Lab): My Lords, the last time my noble friend asked this Question, we were told that the review would be completed in the spring. Now we are being told that it will be completed—I very much hope—in the summer. I hope it is not a Heathrow-type summer. The point I made the last time the Question was asked was about the capacity of the department to deliver not only the review but the outcomes of the review. That is a serious concern, bearing in mind our commitment to 0.7%. Can the Minister give us a detailed assurance that the department will have the capacity to effectively monitor the bilateral programmes that we end up with following the review?

Baroness Verma: My Lords, we have started updating our building stability framework. We have made a number of structural changes through the Better Delivery agenda to strengthen the delivery of our programmes. The reviews are complex. We want to present a rounded, whole picture of all the reviews, so we have brought the multilateral, bilateral and civil society reviews together. We have a much more focused picture of how we can deliver better in those countries where there is most need. As the noble Lord, Lord McConnell, said, it is really about making sure that we do not lose sight of the delivery of the SDGs. At the same time, we need to make sure that what we are delivering is being done in the most effective way, with value for money for the British public.

The Lord Bishop of St Albans: My Lords, I am a strong supporter of the Government's aid and development commitments, but I am concerned about the porous lines between international aid and furthering the national interest. As the International Development Committee stated back in March, poverty reduction must remain a top priority for UK aid. Can the Minister indicate whether Her Majesty's Government will seek to strengthen the conditions under which government spending can be classed as overseas development aid?

Baroness Verma: My Lords, the right reverend Prelate is absolutely right about ensuring that we do not lose sight of the way we deliver aid. It is being delivered through a number of government departments but we seek to ensure that we have a cross-government approach. We are making sure that our aid is delivered in a way

that will be accountable and transparent, but is also delivered to the poorest and most needy people first. It is important—whether in a fragile-country setting or in a development setting—that we do not lose sight of the fact that ultimately we need to deliver first to the people who need it most.

Litter Question

3.22 pm

Asked by Lord Sherbourne of Didsbury

To ask Her Majesty's Government what plans they have to develop an anti-litter programme.

Lord Gardiner of Kimble (Con): My Lords, Defra and the Department for Communities and Local Government have been working intensively with councils, Highways England, business and campaign groups on a comprehensive litter strategy to improve the way in which we all tackle the scourge of litter. We have an ambitious goal to reduce litter and littering in England, ensuring that our communities, natural landscape, waterways, roads and highways are clean and pleasant. I really want to make progress on this.

Lord Sherbourne of Didsbury (Con): What progress is being made in schools to encourage young people to behave responsibly with regard to litter and to take pride in the appearance of their towns and villages? What more can be done by fast food and takeaway food companies to make sure that the areas around their premises are not covered in litter and discarded food?

Lord Gardiner of Kimble: My Lords, education and awareness will be a key part of our forthcoming strategy. Interestingly, there is an Eco-Schools programme working with schools to improve sustainability and reduce waste, which includes educating young people about litter. Some 70% of schools in England are participating in this project. I took part in Clean for the Queen with a school and the scheme was accepted with enthusiasm by both teachers and pupils, so it is very important.

On the question of companies, we have set up an advisory group to help us deliver the litter strategy. It includes companies such as Wrigley and McDonald's. I thank the many companies which have contributed to the Government's plans to develop a litter strategy.

Baroness Jones of Whitchurch (Lab): My Lords, there is increasing evidence of the adverse impact of millions of discarded plastic bottles in litter, including the terrible damage that they can do to wildlife—in both marine and rural areas. Does the Minister agree with organisations such as the Marine Conservation Society and the Campaign to Protect Rural England that the time has come to consider introducing a plastic bottle deposit scheme to ensure that plastic bottles are returned and recycled effectively?

Lord Gardiner of Kimble: My Lords, as we have said a number of times, marine litter, much of which comes from the land, is a key point that we need to

[LORD GARDINER OF KIMBLE]

address. There has been consideration of a deposit return scheme. The analysis shows that it would be an expensive exercise, but we will look at new evidence because we want to make progress on dealing with litter.

The Countess of Mar (CB): My Lords, does the Minister agree that litter seems to have a magnetic attraction for more litter and that the condition of the verges on our motorways and major trunk routes in this country is absolutely disgusting? What can be done to make sure that they are cleaned up and perhaps do not attract so much more litter?

Lord Gardiner of Kimble: My Lords, I entirely agree with the noble Countess: where there are accumulations of litter, it gets worse and worse. Highways England collects more than 150,000 sacks of litter every year, on average, and it is one of the key partners in our litter strategy work. I say to it and to local authorities that we need to work together so that we see an improvement. I am very conscious that many people from abroad see how filthy our motorways are and wonder about us.

Baroness Parminter (LD): My Lords, the Minister has said that education is a top priority and of course he is right. But given the success of the charge on single-use carrier bags in reducing litter and changing behaviour, is it not time for the Government to ensure that they look at further economic incentives as part of their strategy, such as charges on the single use of coffee cups?

Lord Gardiner of Kimble: My Lords, what the noble Baroness says is again clearly important. We are looking at all options and she is absolutely right to highlight this. In fact one supermarket announced, for instance, that it had had a nearly 80% reduction in the distribution of single-use carrier bags. We need to think innovatively about all this.

The Earl of Shrewsbury (Con): My Lords, does my noble friend agree that the only effective way to deter the vandals who dump litter and fly-tip in our countryside is to hit them very hard indeed with draconian fines? Will his department review the current levels of these penalties?

Lord Gardiner of Kimble: My Lords, I entirely agree that, in urban and rural areas, fly-tipping is an enormous disgrace. The Government wish to crack down on offenders by working with the Sentencing Council to ensure that sentences act as a real deterrent to offending. We will soon consult on fines for littering, which was a part of the Government's election manifesto.

Baroness Sharples (Con): Can my noble friend tell us what effect the 5p charge on plastic bags has had?

Lord Gardiner of Kimble: My Lords, it has involved a very significant reduction in the use of those bags, which are one of the biggest scourges of litter in our country.

Lord Brooke of Alverthorpe (Lab): My Lords, this issue relates not just to the education of children but to the conduct of adults in this country. Is it not an issue of values? One can go to other continental countries and see no rubbish whatever, yet in the UK one can find it strewn all over the place. As the most reverend Primate the Archbishop of Canterbury said yesterday, is it not high time that we started a major debate about fundamental values and the need to accept personal responsibility in all areas?

Lord Gardiner of Kimble: My Lords, what the noble Lord says is absolutely right. In the end, we all have a responsibility to care about our local communities. That is why we want a comprehensive strategy that will engage so many more people, so that we can have a behavioural change. We want to greatly reduce littering, from vehicles and more generally, so that our country can look clean and pleasant.

Lord Berkeley of Knighton (CB): My Lords, I think there is an anomaly in the law regarding fly-tipping. If a fly-tipper were, for example, to tip on the Minister's land—let us hope that this does not happen—then the Minister would be responsible in law rather than the tipper. Is this not an anomaly?

Lord Gardiner of Kimble: My Lords, I have direct and personal sympathy with that. We are introducing stronger powers for local authorities and the Environment Agency to seize the vehicles of those suspected of waste crime. We need to bear down on this, which is why it is really important that the National Fly-Tipping Prevention Group is working to prevent and tackle illegal dumping.

Southern Rail: Service Cuts *Question*

3.29 pm

Asked by Lord Dholakia

To ask Her Majesty's Government what assessment they have made of the decision to cut the number of services provided by Southern Rail.

The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con): My Lords, GTR is introducing an amended timetable so that passengers have much-needed certainty about getting to work and home reliably. Some 85% of services will run and more staff will be available during peak hours. This will be in place until train crew availability returns to normal. This is now a big test for RMT as to whether it continues this unjustified dispute that has been inflicting chaos on passengers' lives or works with the operator to urgently resolve this matter.

Lord Dholakia (LD): My Lords, today's headline, "Meltdown", adequately sums up the daily chaos suffered by people on Southern Rail. Fewer, shorter, cancelled or no trains; passengers turfed out of trains; and a complete lack of information—such has been the daily reality in the lives of many people for months, and there is no end in sight. Does the Minister agree that the most ridiculous suggestion to emerge has been

to cut up to 350 trains a day? Is it not time for him to call Thameslink management to his office and tell them that they are not fit and proper persons to run our railways and that the only thing that should be slashed is their franchise?

Lord Ahmad of Wimbledon: First, I agree with the noble Lord that the situation at Southern is totally unacceptable. The point was well made by my right honourable friend the Prime Minister. In addition to that, this new timetable seeks to provide the reliability which is acutely needed right now. I accept that there is a reduction in services, but this is what the provider is saying it can provide reliably. On the issue of withdrawing such a franchise, let us not forget that part of that franchise concerns the modernisation of rolling stock as part of the modernisation of that whole network. Information for passengers on this new timetable is being provided through websites and through other sources of information on platforms and trains.

Lord Rosser (Lab): Is Southern Rail in breach of any of the terms of its Government-approved franchise agreement, either through its current level of performance or through its decision to reduce the number of services that it will operate? Have the Government given any assurances or hints to Southern Rail that the current unsatisfactory level of performance and the forthcoming reduction in the number of train services it runs will not result in any action being taken against the company? If so, why were such assurances or hints given?

Lord Ahmad of Wimbledon: Let me assure the noble Lord and your Lordships' House that the Government are in regular contact with the company to ensure that the current situation can be remedied, but I call upon both the company and the unions to resolve their dispute. The noble Lord asked specifically about the franchise agreement. Under the franchise agreement, where GTR can provide evidence that cancellations are due to official or unofficial industrial action it can claim force majeure, which it has done on this occasion.

Lord Mawhinney (Con): My Lords, reverting to my noble friend's original Answer, what makes him believe that normal service will soon be renewed?

Lord Ahmad of Wimbledon: I say to my noble friend that I did not say that, and nor did I suggest it. I do not believe that the current situation is acceptable; indeed, the reduction of services is also unacceptable. The first issue is to provide at least some sense of reliability to those using this network as to when trains will be running. My noble friend will also be aware that services have also been suffering from a high degree of sickness, which has resulted in a reduction in service performance since May from 83% to 63%.

Baroness Whitaker (Lab): My Lords, I am a passenger on Southern Rail. Is the Minister aware that in the whole of my very long life I have never had such dreadful service? How long is he going to give this company before the franchise is reviewed?

Lord Ahmad of Wimbledon: My Lords, as I have already said on the franchise, yes, the noble Baroness is quite right to say that the service is unacceptable. I agree with her about the current service levels. I know many people who use that service, I assure the noble Baroness, and find it unacceptable; we all know it is. This is about ensuring, first and foremost, that the operator gets together with the union to address the current dispute. The dispute can be resolved, but it requires both parties to get back to the table and negotiate a resolution.

Baroness Randerson (LD): My Lords, the beleaguered passengers are being used as hostages in the power struggle between Govia and the RMT. Whatever the Government say at this point, the situation developed because Govia tried to run the franchise with an inadequate number of trained drivers from the start. Do the Government accept that they need to take a much more rigorous approach to franchise arrangements at an earlier stage in order to prevent crises such as this occurring in future?

Lord Ahmad of Wimbledon: With any experience, everyone is there to learn, and Governments are no exception, but on the issue of driver shortages, I assure the noble Baroness that GTR is taking action. She may be aware that it has recruited 500 extra drivers, of whom 211 are already on the network—but clearly, as she says, more needs to be done.

NHS: Junior Doctors' Contract

Private Notice Question

3.35 pm

Asked by Lord Hunt of Kings Heath

To ask Her Majesty's Government what action they propose to take in view of the decision by junior doctors to reject the terms negotiated on the proposed new contract.

Lord Hunt of Kings Heath (Lab): My Lords, I beg leave to ask a Question of which I have given private notice.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, in May after nearly three years of talks, several days of damaging strike action and following conciliation through ACAS, the Government, NHS employers and BMA leaders reached agreement on a new, safer contract for junior doctors. The Government decided that to help deliver their manifesto commitment for a seven-day NHS, they will now proceed with the phased introduction of the new, safer contract, which is supported by the BMA leadership.

Lord Hunt of Kings Heath: My Lords, I am grateful to the Minister for that statement. It is clearly a matter of great regret that the issue of the new contract for junior doctors has not been resolved satisfactorily and that the Government are intent on imposing the contract. What legal power do the Government have to impose that contract? Can he tell me whether the Government have any plans to resume discussions with the junior

[LORD HUNT OF KINGS HEATH]

doctors? At the heart of the dispute is a lack of trust in the Government on the part of those junior doctors. What plans do the Government have to restore that trust and the trust of patients in the NHS?

Lord Prior of Brampton: My Lords, it is certainly a matter of regret on all sides that this dispute has not been resolved in an amicable, satisfactory way; I agree with the noble Lord on that. The Secretary of State plans to introduce the new contract with NHS employers in a phased way beginning in November. He has said that in terms of how the contract is implemented and any extra-contractual issues that arise, his door is always open; he is willing to talk to the BMA and junior doctors.

Baroness Walmsley (LD): My Lords, is it not entirely inappropriate for the Secretary of State for Health to claim that a 16% majority on a 68% turnout is undemocratic, especially when he represents a Government who are in power with the votes of less than one in four of the electorate? Has he now become a supporter of proportional representation? Is it not entirely irresponsible to try to impose on junior doctors this contract, which they are so against, at a time of great danger to the NHS because of the referendum result?

Lord Prior of Brampton: My Lords, 40% of junior doctors voted against this contract. That is a fact, but it does not alter the fact that it is disappointing and sad that so many junior doctors feel obliged to vote against. I am not downgrading that at all. I have not heard it said that it is not democratic. A significant minority of junior doctors have voted against the contract. We have a huge need to rebuild trust between the Government and the junior doctors. The vast majority of junior doctors are committed to their profession and the NHS and we want to rebuild with them the level of trust that always existed in the past.

Baroness Finlay of Llandaff (CB): Do the Government recognise that the unrelenting pressures on junior doctors are reflected in this vote and that it is essential to restore relationships and demonstrate outreach to restore some trust, and therefore that an open mind towards negotiating even minor areas of adjustment such as timetabling of introduction would go a long way to restore deeply damaged and fractured relationships?

Lord Prior of Brampton: It is worth noting that the Royal College of Surgeons and the Royal College of Physicians, and I think most of the other royal colleges, have supported this contract. Many of the leaders of the BMA supported this contract. As I said, the Secretary of State has specifically said in a statement today that his door is always open when it comes to issues around implementation. The plan is to implement this contract after the first foundation year 1, when doctors complete their first four-month rotation in October and November.

Lord Tugendhat (Con): My Lords, is it not worth pointing out at this time of great economic uncertainty that there are many people in this country whose jobs are at risk, and there are other people whose pensions

are uncertain, as we have seen particularly in the case of BHS? Is it not, therefore, the case that junior doctors should reflect on the fact that they have no fear of redundancy and that their pensions are safe?

Lord Prior of Brampton: My Lords, I am sure that junior doctors will reflect on the new economic situation in which we find ourselves, and I hope very much that they will not resort to the strike action that has been taken in the past.

Lord Campbell-Savours (Lab): My Lords, what assessment has been made of the number of resignations there might be from the health service arising out of imposition?

Lord Prior of Brampton: The noble Lord refers to resignations. Does he refer to the resignation of the chairman of the junior doctors committee?

Lord Campbell-Savours: No—to the doctors themselves.

Lord Prior of Brampton: I am not aware that there have been any resignations directly related to the junior doctors dispute.

Lord Elystan-Morgan (CB): My Lords, is it not the case that there is an application before the High Court to be adjudicated upon, I believe on 11 July, seeking a declaration as to whether the Minister now has or ever did have the power of diktat to impose this upon the junior doctors? If it be the case that the junior doctors are successful in their application, does it not cast this issue in a wholly different mode?

Lord Prior of Brampton: My Lords, the strong advice that we have is that the Secretary of State does have the power to introduce the new contract along with the NHS employers.

Baroness Tonge (Ind LD): My Lords, the Government must realise how disillusioned junior hospital doctors are now. This has gone on for far too long. Is it not time that we had a new Secretary of State for Health, and that the present one should resign?

Lord Prior of Brampton: No, I do not agree with that. Where I do agree with the noble Baroness is that this has gone on for far too long. We have been in discussion on this issue for nearly four years. It has got to come to a resolution, so the Secretary of State is absolutely right to introduce this new contract.

Lord Watts (Lab): My Lords, what would the Government do if large numbers of junior doctors decided to resign rather than accept the new contract?

Lord Prior of Brampton: There is no indication that large numbers of junior doctors are resigning because of the introduction of this new contract. If it does happen, we will have to address that issue when it occurs.

Baroness Masham of Ilton (CB): My Lords, how much of a safety issue is this? Does the noble Lord agree that there are not enough doctors as it is?

Lord Prior of Brampton: Safety was clearly a major consideration in the minds of junior doctors when the original contract was negotiated, but the leadership of the BMA agreed with us that their safety concerns had been fully taken into account in the new contract. As far as numbers of doctors are concerned, we have plans to train a further 5,000 GPs over the next four years, but unquestionably there are gaps in many rotas around the country, and we do rely heavily on doctors from overseas to fill those gaps.

Lord Turnberg (Lab): There has been much made of the fact that the junior doctors are extremely disillusioned. I think that is undeniable. It is perhaps not so well recognised that “junior doctors” includes a large number who are well into their 30s, who are very well trained and on whom the NHS relies entirely.

Lord Prior of Brampton: One fact that has come over very loudly to me during the past year is that the whole definition of “junior doctors” is an absurd one. Many junior doctors have been in training for many years and we rely on them to deliver much of our front-line care. It is just another reason why it is so important, as other noble Lords have mentioned, that we rebuild the trust of junior doctors.

Lord Tomlinson (Lab): My Lords, will the Minister reflect that there is not a great deal of merit in telling us that the Secretary of State's door is always open if his mind remains closed?

Lord Prior of Brampton: I do not agree with the noble Lord. There has been considerable movement on the part of the Secretary of State between the contract that was originally put to the BMA in March and the one that was agreed with the BMA in May. There is plenty of evidence to suggest that the Secretary of State's mind has been open.

Arrangement of Business *Announcement*

3.46 pm

Lord Taylor of Holbeach (Con): My Lords, with the leave of the House, it may be helpful if I make a brief business Statement regarding our proceedings this afternoon.

My noble friend the Deputy Leader will shortly repeat the Prime Minister's Statement on the *Report of the Iraq Inquiry*, followed by the usual 20 minutes of Front-Bench and 20 minutes of Back-Bench questions and answers. I reassure the House that there will be a further opportunity to consider the *Report of the Iraq Inquiry* next Tuesday, when we have arranged a full day's debate on the subject. The speakers list for that debate is already open in the Government Whips' Office.

To allow the maximum number of Members to participate in today's proceedings on the Statement, I should take the opportunity to remind noble Lords of the guidance in the *Companion* that,

“Ministerial statements are made for the information of the House”,
and are an opportunity for “brief questions” and,
“should not be made the occasion for an immediate debate”.

Report of the Iraq Inquiry *Statement*

3.47 pm

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, with the leave of the House, I shall now repeat a Statement made earlier today by my right honourable friend the Prime Minister in another place on the Iraq inquiry. The Statement is as follows.

“Mr Speaker, this morning Sir John Chilcot has published the report of the independent Iraq inquiry. This is a difficult day for all the families of those who have lost loved ones. They have waited for this report for too long and our first thoughts today must be with them. In their grief and anger, I hope they can draw at least some solace from the depth and rigour of this report and, above all, some comfort from knowing that we will never forget the incredible service and sacrifice of their sons, daughters, husbands and wives—179 British service men and women and 24 British civilians who gave everything for our country. We must also never forget the thousands more who suffered life-changing injuries and we must pledge today to look after them for the rest of their lives.

This report would have been produced sooner if it had begun when those of us on this side of the House first called for it back in 2006, but I am sure the House will join me in thanking Sir John and his privy counsellors, including the late Sir Martin Gilbert, who sadly passed away during the work on this report.

This has been a fully independent inquiry. Ministers did not even see it until yesterday morning. The Cabinet Secretary led a process that gave Sir John full access to government papers. This has meant unprecedented public declassification of Joint Intelligence Committee papers, key Cabinet minutes, records of meetings and conversations between the UK Prime Minister and the American President and 31 personal memos from the then Prime Minister, Tony Blair, to President George W Bush.

The inquiry also took evidence from more than 150 witnesses and its report runs to 2.6 million words, with 13 volumes, costing more than £10 million to produce. Clearly, the House will want the chance to study and debate it in depth and I am making provision for two full days of debate next week.

There are a number of key questions that are rightly asked about Iraq. Did we go to war on a false premise? Were decisions taken properly, including the consideration of legal advice? Was the operation properly planned? Were we properly prepared for the aftermath of the initial conflict? Did our forces have adequate funding and equipment? I will try to summarise the key findings on these questions, before turning to the lessons that I believe should be learnt.

A number of reasons were put forward for going to war in Iraq, including the danger that Saddam posed to his people and to the region, and the need to uphold United Nations resolutions. However, as everyone in the House will remember, central to the Government's case was the issue of weapons of mass destruction. Sir John finds that there was an “ingrained belief” genuinely held in both the UK and US Governments

[EARL HOWE]

that Saddam Hussein possessed chemical and biological capabilities and that he wanted to redevelop his nuclear capabilities and was pursuing an active policy of deceit and concealment.

There were good reasons for that belief. Saddam had built up chemical weapons in the past and used them against Kurdish civilians and the Iranian military; he had given international weapons inspectors the runaround for years; and the report clearly reflects that the advice given to the Government by the intelligence and policy community was that Saddam indeed continued to possess, and was seeking to develop, these capabilities. However, as we now know, by 2003 this long-held belief no longer reflected the reality. Sir John says:

‘At no stage was the proposition that Iraq might no longer have chemical, biological or nuclear weapons or programmes identified and examined by either the JIC or the policy community’. As the report notes, the late Robin Cook had shown that it was possible to come to a different conclusion from an examination of the same intelligence.

In the wake of 9/11, the Americans were also understandably concerned about the risk of weapons of mass destruction finding their way into the hands of terrorists. Sir John finds:

‘While it was reasonable ... to be concerned about the fusion of proliferation and terrorism, there was no basis in the JIC Assessments to suggest that Iraq itself represented such a threat’.

On the question of intelligence, Sir John finds no evidence that intelligence was improperly included or that No. 10, or Mr Blair personally, improperly influenced the text of the September 2002 dossier. However, he finds that the use of Joint Intelligence Committee material in public presentation did not make clear enough the limitations or the subtleties of assessment. He says:

‘The assessed intelligence had not established beyond doubt either that Saddam Hussein had continued to produce chemical and biological weapons or that efforts to develop nuclear weapons continued’.

He says that the Joint Intelligence Committee should have made that clear to Mr Blair. Sir John also finds that public statements from the Government conveyed more certainty than the JIC assessments, and that there was a lack of clarity about the distinction between what the JIC assessed and what Mr Blair believed. Referring to the text in Mr Blair’s foreword to the September 2002 dossier, he finds,

‘a distinction between his beliefs’—
that is, Mr Blair’s—

‘and the JIC’s actual judgments’.

However, Sir John does not question Mr Blair’s belief, nor his legitimate role in advocating government policy.

I turn to the question of legality. The inquiry,

‘has not expressed a view as to whether or not the UK’s participation in the conflict was lawful’.

However, it quotes the legal advice that the Attorney-General gave at the time and on which the Government acted: namely, that there was a legal basis for action. Nevertheless, Sir John is highly critical of the processes by which the legal advice was arrived at and discussed, saying:

‘The circumstances in which it was ultimately decided that there was a legal basis for UK participation were far from satisfactory’.

Sir John also finds that the diplomatic options had not at that stage been exhausted and that,

‘Military action was therefore not a last resort’.

Sir John says that when the second resolution at the UN became unachievable, the UK should have done more to exhaust all diplomatic options including allowing the inspectors longer to complete their job.

Turning to the decision-making, the report documents carefully the processes that were followed. There was a Cabinet discussion before the decision to go to war and a number of Ministers, including the Foreign and Defence Secretaries, were involved in much of the decision-making. However, the report makes some specific criticisms of the process of decision-making. In particular, when it came to the options for military action, it is clear that these were never discussed properly by a Cabinet Committee or Cabinet. Arrangements were often informal and sporadic, and frequently involved a small group of Ministers and advisers, sometimes without formal records. Sir John finds that at crucial points, Mr Blair sent personal notes and made important commitments to Mr Bush that had not been discussed or agreed with Cabinet colleagues. However, while Sir John makes many criticisms of process—including the way information was handled and presented—at no stage does he say explicitly that there was a deliberate attempt to mislead people.

Turning to operational planning, the initial invasion proceeded relatively rapidly and we should be proud of what our Armed Forces managed to achieve so quickly. This was despite the military not really having time to plan properly for an invasion from the south because they had been focused on the north until a late decision from the Turkish Government to refuse entry through their territory. It was also in spite of issues over equipment which I will turn to later.

A bigger question was around the planning for what might happen after the initial operation. Sir John finds that,

‘when the invasion began, the UK Government were not in a position to conclude that satisfactory plans had been drawn up and preparations made to meet known post-conflict challenges and risks in Iraq’.

He adds that the Government,

‘lacked clear Ministerial oversight of post-conflict strategy, planning and preparation and effective co-ordination between government departments’,

and,

‘failed to analyse or manage those risks adequately’.

The Government—and here I mean officials and the military as well as Ministers—remained too fixed on assumptions that the Americans had a plan; that the United Nations would play a significant role with the international community sharing the burden; and that the UK role would be over three to four months after the conflict had ended.

He concludes that the Government’s failure to prepare properly for the aftermath of the conflict,

‘reduced the likelihood of achieving the UK’s strategic objectives in Iraq’.

And Sir John concludes that anticipating these post-conflict problems,

‘did not require the benefit of hindsight’.

Turning to equipment and troops, Sir John is clear that the UK failed to match resources to the objectives. Sir John says categorically that,

‘delays in providing adequate medium weight Protected Patrol Vehicles and the failure to meet the needs of UK forces ... for ISTAR and helicopters should not have been tolerated’, and he says,

‘the MOD was slow in responding to the developing threat in Iraq from Improvised Explosive Devices’.

The inquiry also identified a number of moments when it would have been possible to conduct a substantial reappraisal of our approach to the situation in Iraq and the level of resources required. But despite a series of warnings from commanders in the field, no such reappraisal took place. Furthermore, during the first four years, there was,

‘no clear statement of policy setting out the acceptable level of risk to UK forces and who was responsible for managing that risk’.

Sir John also finds that the Government—and in particular the military—were too focused on withdrawing from Iraq and planning for an Afghan deployment in 2006 further drew effort away.

Sir John concludes that although Tony Blair succeeded in persuading America to go back to the United Nations in 2002, he was unsuccessful in changing the US position on other critical decisions and that,

‘in the absence of a majority in the Security Council in support of military action at that point, the UK was undermining the authority of the Security Council’.

While it is right for a UK Prime Minister to weigh up carefully the damage to the special relationship that would be done by failing to support the US, Sir John says it is questionable whether not participating militarily on this occasion would have broken the partnership. He says there was a substantial gap from the outset between the ambitious UK objectives and the resources that government was prepared to commit, and that even with more resources, the circumstances surrounding the invasion made it difficult to deliver substantive outcomes.

While the territorial integrity of Iraq remained, deep sectarian divisions opened and thousands of innocent Iraqi civilians lost their lives. While these divisions were not created by the international coalition, Sir John believes they were exacerbated, including through the extent of de-Baathification, and were not addressed by an effective programme of reconciliation. Overall, Sir John finds that the policy of Her Majesty’s Government fell far short of meeting its strategic objectives and helped to create a space for al-Qaeda.

Of course, the decision to go to war came to a vote in this House, and Members on all sides who voted for military action will have to take our fair share of the responsibility. We cannot turn back the clock but we can ensure that lessons are learned and acted on. I will turn to these in a moment and will cover all the issues around machinery of government, proper processes, culture and planning. But let me be the first to say that getting all of these things right does not guarantee the success of a military intervention.

For example, on Libya, I believe it was right to intervene to stop Gaddafi slaughtering his people. In that case, we did have a United Nations Security Council resolution. We did have proper processes and

comprehensive advice on all the key issues and we did not put our forces on the ground. Instead, we worked with a transitional Libyan Government. But getting these things right does not make the challenges of intervention any less formidable, and the difficulties in Libya today are plain to see.

As the Prime Minister for the last six years, reading this report I believe there are some lessons that we do need to learn and keep learning. First, taking the country to war should always be a last resort and should be done only if all credible alternatives have been exhausted. Secondly, the machinery of government does matter. That is why, on my first day in office, I established the National Security Council, to ensure proper co-ordinated decision-making across the whole of government, including those responsible for domestic security. This council is not just a meeting of Ministers; it has the right breadth of expertise in the room, with the Chief of the Defence Staff, the chairman of the Joint Intelligence Committee, heads of the intelligence services and relevant senior officials. The Attorney-General is now a member of the National Security Council. I also appointed the UK’s first National Security Adviser, with a properly constituted team in the Cabinet Office to ensure that all key parts of our national security apparatus are joined up.

The national security machinery also taps the experience and knowledge of experts from outside government. This helps us constantly challenge conventional wisdom within the system and avoid groupthink. It is inconceivable today that we would take a premeditated decision to commit combat troops without a full and challenging discussion in the National Security Council on the basis of full papers, including written legal advice, prepared and stress-tested by all relevant departments, with decisions formally minuted.

Thirdly, the culture established by the Prime Minister matters. It is crucial to good decision-making that a Prime Minister establishes a climate in which it is safe for officials and other experts to challenge existing policy and question the views of Ministers—and the Prime Minister—without fear or favour. There is no question today that everyone sat around the NSC table is genuinely free to speak their mind.

Fourthly, if we are to take the difficult decision to intervene in other countries, proper planning for what follows is vital. We know that the task of rebuilding effective governance is enormous. That is why we created a Conflict, Stability and Security Fund and beefed up the cross-government Stabilisation Unit so that experts are able to deploy in post-conflict situations anywhere in the world at short notice. None of this would be possible without the historic decision we have taken to commit 0.7% of our gross national income to overseas aid. We now spend half of this on conflict-affected and fragile states, not only assisting with post-conflict planning but also helping to prevent conflicts from happening in the first place.

Fifthly, we must ensure our Armed Forces are always properly equipped and resourced. That is why we now conduct a regular strategic defence and security review to ensure that the resources we have meet the ambitions of the national security strategy. We are meeting our NATO commitment to spend 2% of our GDP on defence and planning to invest at least

[EARL HOWE]

£178 billion on new military equipment over the next decade. We have also enshrined the Armed Forces covenant into law to ensure that our Armed Forces and their families receive the treatment and respect they deserve.

Sending our brave troops on to the battlefield without the right equipment was unacceptable, and whatever else we learn from this conflict, we must all of us pledge that this will never happen again. There will be further lessons to learn from studying this report and I commit today that this is exactly what we will do.

In reflecting on this report and my own experience as Prime Minister over the last six years there are also some lessons here that I do not think we should draw. First, it would be wrong to conclude that we should not stand with our American allies when our common security interests are threatened. We must never be afraid to speak frankly and honestly, as best friends always should. Where we commit our troops together, there must be a structure through which our views can be properly conveyed and any differences worked through. But it remains the case that Britain and America share the same fundamental values, that Britain has no greater friend or ally in the world than America and that our partnership remains as important for our security and prosperity today as it has ever been.

Secondly, it would be wrong to conclude that we cannot rely on the judgments of our brilliant and hard-working intelligence agencies. We know the debt we owe them in helping to keep us safe every day of the year. Since November 2014 they have enabled us to foil seven different planned terrorist attacks on the streets of the UK. What this report shows is that there needs to be a proper separation between the process of assessing intelligence and the policy-making which flows from it, and as a result of the reforms since the Butler Review that is what we have in place.

Thirdly, it would be completely wrong to conclude that our military is not capable of intervening successfully around the world. Many of the failures in this report were not directly about the conduct of the Armed Forces as they went into Iraq, but rather the failures of planning before a shot was fired. There is no question that Britain's Armed Forces remain the envy of the world and that the decisions we have taken to ensure that they are properly resourced will ensure that they stay that way.

Finally, we should not conclude that intervention is always wrong. There are unquestionably times when it is right to intervene—as we did successfully in Sierra Leone and Kosovo. I am sure that many in this House would agree that there have been times in the recent past when we should have intervened but did not—like in failing to prevent the genocides in Rwanda and Srebrenica. Intervention is hard. War fighting is not always the most difficult part. Often, the state building that follows is a much more complex challenge. We should not be naïve to think that just because we have the best prepared plans, in the real world things cannot go wrong. But, equally, just because intervention is difficult, it does not mean that there are not times when it is right and necessary.

Yes, Britain has and will continue to learn the lessons of this report. But, as with our intervention against Daesh in Iraq and Syria today, Britain must not and will not shrink from its role on the world stage or fail to act to protect its people. I commend this Statement to the House”.

My Lords, that concludes the Statement.

4.09 pm

Baroness Smith of Basildon (Lab): My Lords, I thank the Deputy Leader of the House for repeating the Statement. It is longer than is usual, but I think that is appropriate and I am sure that the House is grateful for the additional information.

Few will have had the opportunity to read more than the executive summary and to have seen Sir John Chilcot's statement and some other comments. I am grateful to the Government for providing advance access to the executive summary this morning. In the weeks, months and years to come, this exhaustive, detailed report will be digested and analysed in greater detail that we are able to do today.

First, I pay tribute to all our Armed Forces and to those who serve in a civilian capacity. When young men and women take on the responsibility of joining the Army, the Navy or the RAF, they do so in the knowledge that they are joining one of the highest forms of public service. They become our front line, both in peacetime and in conflict. As a nation we are very proud of the work they do, the way they do it and the high standards that they set, but we must always recognise that, in conflicts such as this, lives are lost, others suffer physical and mental injury, and the families who support our service men and women are hugely affected.

In Iraq, 179 of our Armed Forces and 23 civilians lost their lives. Their families will never be the same. We mourn their loss and recognise that this is a traumatic time for them all. We must also never forget that both in this conflict and before it thousands of Iraqi people lost their lives.

Decisions about when our Armed Forces are deployed are not theirs; they are made by politicians with advice, including from senior military and intelligence services. We have a duty to ensure that such decision-making is of as high a standard as we ask of our military.

When Gordon Brown set up the inquiry, he was clear that it was to ensure that lessons could be learned. We are grateful to Sir John Chilcot and all those who took part in the extensive work that was required. It was clearly a greater task than had been anticipated. When compared with other reports, it has taken a very long time, and some of those who most wanted to see the outcome are no longer alive.

As well as any lessons to be drawn from the report, there may well be lessons to be learned from the process of the inquiry itself. Would it have been of assistance, for example, if there had been legal representation on the inquiry team? Also—this will be something to examine from the report—in the past the very process of an inquiry has itself led to changes.

I appreciate that in his Statement the Prime Minister took on board how decision-making across government can be changed and improved. That may already have come about to some degree because of the process of

this inquiry, with those involved in the machinery of government considering and reflecting on these issues and identifying deficiencies.

The report makes a number of criticisms that must be addressed. What it does not do, however, is either make a case for a non-interventionist policy in future or conclude that anyone acted in bad faith. That is important. The report shows how difficult and often how finely judged such decisions are, including the analysis and use of intelligence information. It identifies some very real criticisms about process and procedure, analysis and decision-making, planning and preparation, and our relationship with the United States. Sir John Chilcot provides us with an opportunity to examine these issues in the light of all the detail in his report and to take decisions today to ensure that any mistakes are not repeated.

It is worth recalling that this was the first time in Parliament that the House of Commons voted on taking military action. I took part in that vote, so I know how thoughtful and solemn MPs were in making their decisions. No MP, however they voted, took the decision lightly, and for the most part there was mutual respect for people who took, and still hold, differing views. Although the decision had to be binary, the reasons and views behind it were much more diverse. Within all political parties there were people who took different views—for honourable reasons.

Sir John's report is clear that in both the UK and the US there was what he calls an "ingrained belief"—a genuinely held view that Saddam Hussein possessed the ability to use chemical and biological weapons. Whatever view was taken on the military action, no one believed that Saddam Hussein was anything other than an evil dictator. Given that he had used chemical weapons before and that he had been unco-operative with international weapons inspectors and with the intelligence information provided, it was not unreasonable to conclude that he was seeking to hide these weapons. Sir John identifies this as a failure in the decision-making process. The proposition that that was no longer the case in 2003 was not identified and examined.

The Prime Minister's comments about the National Security Council are welcome. However, if lessons are truly to be learned, there is a broader issue about the role of ad hoc Cabinet committees. Reading through Sir John's comments, we should consider, when such major issues are being examined and at some point decisions have to be taken, whether an ad hoc Cabinet committee can be established for that very purpose. It would include key Secretaries of State, key officials, experts—such as, in this case, military and security intelligence experts—and possibly legal advisers, and it would be chaired by the Prime Minister, with papers circulated beforehand and decisions minuted. That would bring an identifiable rigour and challenge to the decision-making process. It should not preclude less formal consideration as well, but the key decisions would be taken at such meetings.

On planning, the report is critical of both pre- and post-conflict planning, but some of the strongest criticism is of the situation immediately after. I have read only the summary, but further examination of the full report later will allow the Government and the military

to make a clearer analysis of how this can be improved. It is not about equipment and resources only; it is about understanding what comes next and how to respond. The report states that the military on the ground had no instructions on the process for establishing safe and secure areas, and different decisions were taken in different places. There are lessons to be learned from other conflicts. What any country needs post any kind of conflict are stable and functioning institutions—of administration, of policing, of utilities—and the ability to establish and support that safe and secure environment.

Sir John's report is critical, and there are lessons to be learned about the assumptions we made about our role and the assumptions made about the role of the US and the United Nations. I have two questions for the Minister on this point. First, the Minister referred in the Prime Minister's Statement to the National Security Council. I understand that the Joint Committee on the National Security Strategy has expressed its concern more than once about the lack of regular National Security Council meetings and the fact that it meets only when the House is sitting. In addition, it is not a body that can take executive action. Will the Minister ask the Prime Minister and his successor to reflect on my suggestion about the use of ad hoc Cabinet committees not just on decisions about military operations, but on any strategic decisions of national importance?

Secondly, in his report, Sir John Chilcot reflects on the lack of effective co-ordination between government departments. May I draw the Minister's attention to the report of the committee chaired by the noble Lord, Lord Howell of Guildford, entitled *Persuasion and Power in the Modern World*? This was a landmark report on the use of soft power. It made the case that military force alone is today insufficient for defending a nation's interests. The committee made a key recommendation to the Government about co-operation between the Foreign and Commonwealth Office, the Ministry of Defence and DfID—that the Government should look at the co-ordination of those departments in the context of Afghanistan and report back to this House with a view to learning lessons for any future post-conflict reconstruction. When the report was debated, the Government declined to take that route. Will the Minister now accept it in the light of the Chilcot report, which also highlights such deficiencies? That decision should now be reconsidered.

This report is difficult and challenging, but it provides an opportunity to investigate decision-making processes about how as a country we should intervene, whether militarily or for humanitarian reasons, although they are not mutually exclusive. I think the Minister made the same point in the Prime Minister's Statement: this is not about whether we should intervene, but about having a superior process that better informs decision-making when we consider doing so.

In every case where military intervention has been considered, there have been both consequences of intervening and consequences of not doing so. Interventions in Sierra Leone and Kosovo were widely recognised as well executed and positive—they were undertaken under the same processes—and we should never forget the role of military personnel in helping

[BARONESS SMITH OF BASILDON]

to tackle Ebola in west Africa. It is right that we also reflect on when there has not been intervention: was that the right thing to do when such a decision was taken, and could we have done more? The Prime Minister referred to Bosnia and Rwanda. We may all have different views, but the principle is sound. It is absolutely right that the tests we set for ourselves about when intervention is right and appropriate should always be high.

The key challenge that Chilcot sets us is how we learn the lessons of the Iraq conflict. As we digest the detail of the report, more issues will arise and greater consideration and reflection will be needed. As we go through that process, we as parliamentarians have to consider how we should do things differently in future.

4.19 pm

Lord Wallace of Tankerness (LD): My Lords, I too thank the noble Earl, Lord Howe, for repeating the Statement this afternoon, and I too begin by paying tribute to all the service personnel and civilian staff who served bravely and with distinction in Iraq and to their families. I do so particularly in remembrance of all those who lost their lives, and I also remember the countless thousands of Iraqi citizens who died in the conflict. Indeed, today we have heard that the number of people killed in a suicide attack in Baghdad at the weekend has risen to 250. That is the latest in a much-too-long list of terrorist outrages in Istanbul, Paris, Brussels and—11 years ago tomorrow—London.

Today we have seen the judgment of Charles Kennedy to lead my party in opposition to the war in Iraq, back in 2003, as truly vindicated. His words at the time, in a debate in the House of Commons, were profoundly and devastatingly prophetic. He said:

“Although I have never been persuaded of a causal link between the Iraqi regime, al-Qaeda and 11 September, I believe that the impact of war in these circumstances is bound to weaken the international coalition against terrorism itself, and not least in the Muslim world. The big fear that many of us have is that the action will simply breed further generations of suicide bombers”.—[*Official Report*, Commons, 18/3/03; col. 786.]

The Chilcot report sets out clearly that the United Kingdom chose to join the invasion of Iraq before the peaceful options for disarmament had been exhausted. Military action was therefore not a last resort. The inquiry concludes that the judgments made about Iraq’s capabilities were not justified and that the Joint Intelligence Committee should have made it clear that the assessed intelligence had not established beyond doubt either that Iraq had continued to produce chemical and biological weapons or that efforts to develop nuclear weapons continued.

However, there can be no satisfaction in saying that we got it right at the time. Instead of improving our security, the war that ensued in Iraq has, sadly, made our country and our world less safe. The choices made by those at the time to go to war have contributed to a failed state that continues to be a source of extremism and instability across the Middle East. The decision to lead UK forces into the invasion and the occupation of Iraq in 2003 not only meant that we took our eye off the ball in Afghanistan at a crucial time in our

military engagement there but directly contributed to the continued instability in the Middle East and the threats that the world now faces from Daesh.

Of course the terrorists themselves are responsible for these horrific attacks, but the actions of a Government were responsible for helping to create the vacuum in which terrorism was allowed to develop—actions taken despite being advised by the Joint Intelligence Committee that such a development was a risk. Its assessment on 10 February 2003 concluded that,

“al-Qaida and associated groups will continue to represent by far the greatest terrorist threat to Western interests, and that threat will be heightened by military action against Iraq”.

Perhaps one of the more devastating and shaming findings of the report is that the United Kingdom failed to plan or prepare for the major reconstruction programme required in Iraq. That, together with the exaggeration of the threat posed by the Iraqi regime to the public to justify this war, has damaged public trust. It has damaged our country’s standing in the world and has almost certainly undermined the ability of the United Kingdom to intervene abroad to prevent crimes against humanity. A further consequence has been hundreds of thousands of Iraqis fleeing their country as refugees, in turn resulting in millions of Iraqi children missing out on education, which has resulted in yet another generation of young people growing up without hope for the future.

It is easy for us all to agree that lessons must be learned, so what do the present Government consider to be the most important lessons that can be learned from this report? How have the Government addressed the issue of legal advice in such situations so that never again can it be said that the circumstances in which it was ultimately decided that there was a legal basis for the action taken were “far from satisfactory”? Will the noble Earl reflect on the governance issues—on the one hand, so-called sofa government and the inadequacies of that, but also the difficulties and dangers that we have if we have an ineffective Opposition unwilling to challenge and scrutinise?

Does he agree that we must reaffirm this country’s commitment to the international rule of law, and to collective decision-making through the institutions of the United Nations? Does he agree that before we would ever commit to further armed interventions in the future, it is vital that we have a post-conflict reconstruction plan, as well as an exit plan? Finally, does he share my concern over findings such as that at key times,

“UK forces in Iraq faced gaps in some key capability areas”?

Has any assessment been made of the extent to which such gaps could have contributed to casualties? Can he reassure the House that in future there will be transparency on the preparedness of our troops to be deployed for war, and the adequacy of the equipment and logistical support that they are fully entitled to expect?

Earl Howe: My Lords, I am grateful to the noble Baroness and the noble and learned Lord for their comments and questions. May I first associate myself with the tribute that they each paid to our Armed Forces, and with their references to the implicit duty to have systems in place to ensure that we treat the

members of our Armed Forces and their families fairly, particularly soldiers, sailors and airmen who suffer grievous, sometimes life-changing, injury? That is why, with support from all political parties, the previous Government were proud to have put into law the principles of the Armed Forces covenant—which, of course, can never produce a perfect situation. But we are constantly working at it, and I think it has produced a very much better and fairer system for our brave service men and women. It is notable that 1,000 businesses and organisations have now pledged their support for the covenant in various ways.

Both the noble Baroness and the noble and learned Lord referred to the importance of reliable intelligence. Successive Governments have implemented the recommendations of the 2004 Butler review about the way in which intelligence is used in government. When the coalition Government came into office in 2010 we introduced the consolidated guidance to provide clear direction to intelligence officers about obtaining and using intelligence from sources overseas. Formal routes for challenge and dissent within the intelligence community have also been established and strengthened, which is an important innovation. We ensured that at the very beginning of every National Security Council meeting, the Joint Intelligence Committee chair provides relevant intelligence assessments, so that we know what basis of intelligence and other information we have at our disposal. Through the Justice and Security Act 2013 we improved the oversight of the security and intelligence agencies.

The noble and learned Lord asked a profound question about whether the invasion of Iraq created a vacuum for terrorists, and whether we are therefore less safe as a result. It is never possible to prove a counterfactual—what would have happened if Iraq had not been invaded—but I would point noble Lords' attention to a passage in Sir John's report in which he says explicitly that the JIC's assessment in February 2003 was that the threat from al-Qaeda,

“will be heightened by military action against Iraq. The broader threat from Islamist terrorists will also increase”.

As we reflect on the report in the days and weeks ahead, we should perhaps reach our own conclusions about whether the judgment of the Government at the time to downplay that advice was the right one.

The noble Baroness, Lady Smith, referred to the virtues of ad hoc Cabinet committees, and the noble and learned Lord criticised the practice of what he called sofa government. These are exactly the reasons why, when the coalition Government came into office six years ago, the National Security Council was established as a Cabinet sub-committee. It is not an ad hoc committee; it is a standing committee. Indeed, the noble Baroness asked why it met only during parliamentary term times. It meets every week during parliamentary terms but it also meets, with officials only, in the recess as well, and it can advise the NSC, as a full committee, to meet if required. For example, that happened during the Libya campaign.

The noble Baroness also questioned whether it might have been wise for the Chilcot panel to have had legal assistance or legal representation within it. There are a number of different ways of constituting inquiries,

as she will know. The then Prime Minister, Mr Brown, decided that a committee of privy counsellors should conduct the questioning of witnesses themselves rather than through counsel. I think that most people will feel, when reading the report, that they succeeded very well in managing the hearings that took place.

I am the first to say to the noble Baroness that the report makes no inference or statement that anyone in government acted in bad faith. The decisions that were taken rested clearly on the judgment of Ministers—in particular, Mr Blair. I think that we all need time to digest the report and reach measured conclusions of our own as to whether we believe that the judgments made were well founded. That is for another day perhaps, but it is clear that the need for Ministers to have a proper framework for decision-making is very powerful. Again I come back to the National Security Council, which I think is doing a good job in that respect, although I would be the last to claim that no improvement could ever be made to the decision-making process.

I end by saying that the task for us all now is to look at the report in detail. We should examine how further to improve our structures, policies, the procurement systems that we have and training. We should recognise in all humility that there is always more we can do to improve what we have, and that not every improvement sticks. Certainly, the aim of the Ministry of Defence is to become an organisation that is able constantly to adapt, to manage its resources properly, and to deploy our Armed Forces in defence of the nation efficiently and effectively. I think that a great deal of progress has been made in those regards since 2003, but there is always more to do.

4.33 pm

Lord West of Spithead (Lab): My Lords, war is terrible and a number of us in this Chamber have been involved in wars. When one's people are dying around one, it gives one cause for thought. Does the Minister agree that the duty of a military man is to fight for his country and to do whatever he has been told in terms of fighting for his country? The people involved in Iraq did that to their very core, and their families and friends should be very proud of them for doing their duty. Often in history our service people have fought in wars that might make one think, “Well, why on earth did that happen?”. That is not the point in terms of them and their behaviour. It is very important for their families, friends and everyone to realise that they did their duty; they did it well; and these other issues, although important, have no stain on those people involved.

Earl Howe: My Lords, it is very important to make that distinction. At the same time, it behoves those in the Ministry of Defence, particularly at a high level, to reflect on what more might have been done to support troops in the field. There is a criticism in the report, as the noble Lord will know, about the equipment that our troops had—the noble and learned Lord referred to this. There are two elements to that criticism: one is that the equipment was inadequate and/or deficient; the other is that the Ministry of Defence and the senior military did not respond quickly enough to

[EARL HOWE]

reports from the field that improvements should be made. It is very much the latter, as much as the former issue, that we should now reflect on.

Viscount Hailsham (Con): My Lords, does the Minister agree that, while there are many criticisms of the Government contained in the Chilcot report, we should remember that Mr Blair and his colleagues were not actuated by ignoble motives but were, rather, seeking to sustain the national interest? I say that as one who was not misled by what happened—I voted against the Iraq war. I am glad to say that I played a part in drafting the Motion against it. I also had a Motion on the Order Paper in the other House calling for Mr Blair to be called to account, if necessary by impeachment. But, that said, is it not right that we should temper our criticisms by bearing in mind that Mr Blair and his colleagues were seeking to serve the national interest and were not motivated by ignoble motives?

Earl Howe: I fully agree with my noble friend. I think that, in reading the report, there is no suggestion that Sir John has reached that adverse conclusion about Mr Blair's motives. Indeed, it is apparent how dedicated Mr Blair was at the time to pursuing what he judged to be the right course for the nation. We may or may not agree with what he did, but there is no doubting his integrity or his dedication.

The Lord Bishop of Ely: My Lords, I take the opportunity to draw out what has already been implicit in what has been said so far this afternoon about the deep moral dimension of what we are discussing. I agree with the noble Lord that our troops need not only the assurance of our support, through the covenant, that they have been doing their duty, but the right to believe that what they had been entered into was right and that, when they sacrifice their lives or their continued health, they understand that they were doing something that was entered into with great integrity in the service of others.

In our reflection upon this over time, how can we—and the Government—ensure that we look again and restate our moral obligation towards not only our service personnel and their families, but those with whom we share our common humanity in Iraq? And how can we ensure that, in the operation of government, not only do we dwell on the practical, the process and the strategic, but that we are deeply aware of what is required in terms of waiting, paying due attention to our calling and being concerned about not only the consequential aspects of our decisions but the profound wisdom of them?

Earl Howe: The right reverend Prelate makes some extremely important points. It is important for us to say to our Armed Forces that the work that they did was beneficial. Saddam was a brutal dictator; he was a threat to Iraq's neighbours and Iraq is undoubtedly a better place without him. We can see that, in its development as a country since the war, Iraq is a healthier and better place. Of course, we cannot deny that it is going through a difficult time and that the people of Iraq continue to suffer, but there are glimmers of hope: there have been free and fair parliamentary elections three times since 2003; unemployment has

fallen by half; oil production has doubled; there is more freedom of speech; homosexuality is now legal; it is the only Middle Eastern country with a national action plan on women, peace and security; and a quarter of MPs in Iraq's parliament are women. We as a nation have continued to support Iraq in every kind of way. Between 2003 and 2012, we provided more than £500 million in support, including £180 million in life-saving, humanitarian assistance. Our troops and our civilian personnel need to know that they have made a difference.

Lord Beith (LD): My Lords, some of those involved in overseeing our intelligence community at the time know now, as has been confirmed in this report, the extent to which some of their work had weight placed upon it that it could not possibly have borne. Others found their expert contributions ignored or set aside. Is it not vital, as the Statement indicates, that we use the machinery that has been set up since the Butler committee to ensure that the intelligence community's work is properly used and that those who work in it can have the confidence of knowing that it will not be abused?

Earl Howe: The noble Lord is, of course, correct. Much depends on the culture that exists and is encouraged, in particular within the National Security Council, but also across government departments. We should constantly question and challenge our sometimes ingrained and deeply held views about a particular situation and the way to address it. We should never dismiss, as I am afraid was done at times during the Iraq conflict, the clear advice and guidance from commanders in the field when things are not going as we would wish or expect.

Lord Blunkett (Lab): My Lords, as a member of the Cabinet and of the inner Cabinet at the time, I accept my share of responsibility and commend the responses that have been evident in this House this afternoon. I will deal with one simple issue—the question raised by Sir John about undermining the authority of the United Nations. There is a paradox around the effort that went on in 2003 and before and the enormous emphasis that has been placed by those who did not want to go to war in getting a second resolution, following Resolution 1441 in November 2002. Would it not be perverse in the extreme if we were not able in future to join with our allies because our action was vetoed by Vladimir Putin at a moment when he is bombing civilians in Syria without any process or authorisation as sought by either this Government or the previous Government?

Earl Howe: The noble Lord makes some very important points. Of course, it was not just the Russians who opposed the second resolution; we did not succeed in commanding a majority in the Security Council for it. Nevertheless, the Russians were extremely unhelpful and unco-operative at that time. I entirely take the point the noble Lord has made about their actions in Syria. This particular passage of Sir John's report is something on which each of us will need to make a judgment. Whether it carries a particular weight is something for us to reflect on.

Lord Green of Deddington (CB): My Lords, does the noble Earl agree that it is important that we learn the vital lessons from this tragic episode? Perhaps the main lesson to learn is that these Middle Eastern societies are extremely complex. When we try to interfere with them—particularly with military force—the outcome can be unforeseen, extremely dangerous and terribly damaging for the people themselves. Will we learn that lesson when it comes to Libya and Syria? With Libya, I think we are; with Syria, we have a distance to go.

Earl Howe: The noble Lord, with his immense experience of the Middle East, draws attention to a particularly important message in Sir John's report—the sheer complexity of the situation on the ground. That was not sufficiently appreciated by the Government of the day, although there were those who provided some good insights into what might happen post the conflict and the risks that were posed by intervening in what would undoubtedly prove to be a febrile situation. The noble Lord's central point is well made.

Lord Selkirk of Douglas (Con): With regard to the principle asserted in the Statement that, "taking the country to war should always be a last resort and should only be done if all credible alternatives have been exhausted", can the Minister confirm that that principle should be endorsed and followed?

Earl Howe: Yes, undoubtedly so. It is perhaps one of Sir John's most serious criticisms in the report that going to war in this instance was not the last resort and that there were diplomatic avenues still open at the time that the order was given to commence military action. I am sure that all noble Lords would agree that that should never happen again.

Baroness Jowell (Lab): My Lords, I thank the Minister for his repetition of the Prime Minister's Statement. Like my noble friend Lord Blunkett, I was a member of the Cabinet which supported the invasion. It is very important that the people of our country benefit from the lucidity of the report by Sir John Chilcot and his team, and are able to make sense of the many claims and counterclaims that an issue which has aroused such passion creates. However, will the Minister join me in recognising three certainties that have emerged from the report? First, there was no falsification of the intelligence; secondly, the Cabinet was not deceived; and, thirdly, there was no undisclosed plan made between the Prime Minister and the President of the United States to go to war before the processes of government were invoked. We obviously all have to bear responsibility for the judgments but it is important to start with an assertion of fact.

Earl Howe: I am grateful to the noble Baroness. I have had precisely an hour, prior to its publication, to look at the executive summary of the report. I cannot claim to stand here and recount to your Lordships every nuance of the report; that can only be done over time by us all. I do not have full answers today but, certainly from my reading of the executive summary, there is no question of intelligence being falsified. However, I think Sir John concludes that there was a

gap between the ways in which the intelligence was framed and presented to the general public, and that he leaves open the explanation for that. There was certainly no suggestion in anything I read that the Cabinet was deceived nor of an undisclosed plan to go to war, although there was a certain point in 2002 at which Sir John says that the Government committed themselves to a course of action which would have been very difficult to reverse. They did not necessarily commit to military action but committed to a chain of actions which, if unsuccessful, might almost inevitably lead to war. While what the noble Baroness says is correct, there are nuances in this that we all need to take on board.

Baroness Ludford (LD): My Lords, is there not a striking parallel between the failure to plan for an aftermath in 2003 and our worries about the failure to plan for the aftermath of the recent EU referendum? I want this to be not about Brexit but about the machinery of government. What has been learned in 13 years about how that machinery must be ready to go in that context, after an event?

Earl Howe: With respect to the noble Baroness, we are dealing with two very different situations. It is not the business of Sir John Chilcot to comment on issues of that kind. Indeed, there is an opportunity for the noble Baroness to make points of that sort during the debate that is continuing later today. I shall have to reflect on what she said but I do not have a ready answer at the moment.

Lord Reid of Cardowan (Lab): My Lords, as a member of the then Cabinet, along with my noble friends, I first express my condolences, with everyone else, to the Armed Forces and congratulate them, as my noble friend Lord West said, on carrying out their duty to the country. When I say that, I mean every member of the Armed Forces, up to and including the Chiefs of Staff and the Chiefs of the Defence Staff, who have committed their lives to this country and to doing their duty. We should accord that. They are people who have risked their lives themselves.

I do not like commenting on a report that I have not read in full and I freely admit that I have not had time to do that—it has not stopped others, of course, in the other place. I simply urge one thing on the Government: in congratulating John Chilcot and his team on the report they have produced, can we make a judicial distinction—I do not mean in a legal sense—between legitimate criticism of processes or other failures and what are political judgments? There is a danger that the Government will get themselves into a position regarding political judgments, which is what are exercised on intelligence and what are exercised, for instance, on the question of whether something was the last resort. Whether sanctions could have worked, or whether there were other diplomatic means, was very much in the minds of the Cabinet. Our political judgment was that they would not be sufficient to deter what we believed was the spread of chemical and biological weapons over there, not under democratic control, while over here, the other element of threat—intention—had been shown to be absolutely constrained at 9/11.

[LORD REID OF CARDOWAN]

I welcome the report, I will study it carefully and we will learn the lessons, but at the end of the day it is elected Ministers who must exercise the judgment on some of these questions.

Earl Howe: First, I express my agreement with what the noble Lord has rightly said about the Chiefs of the Defence Staff and the Chiefs of Staff generally during the Iraq war and immediately afterward. They are all men of the highest ability and we owe them our gratitude, as much as we owe to the men and women in the field. I also agree that there is a distinction to be drawn between the processes of decision-making and the political judgments that are made. I simply point out that, in my view at least, the strength and integrity of the process underpins the reliability of the political judgments.

Lord Robertson of Port Ellen (Lab): My Lords, I add to the tributes paid to those who fought, those who died and those who were injured in this conflict. We must regret and mourn those who have been affected by doing their duty. I also thank those who served on this remarkable report that has taken so long and will require so much reading before we can finally come to judgment.

I express one small regret that the committee was not allowed to consider the military action taken by the Blair Government in 1998 against Saddam Hussein's weapons of mass destruction centres. Military action was taken in Operation Desert Fox, when cruise missiles were launched against what we believed at that time to be the centres for weapons of mass destruction. In a very brief reading of the report, I notice that paragraph 496, which is worth reading, covers the basis on which Robin Cook and I, Madeleine Albright, Bill Clinton, Bill Cohen and the Prime Minister came to the conclusion that Saddam was breaking the UN Security Council resolutions that had previously been there and that he represented a threat to his neighbours and therefore to the region.

As my noble friend has said, it comes down eventually to a political judgment. We underestimated Saddam in 1990 when he invaded Kuwait and thousands died. We chose not to take action when Saddam massacred hundreds of thousands of Shias in the marshes of southern Iraq. Decisions can be taken one way or the other but, if they are taken in good faith, at the end of the day they have to be supported, although we must draw lessons where they are there.

Earl Howe: I am sure that the House listened with great respect to the noble Lord, Lord Robertson, and takes account of his direct experience of those times prior to the Iraq war. My understanding is that the report does take into account Desert Fox but, in doing so, as I am sure the noble Lord would agree, it puts into context Mr Blair's clear belief that Saddam Hussein was giving the runaround to the international community and was out to deceive. I am sure that that will be one of the points that everyone should consider when reflecting in a measured way on what the report tells us.

Supply and Appropriation (Main Estimates) Bill First Reading

4.55 pm

The Bill was brought from the Commons, endorsed as a money Bill and read a first time.

Outcome of the European Union Referendum Motion to Take Note (Continued)

4.56 pm

Adjourned debate on the Motion of the Lord Privy Seal (Baroness Stowell of Beeston) that this House takes note of the outcome of the European Union referendum.

Lord Howard of Lympne (Con): My Lords, the main reason why I want to leave the European Union is because I want to restore as the supreme constitutional authority in our country the Parliament and the Supreme Court of the United Kingdom, both of which are at present subordinate to the institutions of the European Union, including the European Court of Justice. I greatly look forward to the day when we become an independent, self-governing country again, in common with practically every other country in the world except the remaining members of the European Union.

I want to concentrate my remarks on my view of the objectives we should seek to achieve in the negotiations for our exit. I am very confident that our country has a bright future—a much brighter future—outside the European Union than inside it, but to secure that future we first have to sort out our relationship with the European Union. I do not believe that that process need be anything like as complicated nor take anything like as long as is sometimes predicted.

This whole subject has been bedevilled by the confusion which exists over the single market. The term “access to the single market” is often used to mean participation in or membership of the single market, but the two are of course quite different. We do not need nor should try to remain participants in or members of the single market. The advantages of membership have been greatly exaggerated, as was pointed out yesterday by my noble friend Lord Lamont. In any event, it seems as though the European Union would not agree to our continuing membership without requiring the continuation of freedom of movement.

Access to the single market is a very different matter. Everyone has access to the single market. The Foreign Secretary was quite wrong to say in his article in Monday's *Telegraph* that there is a range of outcomes between no access and full, unfettered access. No one has no access; the question is on what terms this access is to be agreed. The range available to us extends from access on WTO terms—probably the worst available option, but not a disaster—to access with a no-tariffs free-trade agreement.

A free-trade agreement is eminently achievable. In fact, all non-EU countries in Europe, except Belarus, have free-trade agreements with the European Union.

It is manifestly in their interests as well as ours, and not just because they have a large surplus in their trade with us. Consider a company such as BMW. BMW not only exports very large quantities of cars to us; they also export large quantities of Minis from the United Kingdom into the European Union. BMW, which is very important to the German economy, is hardly likely to allow the German Government to agree to a deal which impedes this two-way flow.

Of course, any exports into the European Union would have to comply with the regulations of the single market, just as exports to the United States or Japan or China have to comply with their regulations. The vast swathe of our economy which does not export to the European Union would be freed from the regulations of the single market. That would be a considerable advantage. It would also mean that we could decide for ourselves whether and to what extent we should change or abolish the tariffs we currently charge, under European Union rules, on goods from the rest of the world.

Concern has been expressed about the position of the City of London, but, as Barnabas Reynolds, partner and head of financial institutions and regulation at the prominent law firm Shearman & Sterling, has said:

“The vast majority of banking and investment banking activity should be largely unaffected even in the worst scenario, and the ultimate situation is likely to be considerably better than that.”

One of the reasons is that the UK is currently compliant with the regulations and directives which govern the provision of financial services in the European Union. This makes the basis of a trade deal simple: so long as neither party changes the relevant rules, passporting will continue after exit in the same way as before. This would give both parties the right to change the rules in a relevant area, bearing in mind that a rule change might affect the continuing passporting rights of those businesses which export from the UK to the EU or vice versa. There is every prospect of a negotiation which would reach an outcome which is perfectly satisfactory to both sides.

I will say a word about immigration. During the debates on the referendum, I frequently made the point that the referendum should not have been about the level of immigration into our country. It should have been, and to a large extent was, about who should decide the level of immigration into our country. There are those who think we need our current level of immigration. Others differ. Let us argue it out and decide it here in this country as does every other country in the world except the members of the European Union and Norway and, for the moment, Switzerland.

As so many of your Lordships have said during this debate, let us not begin to entertain any suggestion that immigrants who are here legally, including those from the European Union, should be used as bargaining chips. That is a matter of common, simple decency. I do not believe for a moment that any of our European neighbours will want to round up and deport citizens of the United Kingdom who live and work within their borders. If I am wrong, and they do, let them wear the badge of shame which will for ever be associated with such actions. Let such a badge of shame never be allowed to besmirch the reputation of Her Majesty's Government.

5.04 pm

Lord Hain (Lab): My Lords, I wish to explore the question raised in this House by the noble Lord, Lord Butler of Brockwell, on the case for a referendum on the precise terms of Brexit. The referendum on 23 June was unusual, even unique, for 1 million reasons. It was clear what leave supporters were voting against, but nobody knew what sort of alternative future they were voting for. None of their leaders explained this. Boris Johnson, for example, began by insisting that remaining in the single market was essential, then moved to supporting a Canadian-type trade deal. When the deficiencies of that option were exposed, he stayed silent until the Monday after the referendum when he published an article readvocating UK participation in the single market, only for an aide the next day hastily to withdraw that explaining he was too “tired” when he wrote it. So confused were leave leaders that Michael Gove actually suggested we model ourselves on Albania. Is that really the best this great intellectual of the leave campaign could do?

If we end up maintaining a trading relationship within the single market, voters are entitled to know the consequences, such as any, or no, limits on freedom of movement. They should also know the cost consequences. For example, on the Norway model, the net cost to the UK of full access to the single market was estimated by the Library last year at £7.5 billion per annum, compared with a net cost of £10 billion per annum for full UK membership of the European Union. Yes, it is less, but it is still considerable and leaves very little surplus for filling the multibillion pound gaps in subsidies to farmers and areas such as Wales and Cornwall in receipt of European funds which Brexit campaigners airily promised to maintain.

Immediately after the vote, Brexit leaders also began shamelessly reneging on what direct experience from weeks on doorsteps told me was the overwhelming reason for people voting to leave; namely, to reduce immigration—not just to “control”, but to “reduce”. That was a betrayal if there ever was one, as was the brazen denial by the leave leaders after the vote that the “£350 million for the NHS” poster on their very own Brexit campaign bus actually meant that. I know for a fact that people on doorsteps believed that. People are entitled to know and to have their say on all this when the outcome of the negotiations is clear.

Let us consider other referenda sanctioned by Parliament. In 1997 in Wales and Scotland, referenda on a Welsh Assembly and a Scottish Parliament respectively were crystal clear. From the White Papers published beforehand, people knew exactly what they were voting for. The same was true of a referendum on a north-east England regional government in 2004, and in the more recent alternative vote referendum of 2011. But, last month, nobody on the leave side had a clue what they were voting for. That is why there is a strong case for having a second referendum, not to rerun the first one—for the result of that was clear, even if narrowly so—but for the British people explicitly to decide whether they approve of the terms of exit. This is emphatically not some ruse to overturn the result on 23 June, but instead to seek the verdict of the people on the future of the UK, on our trading

[LORD HAIN]

relationship, if any, with the European Union, and on the implications for our prosperity and migration. This is fundamental to democratic principles.

Perhaps a straw in the wind, or perhaps not, came yesterday with an ITV Wales Welsh Political Barometer poll conducted by Cardiff University. It showed an almost exact reversal from a 53% to 47% leave vote in Wales to a 53% to 47% remain vote. Professor Roger Scully commented:

“When we look at the details of the results ... There appears to be a small cohort of voters who voted to Leave, but who may now be experiencing what some in the media have termed ‘Bregret’”.

If, as we might all agree, the Brexit vote was a salutary one of no confidence in the whole political class, will that not be made even worse, perhaps creating a dangerous mood of betrayal, without a referendum for voters to decide whether they support the final Brexit deal?

I turn to some troubling questions over Northern Ireland. John Major and Tony Blair in their joint appearance in Belfast last month were trenchant about the dangers to Irish stability and the peace process if we left the EU, and as architects of the peace process, they should know. The settlement I helped negotiate in 2007 reinforced the Good Friday cross-border institutions which are important to both republicans and nationalists in supporting that process. What exactly will now happen to these, especially since Brexit means that the two parts of the island of Ireland will be on opposite sides of an EU border for the very first time in history? Remember that the UK and the Republic joined together in 1973.

Leave advocates ask why the common travel area, which has existed since the early 1920s, would be threatened when it even survived the Troubles. However, there were tough security checks and border controls between north and south during the Troubles, which under the peace process have been dismantled. The border today is invisible, with substantial cross movement and increasing business, cultural and economic links, which are all to the good. This is especially important to republicans and nationalists, and vital for businesses of all colours.

If we left the EU, that same 310-mile border would be the only land border between the UK and the EU. Surely it is unthinkable in today's world of jihadi terrorism, mass migration and desperate refugees that it would not have to be made secure. Indeed, after the leave campaign's pledges for even more stringent border controls, how could they with any credibility allow the current open crossing to survive as a back door into the UK? Surely it is hard to envisage how the common travel area between the Republic and the UK could remain.

I have one other point. EU funding and investment have underpinned the peace process. Over £2 billion will have gone to Northern Ireland in the six years to 2020. Are the Government guaranteeing to replace it? Perhaps the uncertainty over Northern Ireland could also be a case for a referendum on the negotiated final deal of the UK's exit from the European Union.

5.11 pm

Lord Rodgers of Quarry Bank (LD): My Lords, the decisive event for Britain in Europe in the 1970s was not the 1975 referendum but the six-day House of Commons debate that ended on 28 October 1971. By 356 votes to 244, the House approved the,

“decision of principle to join the European Communities”.

Of former Members of Parliament who voted on that occasion, nearly 30 sit in the House of Lords and several will have spoken in this debate. I was one of those who voted and one of the 69 Labour Members who voted for Europe across a three-line whip. I was as opposed to the idea of a referendum in the 1970s as I am now. A referendum fractures and distorts the parliamentary system and feeds populism. It is very different from a general election, which is a regular event when voters can change their minds and reverse the political direction.

But once the 1975 referendum was over, with a two-to-one vote, I assumed that was that; we were there in Europe to stay. I was naive. I believed that, despite the ups and downs of politics, we would win any new referendum with figures similar to the previous occasion. That was my view until early this year, so I was dismayed and profoundly shocked by the result of 23 June.

I am of a generation that grew up just after World War 2. On a cross-party basis, we dreamed of a better and more prosperous world and no more wars. We as students—Tory, Labour and Liberal—particularly cared about the relations between Britain and the rest of Europe, especially France and Germany, and similarly cared about relations with the United States. Like me, in 1950 my noble friend Lord Taverne was a member of the Strasbourg Club, linked to the new Council of Europe. Shirley Catlin, our mutual friend who became Lady Williams of Crosby, was already a persuasive European voice. If I had not been fully committed, the events of the Suez war totally convinced me that Britain's future lay across the Channel.

Harold Macmillan had a deep and acute sense of history and place and he took the initiative in seeking membership of the European Community, the Common Market. He was the author in 1938 of *The Middle Way*, subtitled “A Study of the Problems of Economic and Social Progress in a Free and Democratic Society”. There are lessons here for today's leaders of the Conservative Party.

Apart from Ted Heath, who took the country into Europe in 1973, all Prime Ministers have been half-hearted about what became the European Union. Harold Wilson was for Europe, then against, then for again. Sir John Major, who made passionate and moving speeches during the referendum in favour of remain, lacked as Prime Minister the strength to stop the drip, drip of hostility to the European Union. Tony Blair, who also endorsed remain, lacked the will to identify himself as a good European when he was at No. 10.

In the 1975 referendum, among other issues, there were arguments about food prices, farming, fisheries and the Commonwealth. Immigration was never an issue. I am not adding to the discussion of numbers, but I am disappointed by the absence of a serious,

consistent and significant campaign by Governments over the years to help and understand those communities faced by and fearing incoming migrants, and in turn, to help migrants learn about the rules, customs and conventions of their hosts. But immigration is not enough to explain the reversal of the yes vote figures of 1975 to the leave vote figures of 2016.

Hostility to Europe was shorthand for all the economic and social grievances about jobs, homes, schools and health, especially in deprived areas. The awkward reality in Britain is that the rich are getting richer but many of the poor are slipping back or marking time. Since 23 June there have been marches, rallies and petitions in support of the losing side, remain. The irony is the absence of cheering crowds for leaving. Those who regret voting the wrong way feel very uneasy and insecure.

Whatever is done is done. The referendum took place and the votes were counted. We cannot reverse the outcome by stealth. But within the moving political scene, I hope that Parliament will assert itself through the interpretation of Article 50 and the process and complicated procedures of withdrawal. I hope, too, that continuing members of the European Union will recognise and understand that Britain will take some time to sort itself out. Many of us want to stay as close as possible to our European partners in friendship and to mutual advantage.

5.19 pm

Baroness Boothroyd (CB): My Lords, I speak as a committed European who regrets the breach with the European Union, accepts the referendum result as the will of the people and believes that we can overcome the challenges that face us if we do our duty as a Parliament and work together as a united country. It pains me to say that we are currently failing on every front.

Parliament is paralysed by a lame-duck Government who have lost the country's confidence. We have a leaderless and divided Opposition who are the despair of those who expect better of the Labour Party. Many decent people feel that they are outsiders in their own country: forgotten also-rans in what they perceive as a race for obscene wealth by many fat cats in big business, finance and property development. We shall need to rebuild trust in what this country stands for and foster the qualities that made it great. We can no longer use slogans to accuse the European Union of holding us back when the exit button is pressed. People have had enough—they are sick to the stomach of the sloganising of recent weeks. We need more than slogans to rebuild trust and restore confidence both at home and overseas.

I was brought up on the fail-safe mechanism of our democracy, which used to be a Commons Motion of no confidence in Her Majesty's Government and a general election. It is a measure of our weakness that neither side dares risk that now. There is no Churchill in the Tory party to lead us, and Jeremy Corbyn is no Clem Attlee. He falls far short of the leadership Attlee displayed when the country pulled together to save our way of life in 1940. Alas, I am afraid that statesmanship is in short supply, both here and overseas. Politics has become toxic—but fortunately not so far as this House is concerned. Here I pay tribute to the detailed work

that our committees do, and in particular the European Union Committee, which has captured great respect beyond the walls of Westminster. It will be invaluable during the negotiations and amended legislation that will have to follow.

The electorate pointed us in the direction they want to go, but the Brexiteers failed to agree the route to get there and fed us falsehoods during the campaign which they no longer bother to deny. It will be left to the next Government to find the best way forward, and it is Parliament's responsibility to approve and monitor it.

In this connection, I hope that the procedural dispute over Parliament's right to vote on the referendum result does not reach court. All my experience tells me that whatever the merits of the argument, it will be another symptom of our debility if we breach the separation of power between the legislature and the judiciary. While I commend the noble Lords, Lord Owen and Lord Lawson, on their ingenuity in short-cutting the separation procedure set out in the Lisbon treaty, I suspect that it would be further grist to the lawyers. Parliament, not the courts, is the forum of the nation, and I would dread the consequences if we no longer were. If the British Parliament is not sovereign in this sovereign country, what was the referendum all about?

I will say a word—a couple of words—to those who think the Government can settle big issues by executive action. I say to them, "Think again". We need to bind the wounds that still fester after weeks of bitter campaigning and we need to remember that in our democracy the winner does not take all. We govern by consent—the consent of Parliament and the people. This House has its own constitutional role, which is now more crucial than ever. I hope that the Government—whoever leads them—will recognise that and stop interfering with us. If I may say so—recalling my years as Speaker in another place—it has to be acknowledged that the powers of scrutiny of this House are more dispassionate than they are in the Commons, which is why we are frequently asked to make sense of what they do.

Restoring confidence in Parliament will not be easy. The "either/or" choice on the ballot paper was illusory and the referendum was a blunt instrument which suited the dominant mood. It is obvious that the Government were unprepared for defeat, but that is no excuse for legislation based on a first, second and third reading of the *Daily Mail*.

Our duty now is to help our country through these perilous times so that we may eventually reach the sunny uplands that we have been promised.

5.25 pm

Lord Howell of Guildford (Con): My Lords, it is an honour to follow the speech of the noble Baroness. I must say, having listened to many of the speeches by your Lordships yesterday, it is crystal clear to me that this House has a great deal to offer towards the lowering of tensions and finding the nation's way through the thicket of complex issues confronting us.

However, one aspect of the unfolding scene was not, as far as I can see, mentioned yesterday, or even today. While we wrestle with our European neighbourhood

[LORD HOWELL OF GUILDFORD]

problem, the wider world is going through a gigantic and revolutionary transformation in the whole pattern of trade, commerce and exchange. It is not just goods' trade which has been globalised. In this digitalised world, almost every product and process has become part of a vast connected supply chain that winds from one continent to another. Whole industries have been upended, corporates and middle-men bypassed and smaller businesses given a unique entry into global supply chains they never had before. This is creating major upheavals, both of peoples and employment patterns, which are already shaking the EU to its foundations with populous upsurges, breakaway and secessionist impulses and a migrant movement of millions coming from failed states, poorer and war-torn areas up and across into Europe of which I am afraid we have only just seen the start.

Not only is almost everything nowadays made everywhere, but everyone can sell into every market if they can compete. Tariffs hardly make any difference and where they do, are cancelled out by exchange rate differences. The non-tariff barriers are the remaining defence.

I did not agree with everything my noble friend Lord Lawson said yesterday, especially the rather winner-takes-all, slightly uncompromising attitude. However, I believe he was right that when it comes to trade nowadays in its modern form, you do not have to be a member of the EU to sell successfully into the European market, and so was the noble Lord, Lord Howard, right when he spoke just now. China pours massive flows of goods into France, for example, and is investing everywhere from Warsaw to Cardiff and from Athens to Lisbon. Looking at it the other way—from within the EU—Germany is far more deeply embedded in the supply chains to Asian markets than we are.

The single market of today is nothing like the original protected cocoon of the last century. No one is copying that top-down economic model round the world, because it does not work in the digital age. It is clear that the ruling minds in Brussels have not grasped all of this, although shrewder people in the national capitals have certainly done so. That is why I personally believe that Jean-Claude Juncker's days are numbered, together with those of an inward-looking EU Commission, which is trying to keep yesterday's EU afloat in the modern world. So, do we face some insoluble dilemma of single market access versus free movement, as it was suggested in the debate yesterday? Not really.

First, access—if not membership—is always there, although with special and practical arrangements in our case, since we are by history and geography in Europe and we clearly need to sort out the banking passports issue. We need to have our daily power supply through interconnectors keeping our lights on as we trade every half hour with the European continent. That is an area—energy—where we need more “Europe” in physical terms and a lot less in policy interference.

Secondly—the other side of the argument—the unfettered free movement principle is anyway bound to collapse or be vastly modified as migrant millions

swell and swell. It is already being re-examined through Europe at this moment. It is not a forecast—that is happening at this moment.

Meanwhile, I agree that the die is cast. We are now on a separate track and for us the broad direction is quite clear. First, we and especially if I may so—there is irony in this—the Brexiteers, must become really good Europeans who are supportive in the EU's hours of trial, friendly with every member state and supportive even as the basically unworkable euro staggers from crisis to crisis—as it is about to do again—until it eventually shrinks back to the old deutschmark zone. I strongly agree that trying to bargain over the status of EU citizens here versus our citizens in the rest of the EU is absurd. It is a typical Home Office ploy. All should be reassured, perfectly amicably, and there is no need to go on with this argument.

Secondly, we must focus on our really big and new markets as never before. The US is by far our largest market outside the EU, but China and Japan—our best friend in Asia, as we often forget—are catching up fast, as are Latin America and Africa. The immense Commonwealth network is the gateway to most of these areas.

People ask me whether the Commonwealth could be an alternative to the EU market, but that is to compare apples and oranges on a grand scale. They are completely different in character, nature, structure and behaviour. Yet, strangely, it is the unstructured grass-roots-driven Commonwealth network, with its common language, common commercial law and common accounting standards, which is probably more favourable to this age of knowledge and data-dominated trade in services than the more centralised EU model.

To cope with all this, even to get a coherent position together from which to initiate Article 50, we need a leader and a Government of bridge builders to build new bridges and get old ones repaired. Bridges there have to be with our real European friends, who are to be found in the member state capitals, where they realise that the fundamentals have to change and that the era of centralised integration is over; bridges between leavers and remainers to bring this nation together, showing that the winner does not take all, as the noble Baroness who has just spoken reminded us; and bridges between the overwealthy and those who feel left out—bridges which some of us have been arguing for four decades should be built through wider capital ownership and new forms of sharing capital. That is how we can meet the concern of too much inequality, as the most reverend Primate the Archbishop of Canterbury rightly spoke about yesterday, although too little wealth creation is part of the same problem. Then we need bridges with Scotland to support it in its dilemma of wanting to remain within the EU, yet finding itself inside a Brexit UK. We need bridges, too, to Northern Ireland and Dublin.

The task requires consummate skill but it is possible. Disraeli said that Britain was an Asian power. We now have to become an arch-network power to survive and prosper. I remain resolutely optimistic that it can be done.

5.32 pm

Lord McKenzie of Luton (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Howell of Guildford. At number 82 on the speakers list, I fear that there is little new ground for me to cover. However, like many noble Lords, I want to take the opportunity to express my dismay at the outcome of the referendum, my anger at much of the tone and content of the campaigns—mostly, but not limited to, the leave campaign—and my incredulity that the Government have undertaken no contingency planning for this eventuality. I am clear that the primary responsibility for much of the turmoil that is now engulfing us—economic, social and political—rests with our current Prime Minister, who has gambled on the future of our country for party-political reasons.

As for our economy, it was already in choppy waters, exacerbated by the uncertainty created by the referendum—an uncertainty that looks likely to continue for another two years and possibly beyond, with the contagion spreading beyond our shores and those of Europe.

But we are where we are and we have to get the best out of the current position. We need to make it work in terms of the practical and legal negotiations that we have to undertake, as well as restoring some social cohesion to our country. I leave it to better brains than mine to opine on the legality of the courses of action available to us, especially concerning Article 50 and the European Communities Act 1972, but I believe it is incumbent on government, as quickly as possible, to set down the process it considers should operate to remove at least one layer of the uncertainty which is damaging our economy. Surely this does not have to await a new Prime Minister. In any event, there will be only two contenders by the end of the week. If today's *Times* is correct and this matter is heading for the courts, what impact does the Minister consider this will have on the timetable and process?

There are formidable issues to address and, as my noble friend Lady Smith instanced from our Front Bench yesterday, that will put a strain on the capacity of government and Parliament, as well as business, trade unions and many others, to deliver, with all the lost opportunities that that entails. It is not only the big issues of the single market and freedom of movement that have to be addressed, but the multiplicity of matters that are part of our interlinked history with the European Union. I would instance just one area—health and safety—where the EU has established the general system of safety in health management under the framework directive, with a whole range of supporting directives. It is vital that this system, which has helped save hundreds of lives over the years, can be retained. Can the Minister say what approach, including the parliamentary approach, is to be adopted in securing this and a raft of other vital secondary legislation implementing EU law and directly applicable EU regulation?

We are told that the referendum was advisory. If this is the case, I do not think that that was made particularly clear during the campaign. It would nevertheless be foolish to ignore the outcome of the referendum and second-guess what voters did. We do

not know why people voted the way they did, how they weighed up the factors that were important to them, what information they took into account, and the extent to which they ignored or accepted the assertions of one campaign or another. They may have gained some insights from the various public debates, or perhaps from the pollsters and, indeed, our own discussions and campaigning.

I spent most of the run-up to the vote engaged in traditional canvassing, working in areas of Luton that have typically voted Labour—with some deprivation, but emerging prosperity—where Pakistani, Kashmiri and Bangladeshi communities predominate, but Polish and Romanian communities are beginning to settle. This can only be anecdotal, but I found voters genuinely trying to get to grips with the issues, even on polling day itself; households not slavishly following their traditional party line; and households that would typically vote together not all voting the same way. One might say that was a healthy democratic process, if uncomfortable for a political activist.

If there was a common theme, it was immigration. That was sometimes a peg for a wider range of issues or shorthand for problems involving housing and the state of the NHS in particular, notwithstanding the fact that members of those communities, their parents and sometimes their grandparents are living proof of the success that can flow from immigration. Some expressed the belief that controlling migration from the EU would enable the Government to take a more relaxed stance on immigration from Commonwealth countries, despite the severe restrictions in recent years. Can the Minister say whether this is or is likely to be government policy?

The voters told us that as far as Europe is concerned they do not want the status quo, but as my noble friend Lord Hain said, they have not told us what they do want. It is not their fault: they were not offered a clear proposition even on the big issues of membership such as access to the single market and freedom of movement. This argues for a return to them on some basis for their endorsement of the outcome of the negotiation. It is not easy because until we start the two-year clock ticking we may not get meaningful negotiations. Once we invoke Article 50, the process will largely be out of our control and may not provide time for a meaningful return to voters, rather than just a parliamentary process. What happens if, whatever process is involved, they reject the proposed agreement? We should urge the Government to seek a timetable that will enable any agreement eventually reached to be endorsed by or on behalf of the electorate in the broadest possible manner.

As important as this all is, however, a more fundamental matter should engage us now. As the most reverend Primate the Archbishop of Canterbury told us yesterday, the referendum has shown in the starkest terms that we are a divided country. Mending it should be our highest priority.

5.39 pm

Lord Paddick (LD): My Lords, I have been asked to contribute to this debate with regard to the law and order impact of the decision by the British people to leave the European Union. I make it clear from the

[LORD PADDICK]

outset that I want to be positive and helpful in pointing out the areas where I believe the Government need to focus. I do not believe in Project Fear, and my record shows that I never did—but, for the record, I supported and voted for the UK remaining in the European Union.

My understanding with regard to the exchange of highly sensitive intelligence relevant to national security and the combating of terrorism is that it tends to be shared on a bilateral basis with some of our European partners and not others. I see no serious impact on those bilateral arrangements as a result of us leaving the EU. But the same cannot be said with any degree of certainty about the sharing of other intelligence in relation to serious and cross-border crime, the operation of the European arrest warrant and the operation of Europol. For example, until recently, the UK Government decided not to participate in the Prüm Decisions. This EU agreement allows member countries to rapidly match unlimited numbers of fingerprints and DNA profiles found at crime scenes with databases held by other member countries and to check foreign vehicle registration plates. Although we have agreed to participate now, there is at least a two-year lead time. The recent decision to join in this initiative is now in jeopardy unless the Government can make alternative arrangements. There are existing routes to carry out these checks through Interpol, but these take weeks and sometimes months instead of seconds—or, at the most, 24 hours—using Prüm. Will the Minister ask the relevant team how we might secure the advantages of participating in Prüm despite leaving the EU?

No doubt the Government might say, as the noble Lord, Lord Howard, said this afternoon, that it would be in the interests of both the UK and EU member states for such co-operation to continue. Conversely, EU member states may argue that we should not be able to enjoy all the benefits of EU membership without being a member.

Lord Howard of Lympne: Does the noble Lord not agree that actually our European neighbours—still partners but about to be erstwhile partners in the European Union—benefit enormously more from those arrangements than we do? They make many more requests to this country for co-operation than we make to them, so they would be the losers if these constructive co-operative arrangements were not to continue.

Lord Paddick: Clearly, both the UK and the European Union would be the poorer without having these arrangements, but at the present time we are not members of the Prüm agreement. Therefore, we do not benefit at all from this rapid exchange of data, whereas other members of the European Union do. I cannot personally foresee how we are then going to become a member of the group that shares in those tremendous benefits when we are outside the European Union unless the Government can negotiate a deal.

Europol has been important in tackling cross-border crime. Close European co-operation to deal with such serious crimes as child sexual exploitation is essential. Europol, headed at the moment by a UK citizen, has successfully facilitated joint operations involving police

forces from many EU countries. These joint operations may no longer be possible unless alternative arrangements are put in place. The European arrest warrant has been valuable in bringing people swiftly to justice, including terrorists who have fled the UK. Will the Government explain how they will prevent southern Spain from becoming a haven for fleeing fugitives, as it was before the European arrest warrant came into force?

This House has on many recent occasions debated the issues around racism and xenophobia, and the status of EU nationals currently resident in the UK and of British residents currently resident in the EU. Many noble Lords have concluded that the EU referendum has given people the confidence to give effect to feelings harboured for some time. What action will the Government take to tackle the root causes of such feelings and to restore a climate where racists feel unable to act?

Another difficult issue that needs to be addressed is the one mentioned by the noble Lord, Lord Hain: that of the border between Northern Ireland and the Irish Republic. There appear to be conflicting principles. If the principle of free movement of people within the EU, including the Irish Republic, is no longer to apply to the UK, but the free travel area enjoyed by UK citizens and citizens of the Irish Republic, but not other EU citizens, is to remain, I urge the Government to address now the question of how the border is to be controlled in such circumstances.

Parliament passed legislation to delegate to the British people its power to decide whether the UK should be a member of the European Union. The British people, by a majority democratic vote, decided that we should leave the European Union. I believe that we cannot now decide that we want to take that power back just because we do not like the result.

5.45 pm

Baroness Finlay of Llandaff (CB): My Lords, it is said that you must know where you come from to know where you are going. Sadly, the campaign's simplistic and rose-tinted retrospective views and promises of a dream have now resulted in many people feeling that they cannot believe the reality they have woken up to. Shakespeare must be spinning in his grave, 400 years after his death, at the missed opportunity to write several powerful plays about recent events.

I shall focus on the areas that I know a little about—research and health. They must be addressed in planning our exit, and the devil is indeed in the detail. Overall the UK currently contributes around 11% of the European Union research budget and receives around 16% of the allocated funding. Europe's "co-operation pillar" health theme brought in over €570 million to the UK, representing 17% of the whole EU contribution.

But we must not focus only on money: the EU has shown commitment to the environment, consumer safety, food quality, human rights and social policy. All have powerfully contributed to better health and well-being, and 10% of the UK's health and social care workforce are European. Many bring unique and essential skills to fill our gaps. Addressing our healthcare

staff shortages requires freedom of movement—and these people need to know that they are welcome and that they are wanted, not just that they are tolerated.

Infectious diseases do not respect political barriers, nationality or passports. Our public health threats range from increasing resistance to antibiotics, to potential epidemics and pandemics. Shared learning across borders, as currently organised, allows rapid co-ordinated European responses to health crises, and European-supported public health powers are important to our security. Where will we be in future in relation to the European Centre for Disease Prevention and Control? The European Medicines Agency, which registers and approves pharmaceutical products for the entire EU, is currently based in London. Will it remain here? Its efficiency and predictability make it the world's best practice regulator, with leverage through the EU's position as the largest bloc.

The environment cannot be controlled at state level either. Air and water pollutants, like the climate, are not restrained by political borders. Current environmental legislation is almost entirely an EU competence. It will take time and money to build up institutions and skills to deliver responsibilities as organisations are relocated and have to reframe their working.

The Government of tomorrow, and in coming years, would do well to draw on the expertise in this House for the monumental task ahead in our legislative review. We must all shoulder the burden of that: we are where we are. The Government, whichever Government they are, and however they look and are shaped, must establish the impacts on science, health, education and infrastructure well-being, and decide how best to manage these, and the changes. There is an urgent need to assess and address our decreased influence on European research priorities, and the areas where a lack of regulatory harmonisation is at its most damaging across all domains. Access to European programmes is essential for research and innovation. Future collaboration requires the free exchange of talented individuals and the expertise that they bring to the UK.

Let me turn briefly to Wales and then to examples from my own university. The balance of loss versus any potential gain matters greatly. Overall, Wales receives £600 million support each year from the European Union—£240 million of that in agricultural support. Infrastructure funding for 2014-20 is estimated to be £1.8 billion. Losing this is a major loss, unless it is replaced. With one-third of the EU budget going towards poorer regions, Wales has been a beneficiary. Cardiff University ranked sixth last year in the Research Excellence Framework and, for impact, ranked second in the UK. Like other leading universities it contributes to the prosperity and growth potential of the UK.

I shall give a simple example on the human side. Cardiff University Brain Research Imaging Centre—CUBRIC—was built with £4.6 million from the European regional development fund and has another £4 million coming from EU research funds. That equipment and expertise allows it to be a global leader in understanding neurological and psychiatric conditions. A link to that is almost €6 million of grant, which allows the BRAINTRAIN project to deal with addiction and other disorders. Across the UK's universities there are thousands upon thousands of such examples. Failure

to address what the universities are facing will threaten our ability to reach our potential and, I believe, will threaten our very economic viability.

As the First Minister of Wales has said, however we move forward and however we produce things, continued access to the single market is vital for the future prosperity of Wales. We may all be deeply sceptical about polls, but as referred to by the noble Lord, Lord Hain, a 6% swing towards remaining in Europe that has happened in Wales since the referendum must sound a warning. Those misled by false promises will feel deeply disillusioned in the future. Those who voted either way will demand a say on the future that we sign up to. The leaders of the devolved nations must be at the very top table, not just consulted through different offices and routes if we are to find out where we are going now. Our legacy, on which we will be judged, will be the country that we leave for future generations.

5.53 pm

Lord Sterling of Plaistow (Con): My Lords, tonight Wales is playing, and we all hope it will win. But if by chance it loses, I take it we will not be asking for a replay.

We left Aquitaine and Calais some 500 years ago and since that time we have been the power broker between Germany and France, and France and Germany, in order to protect the empire. We had no ambitions in continental Europe itself. It is interesting that we keep using the word “leave”. I do not think that we are leaving. There have been only 41 years out of more than 500 when we have not been involved in the continent. If we had not regrouped and taken our troops from Dunkirk in 1940, where would the continent of Europe be today? In practice, it was the regrouping—fighting on alone, right the way through, with Churchill's determination—that allowed us to fight again and, with our allies, to regain Europe's freedom. That was the base of what Britain was about. We went back and helped continental Europe.

In talking about Chilcot, we have also talked about our military forces. As some noble Lords will be aware, I am very involved in that area. It is vital now, if we are not to be considered a bunch of little Englanders, to ensure not only that the armed services are maintained but—as I have strongly recommended, as did Sir Christopher Meyer to the Foreign Affairs Committee the other day—that the budget is increased to 3% of GDP, not 2%, so that they can do their job globally. We unquestionably need more frigates, as the admiral has often said, if we are to maintain our place in the world. The armed services must have the right kit for unknown eventualities, as no one can have any idea today what might happen in the future.

On top of that, our finest soft power has always been the foreign service. There have been cuts to the foreign service but, if anything, its budget should be doubled so that it can do the job that it needs to do globally.

I switch now to a subject that I know a wee bit about—the car industry, which the noble Lord, Lord Pearson, has often talked about as well. Forty years ago we started Motability, which is by far the biggest

[LORD STERLING OF PLAISTOW]

fleet of its type in the world. We have 12%, and sometimes 15%, of the whole market. We have had discussions with the manufacturers of Mercedes and VWs as well as with others and the idea that they will allow their businesses to be destroyed by the Commission's eventual decision is absolutely ridiculous. These companies have no interest whatever other than continuing the business that they do with us. As has been pointed out before, the ratio of their imports into this country is close to three to one. There is now a division between what is happening in Brussels and the politicians who have to run their own countries, such as those in Germany, France, Italy, Spain and so forth.

We are talking about creating wealth. I have heard a lot about what might happen next week, what we might do and how we might do it, and how we will exercise Article 50. We are looking 100 years ahead, not just at the immediate future. When we lay down the keel of a ship, we are taking a view on the next 30 or 40 years. We must consider the long-term future of this country.

I return to the armed services. The one thing that is sure is that our armed services will be a key part of the most powerful hard power within Europe today, except even more so. If Europe gets into trouble, the Europeans know that we will come to help them like we did in 1940. That is our job, and the armed services know their role in fulfilling that responsibility.

Returning to international trade, I had the honour, as many noble Lords may be aware, of running P&O for 25 years. For 180 years it has been doing huge international trade. How many noble Lords have looked recently, when doing the washing, at the label on the back of their shirt collar and saw where it was made? Was it China, or Taiwan, or India? Nearly everything you can think of is not necessarily sourced in Europe itself. This morning, I checked with many of the container groups to ask what is coming into this country, from all the different parts of the world, and what they think the effects will be. They are not troubled. What they are concerned about is more bureaucracy as against how simple it is to bring goods in today. However, that will be sorted out in time.

I was thinking the other day that if the euro had not been created in 2003, we would not be having this debate. The straitjacket of the euro has caused a huge number of the problems that we are considering today. Subsequently there has been a massive economic migration—not just of refugees—running into the tens of millions. All countries will have to address that aspect of the issue.

Many noble Lords have talked about aspects of racial hatred that have come out recently. I think it worth reading, very quickly, Dominic Lawson's comment on it—last week it was in the *Sunday Times*, but it was also in the *Independent* some years ago:

“In September 1958 nine young men were found guilty”—

in the court of Mr Justice Cyril Salmon, who happened to be his cousin—

“of what they had called ‘nigger hunting’—chasing black citizens around the streets of Notting Hill, while armed with iron bars and table legs. They were, said their defence lawyer, in attempted mitigation of their crimes, ‘victims of the society in which they live’”.

As it was recorded, Lord Justice Salmon “was unimpressed”. He said:

“Everyone, irrespective of the colour of their skins, is entitled to walk through our streets in peace with their heads erect and free from fear ... As far as the law is concerned you are entitled to think what you like, however foul your thoughts; to feel what you like, however brutal and debased your emotions; to say what you like, provided you do not infringe the rights of others or imperil the Queen's Peace. But once you translate your dark thoughts and brutal feelings into savage acts such as these, the law will be swift to punish you, and to protect your victims”.

Lord Justice Salmon,

“sentenced all nine youths to four years' imprisonment. Shocked at the severity of the sentence, relatives and friends in the courtroom gasped in dismay, and burst into hysterical sobs outside. Two of the boys were so shaken they had to be helped down the 32 steps to their cells. But that night, all was quiet in Notting Hill”.

6.01 pm

Lord Lea of Crondall (Lab): My Lords, in retrospect and in the light of 52:48—or more or less half for in and half for out—it could be argued that the people of this country should have been given a third option in the referendum. There should have been some variation of—if I may play with words—half in, half out, which is what a huge swathe of people probably wanted. To put the point another way round, the binary question “In or out?” is not the only way of looking at the question in people's world view, or economic view for that matter.

One of the many questions is whether there is—certainly now at least—such a viable option, either economically or politically across the European Union. What I am saying is not, in one respect, a million miles away from what the noble Lord, Lord Maude of Horsham, was, I think, arguing in an interesting speech yesterday. He pointed out that we are already not fully in, in the sense that we are not in Schengen or the euro. Whether you call that 65% in, 75% in, or any other per cent in, I think that, as a nation, we probably want to be at least more than half in. Stated in those terms, I think it is what the noble Lord, Lord Maude, referred to as “variable geometry”. The question arises: why should people in the Council of Ministers not take fright if they think that Denmark, Sweden, Portugal, Greece, Belgium, the Netherlands, Germany and Slovakia, et cetera, can also do their own thing along such lines?

What is the brief that the Cabinet Office or No. 10 will have ready for the new Prime Minister in only a few weeks' time? Presumably whoever it is—let us say Mrs May—will go to see Mrs Merkel within days and put on the table an agenda for something such as staying in the internal market but somehow having fewer obligations. I think that the first reaction would certainly be that there is no such thing as a free lunch. I say that because it is contrary to the shameful propaganda of many Brexiteers who presented their fraudulent prospectus as if indeed there were. They deluded themselves and the voters that there was such a thing.

What emerges from these reflections? I think that it is the need to drill down into what people think it means to be a member of the European Economic Area. That is indeed, it could be said, half in and half out—let us call it 60%—paying country fees but not green fees, doing perhaps like the Norwegians

do in terms of subsidising agriculture and fish. But Norway obeys all the rules of the internal market, paying something like half per head, proportionate to what it would be paying if it were a full member, but not sitting in on any of the meetings—at least not formally.

It should not be beyond the wit of man or, in this case, woman, presumably in a private talk with Mrs Merkel—as I have said, there will have to be such early contact; indeed, the Prime Minister in the first sentence of his Statement on the outcome of the referendum said that there were already informal discussions—to discuss what on earth, politically, is possible. They will have to bring the politics of Brussels and the so-called contagion argument, as one has to acknowledge that we cannot make a formula so attractive that everyone would like to follow it. In any event, the fact is that more and more things—far from opting out of them—have to be done together and be subject to common standards, whether in the field of energy, trade, investment, the City of London, running railways or airlines, pharmaceuticals, big science, not to mention agriculture, consumer standards, and so on.

This is not, I say in passing, in contradiction to the European Union's role in the wider world, to which the noble Lord, Lord Howell, and others have referred. Much of the growth in the third world will of course be higher than ours—that is what we want; that is what we have been trying to do in international development all my life. Some of that is to do with differential population growth, but we also want to help with growth in productivity. That will of course help to reduce the push factor.

I am wearing my trade union hat to talk about workers' rights. Some people do not seem to understand that the reason we have things like part-time workers' rules across Europe is precisely because employers in single countries do not want to do it on their own, because they could be undercut. The social programme still, in my opinion, has to be taken further forward on such things as information and consultation rights and, indeed, on zero-hours contracts. This will also help with the labour migration question. Finally on that, I think that, yes, there is now scope for considering free movement. Let us take the new candidates in the Balkans. Some of us met the ambassadors of all the Balkan countries yesterday. Two, as we know, are already EU members—Croatia and Slovenia—but there were also Serbia, Montenegro, Macedonia, Bosnia-Herzegovina and Albania. The discussion touched on this question of whether a seven-year transition period would now be enough or whether some economic criterion—GDP per head—or other criteria, which would reduce the push factor as well as the pull factor, might be some sort of ceiling. Again, all these ideas have to be put in the pot. Who knows? Some may well be welcomed in some European capitals as helpful rather than disruptive.

We have to give what we think is a positive lead to what will happen in the autumn. I have made this attempt to begin setting out the bare bones of a programme. The Brexit campaign, ludicrously enough, did not have to be pinned down on a programme, unlike in a general election campaign. One Brexiteer said the other day that they had won on their manifesto—

that is clearly one thing that they did not do. They did not have a manifesto. That is why, as the noble Lord, Lord Armstrong of Ilminster, opined—and I share his view—referendums are not really, on this sort of issue, our cup of tea.

6.10 pm

Baroness Northover (LD): My Lords, we have had some amazing speeches during the last couple of days. The most reverend Primate the Archbishop of Canterbury was especially profound and moving. Others have brought their huge wisdom to this debate. When the noble Lord, Lord Hennessy, says—as a political historian—that nothing on this scale has happened in his lifetime, we should pay attention.

Knowing what we are doing, we seem to be heading towards something that almost all of us deeply regret and which will profoundly change this country and its future. My noble friend Lord Marks mentioned his children's devastated reaction. They see themselves as European. My children, too, were horrified. One of them is doing a law conversion course. Of all ironies, on Friday 24 June she had an exam on EU law. Never had an exam seemed more irrelevant.

The young are overwhelmingly in favour of staying in. As you progress through the generations, that moves in the other direction. The long blaming of so much on the EU and the reluctance of political parties and business to counter that has had its effect. To me, as a Lib Dem, the outpouring of support for the EU, especially from young people, has been so welcome, so novel, but so sad.

Others have powerfully put across analyses of how we came to be where we are, and of our hugely divided society. But we should note that Scotland, even with the deprivations there, voted to remain. The irony is, of course, that the Brexiteers are not known for tackling poverty and that leaving the EU is likely to reduce, not increase, the life chances of those who feel most excluded.

I wonder, as did the noble Lord, Lord Bilimoria, how on earth we ended up with a referendum with a simple majority. What was proposed could not be a more profound constitutional, social and economic change. Our now divided country shows how unwise it is to undertake huge constitutional change on a simple yes/no referendum with a simple majority. Those who led for leave had no agreed plan—hence the poster at Saturday's march, "Even Baldrick had a plan". There is no manifesto and no agreement on what relationship we now want with the EU: like Canada's, Norway's, Switzerland's, Albania's or something else?

Do we face inwards or outwards? The most reverend Primate rightly expressed a wish that the UK reaches out,

"with a forward foreign policy to the poorest around the world".—[*Official Report*, 5/7/16; col. 1861.]

The UK should be proud of its record on development. We are the first country in the G8 to commit 0.7% of GNI for aid, as my noble friend Lord Bruce pointed out. Our aid must now be at risk. Our economy is projected to weaken: therefore, our 0.7% will be smaller than it otherwise would have been. In the circumstances of a weak economy, the right-wing campaigns that have wrecked our place in Europe will take their wrecking ball to our aid commitment. If we did not

[BARONESS NORTHOVER]

manage to defeat the voices of little England over the EU, where our own interests are so directly affected, how will we fare on aid?

Then there is the impact within the EU itself. We, along with other northern countries, were instrumental in persuading our other EU partners to contribute. The EU is the largest and strongest economic bloc in the world. It is also the largest and strongest contributor to development around the world. Our outstanding Department for International Development has been disproportionately effective in helping to shape what the EU does. The noble Lord, Lord Patten of Barnes, as EU Commissioner, completely shook up what the EU was doing. In more recent years, DfID staff quietly and systematically aligned the EU with UK aims, not the other way round. We led, but we will no longer be there.

As the noble Baroness, Lady Hooper, said, those whom I have met recently in developing countries were not arguing for Brexit. In the last month alone, in Nigeria I was asked why the UK was being so isolationist and in Angola I was told that it would be “a big mistake” for us to leave the EU. As we speak, the African Union is seeking to join up Africa, looking to the model of the EU. It seeks to remove customs and visa barriers between countries—the reverse of what we seem to be doing. A Foreign Office civil servant said to me that he was not sure he would want to stay in his job if we left the EU because he would be in the business of managing the UK’s decline.

As my noble friend Lady Kramer made very clear, we are already damaging our economy. That damage will continue, even if, as my noble friend Lord Carlile suggested, we take a judgment, down the track, that it is not in Britain’s interests to settle for an inadequate agreement outside the EU. Clearly, we must redouble our efforts to trade with the rest of the world, but part of our strength came from our membership of the EU and, with it, our political and economic stability. I have to hope that we have as close a relationship as we can with our EU partners. As we embark on this long and dangerous journey, if that is what we must do, it is surely vital that we now work together and that Parliament plays a key role in charting us through these dangerous waters.

6.17 pm

Lord Baker of Dorking (Con): My Lords, many speakers in the last few days have used the word “historic” about the vote on 23 June. It is historic in one particular sense. It marked the end of an era. Up until that vote, for the past 70 years, Britain’s relationship with Europe and the European Union was very clear. We have been part of the European Union and both parties have worked very hard to make it work. As the result of that vote, that era has changed. It reminded me rather of dynastic changes in medieval England. When a dynasty changed, a new guard came in and an old guard went out and some poor wretch was executed in Pontefract Castle. The only difference today is that political assassination takes place in primetime in television studios.

The Tory party is bearing some of the wounds. In my party now, reputations have been lost, careers

ended and friendships shattered. It is a not unfamiliar scene for my party; it happened when I was party chairman. But we have a capacity to recover. My only regret is that the Labour Party has lost its capacity to recover—I hope temporarily, because we do need it.

We should accept the finality of the vote on 23 June. Some have argued for a second referendum. That is wishful thinking: a fantasy. It is as absurd as saying that if Wales lose tonight, let us play the game again tomorrow to see if they can win. There is a finality about certain decisions and there was a finality about the vote on 23 June. I have some concern about a group of businessmen who are going to encourage Members of the House of Commons to vote on whether Article 50 should be activated or not. I think that could lead to a constitutional and political crisis. The constitutional crisis is that it would pitch referendum democracy against parliamentary democracy—a very unhappy clash. I think it was Gladstone who said that when it came to a clash of the masses and the classes he would always back the masses. There was a masses and classes element in that vote on 23 June. The classes were the elite, and we do not want that replayed again and again. It is very damaging to society when that happens.

The simple fact is that we are all leavers now. The era has changed and it is the task of everyone in this House to try to get the best possible deal. My own belief is that that is unlikely to lie in the single market because that involves the free movement of people. Several people, including my noble friend Lord Howard, spoke of the resourcefulness of British industry. We are a resourceful country and British industry is resourceful, agile and energetic. I hope that we will negotiate bilateral free-trade arrangements to promote the flow of goods and services to and from many countries, inside and outside Europe. As a country, we have fared rather better in our history when we have been on the high seas, roving over the whole world, rather than being concerned with just the narrow waterways of Europe.

I do not believe that the British public want to shut the door on immigration. I certainly do not want that, but we want it to be slightly less open than it has been in recent years. It emerged during the campaign that the net increase in immigration was 330,000 people last year, which is the size of a London borough. If that went on for four years it would rise to 1.2 million, which is the size of the city of Birmingham. That rate of immigration is difficult to absorb into any country at all. It obviously creates enormous pressures on housing, schools, hospitals and wage levels, and this has to be addressed. The only effective way of addressing it is to have a system of work permits applicable to European nationals, as we have for the rest of the world. I certainly want those people who are needed by British industry still to come here.

The other point we have to recognise is that there is great uncertainty about how long this will take, which is affecting the level of investment in our country very seriously. I think that certain investments from overseas are being held back and certain companies are not bringing forward investment programmes. The Government of today—this Government, not the next Government or the next Prime Minister—have a duty

to act. Before the House rises for the Summer Recess, the Government should announce a major housebuilding programme for councils, private builders and housing associations. More money must be provided immediately for that.

I remember that this was done by Harold Macmillan when he appointed Ernest Marples to build 300,000 houses a year. Dear old Ernie did build 300,000 houses a year and we need that drive and determination. It should not have to wait until September or October; it should be done now. As the Government have now abandoned their target for a surplus by 2020, that should also allow them to bring forward other, much wider infrastructure projects. This would give a tremendous stimulus to British industry. It would make us expand again and thrive, which is needed in this period of uncertainty. The Government should do it.

6.23 pm

Lord Stoddart of Swindon (Ind Lab): My Lords, I never thought in 1972, when I was opposing entry to the EEC, that I would still be alive today to be debating in the House of Lords the question of leaving the European Union—but I am very glad that I am still here to do so.

I am very pleased with the result of the referendum and very proud of the 33.5 million British people who took part in it. That shows the great maturity of the British electorate and their ability to understand and give answer to complex questions. Their decision must be respected and acted upon. As the noble Lord, Lord Baker, and others have said, it is essential that it is acted upon quickly. I, too, agree with the noble Baroness, Lady Boothroyd, about the attempts being made to undermine this decision of the electorate. Those who now seek devices to set the people's decision aside should be aware of the consequences of their actions, especially the possibility of further alienating the electorate from the political process.

What concerned me most during the referendum was the incessant talking down of our country and its ability to survive and thrive outside the European Union. I was also concerned that the government machine was used to promote the remainers and that £9.1 million of taxpayers' money was used to circulate to every household in the country a one-sided leaflet. The Prime Minister promised us a free and fair referendum, yet it was anything but, due to the unacceptable behaviour of the Government. However, despite that and the campaign of fear, the people voted to leave the EU by a substantial majority of 1.25 million people. In England and Wales, the majority was more than 2 million; in other words, it was higher than in the United Kingdom as a whole. I remind noble Lords, if they do not already know, that in 1972 the European Communities Bill was passed at Second Reading by only eight votes. So when it is said that the balance between the remainers and the outers is too small, the decision to go into the EEC was very small indeed.

It is quite clear then that people have confidence in their country and its ability to be economically successful and a world leader. Above all, they have decided that they wanted to be governed by their own elected

Government through their own institutions, fought for over the centuries, rather than by an oligarchy sitting in a foreign capital. When an electorate of such intelligence and sophistication have spoken, their decision must be acted upon swiftly and decisively. This should be completed in months, as has been said, rather than years. Backsliding and attempts to thwart their decision will not be tolerated by the people. The noble Lord, Lord Howard, was absolutely right in his remarks about the single market. Having the single market does not mean that we have to apply all its rules. Trade is between countries and not through blocs.

I believe that Britain is a great country with a great past and a great future. Our country has given much to the world in the past and still has much to give, provided that we have the confidence to grasp the opportunity given to us by the wisdom of the electorate. To those who doubt our ability to survive outside the EU, I say: look forward to the horizons ahead and embrace optimism, not pessimism. To quote from Matthew, chapter 8, verse 26:

“O ye of little faith, why are you so afraid?”.

Let us all set aside our fears and work together for the greater future awaiting our great country.

6.29 pm

Lord Morris of Aberavon (Lab): My Lords, much was said in the referendum campaign about the sovereignty of Parliament. Yesterday the Lord Privy Seal said, if I may paraphrase her, that the House will play a part and that the legal position is being looked at—but only now. It was thin gruel and the statement reflected the lack of preparation for Brexit. I am astonished. I expect the Minister replying to deal specifically with the role of Parliament in invoking Article 50. There are many other aspects that Parliament will be involved in, such as repealing legislation, but it is invoking Article 50 that demands clarification. Do we need a decision of Parliament for this?

The noble Lord, Lord Pannick, in his invaluable article in the *Times*, for which I am grateful, came down firmly that an Act of Parliament would be required. I agree. The contrary argument is that it can be done by royal prerogative. The preponderance of at least academic legal opinion is that the royal prerogative is an inappropriate mechanism, as the subject matter of membership of the EU is already addressed by an Act of Parliament, the 1972 Act. We have a constitutional requirement that legislation can be altered only by another Act of Parliament. The noble and learned Lord, Lord Millett, who in substance dissents, concedes that it would be impossible to implement Article 50 without the consent of the House of Commons. This is good law and good politics as well.

Let me underline the political dimension, the *realpolitik*. The late noble and learned Lord, Lord Mayhew of Twysden, and I, as former Attorneys-General, were invited some years ago to give evidence to the legal and constitutional committee of this House about whether it was for Parliament to decide before we went to war, rather than the Government relying on the royal prerogative, as in the past. The view of both of us was that the royal prerogative—called “the people's prerogative” by Churchill—was outdated for this purpose

[LORD MORRIS OF ABERAVON]

and that, today, the case for the House of Commons to decide, as the provider of supply, was overwhelming. The Select Committee of this House agreed. Since then, the convention has been established in the case of both Iraq and Syria. If Parliament—in this case, the House of Commons—has by convention to approve an issue of this magnitude, is not the decision to invoke Article 50 on the same scale, following what the Lord Privy Seal yesterday called “a momentous democratic exercise”? Therefore, both on legal grounds and grounds of political reality, parliamentary consent would be necessary.

There are two industries that I want to mention briefly. In the debate on the Queen’s Speech, I raised the problems faced by the steel industry. I compared the actions of the United States and Brussels in tackling the dumping of Chinese steel. I questioned whether the problem was the lack of vigour by the Government in their representations or the hidebound processes of the Brussels bureaucracy. Be that as it may, what is the position now after the regrettable result? There are real people, real pensioners in the Port Talbot area, my former constituency, who want to know whether Brexit makes the position better or worse.

The second industry I want to mention is agriculture, about which little has been said in this debate. My first job when I came out of the Army was as legal adviser to the Farmers Union of Wales. That was more than 50 years ago. Last December I spoke at a dinner in Carmarthen to celebrate its formation and longevity. All I could tell them was that, if they lost the Brussels subventions that they had become particularly dependent upon, then we should return to the principles of the agricultural system before we joined the EU: the Treasury would have to take over. I quoted the Agriculture Act 1947, piloted by that great Labour Minister of Agriculture, Tom Williams. Section 1 promised guaranteed prices and assured markets. Section 2 provided the machinery of an annual price review. The Act was rescinded as late as 1993. If the referendum were lost, my advice to the farmers was that they should lobby their political representatives to have their place in the queue for machinery to ensure proper returns for the industry.

I fear that there is, again, no plan B, but there is an urgency in providing assurance to a much wider circle than farmers: those who love and use the countryside will want to ensure that the countryside flourishes. I think that it was irresponsible of the Government not to have a contingency plan at all.

6.35 pm

Baroness Featherstone (LD): My Lords, I speak for the Liberal Democrats on energy and climate change and it is to that portfolio I wish to speak this evening.

We had been doing so well during the coalition years, but, from a position where Britain was already a world leader in offshore wind and could have become a world leader in other areas, we are now already falling away from the global race. In the six months since I came to this House, this Government have undermined Britain’s growing green industries by destroying investor confidence in the long-term policy framework needed to support the sector, including the

precipitate withdrawal of support for many forms of renewable energy, the planned privatisation of the Green Investment Bank, the abandonment of previous commitments to investors in the carbon capture and storage programme and much more, the effects of all of which will be magnified by the result of the referendum on EU membership.

The message that has been sent out is deeply concerning, not just to Liberal Democrats but to environmentalists, the renewables sector and members of the public across the United Kingdom. The decision to leave the EU raises a huge number of questions which the Government need to answer urgently, to mitigate the uncertainty and to make it clear to the world that we are open for green business and completely committed to decarbonisation to tackle climate change.

Will we continue to be part of the EU’s internal energy market? Will EU targets be maintained, including the UK’s contribution towards 40% reduction by 2030 and the renewables directive? Will the Government commit to continuing to work with other nations in Europe and the rest of the world to achieve the best possible global response to climate change and the fulfilment of the Paris agreement, even from a position of independence? Will EU climate policies be protected? Will the Government commit to continuing the phasing out of coal? How will they increase investor confidence in renewables following the huge uncertainty of Brexit, especially as none of the Conservative candidates for leader are particular advocates of renewables?

Britain’s future prosperity depends on developing an economy that is innovative, entrepreneurial, internationally open and environmentally sustainable, and where the benefits of growth are shared fairly across our country and with future generations. Our membership of the EU guaranteed our commitments to the climate change agenda and was a safeguard against any Government that appeared to be undermining our ability to deliver on our legally binding targets. Outside the EU, what or who is the guarantor of delivery?

Let us take the Brexiteers at their word and show that we are world leaders on climate change. Let us commit to do equal-no, let us commit to do better than if we were still in the European Union. I have to say that we do not need to negotiate on this; we can just forge ahead ourselves; we can lead the world. However, I do have to inject a bit of realism into this because, the way things are currently, we will not even be able to deliver on our existing targets. We have to improve the efficiency of resource use and decarbonise the economy. That will help to create high-skill, high value-added industries able to compete in the new global markets for low-carbon and resource-efficient products, technologies and services and create hundreds of thousands of jobs throughout the country.

So I am asking the Government to come forward with a new, green industrial strategy targeted at technologies that underpin emerging green industries. Let us establish a clear and consistent commitment to policies that create long-term demand for low-carbon transport and energy efficiency, thus giving investors the confidence they need.

Even at this late stage I implore the Government to end the planned privatisation of the Green Investment Bank. If that has already passed the point of no return, use the Government's special share to ensure that the bank supports ambitious green investments. Either way, the Government should increase its capitalisation, allow it to raise funds from capital markets independently, enable it to issue green bonds and expand its remit to a wider range of technologies.

The Government need to strengthen their support for green innovation, encourage the creation of new financial products and bring consumer capital into green industries. The green agenda will be worth trillions over the next couple of decades. Everything I have said must happen whatever our relationship with the EU in future.

Lastly, moving beyond matters green, yes, of course, 52 to 48 means Brexit won—no doubt about that—but we 48 need to be reflected in the tone and approach of how we leave the EU. As a Liberal Democrat, I am committed to working with Europe, to internationalism, to working across borders for the greater good of us all on peace, on security and prosperity and—because united we stand, divided we fall—against the rise of the right across Europe and here in our country. We need an open, tolerant, outward-looking society. How on earth did we get to the point where we cannot disagree, hold different viewpoints or come from different backgrounds without resorting to bullying and violence?

An element of Brexit has unleashed the unacceptable face of old hatreds, and we all have a responsibility to work to eliminate that lurking underbelly now exposed in all its ugliness. And that starts with us, the politicians. Perhaps the positive will be for us to learn a lesson from the EU referendum campaign. Shameful things were said and done by some, but if we cannot argue our case without lies and downright racist insinuations, we have no right to be in the positions of responsibility that we hold. Let us learn the lesson and seek to provide an example of behaviour that sets a tone of respect and tolerance, for the well-being of future generations relies on us so doing.

6.42 pm

Lord Hamilton of Epsom (Con): My Lords, it is a great pleasure to follow a Liberal Democrat, because they seem to be a little unhappy about the outcome of this referendum. Do I not remember a time when Liberal Democrats were in favour of referenda? Perhaps it is only referenda that go the right way as far as they are concerned.

The noble Baroness, Lady Boothroyd, made the point that Jeremy Corbyn is no Clem Attlee. All I would say is they share two things in common: they both have immaculate manners and both seem to want to nationalise everything that moves.

My noble friend Lord Ridley is very sad that he cannot be with us today; he is up in the north-east where, no doubt under his influence, the vote was 70:30, I think, in favour of leave. As we know, he knows an awful lot about the scientific community and he believes, as do I, that the EU has increasingly stifled innovation in digital, biotech and financial technology. He feels that it is very important that we

are able to recruit experts from all round the world—the Americas, Asia and elsewhere—rather than have to accept less-qualified EU nationals, which we will be able to do if we get control under a points system of our immigration policy.

This has been a sad moment for my right honourable friend the Prime Minister—that his premiership, which I think has been very good, has ended in this rather sad way. I went back and read the Bloomberg speech given in January 2015, when he set out an extremely ambitious programme for reform in the EU. In one phrase in his speech he said that he would join others in looking for a new treaty. I do not know who the others were whom he was joining with. They would not have included President Hollande of France, who always made it quite clear that there was no question of having a new treaty for the simple reason that he would have to put it to a referendum in France and Madame Le Pen would beat him. I suspect that other countries, such as Holland and Denmark, did not want to do that because they have to have referenda on a new treaty. Therefore, I do not know what he was basing his very ambitious reform programme on, but if it depended, as it would seem, on a new treaty, it was not going to happen and is not going to happen now. One of the main problems is that there was not going to be any major reform from the EU. The result was that he came back eventually from the negotiation having set the bar extremely low. He had a serious problem when that renegotiation was met with derisive laughter from a very large number of people.

The other thing that always struck me as rather strange was that you would think, when you are going to hold a referendum on our membership of the EU, that you would look back on the last time it happened in 1975—agreed, he probably was not born then, but somebody must have been able to advise him. He would have found that Harold Wilson was in a very similar position to him: he had a divided party that he wanted to unite; he went off to renegotiate in Europe and came back waving a piece of paper with almost nothing written on it. And then what did he do? Harold Wilson said: “I believe that the United Kingdom should stay in the EEC”—as it was at the time—and then stood well back and let the others campaign for in or out. For some extraordinary reason, the Prime Minister decided not to do that and got totally involved, presumably on the assumption that he could win, and of course it all went wrong on him.

My role in Vote Leave was very low down the food chain. I found myself down in North Devon delivering leaflets; we did not even have enough people to canvass properly, so all we could do was deliver leaflets. At one house I called at, the bloke was just coming out and I said, as I did to many others: “Are you going to vote leave on Thursday?”. His response was: “No, certainly not, you racist”. I mumbled something about control of immigration, and he said: “Goodbye, racist.”. This raises an interesting question, to which I should very much like a response from the Minister when she winds up. Is hate crime extended to people who call old-age pensioners racist for delivering leaflets and asking them if they are going to vote leave on Thursday? Is that a hate crime? I did not bother the Devon and

[LORD HAMILTON OF EPSOM]

Cornwall Police with the matter, but it strikes me as slightly concerning, whichever way we look at it.

The real problem with this vote is that it was only to some degree about the EU. An awful lot of it was about globalisation and the fact that banks across the Western world are printing money, so everybody who happens to own assets get richer and the gap between rich and poor gets greater and greater. To a large degree, this vote was a protest from the have-nots against the haves. I wonder how many votes were won for the leave campaign by Sir Philip Green and his treatment of British Home Stores employees. We cannot continue to live with the enormous salaries being paid to people running international companies. It is creating a very sharp division in this country, which must be addressed by the next Government.

But whatever problems there are in this country, they are nothing like those of the EU today. There is a very sharp sign of extremism emerging across the continent. The established parties should hold referenda like we have, listen to what the people say and react to it. If they do not—let us take France, for instance, where they say a majority would like to pull out of the EU—if the socialist party and the conservative party say, “No, no, there is no way we can do that, as we must stay in the EU whatever happens”, the only option is to vote for the National Front. I hope that our example will be emulated across Europe and civilised conclusions will be reached as to what is the future.

6.50 pm

Lord Haskel (Lab): My Lords, the noble Lord, Lord Hamilton, spoke about divisions, and divisions in the economy. To me, these divisions were illustrated when, immediately after the referendum, international investment banks drew our attention to inequality, not on moral grounds but on the grounds that they had discovered that it was bad for their business. On the same day, others profited from our problems through totally unproductive betting against the pound.

This is as much an indication of our divided society as British Home Stores because our real problem is how to pay our way outside the single market. For better or for worse, our trading rules will be based, after 2018, on the EEA or the WTO rules and MiFID II, rules that we have always respected. This probably means competing against tariff barriers or imposing some of our own. This fall in the value of the pound can help us deal with some of these tariff barriers, but it is the quality and excellence of our goods and services that will enable us to pay our way.

Betting on the pound's going down implies supporting a race to the bottom, a race that we can never win, especially outside the European Union with the full impact of globalisation. We had better get on with raising our productivity instead of just talking about it. Low interest rates should encourage this necessary investment, which we have been requesting for years.

Surely it would be far more productive for the fall in the value of the pound to signal encouraging exports and an opportunity to bring manufactured goods back to Britain—reshoring, as it is called. This has to mean depending less on cheap labour and much more

on making everybody more productive and more skilled, especially using new technology and promoting green industries.

Much of this cheap labour comes from overseas. We will never control our borders, but improving rights at work, increasing pay and raising productivity will reduce the demand for migrant labour. It will also help businesses win back the public trust, about which the noble Lord, Lord Hamilton, spoke. With his five-point plan, I think the Chancellor has given a nod in this direction, but at this stage his corporate tax cuts will do little. The concern is with profits, not with taxes.

Central to paying our way is keeping the people who have come from overseas, not only seasonal agricultural labourers but also the scientists who work in research and new technology—as many as a third in some of our laboratories. They are crucial to the Horizon 2020 funding, which I hope will continue.

This brings me to my concern about inward investment. Our balance of payments deficit is funded by money coming from abroad. If this falters, we will be in a real financial crisis. We are constantly told that this inward investment depends on our institutions, on our society, on our skills, on our stability as much as on our business management and on our trading rules. All these aspects were damaged during the referendum campaign. National institutions, such as the Bank of England, the Treasury, our business organisations, our research institutions—they were all rubbished during the referendum campaign. Their expertise and credibility were replaced by prejudice. Fortunately, the Governor of the Bank of England has—almost singlehandedly—put this right during the past few days, because he knows that this affects inward investment.

Hate crime has multiplied. We have heard all the dreadful details during this debate. For the sake of inward investment, this has to be stamped on to demonstrate that we will not tolerate intolerance. Many noble Lords have spoken about the status of overseas citizens. Their status has to be clearly defined, and quickly, because this too affects inward investment.

The uncertainties created by political divisions caused by the referendum need to be calmed. Many of them were caused by the abrupt departure of the Prime Minister and no contingency planning. This political uncertainty affects inward investment.

Business and trading relationships with the single market have to be defined so that supply chains, passporting, business co-operation can all adapt and be developed. Postponing this may suit an indecisive Government in disarray, but it will also postpone inward investment and throw it into disarray.

Ministers do not need to listen to me. This is what inward investors and the social media are telling us, media that are fast becoming a major influence in these decisions. Without inward investment we will not balance the books. Indeed, we need more inward investment as our own investment income from overseas is in decline. Now is the time to pay our way by borrowing to invest, raising our game, reshoring and exporting, rebalancing, rebuilding trust with those who have our best interests at heart and rethinking austerity, creating a sense of momentum to offset the impression that we are turning inwards on ourselves. I urge the Government to get on with it.

6.57 pm

Lord Alderdice (LD): My Lords, as a lifetime committed pro-European, I have spoken increasingly over the past five or six years on my concerns about how things were developing in Europe and in our relationship with Europe. First, it seemed to me that the fundamental purpose of the European project was being forgotten. The purpose was not economic prosperity. It was not to provide a seat at the top table of world affairs for European politicians. It was not even the extension of democracy and human rights on our continent.

All these were instruments, but they were not the purpose. The purpose was to ensure that we never again descended into deep division, conflict and violence on our continent. The more we forget about the purpose and focus on the instruments, the greater is the danger that we will fail in our purpose and return to the kind of division and conflict that existed in the 1930s—and before and after.

I spoke about these things because I could see quite clearly that people were becoming more and more disenchanted with Europe. It was forgetting about the importance of local identity and national culture and history in its fever to develop something at the European level, not recognising that to do this at European level could provide instability locally and for ordinary people in their own communities if it was not properly attended to.

I said on a number of occasions that I believed that a referendum was almost inevitable, but we needed to work much harder at persuading people that the European project was so important. When eventually it became clear that the referendum was coming sooner rather than later, at home in Northern Ireland we developed a public conversation which we called EU Debate NI. I pay tribute to Eva Grosman and Conor Houston, the two folk from the Centre for Democracy and Peace Building that I run in Belfast. This became the major initiative in Northern Ireland: a public conversation, not campaigning for one side or the other, but enabling people from all sides and with all views to come together in public and engage on the legal, constitutional, educational, agricultural, industrial, economic—all aspects of the question.

It meant that in Northern Ireland the debate was able to be conducted without some of the rancour and vitriol that there was over here, and the outcome was an accepted outcome for remain. In a part of the United Kingdom so used to partisanship we were able to find a way of debating this difficult question without deep rancour. That was not the case on this side of the water, which is a serious warning that, not just in this country but more widely in Europe, the subject of our co-operation and collaboration in Europe is descending into vitriol, rancour and great danger.

On the afternoon of the referendum count, Charlie Flanagan, the Foreign Minister of the Irish Republic, was able to publish a contingency plan for all departments of the Irish Government on how they were going to address the problem of Brexit—Her Majesty's Government, take note. The Taoiseach, Enda Kenny, quite properly paid tribute to Prime Minister Cameron, because one of the first people whom the Prime Minister rang was Enda Kenny to thank him for his support

and to make it clear that there was a preparedness to co-operate in succeeding days. Indeed, in Ireland north and south, there is an appreciation that, whatever happens, we have to find a way of working closely together.

Of course, that is for the sake of the Good Friday agreement, although I am encouraged that, rather than the Brexit result producing polarisation, it has been treated as a problem to be addressed rather than a dividing line among our people. But I ask the Minister to give an undertaking that Her Majesty's Government will see it as a top priority, because it matters within the United Kingdom to ensure that the Northern Ireland Executive and Assembly are involved in the conversations with the Irish Government to ensure that the Good Friday agreement continues to work effectively and efficiently.

There are many Irish people living here in Britain. They, too, wonder how relationships with the Irish Republic will be conducted. I trust that I can also seek an assurance from the Minister that Her Majesty's Government will see the Government of Ireland as being what they are: the closest and best friend in Europe and in the European Union that this country has, and that they will be regarded not simply as one of 27 with whom we have to engage but rather the closest possible friend with whom we must work directly to ensure the best outcome for this country, the best outcome for Ireland—which, whether in spite of or because of our historic difficulties, is very close to us—and the best outcome for the United Kingdom.

I have much less concern than many of my colleagues about the economic survival of this country. It will go through difficult times, of course—not only because of Brexit but for other reasons—but I remain deeply concerned that what is happening is not just a cause but a symptom of deepening division not just in this country but across Europe and more widely. I plead with the Government and others in your Lordships' House to spend time not focusing alone, although it is so important, on how we deal with the best interests of this country over the next few years in Europe but also on analysing and understanding more clearly the geopolitical developments which are leading us to a very dangerous place—in this continent, in North America, in South America, in sub-Saharan Africa, of course in the wider Middle East and in fact across our world. These are difficult times, but we must not focus only on ourselves as we try to address them.

7.04 pm

Lord Lisvane (CB): My Lords, we have heard some outstanding speeches in this debate. The contributions of the Leader of the Opposition, of the noble and learned Lord, Lord Wallace of Tankerness, and of the most reverend Primate the Archbishop of Canterbury were compelling and memorable. Together, they expressed a sense of shock, of lost opportunity and of the need to heal wounds. But the noble Baroness, Lady Smith of Basildon, was rightly remorseless in listing the questions which need answering before we can move forward.

I want to concentrate on one of those questions: Article 50 and the role of Parliament. There are those who say that we should trigger Article 50 immediately, but anyone who has ever negotiated with anybody on

[LORD LISVANE]

anything knows that if you do so against the clock and you are, as we shall be, supplicants, then when you run out of time you have to accept what the other side is prepared to give you. So the argument for invoking Article 50 without substantive preliminary negotiations and a route map is dangerous.

How might Parliament be involved in the process of triggering Article 50? Paragraph 1 of the article says:

“Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements”.

For 27 of the 28 member states, determining those requirements is made much easier by the fact that they have formal written constitutions. For us—and I have absolutely no wish to see a British written constitution—it is more a matter of constitutional “expectations” than of constitutional “requirements”.

A number of people have put forward the argument that because an Article 50 notification commits the United Kingdom to withdraw from the EU, it must be inconsistent with the European Communities Act 1972. This argument goes on to state that if the inevitable result of giving notice under paragraph 2 of Article 50 is that, two years after that notice, our membership of the EU ceases, that frustrates the will of Parliament in having passed the 1972 Act. The conclusion is therefore that if Parliament is given no opportunity to reconsider the matter and make new legislative provision, the giving of notice is simply unlawful.

This is an ingenious argument, but it is also wrong, being based on a misstatement of what the 1972 Act actually does. As Section 2(1) of the Act makes clear, it is a means of giving domestic legal effect to our treaty obligations. Those obligations were entered into separately, exercising prerogative powers without the approval of Parliament. The Act did not make us a member state of the then EEC.

After 44 years in this building, I am no enthusiast for the exercise of prerogative powers without parliamentary approval, but the fact remains that, like it or not, under our present arrangements notifications under international treaties are prerogative acts. The Constitutional Reform and Governance Act 2010 provided a statutory role for Parliament, although a circumscribed one, in the ratification of treaties. It was a statutory version of the previous convention, the Ponsonby rule. But an Article 50 notice is not itself a treaty and the giving of notice in no sense requires ratification in the terms of Section 20 of the CRAG 2010, although the eventual withdrawal agreement would be subject to the procedure—but that would obviously be far too late in the day for any effective parliamentary involvement.

So the conclusion must be that giving notice under Article 50 TEU is a prerogative act; it has consequences for the operation of the European Communities Act 1972 but it does not repeal or amend it. In the jargon, the provisions of Section 2(1) of the 1972 Act are “ambulatory”; they depend on there being Union obligations to be given domestic effect. If there are no such obligations, the Act has nothing to bite on. Incidentally, I join my noble friend Lord Kerr of Kinlochard in being pretty confident that an Article 50 notification can be withdrawn even though the treaty is silent on the matter. The evidence given to the European Union Committee was convincing on that

point, and it may be relevant if the exit package proves to be wholly inadequate and unacceptable to the country at large. I also heed the warning of my noble and learned friend Lord Brown of Eaton-under-Heywood that if there were contention, this matter would fall to be decided by the ECJ.

There are those who suggest that the whole process could be cut short by simply repealing the 1972 Act and not worrying about Article 50. That would just be mad. Simple repeal of the primary Act would mean that the huge body of domestic law made under its Section 2(2) would cease to have effect. Section 16 of the Interpretation Act makes it clear that rights acquired up to that point would be preserved but, without savings to keep the secondary legislation effectively in place, the overall result would be chaotic. More to the point, it would not take us out of the Union; it would simply stop the mechanism by which Union obligations are given effect. So we would go into withdrawal negotiations in breach of a whole range of obligations, which would make our negotiating position a very poor one.

In my view, the giving of notice under Article 50 is without question a prerogative act. However, it is the related political imperative that brings me into agreement with those on the other side of the argument and especially with the noble and learned Lord, Lord Morris of Aberavon. I think it wholly unrealistic that any Administration could think of invoking Article 50 without the approval of Parliament, and I mean of both Houses. Yes, the Article 50 route would give effect to the will of the people but, crucially, the people were not asked on what terms we should leave the EU, and the prospects of successful negotiation will now become an increasingly important factor. Here I agree with the noble Lord, Lord Butler of Brockwell: at the end of the formal negotiations there will be an exit package. It may be good, it may be acceptable, it may be the least worst or it may be disastrous, but it will surely require further authorisation whether popular, parliamentary or, more probably, both.

7.11 pm

Baroness Miller of Chilthorne Domer (LD): My Lords, I want to address two issues. The first is the question of British nationals living in the EU, and in addressing it I declare an interest as I live for a lot of the time in France.

We have rightly heard a lot in this debate about EU nationals living in the UK, and I am glad that all around the House we have had great support for the Government coming out and saying that they can continue to come here to live and work. However, I want to talk about British nationals in the EU, and the first duty of the Government is to them. The Government's record so far on this issue is poor, having denied many of them a vote in the referendum because if they had been abroad for longer than 15 years they had no vote. They have not really had a voice at all, and they are now very worried about what the future holds.

The government line expounded by Philip Hammond is that this question has to be reciprocal—the bargaining chip approach. That has been excoriated in your

Lordships' House yesterday and today. Not only is it the wrong approach, it is inaccurate. Several of the things most worrying Brits abroad about their future are in this Government's gift now—for example, the pensions of those who have worked for Britain as teachers, nurses or soldiers or in local government. They are worried that their pensions may be frozen. That is a matter for this Government, not for other EU states. Will the Minister make a clear statement that the Government at least recognise that that is in their purview and that they will make an announcement about it?

Of course there are many other worries around matters such as work permits, schooling, access to universities, healthcare, visas and the reciprocity of qualification recognition. The Government have a duty to consult British citizens living in the EU about matters that need to be considered, and they need to start now. With so many of them having been denied a vote, surely those people deserve a voice.

The second issue I want to mention concerns the environment—things rural, food production and agriculture. The EU was and still is a great force for things green and environmental matters. You have only to think of all the directives that have improved water quality or air, such as the bathing water directive, and the EU birds and habitats directive that ensured that our special areas of biodiversity stayed special. Those are not things that domestic Governments find it easy to spend money on, so it is very important that the EU has had an overarching view. That is where I really fear for the future of all the green issues that I have mentioned.

There is also the question, as mentioned yesterday by the noble Lord, Lord Curry, and today by the noble and learned Lord, Lord Morris of Aberavon, of British food production. These things have been intertwined with, and largely determined by, the common agricultural policy for generations now. I admit that the CAP, like the EU itself, has had a lot of problems—it has needed far more reform than has been forthcoming fast enough—but here in the UK it has meant the survival of many of our family farms. I find it ironic that rural areas voted so heavily for Brexit, given what a detrimental impact it is likely to have on rural England at a time when farming faces massive challenges, with commodity prices getting lower and lower. In common with other noble Lords, I must make the point that seasonal labour is essential, and the Government need to make a very early statement and assurance to farmers that they will be able to continue to access seasonal labour.

My next point concerns the support that the Treasury gives to rural areas. I find it hard to believe that the Treasury will continue that support at the sort of level that came from Europe. To date, the Treasury has already been incredibly parsimonious even when it comes to match funding the Pillar 2 issues under the CAP—things of great importance, like young entrants into farming. I worry that many of those measures will no longer be supported just at a time when we need to be addressing issues such as low-carbon agriculture and better soil, so that our very food system can continue and food security will be assured.

The future of food security needs vision, strategy, political will, commitment and investment. Defra has always been at the bottom of the political pecking order—last to be considered, first to be cut. I say to the Minister that in a post-Brexit Government that needs to change, not least because of food security. It is hard to see how the Treasury is going to continue to support that if the rural recipients of any payouts cannot demonstrate the public goods in return for that subsidy, so links need to be made between cleaner water, better biodiversity and all the public goods that should flow from the subsidy of those stewards of our land.

I feel deeply about this vote for our children's sake. If we have made living and travelling elsewhere that much harder, then at least let us start to really look after this island.

7.18 pm

Lord Cavendish of Furness (Con): My Lords, it is a pleasure to follow the noble Baroness. I find myself in agreement with some of the comments she makes regarding agriculture, although I think she should not be surprised that farmers voted in the way that they did, having spoken to many of them myself. My decision to intervene in this debate came to me when I reflected on the fact that I was in a minority in your Lordships' House by virtue of supporting the leave cause and campaigning actively to achieve its objectives. I feel the need to explain myself.

If there is any advantage in lying 97th on the speakers list, I suppose it is in looking back and reflecting on a long and fascinating debate. Four things stand out for me. First, I think noble Lords have been completely united in their calls for ending the uncertainty facing EU nationals living here, and of course I endorse those calls.

Secondly, I fully appreciate that many noble Lords are seriously and sincerely upset by the outcome of the referendum. Even if I do not understand their sense of loss, and I do not, I appreciate that it is real, and today and in future I will respect that feeling. I have, however, been struck by how many senior Members of your Lordships' House have hedged their acceptance of the public's verdict, to the point of not really accepting it at all. Unless I misread him, I gained the impression that the noble and learned Lord, Lord Wallace of Tankerness, went further and quite simply repudiated the result on his own behalf and that of his party. I am very relieved to see him shaking his head, and of course I will accept his denial of that even if it is silent. The general feeling of not accepting the vote takes us into dangerous territory.

Thirdly, with very few notable exceptions, I have been struck during this debate by how very little I have heard by way of advocacy on behalf of the EU. I found myself wondering, "What is there to love about the European Union?". With such experience and eloquence as to be found in your Lordships' House, I had expected to find my own thought processes challenged and in that I have been disappointed.

Fourthly—I think there has been a tradition of not giving way, unless the noble Lord really wants me to.

Lord Davies of Stamford (Lab): The noble Lord said he was going to have respect for the other side of the argument, and I appreciate that. I hope he might realise, therefore, that we have not in this series of debates been talking up the virtues of the European Union because that would have been to fight the referendum campaign all over again. It is not very germane to today's debate, which is on what we do now. That is precisely the reason we have not spoken about the merits of the European Union, not because of any loss of conviction.

Lord Cavendish of Furness: I have no doubt about the noble Lord's enthusiasm for the European Union; it has been plain over many years.

Fourthly, we are indebted to the most reverend Primate the Archbishop of Canterbury for an immensely powerful speech. It is for all of us to reflect long and hard on an intervention which redeemed an otherwise rather sad day.

Of the many facets of the EU debate, nothing has driven me so much as the conviction that failures of accountability are a principal cause of much of humanity's wretchedness and pain. I have long feared that our centuries-old settlement, under which government is conducted with the consent of the people, is under threat and is in total conflict with the EU's direction of travel. As I enter old age, I was stirred into action these last few weeks to protect my children and grandchildren from the possibility of arbitrary rule, perhaps even tyranny, if an unreformed European Union persists in turning its back on the democratic process.

Many motives have been ascribed to those who voted to leave. It would be a mistake to underestimate the sense of anger British people feel about the undermining of their democracy. I found it to be an ever-present theme during the campaign. The perception of national identity being stolen was also identified and articulated in various ways.

That brings me to the more prosaic fears I encountered. Of the many civilised, but often passionate, exchanges, I suppose the most common anxiety I met with had to do with our alleged access to the ineptly named single market. After so many years, I find it deeply shocking how many barriers there still are to trade and how damaging they are, especially to our national interest. What has become known as the single market should more accurately, I am told, be called the single regulatory zone. I continue to think of it as a customs union. Whatever it is called, it is protectionist in character and morally questionable in its impact on the poor of EU countries and even poorer citizens of countries outside the European Union.

Brussels plays host to tens of thousands of lobbyists, more than in Washington. Large multinational companies effectively purchase laws and regulations, first, to benefit themselves and, secondly, to disadvantage their smaller, often more innovative, rivals. This horrible kind of venality seems to be comfortably at home in Brussels. Perhaps a product of globalisation so much talked about is the appearance of giant organisations, whether institutions or corporations, whose very size destroys any semblance of a morality. It is a problem that we need to address, as has been said today and yesterday.

In the matter of trade, it becomes daily clearer that non-EU countries export more successfully to the EU than we do. The reason is not hard to find. The WTO tariff averages out at 3%, which compares with the cost of our membership equivalent to a 7% tariff. Our trade deficit with the EU has risen in recent months and now runs at a record £100 billion. It really is hard to see how it would be in the EU's interest to damage this, its most important market.

Looking ahead, rather than obsessing about trade deals, why do we not just quietly and politely walk away? We might or might not have to pay the modest tariffs permitted under WTO rules until free trade agreements are in place. Or might we not explore the proposal that we unilaterally declare ourselves a free trade country? Those putting up barriers against us will soon discover that they are harming themselves more than they harm us. Surely a nation with its independence and democratic integrity restored, its identity recovered, its tradition of free trade renewed, truly internationalist in character, amounts to a vision that can inspire and unite us all.

7.25 pm

Baroness Andrews (Lab): My Lords, the noble Lord, Lord Cavendish of Furness, will understand that I cannot agree with most of what he says, but I appreciate that he feels the sense of loss among those who voted remain—that is a good sign. It hardly seems possible that just over a week ago our world was turned upside down by a gamble that was never meant to come off. I have believed in the European Union all my life as a force for progress. I join the noble Lord, Lord Alderdice, in what he said: the case was hardly heard during the referendum.

It is shaming to think that this week, when we remember the Somme—the war that was intended to end all wars but led to the threshold of another war—we have to acknowledge that we failed to remind people what inspired the European Union: not trade, not profit, but the hope and reality of lasting peace and greater tolerance along with greater prosperity. Nor did we show—the noble Lord was quite right in what he said—how Europe has helped our country to become smarter, more innovative, cleaner and safer. It is a home for the brightest ideas and the brightest Europeans, who are such an asset to the country. I join all noble Lords who insist that they should now be given immediate assurance that their status is secure, irrespective of future negotiations.

The referendum campaign failed the national interest. In particular, the toxicity of the leave campaign came as a genuine shock. The degree of mendacity and sheer flippancy was breath-taking, but not as shameful as the sight of the same shabby leaders fleeing the battlefield away from the fears that they had stoked up and the chaos that they had created. If by what we have done we have energised the fascist right across Europe, we will indeed have a great deal to answer for in the future. The self-inflicted risks that we are taking are, in a quiet but crystalline way, beginning to emerge. We are already a nation on the defensive, shoring up the pound. Today, for example, we were seeking reassurance from Europe that our scientists will have access to collaborative projects.

One change we can welcome is the Chancellor's swerve to end austerity, but it comes too late to help the poorest communities such as the ones I know best in post-industrial south Wales which have borne the cuts and closures of austerity. They are not impressed or frightened by the talk of risks to the money markets or risks to the London property market. They live with risk every day, but it is the risk of not being able to pay their bills. Of course they lost trust in the political class, but they still believed what they were told about immigration, in particular, by mendacious national newspapers. Our popular press is an enemy to the truth—the people deserve better in every way.

I was told in places such as Merthyr Tydfil that this was not about money and it was not about Europe. If anything, it was a demand, however inchoate, for change. The utter tragedy is that these are the communities that will now be worse off. In due course there will be no more European investment for the new colleges and the new roads. The things that have happened in the past decades which have made the most significant differences have been funded by European money.

All these risks have been taken for the most opportunistic reasons—narrow personal reasons and narrow party-political reasons. History may well conclude that the battle for our place in Europe was lost on the playing fields of Eton.

Some humility may now be in order as we step back and try to think collectively about how we secure our national interest. First, let us have an end to slippery language. No matter what the Leader of the House says, the referendum was not an instruction to Parliament; it was advisory. My argument is that faced with a national crisis of this magnitude we have to take the wisest and the safest course. We must fall back on what identifies us and gives us strength: the sovereignty of Parliament. Only Parliament can act now on behalf of citizens—those who voted to remain as well as those who voted to leave, and those who did not vote at all. This is not an event where the winner takes all. There is a great debate to be had about the role of Parliament.

I could not decide whether to be pleased or alarmed that I am speaking after the noble Lord, Lord Lisvane—it would not have been a good position in either event. However, I was relieved that after his dissection of the legalities, he has come to the same conclusion as me. In his quite brilliant and clarifying speech yesterday, the noble Lord, Lord Kerr, confirmed my instinct that in voting to leave Europe we have volunteered for an experiment where there are no templates and no precedents. That suggests to me that there is an opportunity to act creatively if we are given some space and time to act with care, and constitutionally. We must not be rushed into triggering Article 50.

The emerging debate over whether there needs to be a vote in Parliament on Article 50 is clearly contestable, and I wish that the noble Lord, Lord Pannick, were in his place this evening to take issue—as I think he would—with the analysis the noble Lord, Lord Lisvane, has given us. I am not a lawyer but it seems to me that the argument turns on what has been clear for 400 years: that rights which are protected by statute—which now include, for example, all the rights conferred under the ECA and countless other Acts—can only be

removed by another Act of Parliament. However, I will leave that debate to the House and to the Government for another time.

Whatever the technicalities of the legal argument, it seems to me that the essential principle is the bedrock of parliamentary sovereignty, which suggests that we have to secure some parliamentary process at whatever stages we can as we go through the process of achieving a new settlement outside the European Union. This is not to challenge the result of the referendum but to give legitimacy and consensus to the massive changes which will follow from negotiation. That is where the noble Lord, Lord Lisvane, and I agree.

We are extremely fortunate to have the expertise and wisdom of the noble Lord, Lord Kerr, to hand. From what he has already said about Article 50, it seems that even if it is not legally required, Parliament could still have a role in determining it. This is the crucial question—it would be very good if we knew the Government's view. I echo the questions put by my noble friend yesterday to the Leader of the House.

Since in this perfect storm of change we have no compass, the same question surely applies to both the framework and the negotiation itself: what will be the role for Parliament? The framework will set out the future principles and the national interests. Surely there must be some parliamentary procedure to reassure the country that we have secured what we need to go into the detailed negotiations. When we come to the negotiations themselves, no matter whether the process of Article 50 is irrevocable or not—and we have two opinions in this House about that—I stand with the noble Lord, Lord Butler, in his argument that there should be democratic assent to the details, once they are known, and the final agreement, either by way of another referendum, an election, or parliamentary process. No doubt the Constitution Committee will look at some of these questions.

I make this case, as other noble Lords have done, because we are on the tide of history, and the risks around us—not just to individuals and communities but to the very shape and integrity of our country—cannot be underestimated. We have got so much wrong and we have failed so many people, especially our young people. Let us try now, for the sake of our children and our neighbours at home and abroad, to find the right, constitutional and democratic way forward.

7.33 pm

Lord Clement-Jones (LD): My Lords, it is a huge pleasure to follow the noble Baroness, Lady Andrews—what a superb speech.

Last weekend I took part in the March for Europe from Park Lane to Parliament Square. It consisted largely of young people and families, all utterly concerned about and opposed to our leaving the European Union. All of them up to that point had seen their identity as bound up with Europe and now see an uncertain and more isolated future. I could not help reflecting while on the march on how my generation had let theirs down by voting in the way that it did and on how many in politics had failed to deliver a more positive message about the benefits and impact of being in the EU over the years, or to create a fairer society of the

[LORD CLEMENT-JONES]

kind so well outlined by my noble friend Lady Manzoor yesterday and by the most reverend Primate. But whatever our regrets, we cannot afford to sit back and be buffeted by the consequences of Brexit. We need a steely determination to make the best of it and demonstrate to the no doubt overwhelmed Brexit unit how we can mitigate the risks and take the opportunities that arise.

Our tech, digital and creative industries currently punch way above their weight globally. We now need to develop a blueprint to show how they can continue to thrive despite not being in the EU and despite the uncertainties of the exit process, so they will be able more than ever before to benefit from the UK's creative skills and culture. This depends on the UK in general and London in particular remaining a global hub for creative businesses. The essence of this is our continuing ability to retain, recruit and develop the best and most diverse talent from around the world.

Our film and video games studios, publishers, advertising agencies, music recording facilities and design and post-production houses depend on this flow of talent, failing which other locations within the EU—eastern and central Europe, for example—will appear more attractive. It would be deeply damaging if we or the EU erected barriers equivalent to those in the US, which mean that many UK musicians who plan to perform there find that visa-processing problems mean cancelled tours and postponed engagements. The truth is that the lack of free movement of talent will mean a less creative and diverse culture in the UK and will spell danger for the UK as a creative hub.

Individual parts of the creative sector have many unknowables. Will advertising services, that powerhouse of our creative economy, be subject to EU barriers when sourced from the UK if we are not in the internal market? Activities carried on by the audio-visual group are particularly vulnerable. The audio-visual media services directive has, since 1989, had a major impact by limiting applicable regulation to the country of origin. Almost a quarter of its exports are to the EU. It risks being caught between being unable to relocate production as it would fail to qualify as a British product—but, if so, not being treated as EU content. Once the UK is outside the EU, unless we specifically achieve a negotiated deal, the UK will no longer be able to come within the quotas applied by other European countries for their television broadcast services, which in some cases are as high as 70%.

In funding this type of product, every market matters, and if the EU falls out of the equation it could well mean that investment is no longer forthcoming to the same extent. Amanda Nevill, CEO of the BFI, has also warned of the impact on independent film-makers of the loss of EU funding from the Creative Europe programme. This adds up to the need to put in place at the very least greater government support for investment in these audio-visual products.

Then we have the digital economy, which is a vital part of our future. The digital single market being developed by the EU up to now was seen to be a cornerstone for the future of our tech and creative industries. We will now lose our influence on how

regulations and intellectual property reforms are shaped, especially as regards the exceptions to copyright protection which are being developed.

We may also need to adopt safe-harbour provisions of the kind currently required between ourselves and the US in respect of data. Then there are the resources that will be needed now by government here and overseas through our diplomatic and consular services and UKTI in counteracting the impact of Brexit and, as Sir Martin Sorrell has said, targeting fast-growth markets. We need to redouble our efforts to promote Britain as a place to invest in, partner and do business with, especially in the creative industries. Just boosting the budget of the GREAT campaign will not be enough.

When we are outside the EU state aid rules, there may well be some opportunities through improved tax incentives to counteract some of these risks and to maintain the attractiveness of the UK as a destination for the creative industries. But I can see many other industries clamouring for special treatment, too.

I will continue to fight for the closest possible relationship with the EU. But what we need for this sector, as for others, is a cool appreciation of the actions we need to take and the deals we need to do to safeguard them. I am pleased that the Creative Industries Council is taking on this task, constituted as it is largely by a wide range of private sector players in the creative and digital industries, including television, computer games, fashion, music, arts, publishing and film, but co-chaired by Ministers from both BIS and the DCMS.

The Ministers and departments sponsoring our tech, digital and creative industries must immediately, as a priority, start working with the Brexit unit and with Justine Simons, the new deputy mayor for culture and the creative industries in London. It is vital, as she said last week, that we,

“maintain the flow of ideas and creative talent and shore up our cultural economy”.

I sincerely hope that this Government, whoever heads it, take heed of those wise words and recognise the importance of these industries to our future.

7.40 pm

Lord Low of Dalston (CB): My Lords, this referendum should never have been called. It was called for narrow, tactical reasons of party advantage. It represented a colossal misjudgement on the part of the Prime Minister which has cost him his premiership and a favourable verdict from history but, more to the point, it has plunged the country into years of uncertainty and will have consequences for the UK which Christine Lagarde, head of the IMF, has put at,

“pretty bad to very, very bad”,

and could lead to a recession—a judgment supported by nearly every other economic commentator of note. Given that things are usually neither as good or as bad as people say, I would settle for “pretty bad”, but certainly not “good”. This may be seen not so much in the bad things which happen, as in the good things—like investment decisions—which do not. But these, like Donald Rumsfeld’s “unknown unknowns”, are of their nature very much harder to track. In the immediate term it has created a vacuum in policy and leadership, seen most notably in the failure to provide any reassurances

to the status of EU nationals living in this country. There has been widespread agreement in the debate that this needs to be addressed—and soon. It has also opened up major divisions in our community—as the noble Baroness the Leader of the House said—between the old and the young, the different countries of the United Kingdom, those living in our major cities and elsewhere, and those who have privilege, power and influence and those who feel they do not.

Perhaps one of the most worrying manifestations of this is the upsurge in racism, xenophobia and incidence of hate crime. One thing which is clear is that a snapshot of public opinion on a particular day is a very bad way to determine a question as complex as whether we should remain a member of the European Union. You could see this in people's craving to be given the facts when facts were so thin on the ground and so much depended on matters of judgment. Of one thing we can be reasonably certain: that no Prime Minister is going to call another referendum any time soon.

At number 100 on the list, it is difficult to come up with anything very new. The speeches from which I have got most, except for the virtuoso performance of my noble friend Lord Bilimoria, were those of my noble friends Lord Kerr and Lord Butler and my noble and learned friend Lord Brown of Eaton-under-Heywood, though there may well have been others in the same vein which I have missed. The point I would make about them is that they have all emphasised the fact that the result of the referendum is not a once-and-for-all decision—a case of sudden death, as it were. The mantra “we are where we are” makes sense only if by that we mean that the referendum triggers a dynamic process in which there are several more decision points along the way, with options at each point as to how the decision should be taken. For instance, when should notice of withdrawal be given under Article 50? Straightaway before we have worked out what we wish to achieve in the withdrawal negotiations or not until we have worked out our negotiating position? The latter would surely seem to make more sense, but who should take the decision—the Prime Minister or Parliament? A substantial body of opinion would suggest it should be Parliament, though my noble friend Lord Lisvane has argued strongly that an exercise of prerogative power is sufficient. However, even he agrees that parliamentary endorsement is a political, if not legal, necessity. Doing it this way would certainly help to avoid a legal challenge.

Should notice under Article 50 be preceded by informal talks with the rest of the EU to scope the parameters of withdrawal? That would certainly seem desirable, as the noble Lord, Lord Lisvane, has argued, though there seems to be some doubt about the EU's willingness to engage in such discussions. Can an Article 50 notice be withdrawn in the course of negotiations if it looks as though the best we can get is worse than what we enjoy at the moment? The committee of the noble Lord, Lord Boswell, seems clear that it can but again according to my noble and learned friend Lord Brown this is disputed—another field day for the lawyers, no doubt. Finally, when should the

European Communities Act 1972 be repealed? Presumably not until the enormous jungle of law dependent on it has been sorted out.

What scope is there for public opinion to be consulted again at any of these stages along the way? The most obvious point would be that at which the result of the withdrawal negotiation was known and it was desired to know what the people thought of the terms. Last week, in questions on the Prime Minister's Statement, I suggested that there was a strong case for a second referendum on a more precisely focused question such as this. There are no doubt substantial arguments against a second referendum. It invites the charge that it simply proceeds from an unwillingness to accept the result of the first referendum. Moreover, since there is widespread agreement that the vote for leave represented a protest by those who felt left behind and ignored against by the establishment, what could be perceived as an attempt to rerun the referendum—just because we did not like the result—risks further undermining trust in political institutions.

We should therefore be reluctant to call for a second referendum. However, the noble Baroness the Leader of the House surely goes too far—as the noble Baroness, Lady Andrews, has said—in describing the result of the referendum as an instruction. Professor Vernon Bogdanor goes much too far when he writes in the *Telegraph*:

“The people, however, have become, for constitutional issues at least, a third chamber of the legislature, with the power to issue instructions which the politicians cannot ignore. The sovereignty of the people trumps the sovereignty of Parliament”.

No one doubts that the referendum is only advisory. The majority for leave was only a narrow one. There are good grounds for saying that a referendum on a question of the magnitude of this one should require a super-majority of say 60% or two-thirds. As Tony Blair has said, the case for leave has significantly crumbled. Its leading proponents have abandoned the principal foundations on which it rested. It has become clear that they did not have the faintest idea of how Brexit was to be implemented. People have begun to realise that they were misled. There is significant evidence of people rethinking the way they voted in the aftermath of the referendum and more than 4 million people have signed the petition calling for a second referendum. In these circumstances we should remain open to the possibility of a second referendum on the terms of withdrawal, once they have been negotiated.

7.47 pm

Lord Chidgey (LD): My Lords, I congratulate the noble Lord, Lord Low, and the preceding speaker, my good and noble friend Lord Clement-Jones, on the salutary contributions they have made to this debate.

It is even more difficult at number 101 on the speakers list to find something novel to say but what I may try to do is to emphasise some of the key issues as I see them and underline the thoughts of people who spoke earlier. My work since the 1970s has engaged me with the EU institutions one way or another. Those institutions can be aloof, inefficient, expensive, micro-managing control freaks. They are long overdue for reform. However, over the decades they have created the world's largest single market, cemented peace, and

[LORD CHIDGEY]

united a continent. They have raised standards, advanced scientific and medical research and improved the environment. There is serious concern that studies are showing that over 80% of all referendum stories in our press were negative. There is concern that most newspapers apparently chose wilfully to deceive and help to hoodwink the millions of poorer and disadvantaged and most vulnerable citizens. The referendum campaign, particularly for the outs, sank to depths of mendacity rarely seen in our press, while an opinion poll taken after the result showed that seven out of 10 Brexit voters thought the referendum did not matter very much. As events unfold, the outcome most certainly will.

The economic case for leaving the EU presented by the Brexiters makes much of an assumption that the UK would then be free to trade with whoever in the world, unshackled from EU regulations. However, the most cursory examination confirms this assumption to be blatantly false. The EU is the largest trading partner with the rapidly expanding markets of Africa and the same applies with India and China, which have both made clear their reluctance to see Britain leave the EU. Both are on record as being far more interested in negotiating comprehensive trade deals with the EU of 28 nations as one rather than with the UK singly, even if it is the second-largest economy in Europe.

President Xi Jinping, on his recent visit to the UK, said:

“China hopes to see a prosperous Europe and a united EU”, with Britain as an important member playing, “an even more positive and constructive role in ... the ... development of China-EU ties”.

He could not put it more plainly than that. Asia’s leaders have, without exception, encouraged the UK not to withdraw from the EU. In India, where the UK is seen as its entry point to the EU market, there is widespread concern that leaving would create considerable uncertainty in the economy and have an adverse impact on investment. With the pound falling to its lowest level for more than 30 years this morning, that concern is well justified.

Across the Commonwealth, which Brexiters cling to like an economic get-out-of-jail card, it is a similar story. The Prime Ministers of both Australia and New Zealand are on record as supporting continued British membership of the EU, welcoming our strong role in Europe. John Key, the New Zealand Prime Minister, said that,

“if we had the equivalent of Europe on our doorstep ... we certainly wouldn’t be looking to leave it”.

Although Australia and New Zealand have strong and natural links to the UK, we cannot turn the clocks back 50 years. As trading opportunities, their markets, at some 20 million souls together, are a fraction of those in the African, Pacific, Caribbean and Asian regions, not to mention the 500 million we are already joined with in the EU. I often wonder where the pundits suggesting there is a cornucopia of trading deals just waiting for the UK to leave the EU get their rationale from.

On visiting the African Union headquarters in Addis Ababa just a few months ago, I found that without exception the diplomatic corps, the United Nations

agencies and government Ministers from across Africa could not fathom the logic behind Brexit. They feared that influence between the EU and the African Union would be weakened and that security intelligence in Africa currently shared with the UK by EU states would be compromised, undermining our soft power in the continent.

The impact on trade between Africa and the UK will be immense. With African economic growth rates at double or even triple those in Europe, demand for high-quality goods and services booming and unprecedented investment levels, Africa is a long-term market of choice. The latest figures available record that annual trade flows between Africa and the EU, including the UK, reached \$350 billion. The projection for China was \$200 billion. For the US, it was \$100 billion. That sequence of figures spells it out. The projections are that with trade between Africa and the EU already double the sum of the other major markets, it will continue to expand rapidly. This is partly because economic partnership agreements—EPAs—have been negotiated between the European Union and five African economic regions, comprising 33 countries, as well as the Caribbean and Pacific regions.

The EPAs are designed to remove trade barriers and tariffs that impede trade and economic growth between developing regions and the EU countries, bringing direct benefit to both. For the UK, this apparently amounted to some 15% of the uplift. Such is the complexity of the arrangements and negotiations, it has taken 15 years to reach the EPAs’ signing and implementation stage. Outside the EU and outside the EPAs, the UK loses the benefits of these tariff exemptions to these huge markets and, one must assume, faces years of tortuous negotiation to regain entry, while our competitors entrench from their favoured positions.

For some years now, I have been representing the UK Parliament on the governing council of AWEPA, which some colleagues will remember was the organisation of European parliamentarians established to support the so-called front-line states bordering the then apartheid South Africa. Today, AWEPA members, including the UK, are working in 10 African countries, the African Economic Community and the East African Legislative Assembly. They are developing the skills to strengthen these institutions, which are essential to the effective oversight and monitoring of development projects in line with the sustainable development goals. With some 30% of the UK’s aid budget disbursed through the European Union, one can only wonder what will happen to this strategic exercise in soft power in the future.

7.55 pm

Lord Framlingham (Con): My Lords, it is a pleasure to follow the noble Lord, Lord Chidgey, although I disagree with just about every single word that he said. By his own admission, he has been involved with European institutions since the 1970s, and I think that that showed. I do not like the word “mendacity” being used about anybody during the campaign—I think it is ill chosen—and his dismissal of the Commonwealth as far as the future is concerned is quite ridiculous.

In a debate in the House of Commons on the Maastricht treaty on 21 April 1993, setting out my reasons for voting against it, I said:

"I am not sure what impact my words will have, but it is vital to me to be able to tell the Committee how strongly I feel about this issue. I feel certain that, however well or badly I put my thoughts, this will be my most important contribution in my 10 years in the House and, together with my vote at the end of the debate, it may be the most important thing that I do for as long as I am a Member of Parliament. The debate is not simply about whether this great House of Commons continues to govern our nation; it is also about how it is governing today and how in touch it is with the people it governs".—[*Official Report*, 21/4/1993; col. 463.]

So it has proved. Twenty-three years later, at long last I have been able to vote again to undo the damage done by the Maastricht treaty and to set us free from the European Union.

All great issues are essentially very simple. We make them complicated when we do not want to face them. So it was in this referendum on whether our country wished to remain a member of the European Union. The single and most important question was, "Do you want to take back control of your country and run your own affairs?". Immigration, financial contributions and trade agreements are all very important, but they are inevitably and obviously secondary to that simple question.

The nation did not see this issue in the same way as it would a general election. General elections give the people just three weeks to digest often long and complicated manifestos produced along party lines. This non-party referendum gave them many months to consider their decision but, more importantly, they had already had years and years of living with the EU and seeing its effect on our country, for good or ill. They thought it through and gave their verdict, which was, "We are brave enough and strong enough to run our own affairs".

The decision was final. We are going to leave the European Union. This has been confirmed by the Prime Minister, the other European Heads of State and, one way or another, most speakers in this debate. There must be no talk of dilution, undue delay, second thoughts or, heaven forbid, as touted several times already, a second referendum. Since the vote, unlike other Members of this House, I have not met one person who voted to leave who is anything other than pleased with the result and looking forward to the future. There would be huge and understandable anger in the country if their will were to be thwarted. For our political leaders, this would be as irresponsible as it would be dangerous.

There will have been 115 Back-Bench speeches in this debate and I am number 102, so there can be little new to say. I have sat through most of the debate and I think that it has been divided into two groups. One group—sadly, by far the largest—has made sad and dispiriting speeches doubting our ability as a nation to succeed, and questioning the referendum and its outcome and even people's motives for voting as they did. I agree with the noble Lord, Lord Cavendish, who is not in his seat.

By contrast, in the other, smaller group, there have been some positive and memorable contributions from both sides of your Lordships' House from Members

who understand our role and who, I feel, are much more in tune with the people and with what they expect from us. I thought that the Leader of the House got us off to an excellent start, setting the scene in a balanced way and showing us the way forward. My noble friend Lord Lawson gave us a plan to follow. There has been a constant clamour for plans. He gave us one: we have a plan. I thought my noble friend Lord Dobbs—in, as usual, an entertaining speech—put everything in perspective. He ended with the sentence:

"We have a mountain to climb, but the view from the summit might yet prove awesome".—[*Official Report*, 5/7/16; col. 1900.]

The noble Lord, Lord Howarth of Newport, who is not now in his place, related in a very positive way the outcome of the referendum to the country's other problems and the need to address them. I do not want to embarrass the noble Baroness, Lady Mallalieu, again, but I thought she spoke so well and dealt so comprehensively with every aspect of the issue that, as I told her afterwards, she made much of my speech redundant.

It is from positive speeches such as these that we must take our lead and our tone. In this inevitably difficult period, this House should provide the experienced political and intellectual ballast that will help to keep the ship of state steady as it moves ahead through uncharted waters. You cannot see the road ahead clearly if you are constantly looking over your shoulder. In this House, we can either waste much time arguing over the past, disputing the result and hoping our gloomy predictions come to pass, regardless of the fate of the country, or we can accept the result and understand that, although there may be short-term difficulties, it is our duty to do all we can to make the new situation a success.

Some questions have been asked to which I would have thought the answers were obvious, but apparently not. Of course we will not turn our back on our European neighbours, but will seek to work harmoniously with them. Of course anyone in this country lawfully must be able to stay, and as this seems necessary—I am surprised that it is—they should be given that assurance without delay.

If we fail this country at this historic moment, it will not just be harmful to Europe during this transitional period and make life much more difficult for our Government and our country; it will show this House—as, sadly, it has already shown itself to some extent to be—to be so out of touch with the people and unable and unwilling to listen to them that it will cause serious damage to your Lordships' House and possibly its future. Finally, let our glass be half full, not half empty. We have been given a unique opportunity as a nation to break free, change course and forge a new future. We should seize it gladly.

8.02 pm

Lord Foulkes of Cumnock (Lab): I am pleased to follow the noble Lord, Lord Framlingham, although I disagree with almost—no, with every—word he said. He has the unique distinction of having been a Lord even before he came into this House.

As I sat through speech after speech, I was beginning to think that, when I got up, I would be swimming

[LORD FOULKES OF CUMNOCK]

against the tide—not that that is unusual for me, by the way—but once I heard my noble friend Lady Andrews and the noble Lords, Lord Lisvane and Lord Low of Dalston, I knew there were some sensible people whose band I would be joining.

On referenda, I think that David Cameron can be described as the Stan Laurel of British politics. Oliver Hardy would have said, “That’s another fine mess you’ve got us into”. On the Scottish referendum, he conceded to Alex Salmond the date of the referendum. Alex Salmond decided the date, the wording of the question and the franchise. It was a miracle that he did not win that referendum and that he lost it.

David Cameron nearly broke up the United Kingdom with that referendum, and now he is doing worse: he is breaking up the European Union with this referendum, because of his mistakes and because of his complacency. We saw that complacency when he thought it would be an easy win. When we suggested, on the franchise, that 16 and 17 year-olds should have the vote, as they did in the Scottish referendum—in that referendum, they showed that they were sensible, and they were probably more informed than any other voters in that referendum—he rejected it. These are the people who will be most affected by the decision that has been made, yet they were not part of that decision. There would have been nearly 1.5 million extra votes, of whom 82% would have voted remain, according to a poll. That alone would have changed the result of this flawed referendum.

We suggested that European Union citizens living in this United Kingdom should have the vote as well, because they are affected by it. So many people have said that, some expressing real concerns and others, I am afraid, crying crocodile tears for them because they realise the effect of what they have done. European Union citizens should have been given the vote, as we argued, because they are affected by the decision.

We also suggested a threshold. I think someone suggested a super-majority, but I prefer using the word “threshold”. Remember that we had one in the first Scottish referendum in 1979. In that referendum, there was actually a majority in favour of a Scottish Assembly, but because of the George Cunningham amendment—the noble Baroness, Lady Boothroyd, will remember it very well—the majority needed to be 40% of the electorate, and we did not get it. What about this referendum? Do we know how high the figure was? Does anyone know? It was 37.4% of the electorate, so the majority would not have got over the 40% threshold. We took away people’s right to vote in that we did not give it to 16 and 17 year-olds or European Union citizens, and we did not get to the threshold, so there are real question marks over the referendum.

When I tried to intervene—I apologise for trying to interrupt the Leader’s speech yesterday—all I wanted to say was, as has been said by so many people, that this is not an instruction from the British people. It is an advisory referendum, and if people say it is an instruction, they are misleading the public and Parliament. It is not an instruction: we have to take note of it; we are not instructed by it.

Lord Hamilton of Epsom: If this referendum is regarded as advisory and the decision is not implemented, what course have the British people got but to take to the streets?

Lord Foulkes of Cumnock: I am suggesting that the referendum is advisory, but the British Government should start working on the basis of its result, even though I think it is flawed. I would argue that we should then, for a whole range of reasons, give the British public the opportunity to think again. First, the proposal of the leave campaigners was sold on a false prospectus by that snake oil salesman Boris and barrow boy Farage. They have both gone AWOL. Where are they now? They are not coming forward to try to sort out the mess that they have created.

Secondly, already flaws and problems are beginning to arise. There is already a threatened break-up of the United Kingdom. On Scotland, Nicola Sturgeon is looking at the opportunity to take this referendum as a trigger. On Northern Ireland, think of the problems, with Sinn Féin already talking a united Ireland and the possibility of a border between northern and southern Ireland. On Gibraltar, Spain is talking about shared sovereignty, so no wonder Gibraltar is worried about the future.

Thirdly, the leavers—those who argued the case for leaving—have got no idea of what it involves. They have no idea of the way forward, which means that we have been sold a false prospectus. Some of my remain colleagues, for whom I have the greatest respect, having worked with them for a while, have thrown in the towel. They say, “We are where we are. We’ve got to accept it. We’d better make the best of it”. I think that that is a defeatist attitude. It does not do this place proud, and it does not do the other place proud either.

I have the greatest respect for a number of colleagues, such as the noble Lord, Lord Butler of Brockwell, my noble friends Lord Hain and Lady Andrews and the noble Lord, Lord Low of Dalston. As the noble Lord, Lord Heseltine, has said outside the House, although not here, once the terms are clear and the negotiations have taken place, we need to give the British people the opportunity to think again. That is not undemocratic or saying that we should forget or abandon the previous referendum, although I have criticised it. We are saying that we should work on the basis of that referendum, and once the terms become clearer, give the British public the opportunity of thinking again. It is our responsibility as parliamentarians—we have that responsibility—to work out how the British public can be given that opportunity, not to join the lemming-like rush into the abyss.

8.10 pm

Baroness O’Loan (CB): My Lords, the referendum is done. No matter the analysis and debate about what was said in the pre-referendum debate, we are where we are. The EU Committee on 4 May last set out graphically the complexity of the consequences and processes of withdrawal and the various dynamics of the environment in which withdrawal will be negotiated—the fact that our future relationship with the EU will be negotiated in tandem with our withdrawal agreement. That individual member states will retain significant

control over the negotiations on the future means that we have come to the point at which, as the Nobel Peace laureate John Hume used to say, nothing can now be agreed until everything is agreed.

Yes, I know that there is uncertainty about how we exercise Article 50, but we have to face our realities. Perhaps the first reality that we should face is that we remainers need to listen to what the leavers were saying. Many of those who voted to leave were young people who have lost hope in the future because of the place to which our society has come. Their concern is real. Many of them with university degrees cannot get work. They must work in minimum wage jobs for years. The society that we have constructed has enabled the greater division of assets, bringing so much more to the wealthy and so much less to those who have little. Leaving aside the racism that is scarring our society even as we talk, there is deep angst about the nature of our society, about globalisation, about those deepening inequalities, about bailing out bonds that should have been burned. As a Union we did not permit the burning of the bonds, so many of our young people are stuck on minimum wage with no prospects, no pension arrangements and serious emerging mental health issues. School pupils, in particular, are faced with endless pressure to achieve, yet face so little in terms of opportunity in this brave new world which we have created. The political system seems to our young people to be unresponsive and unlistening. Europe is now in a degree of chaos too. In Spain, France, Italy and Greece, we can see what is happening. Jean-Claude Juncker's recent statements, saying no and leaving the table, do not give rise to hope, but rather to acrimony, dissent and possibly even worse across the capitals of Europe. It was for that reason that the European Community was founded.

I want to say a word about the common travel area which was so important in Ireland as we strove to defeat the men of violence, because it links the non-Schengen UK and the non-Schengen Republic of Ireland. We have a 300-mile border that runs across our little island and when you travel from one place to another on a relatively short journey in the border area, you can cross the border several times. The border meanders through the island. When the UK leaves the EU, will the island of Ireland be divided by a land frontier between the UK and the European Union? The Northern Ireland peace process is built on the understanding that the shared border existed within the European Union. If that is no longer the case, what is to be done? Will Her Majesty's Government provide any sort of reassurance that we will not be catapulted back 25 years to the days when we had customs checks on the border and when lorries queued for hours to cross it, at huge expense to business on both sides of the border? We remember that and we remember too the security checks, and it can be no accident that 56% of the people in Northern Ireland voted to remain.

Northern Ireland exports to Ireland amount to 37% of our exports to the EU and 21% of our total exports—a very important part of our tiny economy—and our Secretary of State has said there can be no special arrangements for Northern Ireland. We are not looking for special arrangements; we are looking for the protection of the United Kingdom. Deprivation, hunger and

isolation were strong nourishers of the Troubles. Can government do nothing to prevent the division that now seems inevitable between the two parts of Ireland and the consequential costs? Research for the Northern Ireland Assembly's enterprise committee estimates that exit from the EU will cost our economy 3% GDP because cross-border trade and economic co-operation will reduce, foreign direct investment will decline and there will be a loss of economic funding.

In May this year, the Home Secretary said that the dissident republican threat was substantial, giving rise to a risk of a bombing or other attack here in GB—more particularly, I guess, in England. Economics and peace are inextricably linked. If Northern Ireland becomes a tiny part of Ireland, with a diminishing economy, the risk of growing support for terrorism is very real. It happened in the past. We have high levels of youth unemployment: 13.4% as opposed to 11% here, which is roughly one in seven or eight of our young people—ripe pickings for the paramilitaries.

The Prime Minister acknowledged that it is important that the negotiations mandate is drawn up with the involvement of all constituent parts of the UK. We have heard many calls over the past two days for the exercise of power for the common good, perhaps most strongly in the words spoken by the most reverend Primate the Archbishop of Canterbury in this Chamber yesterday. Yet when the Irish Prime Minister suggested an economic forum to address the consequences of Brexit, the First Minister of Northern Ireland vetoed the idea. At a time when there is so much uncertainty, surely the UK should be availing itself of discussions with member states of the EU designed to secure stability. After all, the UK exports more services to Ireland than it does to Germany—£27.86 billion in 2014. Is that not what the Home Secretary Theresa May has called for in the past two days—informal discussions with other states? Our status as part of the UK and the consequences of Brexit are not a devolved matter. Will Her Majesty's Government ensure that there are proper talks with Ireland in the cause of the common good?

There is a further security element to Brexit. Will there be a hard border along our 300 miles? Are we going to revert to the days when so many of our border roads were impassable for security reasons? Tensions are reduced by invisible borders. I fear that the introduction of border checks may well create intense resentment in some parts of Northern Ireland. It is possible that this might lead to more support for the dissidents. What will Her Majesty's Government do to prevent that situation and to protect Northern Ireland and the UK from increased terrorism, human trafficking and serious and organised crime? We are losing our involvement in things such as Europol, extradition arrangements and joint European criminal investigations. We will negotiate our way back, but it will take years and much of it will have to be done on a country-by-country basis. Sir David Edward, former judge of the CJEC, said in his evidence to the European Union Committee of Brexit:

"The long-term ghastliness of the legal complications is almost unimaginable".

We are in the territory of the unimaginable.

[BARONESS O'LOAN]

Northern Ireland is the only part of the UK which has a land border with another state. What can Her Majesty's Government do to ensure that the impact of Brexit on the peace process and on the economy of this battered part of the UK is minimised? Does the Secretary of State for Northern Ireland understand the complexity of these issues and their importance, not just for the people of Northern Ireland, but also for the people of the UK as a whole?

8.17 pm

Lord Shipley (LD): My Lords, it is a pleasure to follow the noble Baroness, Lady O'Loan, with whom I agree on a number of points, but I want to speak about the impact of leaving the EU from the perspective of the English regions. Despite the headline vote being a 52/48 win for leave across the UK, in England and Wales outside London, the gap was a much bigger defeat for the remain campaign. We need to understand the reasons why.

I think that there were three reasons. People wanted to halt an increasing concentration of decision-making at a European level. They felt disconnected from it and unable to influence it. Secondly, it was a clear rejection of the principle that a single market requires free movement of people. Many on lower incomes felt threatened by the prospect of being undercut in the labour market. Thirdly, it was a vote to oppose the impact of reductions in public spending, which have been much higher in the poorer parts of the country than in the wealthier parts—notwithstanding the importance of EU structural funding in those areas and the importance of European markets to them.

I campaigned for a remain vote because I see it as essential to our future growth and our standard of living to maintain access to the single European market. Access to that market has now been put in jeopardy. We must take very seriously the warnings from the CBI that firms are putting investment on hold in the short term because of the uncertainties and because of the current political vacuum as we wait for a new Government to define their priorities. Add to this the reported lack of qualified negotiators in the Civil Service, and we can see that these uncertainties could well drag on.

It is, however, the long-term danger to private sector investment that should really worry us. In my home region of the north-east of England there were 43 foreign direct investment projects in 2015. The risk is that companies from outside the EU wanting to invest inside the EU in future will not choose to invest in the UK if we are outside the single market. In establishing what we are asking the EU for in the forthcoming negotiations, it is essential that we gain agreement to staying in the single market.

It is now broadly acknowledged that we could be on the brink of recession. Our trade gap with the rest of the world is worse than anticipated, and all the economic and fiscal indicators seem to be pointing in the wrong direction. I question whether the Chancellor is wise in his plans for corporation taxes. The proposed cut will either increase the deficit or cut public spending further, which would mean more austerity and less money for individual taxpayers, who will have to pay

for that reduction in corporation tax. It looks to me to be the wrong decision. The Chancellor is, however, right to abandon the aim of achieving a budget surplus by 2020. We must instead invest in the infrastructure which generates jobs.

However, Governments cannot do everything, and we need the private sector to step up to the task. Employers need to invest more in training our young people to enable them to take on higher-level jobs, rather than relying on cheaper labour from outside the UK. Further, the private sector needs to invest more in infrastructure outside London. As an example of what I mean, I pay tribute to Legal & General, which is investing a very substantial sum in the construction of a major new scientific research centre in Newcastle upon Tyne, in partnership with Newcastle University and the city council, making it the latest of several urban renewal and infrastructure projects that Legal & General has invested in.

The recent *Northern Powerhouse Independent Economic Review* said that by 2050 many more jobs—perhaps 1.5 million—could be created in digital industries, health innovation, energy and advanced manufacturing across the north. That is welcome, and it can happen, if four conditions are met. The first is a clear private sector commitment to invest outside London. Secondly, access to the European single market should be maintained. Thirdly, infrastructure investment as promised by Government must actually happen. Fourthly, and very importantly, Government Offices should be re-established in the English regions. This is an important issue. Whitehall post-Brexit needs to focus much more on the regions of England, because at present its knowledge base of England is insufficient. It cannot do everything from London; it needs a cross-departmental focus at regional level if the full potential of the English regions in growing our economy is to be realised.

In recent days the Mayor of London has said that London wants to be treated as an equal with Scotland, Wales and Northern Ireland. It wants more devolution and more control over taxation raised in London. It is understandable to take that position, but it is potentially a big problem, because it is not widely understood across the rest of the UK how much tax income raised in London is spent elsewhere in the UK. If London keeps more of it, there will be less for other parts of the UK. This is not a new issue, but we need to keep it at the front of our minds as we consider the implications of Brexit for public spending across England.

Brexit will have a significant impact on local government. Here I should declare my vice-presidency of the Local Government Association. If there is a recession there is a probability of lower business rate income for councils, the danger of more cuts by the Chancellor, and a possible slowdown in the devolution agenda as the sources of project funding are reassessed. Add to those risks the possible loss of EU structural funding, and there is clearly a need to plan for all outcomes. In the immediate term local government needs a guarantee that councils will still receive all the money expected by 2020—amounting to £5.3 billion in regeneration funding—on which much local growth depends. This, of course, also applies to other recipients of EU funding, such as the voluntary and cultural sectors, and our universities, whose research funding is

so heavily dependent on EU support. There is also a need for Government to offer an assurance that the existing legal basis for contracts signed with suppliers and contractors under EU procurement laws will apply for the duration of a contract.

Then there are the implications of Brexit for European Investment Bank funding. Very substantial funds, with long-term borrowing implications, have come from the European Investment Bank—€29 billion over the past five years—and we need to know what might happen to EIB funding in the future.

I referred earlier to a reported lack of trained negotiators in the Civil Service. May I suggest that the Cabinet Office look at the capacity in local government, and in our universities, to help them? It is substantial, particularly in relation to EU law and EU funding. Local authorities need to be engaged directly in the process, because that would be of direct help to Whitehall.

8.26 pm

Lord Norton of Louth (Con): My Lords, in the time available I will comment on the referendum campaign, on the use of referendums, and on whether legislation is required to trigger an Article 50 notification.

I agree strongly with my noble friend Lord Dobbs and others who have argued that the referendum campaign was an exercise in how not to campaign. Each side played to its core audience and there was little debate. Rather, we had claims met by dismissals based on the past predictive record or the perceived bias of the source. We appeared at times to be mired in slogans rather than sustained arguments. In terms of our politics, the most corrosive element of the campaign was the extent to which the two sides engaged in inflated claims. We saw Anthony Downs' thesis in *An Economic Theory of Democracy* apply in a binary contest, each side encouraging voters to be irrational by making its platform vague and ambitious.

The result was that expectations were raised that were not going to be met whichever side won, with the consequence that not only were those on the losing side going to be disappointed—so, too, were many on the winning side. This creates a problem of trust in our political system, and indeed in our institutions. The Government have responsibility for negotiating withdrawal, but Parliament has a crucial role of scrutiny and of linkage between government and people. We have to inform, but it is a two-way process. We have to try to ensure that the gap between expectations and what can be delivered is narrowed.

Some who have spoken in this debate have reminded us that the referendum was “advisory” and that Parliament is not bound to accept it. The terminology is misleading. The outcome is not legally binding, but it has a political weight that is greater than is acknowledged in referring to it as “advisory”. It is important to remind ourselves that Dicey distinguished between parliamentary sovereignty—that is, the outputs of Parliament, enforceable at law—and political sovereignty, which is the wishes of the people, not enforceable by the courts. Dicey said:

“The plain truth is that as a matter of law Parliament is the sovereign power in the state ... It is however equally true that in a political sense the electors are the most important part of,

we may even say are actually, the sovereign power, since their will is under the present constitution sure to obtain ultimate obedience”.

He went on to say:

“Parliament can hardly in the long run differ from the wishes of the English people, or at any rate the electors; that which the majority of the House of Commons command the majority of the English people usually desire”.

To ignore the outcome, or put it to a second referendum, is legally possible but politically toxic. People may have voted in a way that they now regret; they may have voted on the basis of partial or misleading information; but they have voted, and there is nothing to say they would not vote on partial or misleading information the second time around. We cannot hold a second referendum on the basis of the retrospective application of rules. If we wanted a threshold or super-majority to apply, we needed to stipulate that at the time. I raised the issue of a threshold during the Second Reading of the EU Referendum Bill, but no one appeared keen to pursue the proposal. We were therefore in a position where a simple majority determined the outcome.

We need to take action, not to trigger another referendum but to address what rules should apply on future occasions, not only in terms of when to hold a referendum but in terms of the means by which information is provided to electors. As to Article 50 notification, I agree with Professor Mark Elliott and others, who argue that primary legislation is not required to trigger it. For reasons of time, I will not develop the arguments advanced by Professor Elliott on his blog, “Public Law for Everyone”, but rather follow the outstanding speech of the noble Lord, Lord Lisvane, and remind the House of the status of the 1972 European Communities Act.

After the introduction of the European Communities Bill, there was a ruling by the Chairman of Ways and Means, on 29 February 1972, that the Bill provided the “legal nuts and bolts” necessary for membership. He went on to say:

“It is not a Bill to approve the Treaty of Accession nor any of the other treaties which are basic to membership of the Communities”.—[*Official Report, Commons, 29/2/1972; col. 269.*] That ruling was challenged, but it was upheld the following day by a vote of the House of Commons.

As the noble and learned Lord, Lord Millett, pointed out in a letter to the *Times* on Monday, the exercise of our treaty rights under Article 50 will have no effect in itself on domestic law. That exercise is a matter for the prerogative, since it affects our position in international law and not in domestic law. We will need later to undo the legal nuts and bolts, but that is not required for an Article 50 notification. We will need later legislation, and possibly even a referendum under the terms of the European Union Act 2011, but that is consequent to and not prior to any negotiation. As the noble Lord, Lord Lisvane, argued, there is a case for seeking parliamentary support for an Article 50 notification, but that would be analogous to the October 1971 vote on principle.

The role of this House, in my view, is not to refight battles but to draw on the experience and expertise of Members in assisting in the negotiations that lie ahead and in informing people about what is happening and what it is realistic to expect. We should be looking to

[LORD NORTON OF LOUTH]

where we want the United Kingdom to be in five or 10 years and think through how we get from here to there. The contribution we can make to the nation is to be forward looking. Let us play to our strengths.

8.32 pm

Lord Desai (Lab): My Lords, it is a pleasure and a privilege to follow the noble Lord, Lord Norton—and just as he stuck to his speciality, I will stick to mine.

The women's movement has taught us the very interesting slogan: "what part of no don't you understand?" I say, "What part of 'out' do people not understand?". People say that the referendum was based on too simple a question, but a referendum cannot be based on multiple-choice questions. It was in or out, and the message is that we are out. It is our duty to implement what the people told us.

Forget about the fact that they were misinformed. We have fought elections, and do we think that people were better informed in elections than in the referendum? Do we not think that people were made false promises in manifestos? I belong to the Labour Party, where every conference is about the betrayal of manifesto promises. The people may be illiterate; they may be racist; but they are the people and they were right. Our duty is to implement.

Secondly, on Thursday 23 June we had an economy. Today we have the same economy. It has not changed. It has not collapsed. Whenever the stock market collapses, people say, "The fundamentals are all right". They never talk about fundamentals when the stock market is rising. I think that the fundamentals are perfectly sound. The British economy has not run away anywhere. The same people are working in the same jobs with the same ingenuity and enterprise. I also believe that the forecasts of recession are exaggerated. If we keep our heads there will be no reason for any panic or large-scale capital outflow because this happens still to be one of the most prosperous and productive economies—as it was on Thursday 23 June, and as it is today.

I would say only one thing about the right honourable gentleman the Chancellor. I expected him to be out there on Friday morning, giving the message that I am giving. He should have come out and said, "Don't panic". He might have added, "I don't like this result but the economy is sound, and from there we proceed"—because we do not want to make mistakes in false panic. Let us remember that.

I will move on to what to do next. There are two phrases that people are confusing. One is the divorce. We have decided on a divorce, and then of course there is the problem of remarriage. What arrangements will we make when we are out? Shall we come back in with half a step, or really pretend that it never happened and be friends ever after, and act a little bit like Switzerland, Norway or whatever?

These things are sequential. The technicalities may be left to lawyers, but first we have to negotiate the out. The divorce has to be negotiated. There are 6,987—or however many—pieces of legislation that we have to review and decide how many of them to accept or not accept. It will be an enormous task. A friend of mine who works in the private sector said

that one leading agency had made some contingency plans. He told me that two months ago they had decided to hire 4,000 people in case Brexit was voted for—and they have done that, let me assure you. The Government may have to hire 10,000 extra people to get through this, because it is going to be an enormous task. We will need a very large Joint Committee of both Houses of Parliament to be able to absorb the amount of work which has to be done. I think that the noble Lord, Lord Boswell, will have to bear most of the burden—and good luck to him.

Once we have worked out the divorce, we should work out what alternative arrangements we want. As far as I can understand—though I may be wrong—legally, those things are treated as separate negotiations by the European Council. We may be able to do something but first the divorce has to be worked out. Since the divorce will take two years from whenever we trigger Article 50, we are looking at the end of 2018 or 2019. Until then, we are in the EU; everything is fine, all the grants and agreements are still working, we are still in low-carbon territory and so on. So let us all calm down, let us say that we may be in this position until the end of 2018 or maybe the middle of 2019. Our rearrangement negotiations will start then, but it is very hard to predict how long they will take. They may take another two years.

Regarding Norway or Switzerland, I have one suggestion, which your Lordships may or may not like. The WTO option is the only option that does not require negotiations; it is a case of, "Okay, we have done the divorce, we will walk away, thank you very much". In the remain campaign there were two tendencies that were mixed up. One was the liberal, free-trade element of the Conservative Party, which has never liked the customs union logic of the European Union. They are Adam Smith people, not Friedrich List people, and good luck to them; they got a bit nervous when they won, but that is another issue. If we are in the free-trade, liberal area, WTO is the best option—and, since everybody else is in the WTO, we may as well be there. That was the promise made by a lot of people. It is something that we had until 1973, so I do not know why we could not try it again. So I will just say: first the divorce, then the WTO—good luck.

8.40 pm

Lord Shutt of Greetland (LD): My Lords, when I saw that I was to be preceded by the noble Lord, Lord Desai, I knew it would be a case of "Follow that". I will try. I had hoped otherwise, but I feared the result that we have. As speaker No.108, I go back to the introduction by the Leader, the noble Baroness, Lady Stowell, yesterday and I précis it: we must make the best of a bad job. But let us look at the good job of the EU—I will try to help the noble Lord, Lord Cavendish, here. It seems to me that there are three major elements to the EU: there is the issue of peace, reconciliation and the world order, human rights, and fraternity, including areas such as the Erasmus programme for youth exchange; secondly—so much has been said about this—the promotion of and involvement in the single market; and, thirdly, the combining of financial resources, including but not exclusively, the redistribution of resources from the rich to the poor nations.

I would like us to consider that third element a bit further. It is very relevant—even if the result of the referendum were somehow to be reversed, it is still relevant. Using 2004 figures, the UK contribution to the EU was €14 billion, but there was a return of €7 billion. Amazingly, many people seem to think that we in the UK are the only people putting any money into Europe, but we are eighth in the list per head; it is under £100 a head per annum. Where does the money come back to? Of the €7 billion that comes back, €4 billion is returned to agriculture, €1.72 billion to regional development and more than €1 billion to research and development. These are areas where resources are needed here in the UK.

As I understand it, we are in until we are out. We do not know how long negotiations to depart will take. There are not many who think it will take two years. I have heard five years; I have heard up to 10 years. Therefore, our involvement in the budget could last a very long time. I have three areas on which I would like question the Minister. What is the attitude—where is human nature?—of those looking for European Union money now, today? They might think, “We had better get an application in fast, or else it will be gone”. Or they might say, “What is the point? We are on our way; there is little point in applying”. Whose job is it to make certain that applications continue to go in and that the UK gets its fair share of what ought to be returned? Is there a parliamentary element to this?

Secondly, what will be the attitude of those in charge of budget heads in the European Union where funds should be returned to the EU? Will they be thinking, “Oh, they are on their way out; we need not respond to that particular application. Anyway, we have programmes that last five or seven years and they will not be there at the end of it”? Will they be saying no? Whose job is it to see that the EU grant-making budget is used properly and that the UK gets its proper share? Is there a parliamentary element to this?

It must be somebody's job to assess the areas where there should be return grants. If they are not there, proper consideration should be given to a replacement. Indeed, there may well be items of EU expenditure where money is returned here which the UK Government have forgotten about. We have been in the EU for 43 years and there is no budget head here at all to look at. The EU grants budget should be looked at and gone through with a tooth-comb to be certain that the UK is clear of its future needs. Whose job is it and is there a parliamentary role for this too? I believe we are in until we are out and the return grants budget is very important.

8.45 pm

Earl Attlee (Con): My Lords, I am Eurosceptic at best. Although I was very pleased to have the opportunity to vote on this matter, I decided to vote remain. This was, first, because we have enough on our international plate now, without having to manage a Brexit. Secondly, it was for our long-term, grand strategic interests. We need to have a locus at the centre of Europe, not just to ensure that we can have curved bananas, but so that, when Europe has some problems—which it will—we can be there to hold it together and stop matters from

becoming very much worse. Finally, it was because Mr Putin would dearly love us to leave the EU and thus destabilise it.

While I support the Government's course of action, it is important to analyse how we got to this position, if only to inform our domestic policy. I always enjoy listening to the noble Baroness, Lady Kennedy of The Shaws. Yesterday, she did not disappoint when she explained the benefits of workers' rights provided by the EU. The problem, though, is that artisan workers simply do not care about them. If their employer is unsatisfactory, they simply leave and find another. By artisan, I mean someone who has reasonable proficiency in a trade or skill, which can be acquired within about 12 months with a bit of effort and only moderate academic qualifications. Worse still, an older and educated Brexiteer will see this as an undemocratic way of putting in place something that the House of Commons would not.

At home, our decorator is a young Brit, an artisan worker with a young wife and child. On 15 June, we told him that we were going to vote remain. He told us that no one he knew was going to do that. I was then sure that the leave campaign would win because, unfortunately, the remain campaign had lost the artisan vote. We know that there are some very unfortunate reasons why that occurred.

Much has been made of the fact that big business very much supports the EU project. They would, wouldn't they? On things that matter, they have one main point of contact and that is the Commission. The Commission does not put out a manifesto to the electorate which the electorate then convert into a mandate. They do not have to deal with pesky national parliamentarians, some of whom understand the issues at play. One only has to think of the motor industry's block exemption from the competition policy to understand that. Yes, there are MEPs but, if I do not have the foggiest clue who my MEP is, or what their agenda is, it is hardly surprising when the rest of the population does not either.

The electorate cannot vote against the Commission if they do not like the cut of its jib. They certainly cannot sack the Commission. In other words, the EU is totally undemocratic. This is what concerns so many of the older, well-educated voters. Moreover, in economic terms the EU is wonderful for big business because free movement of labour means that you can increase demand in the economy without running out of labour or its cost increasing. Effectively, there is an inexhaustible supply of good-quality and highly motivated unskilled and artisan labour available.

I accept that EU labour is fiscally neutral and beneficial for the size of the economy. The trouble is that an artisan does not know what fiscally neutral means, while the benefits argument is a red herring because most EU migrants come here to work. Worse still, our larger economy does not mean more GDP per capita and, for the artisan, that translates into being no better off despite the growth. I am no economist but it seems to me that an economy needs knowledge, infrastructure, capital and labour. We provide as much knowledge as possible but the infrastructure can be improved only slowly. We carefully regulate the supply of money but do nothing to regulate the supply of

[EARL ATTLEE]

labour under the free movement arrangements. I am sure that all noble Lords recognise the benefits of free movement of labour within the EU and I will not weary your Lordships by rehearsing them.

Yet another problem is growing the economy by increasing the population when the infrastructure is fixed or is only growing slowly. I think in particular of commuter transport systems and housing. Since we cannot increase the capacity of either as fast as the population is increasing, it is not surprising that we have overcrowded trains and unaffordable house prices. So what is to be done?

Our EU partners are still in the phase of being cross and in denial. I am sure that the Government's policy as laid out by my right honourable friend the Prime Minister is absolutely the right one, with one exception, and in accordance with the mandate from the electorate. The policy of not invoking Article 50 at least until the autumn buys everyone time. However, if we cannot convince our EU staff in your Lordships' House that they have nothing to worry about regarding their own position, then HMG must be guilty of unnecessary cruelty to all EU citizens working in the UK. This is a perfectly useless so-called bargaining chip. We should start with being generous where we can.

Although a bitter rearguard action in the UK is doomed to failure, there are some grounds for hope for the remain camp. When the EU elites get over being cross and in denial, perhaps they will do some hard thinking with a wet towel wrapped around their head. They might be able to come up with a totally new proposal for regulating the flow of labour from accession states to more fully developed states. They also need to find a way to deal with the democratic deficit, or at least to recognise the problem. I was very interested in the comments of the noble Lord, Lord Alderdice, on that issue. If that could be done, with a new deal on migration coupled with a new and effective leader of the Labour Party, then something genuinely new could be offered to our electorate in a further referendum with a reasonable chance of it being accepted. But in the absence of this, the Government should carry on with their policy.

8.53 pm

Baroness Quin (Lab): My Lords, it is a pleasure to follow the noble Earl and I hope to pick up on some of his points during my own remarks. I make no apologies for talking about the referendum campaign itself and sharing my own experience of it. This is not because I want to cry over spilt milk or wallow in despair but because there are lessons to be learned from this campaign for any future referendums that we may hold and for our democracy as a whole.

I canvassed and leafleted for remain in my home area of the north-east and spent that time between where I live in rural Northumberland and my old parliamentary patch of Gateshead. I also spoke at meetings throughout the area, from Tyneside to Teesside. Sadly, apart from the city of Newcastle upon Tyne those areas all voted leave in the referendum. In the course of the campaign, I certainly encountered some of the anger and alienation that others have described

in this debate, as well as a great deal of confusion about some of the issues involved. While I accept the result I do not believe that it is wrong to be very concerned about the poor quality of the information disseminated throughout the campaign. I did not like some of the claims on the remain side, particularly what I felt were overprecise economic predictions, knowing how economic predictions can be swept away by unforeseen events. However, I have to say that many of the leave campaign claims were, at best, half-truths and, at worst, blatant lies.

The prize for the most misleading leaflet in the campaign must surely go to the rather innocent looking leave leaflet entitled, "Not sure which way to vote on the EU?". This was a clever leaflet, with this opening question and its statement on the front that there were risks in voting either way, but when you opened it up it was revealed in its true colours, with its statement that Turkey is set to join the EU, with its 72 million people and borders with Syria and Iraq, and, of course, the claim about the £350 million a week being spent on health. Indeed, much to my sadness there was a quotation in the leaflet from my erstwhile honourable and good friend, Gisela Stuart:

"The rights we have won for British workers came from our Parliament, not the EU".

This was a perfect example of a half-truth: to a certain extent it is true, in that Governments had agreed such legislation and such initiatives inside the European Union and given legislative effect to them in our own legal system. Indeed, that fact contradicts the myth that the Commission imposes such legislation on us without our participation. This half-truth, of course, also conveys, utterly falsely, that the EU was not interested in, and not a prime mover in, promoting the rights of people at work. This is an absolute travesty of the reality. Indeed, as a Member of the European Parliament from 1979 to 1989 I was involved on behalf of constituents in cases going to the European Court of Justice to ensure that we delivered to employees in practice the rights that we had agreed to and introduced through our own legislation.

Finally, this leaflet claimed that major employers such as Nissan, Airbus, Unilever and others had stated that they would stay in the UK whatever the result of the referendum and reproduced all the logos of these firms in the leaflet, giving the impression that they endorsed it. Not surprisingly, Nissan, for one, has begun legal proceedings against the leave campaign as a result.

Noble Lords may say that this was just one leaflet, but it was quoted to me several times on the doorstep, particularly the Nissan section, being in the north-east, and the section about Turkey's membership. When I pointed out that all countries of the existing 28 members, big and small, have a veto on any new country's application to join I was often looked at with varying degrees of incredulity. Like my noble friend Lord Cashman in his terrific speech yesterday, I did not recognise the description of European institutions or European decision-making portrayed by leave in the hysteria about faceless, dictatorial EU bureaucrats. I say to the noble Earl, Lord Attlee, that European Commissioners attend the meetings of the European Parliament and are regularly questioned by them.

Indeed, European Commissioners have been interviewed and questioned by committees of this House. The thought that they are faceless seems slightly odd. I have never thought of the former European Commissioners who sit in your Lordships' House—the noble Lord, Lord Tugendhat, who is in his place, or my noble friends Lord Kinnock, Lord Mandelson, Lord Richard, or Lord Clinton-Davis—as either faceless or dictatorial. In fact, I would have liked their wise words and experience to have been given more publicity during this campaign.

The BBC, I am glad to say, had its EU Reality Check website, but many people conducting interviews during the course of the referendum campaign did not seem briefed on the facts and many wild allegations therefore went unchallenged. Surely, given that we knew the date of the referendum quite a few months in advance, media interviewers should have been better prepared and better briefed about the issues to raise.

Reference has been made to the petition with 4 million signatures calling for a second referendum, but another petition is interesting: it calls for truthful politics and the creation of an independent office to monitor political campaigns. This petition shows the frustration that so many people felt about the conduct of the campaign.

Finally, the most cheering political event for me recently was the election of Sadiq Khan as Mayor of London. I salute Londoners for voting remain in such numbers, but while I accept that London and the devolved authorities should be closely involved in negotiations, I also plead for those areas such as mine which voted leave not to be forgotten. It would be the cruellest of ironies if those who voted leave and were therefore on the winning side should lose out even further.

The Lord Privy Seal said that she and the noble Baroness, Lady Anelay, are in listening mode. Of course I welcome that, but we need not just to be listened to, we need answers, we need reassurances and we need to find a credible way forward in the interests of our country as a whole.

9.01 pm

Baroness Jolly (LD): My Lords, I am happy to follow the speech of the noble Baroness, Lady Quin, and I recognise much of her campaign experience: it mirrors mine.

Today, I am not going to speak about trade or migration; many have spoken eloquently about the options that might be open to a new Government. I shall speak about Cornwall, where I live, and defence, on which I speak in your Lordships' House. Like many noble Lords, I spent some time in the past few months on street stalls at weekends, talking to the residents of Cornwall. On polling day, along with a Conservative and a Labour Party member, I went out knocking up our remain vote. We did not delude ourselves. Despite having Objective 1 status, an agricultural area and fishing, the rhetoric of sovereignty—"We want our country back"—and immigration—"I'm not a racist, but ..."—pointed very clearly to Cornwall voting to leave.

Let us be clear: Cornwall has benefited hugely from our membership of the EU, with funding for industry, such as the Davidstow creamery; education, the Combined Universities in Cornwall; infrastructure, fibre-optic broadband and the dualling of the A30; tourism and jobs, the Eden Project; the environment, green energy—all of which led to an improved economy, opportunities and growth.

However, of our five MPs, all Conservatives, four supported the leave campaign and only one remain. It is probably worth noting that those electors in the remain MP's patch supported remain. The result was 57% to leave on a 77% turnout. In fact, the south-west as a whole supported leave, with a few notable exceptions. I had hoped that the rest of the UK would pull us along, but I was wrong.

But all this now seems long ago. During the campaign it was clear that few had thought of the UK belonging to any other international organisations from which we benefited—yet, on prompting, they would endorse our membership of the Commonwealth, the United Nations and especially NATO. Of course, these are not up for debate, but what is without debate is that our departure from the EU will have an impact on NATO. The meeting this weekend in Warsaw is bound to be affected by the result: Jens Stoltenberg, Secretary-General, has said as much. It is clear that our position within NATO is rock solid. Any negotiations with the EU are independent of NATO. However, NATO and the EU are working more closely now than ever before. The leaders of both organisations now as a matter of course attend each other's summits. In future, we will have only one foot in this closer union.

Thanks to the joint working of NATO and the EU, we have enjoyed stability and peace in Europe for more than 70 years. Most recently we have worked together on cyber and hybrid warfare and on helping refugees in the Aegean Sea. We are equally important to our western-facing allies and to those sharing a border with Russia. Yet there is fear that our leaving will precipitate a rush to leave by other, less stable states, and that the extreme right will be in the ascendancy. I am sure that the Commission is concerned about the stability of the Union, and I would imagine that work is already in hand to look at areas of reform.

As other noble Lords said, one of the unknowns of the future is our economy. We have committed to spending 2% of our GDP on defence and have been encouraging other NATO members to do the same. Will 2% of a diminishing pot, however, give us enough to manage? We will now face on our own such currently shared tasks as patrols in the Mediterranean, protection of fisheries and management of our 200-mile exclusive economic zone. Our EEZ is just short of 300,000 square miles.

Historically we have contributed 20% to the total EU military expenditure. This will not be money saved, as, alone, we will still need to carry out the same functions that we shared. Our coast will need patrolling—and not just the Straits of Dover but elsewhere, where we know the unscrupulous trafficking of people and drugs takes place. Were he in his seat, I am sure the noble Lord, Lord West, would be calling for gunboats in the Channel—but he does make a serious point.

[BARONESS JOLLY]

The Royal Navy, as it is now, because we have had allies within the EU to work with on these issues, is not in the same place. The last SDSR contained a plan to look at lightweight, all-purpose ships for the future. That future may come sooner than we think.

Perhaps different circumstances, a smaller GDP and our own sovereign-state responsibilities will force the new Government to look again and draw up a new SDSR. The SDSR of 2015 was welcomed, but it looked to a future which now has changed. NATO commitments will remain, but will we remain the reliable allies of EU states, especially in the context of our close relationship with France?

What might change in a new SDSR? Would or could the Trident decision be amended or revisited? Perhaps I should remind noble Lords that, as yet, Parliament has not made a decision on this. The main-gate vote has not happened, and now I am not sure when it might be. Looming large now is the promise of a vote on Scottish independence. The SNP opposes Trident in an independent Scotland. So where will we keep our boats? Faslane is the current option—deep water, easy access to the Atlantic. Maybe we will need to talk to the Welsh.

In this debate, when we speak about negotiations, we have been thinking in terms of trade and labour mobility, but our defence and security and intelligence issues are key, too. As members, we are part of the common security and defence policy, a domain of the European Council. Our Prime Minister is our representative, and will be until we leave. But Brexit will mean that we lose our place in this forum, along with the loss of access to key EU institutions and EU foreign policy networks—and, of course, the international arrest warrant.

There is no denying that the world has become more dangerous in recent years. Let us hope that this decision does not have unknown consequences for the defence of our nation. Defence is a lot about hard power, but we have a reputation for the effective exercise of soft power, too. Over the past few years we have been in the top three countries in the world. We will need to exercise all that and more in the negotiations that follow.

9.09 pm

Lord Hannay of Chiswick (CB): My Lords, I am delighted to follow the noble Baroness, Lady Jolly, because she mentioned something that has hardly been mentioned in this debate, which is NATO. I, too, want to say something about that at a later point.

Post-mortems are grim occasions at the best of times, but this post-mortem on the overturning by a relatively small majority of the policies which have guided 10 successive Governments during the past 55 years is about as grim as it could get. It is all the more so when one considers that the campaign which preceded the 23 June vote plumbed depths which public life in this country has not seen before, with the leave campaign relying on half-truths, untruths and straightforward bare-faced lies, the most notable being the claim that £350 million a week was sent to Brussels. Faced as they were with conclusive evidence not from the remain campaign but bodies such as the Institute

for Fiscal Studies that their claim was simply untrue, with it being illustrated carefully how untrue it was, the leave campaigners demonstrated that they had picked up a lesson in the Middle East, where it is always said: “If you’re going to tell a lie, you’d better tell a big one, because then more people believe it”.

That we are now required to respect the outcome of that vote is a fact of life, but it in no way discredits the view that the vote represents a major strategic error of judgment. It merely illustrates the folly of submitting an issue of this complexity to a binary choice and the folly, too, I fear, of the Prime Minister playing Russian roulette with the basic foundations of Britain’s foreign policy.

The question we now face is what can be saved from this shipwreck. How best can we mitigate the negative consequences of this decision to withdraw from the European Union, negative consequences which have already, in the space of one week, moved from being that airily dismissed Project Fear to being a daily reality? In considering our options, I hope that we can discard the relatively trivial issue of when to trigger the provisions of Article 50 of the treaty, which is the only legal way of leaving the European Union and the only way that is consistent with our international obligations. It is reasonable enough to delay for the period necessary for a new Prime Minister to take office and a new Government to be formed and then to have the ability to look carefully into the policy choices before them, but to delay artificially beyond that could be, and probably would be, to turn that issue into a completely unnecessary bone of contention with our EU partners, who after all we will require to respond positively to the ideas we put to them when we get round to deciding what they are.

When the new Prime Minister and the new Government take office, probably in September, let us hope that they will then be put through a crash course by their Civil Service advisers on the fundamental differences between, on the one hand, continuing in the single market and, on the other, leaving it and either seeking to negotiate a free trade agreement or relying on the WTO. I hate to disillusion the noble Lord, Lord Desai, but if he thinks that rejoining the WTO is a negotiation-free option, he does not know that much about the WTO.

The superficiality in this distinction between the single market and a free trade arrangement is, frankly, pretty startling. We have heard so far some very slippery concepts, such as “access” to the single market, bandied around. The leave campaigners do not seem to understand what that means or does not mean. For example, they say that the Americans have access to the single market. Sure, they export to the single market, but why on earth are all those American banks stacked up in the City of London? They are there because they need to get a passport to operate and they need to be within the European Union to do that. They do not have access for their banks if they are sitting in New York. That is a simple fact. Let us take the Japanese car industry. The Japanese do not send very many cars to Europe; they make a lot of cars in Europe, and thank heavens they make a lot of them in Britain. They do that because it is a gateway for barrier-free, tariff-free, no-inspection-required access to this huge market of

500 million. That is why they have all the factories here. So please do not let us confuse these slippery phrases like “access” with the real thing, which is what you get if you are in the single market. The Government’s White Paper in February setting out the alternatives, which was given scant attention, explained fairly carefully how these different alternatives played out on our trade, and, clearly, remaining in the single market was the best of the bad lot—the best lot, of course, being to remain in the EU.

However, I suggest also that any external relationship that we may fashion with the EU must surely cover one or two other key areas of policy, in which I would identify foreign and security policy and our protection against international crime. The advantages of continuing to work as far as possible in lockstep with the EU in handling the major foreign policy challenges ahead of us—Islamic State, instability in the Middle East, the new assertiveness of Russia’s foreign policy, climate change or the pressures from migration—are obvious. However, securing that will require much dexterity and will need underpinning with new procedures and new institutional links which would be greatly helped if this weekend’s meeting in Warsaw leads to a much closer relationship between NATO and the EU, which I believe it is the intention that it should.

As for justice and home affairs, the whole network comprising Europol, Eurojust and the essential instruments such as the European arrest warrant, the European criminal information record system, the Schengen information system and the Prüm agreements—all that, and much more besides—is really important for us. As recently as 2014, only 18 months ago, huge majorities in both Houses confirmed that it was in our national interest to remain in all those areas. So this too would require to be built into any new relationship with the EU as an integral and properly smoothly functioning part of it.

I wish to say one word about the vexed issue of EU citizens in the UK. So far the Government’s response to that has caused more alarm and despondency than it has allayed. That is really sad because in so doing the Government have betrayed the main values that I think we all hold very dear. I ask the Minister simply to state clearly in winding up that the object the Government will pursue in this matter is to protect the acquired rights of EU citizens in this country. It would not take much to say that, and if she did then a lot of people would go away on holiday without the concerns that they have now.

Are the objectives that I have set out negotiable? That is impossible to say at this moment. Would their achievement reduce the gap between the benefits—

Noble Lords: Time!

Lord Hannay of Chiswick: I am drawing to a close. Would their achievement reduce the gap between the benefits that we get from membership and those that we could get from them? We cannot tell that now. It is fruitless to try to answer those questions before negotiations have even started, or to speculate on what should be done if positive answers cannot be given to them. Suffice to say, if given the choice, I would not start this journey from here.

9.19 pm

Lord Inglewood (Con): My Lords, it is customary in your Lordships’ House to say how pleased and honoured one is to follow the previous speaker. Of course it is true when the previous speaker is the noble Lord, Lord Hannay, whom I first met as a callow 37 year-old newly elected MEP when he was ambassador at UKREP and, frankly, I was pretty frightened of him. As the 113th and final Back-Bench speaker in this hugely wide-ranging two-day debate, I am sure that my pleasure is shared by the whole House.

I voted remain because I believed it was in the national interest. I do not regret it, but the world has moved on and in the knowledge that politics is the art of the possible we must strive to achieve the best for our country in changed circumstances. In doing that, we must be hard-headed, realistic, assume no favours and recognise that there is no such thing as British exceptionalism.

Our economic future was one of the main themes of the great debate. I am concerned by the apparent binary choice in front of us which I describe in shorthand as either the EFTA way or the WTO way. I believe neither is satisfactory. In going down the WTO way we voluntarily erect a tariff barrier between ourselves and our 500 million closest neighbours. However good we might be at business, it does not seem to be sensible. However, I am also concerned that if we simply tried to emulate the Asian tiger, our current political and economic structures are such that we may well end up inside her.

Looking down the other fork in the road, we should recall that it was the shortcomings of EFTA membership which led us to join the European Economic Community that was in the first place. In my experience of 10 years working on the legal affairs and the single market in the European Parliament, very scant regard was paid to EFTA’s concerns. Furthermore, it is my view that we would diminish not increase our sovereignty by losing real political input into the rules and governance of the single market. And of course, it is going to cost us. In this part of the great debate, we must not forget non-tariff barriers and their potential impact on trade. As Lord Cockfield appreciated when working out the template for the single market, they were crucial to a fair as opposed to a free market.

We all know that freedom of movement is a very pressing concern in this country. It is equally so to others in a different way. I recall a senior Polish figure explaining that freedom of movement was the *quid pro quo* for the right of other member states establishing businesses in his country. Put like that, it does not sound so unfair or so silly. It is an issue that does not lend itself to simple solutions based on slogans and we should not pretend it does.

The EU is not only about pure economics but also about our other national priorities, for example agriculture and especially our foreign and security interests. How are we going to deliver our aspirations and can we afford it? Then there is the coming generation who, as has already been mentioned, feel rightly or wrongly that their future has been stolen by a corrupted process. How do we keep faith with them?

[LORD INGLEWOOD]

During the campaign I used to comment, perhaps a trifle flippantly, that this is a civil war. I was probably closer to the truth than I thought. Some 17 million angry people voted to leave the EU and 16 million more are now equally angry that they did. It is a horrible predicament for the country to find itself in.

On top of all this is the matter of Britain. I fear for Scotland. I am a unionist, but if Scotland feels as it voted, constitutional niceties will not stand in the way of political turmoil. I fear for Ireland. As chair of the ad hoc Committee on Extradition Law I was entirely persuaded of the importance of the European arrest warrant in stabilising that part of the United Kingdom. We must not allow our home-grown version of Daesh, the IRA, to reopen its campaign of atrocities as a result of this. Perhaps most of all I fear for London, which seems to stand to lose more than elsewhere in the country. It is the nation's paymaster, albeit we do not collect as much as perhaps I feel we should. My instinct tells me that this could turn into the biggest problem of all.

Furthermore, I believe we forget at our peril that the terms of leaving the European Union depend as much on them as they do on us. The 27 other member states have a veto. What the future will be is not under our control; we are merely in charge of our national wish list. To go forward successfully requires pragmatism allied with intelligence and flexibility and it will be fatal if everything is seen in terms of black or white.

Here at home we know that the two largest political parties are in turmoil over their leadership. My advice to them—if anybody is remotely interested—is the same for each. Leaders must lead, must lead in the national interest, and they must be wise. A failure on any of these counts, on either side, will make a difficult situation even harder. In addition, regardless of the constitutional niceties, if Parliament does not assert itself over the next steps in this story then, quite simply, what is the point of Parliament at all? We might as well strike our tents and go home.

The case for Brexit was the greater opportunities that lie ahead for us. Unless we seize them, the whole exercise will turn out to be pointless and very damaging, so we must work hard to make that happen. What that might involve, I quite simply do not know. However, we first need a plan, then a team to deliver that plan, and that team must be drawn more widely than from the Westminster and Whitehall bubble.

In conclusion, a couple of years or so ago I said in a debate in this House on a possible EU referendum that any fool can get divorced, but that dealing with the children and the financial consequences were the hard bits. Now we know.

9.25 pm

Baroness Smith of Newnham (LD): My Lords, the noble Lord, Lord Inglewood, just pointed out that it is conventional to say how glad one is to follow the previous speaker. I am obviously delighted to follow the noble Lord and the previous 112 speakers. I realise that I am one of only two people keeping noble Lords from what they want to do, which is to listen to the noble Baroness, Lady Anelay, who, along with the

Leader of the House, has been in listening mode for the last two days. I thank them very much for that and in particular for taking two days to listen to a set of arguments, many of which have sounded similar, and some of which have sounded similar to every Statement and set of questions we have had since last Monday, when we first responded to the decision taken on 23 June. I apologise in advance to the noble Baroness, Lady Anelay, because I will raise some of the issues again, particularly the situation for EU nationals resident in the United Kingdom.

We have had an extraordinary debate. We had excursions into the internal workings of the Conservative Party, when the noble Lord, Lord Naseby, asked why the chairman of his party had resigned and who he should speak to in Conservative Central Office. I am not sure whether the noble Baroness, Lady Anelay, will be able to assist on that, but it was quite interesting to have the opportunity to find out what is going on in the Conservative Party and to realise that it has lost not only a leader but a chairman. Therefore the point made by the noble Lord, Lord Inglewood, about leadership and leaders leading is hugely important; at the moment there is a question mark over that.

We had the question of whether we should trigger Article 50 as soon as possible or delay it and whether we want the lawyers to be involved. Mention has been made of divorce. Before the referendum happened I suggested that one of the things we know about divorce is that it tends to be costly and that the people who benefit are lawyers. Perhaps we do not want to hear too much from lawyers debating whether we should invoke Article 50, because hearing from courts rather than responding to the will of the people is probably not the correct way forward.

So far we have not heard anything that has brought unanimity as regards whether leavers or remainers—although we are now all one again—want to remain in the single market or have WTO terms. We have heard different views from both sides of the House on that, so there still seems to be huge uncertainty about where we want to go. Part of the debate seemed to be a replaying of the referendum itself. I listened to a fantastic speech from the noble Baroness, Lady Kennedy of The Shaws. It was passionate and made the case for remaining in the European Union. Why did we not hear people speaking like that on the remain side during the campaign? If you heard passion, vision and clarity in the debates before the referendum it was on the leave side, which had the advantage because it had passion. Britain Stronger in Europe, with its focus on the narrow economic aspects, missed an opportunity to win over the people of the United Kingdom. The campaign to remain let us all down because it focused on the narrow economic issues and did not allow the passion that many of us have to come through. Those of us who campaigned so long for remain were let down by a campaign that kept us very quiet indeed.

However, we have had the debate. There is no point in rerunning the referendum debate because we are not going to rerun the referendum. Certainly on these Benches, as for most Members across the House, there is a very clear sense that the decision taken on 23 June has to be accepted. We cannot call for a second

referendum now. To do that would lead to, if anything, a much stronger vote to leave. It would certainly demonstrate that the political class is entirely out of touch with the voters and we should not go down that route.

One of the things that has also united many parts of the Chamber over the last 24 or 36 hours, and since Monday of last week, is the concern about blatant racism that has come out in various places. One of the things that was most poignant in the contributions from the most reverend Primate the Archbishop of Canterbury and from my noble friends Lord Dholakia and Lady Manzoor as well as the noble Baroness, Lady Mobarik, is that we seem to have lost our country and we are hearing things that are not worthy of the United Kingdom. That has to change.

One of the pernicious things about the referendum was how it has divided society, and one of the most important things from the outcome of the referendum is finding a way to bring the United Kingdom back together. Whether we voted leave or remain, whether London or other metropolitan areas voted to remain, whether Scotland voted to remain while other areas voted to leave, we need to find a way of reconciling the country.

The noble Lord, Lord Blencathra, got a little excited in his presentation while referring to the Home Secretary as wanting to unite her party, her country and getting the best for Britain and he said “No, no, no”. I do not care whether the Conservative Party is reunited. That is not my concern. I would like our country to be reunited and to be held together. However, the key thing from the referendum and the outcome has to be that the decisions that are taken informally and then formally when Article 50 is triggered are in the best interests of the United Kingdom and of every single man, woman and child in it, and not for the 17 million or the 16 million. That includes EU nationals resident in the United Kingdom. We have heard from right across the Chamber: the Bishops’ Benches; the Cross Benches; the noble Lords, Lord Lawson, Lord Lamont and Lord Howard; Members who were supporting leave; people who have supported remain. We are all united, as far as I can tell—with the exception of the noble Lord, Lord Pearson of Rannoch, and the Home Secretary—in saying that UK nationals resident in the United Kingdom who were here on 23 June should have their rights respected. I know the noble Baroness, Lady Anelay, is going to have the line that says it is for the next Government and the next Prime Minister to decide. It is a decision for the Government. It is a decision that could be taken before any negotiations start. It is the morally right thing to do. Will the Government please think again?

Some things already reunite us. For most Members in your Lordships’ House and in the other place, there is an acceptance that the referendum has happened—the outcome is that the UK has decided it wishes to leave the European Union. We now need to find ways of reuniting our United Kingdom and ensuring that we do not find our way sleepwalking not just out of the European Union, but to a disunited kingdom. My noble friend Lord Bruce and the noble Baroness, Lady Goldie, talked about Nicola Sturgeon and the role of the SNP. She has already been to Brussels; she has

already talked to Jean-Claude Juncker and Martin Schulz. It is not in the interests of Scotland any more than it is in the interests of the United Kingdom for Scotland to try to have a separate deal with the 27. It is not possible and it will not happen.

As colleagues have said, it is worth looking at the statistics. There was a strong vote in Scotland to remain in the European Union, but fewer people in Scotland voted to remain in the European Union than voted for Better Together in September 2014. So there is not a strong mandate for Nicola Sturgeon to call another referendum, but to give the siren call to take Scotland out of the United Kingdom and remain in the European Union under our present terms is simply fantasy. We need to ensure that we do not move from the lies, the fear, the hyperbole and the hysteria of the Brexit referendum to more nonsense in Scotland. We need to find ways of holding the United Kingdom together and we need to work together in the national interest. The Liberal Democrat Benches are willing to work with the Government in the national interest but we need to think about the rights of everybody living here, including EU nationals.

9.35 pm

Lord Collins of Highbury (Lab): My Lords, I thank all contributors to the debate. It has been an amazing and lengthy debate, and every speaker over the last two days has sought to better understand what happens following the people’s decision. Unfortunately, we heard little detail from the noble Baroness the Lord Privy Seal. It is not as though we did not have plenty of time to consider the issues or fair warning about the matters to consider. As the noble Lord, Lord Boswell, said, and as the noble Baroness, Lady Boothroyd, reminded us, we have also had the excellent reports of your Lordships’ EU Committee, which not only focused on key issues arising from the Government’s negotiations but addressed the vital question of plan B in the event of a leave vote. Warnings were also given in the Government’s own paper, *The Process for Withdrawing from the European Union*, published in February. It stated that a referendum vote for Brexit would,

“begin a period of uncertainty, of unknown length and unpredictable outcome”.

My noble friend the shadow Leader of the House, in her contribution yesterday, expressed shock not only at how few answers the Government have but at how few questions appear to have been asked beforehand. The noble Lord, Lord Hennessy, pointed out:

“Whitehall departments were unprepared”,

apart from the Treasury,

“which had plans in place with the Bank of England to stabilise the markets”.—[*Official Report*, 5/7/16; col. 1963.]

Given all that, perhaps the Minister can explain why Ministries were expressly forbidden to draw up contingency plans for exit. Does she agree with the chair of the Commons Foreign Affairs Committee, Crispin Blunt, that the Prime Minister was guilty of a “dereliction of duty” for setting up a withdrawal unit only after the vote to leave the EU? Perhaps she will suggest to her colleague Oliver Letwin that reading your Lordships’ EU Committee reports should be his first priority.

[LORD COLLINS OF HIGHBURY]

The key question for the Minister to answer tonight is what oversight the UK Parliament will have over the negotiations on the withdrawal and the new relationship beyond existing ratification procedures. We have had extremely good contributions on this issue and I do not want to repeat them. There have also been some very pertinent questions, and I hope that we will get some clarity tonight. My noble friend the shadow Leader of the House asked whether the Government have considered new parliamentary structures, such as specialist committees—possibly a Joint Committee working on the detail of the negotiations and seeking advice from experts. These are options that we also need to consider, and I would be extremely interested to hear what consideration has been given to the role to be played by the EU committees in your Lordships' House.

As many noble Lords have reflected in this debate, the referendum process has inevitably polarised politics in our country, with complex issues appearing to be resolved by one simple answer. Whatever our thoughts on people's reasons for deciding the way they did, what is not in doubt is the final outcome, which must of course be honoured. The noble Baroness the Lord Privy Seal said in her opening speech that the approach to future negotiations should be guided by the,

"principle of ensuring the best possible outcome for the British people".—[*Official Report*, 5/7/16; col. 1850.]

I believe the people need to have a better sense of what that means.

The most reverend Primate the Archbishop of Canterbury rightly focused on the need for a new vision—a "new vision for Britain" that tackles inequality and enables hope and reconciliation. I contrast that vision with that of the noble Lord, Lord Lawson of Blaby, who sees the decision as,

"a historic opportunity to make the United Kingdom the most dynamic and freest country in the whole of Europe—in a word, to finish the job that Margaret Thatcher started".—[*Official Report*, 5/7/16; col. 1862.]

I wish the people had heard those remarks during the campaign.

The noble Lord, Lord Hague of Richmond, said in yesterday's *Daily Telegraph* that the working time directive should be re-examined to make it more flexible. That directive, for the first time in Britain's history, gave workers a statutory right to four weeks' paid holiday, but it is now being brought into question.

A picture is emerging from the Conservative Party of a post-Brexit future that takes us back to the 1980s, when mining communities and steel and manufacturing towns were left devastated. If the people had heard those voices properly, I think we might have had a different result. My noble friend Lord Whitty said:

"The issues that people were really moved by were their employment prospects, their lack of access to public services and inequality in our nation".—[*Official Report*, 5/7/16; col. 1880.]

If so, this Tory vision, if it materialises, will cause even more discontent with the political process. The right reverend Prelate the Bishop of Ely called it a "lament" about not having been heard for several generations. Those mining communities were left isolated, and several generations have been ignored by the political

class. As he said, this was their opportunity to make us listen, after feeling excluded for so long.

The response to that cannot be to turn the clock back: that cannot be the answer. As the noble Baroness, Lady Boothroyd, said, we need to rebuild trust by taking responsibility, leading with both vision and action to ensure that no one is left behind. I believe in a progressive vision that strengthens workers' rights, puts jobs and sustainable growth at the heart of economic policy and halts the pressure to privatise public services. As my noble friend Lord Lea of Crondall said in his speech, that vision should protect the going rate for skilled workers, stop the undercutting of wages and direct funding to places where the pressures are greatest, such as the communities we have ignored for so long.

We cannot ignore the fact that, as my noble friend Lord Anderson of Swansea highlighted, the consequences are not just about our economic and social well-being. Whatever final arrangement is concluded, we need to focus on our vision for a continent where co-operation overcomes conflict. As a nation, we have a moral and practical interest in preventing conflict, stopping terrorism, supporting the poorest in the world and halting climate change. How we deliver on those after leaving the EU will be critical. Both my noble friend Lord Anderson and the noble Lord, Lord Paddick, highlighted the issues and the means that must be addressed if we are to remain secure outside the European Union.

As we have heard in this debate, one of the most important aspects of the withdrawal negotiations will determine the acquired rights of the 2 million or so UK citizens living in other member states and, equally, EU citizens living in the United Kingdom. I have declared on many occasions that I am married. My husband is Spanish. As an option, we have always seen ourselves as citizens of the EU for the very good reason that we have family and homes in both countries. That is how we see ourselves. That option will no longer be open to us, not least because Spain does not recognise dual nationality. Friends have rung me recently. One is married to a French citizen living in London. They thought that they would resolve some of these issues by ensuring that they acquire French nationality. Another issue is causing anxiety in the LGBT community. In brief, the French consulate has advised that civil partnerships converted to marriages will not be recognised. It is advising people to dissolve and start again. It is saying that all civil marriage resulting from the conversion of a civil partnership, given its retroactive nature, cannot be transcribed on the French civil registers. Indeed, retroactivity is contrary to the fundamental principles of French law—I suspect a fundamental principle that will also apply in Spain.

That is not a new issue. Stonewall has been pushing the Government Equalities Office for months to answer it. The GEO assured Stonewall that it is in talks with embassies but has not given a formal answer. The reason I am raising this point is that, post-Brexit, we will have fewer grounds for negotiations than we do now. Please will the Minister give an assurance to the LGBT community about its future? I fear, as we have heard many noble Lords say, that putting in doubt the rights of EU citizens here will have the very opposite effect of protecting UK citizens in the EU—the complete

opposite effect. There was a debate in the other place today and an overwhelming majority voted in support of recognising those rights. Please will the Minister give us the reassurance we seek, not only to protect the people living and working here who have done so for many years, but to ensure the security of our citizens abroad?

I conclude on one thing that relates to protection. We have heard about borders in Northern Ireland and the effect that they might have on the peace process. But that is not the only land border that British citizens have with the European Union. The other, of course, is with Gibraltar. I am very familiar with Gibraltar, and the Minister knows very well the anxieties of that community. It is all very well saying that we will ensure that its citizens' rights and sovereignty are protected, but I worked in Gibraltar for many years when that border was closed. Let me assure the noble Baroness that what has kept that border open, and kept those citizens in work, has been membership of the European Union. I think they deserve to know, and this House deserves to know, what contingency plans the Government have made in the event of that border being closed again.

9.50 pm

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, this has been an extraordinary debate, in the best sense of the word, and one that befits one of the most significant democratic exercises in our history. It is the first occasion on which this House has had the opportunity to reflect at length on the implications of the decision by the electorate that the UK should leave the European Union. The tenor of the speeches around the House has displayed a range of emotions, from anger at the result from many, to delight at the result from some. We have heard passionate advocacy for particular future policies, thoughtfulness and some degree of optimism for the future.

This will not be the last opportunity for all of us to contribute our expertise to the consideration of the terms on which the United Kingdom will leave the European Union. I anticipate that we will benefit from the reports of our Select Committees, and that the usual channels will consider the matter of making time available for debates. But it does not stop there. Indeed, my noble friend the Leader of the House is already engaging actively with the noble Lord, Lord Boswell, to consider how best the EU committees of this House can play their part throughout. I welcome the fact that our European Union Select Committee hopes to publish its initial views before the Summer Recess, and has already taken evidence from my right honourable friends Oliver Letwin and David Lidington.

Hearing the opinions of all noble Lords and benefiting from their expertise are of great value to the Government. Over the past two days we have heard from 114 noble Lords. Unusually for me—I hope noble Lords will understand this—I will not do what I usually do. I do like to refer to every noble Lord by name—I am known for it—but I will not do that this time. I apologise, but I tried this out on my husband the other night. I read out the list of names, and I realised that, even without names as long as mine, it would take me

nearly nine minutes just to say the names once, even without referring to the issues. So I offer my apologies. I might just break that rule at the very end of my speech, though, because I would like to refer to one particular matter that I heard about yesterday.

As the Leader said in opening the debate, she and I are here primarily to listen. That has been a tremendous privilege throughout these two days; thank you. I will seek to reflect on the key issues raised by noble Lords.

It is clear that the majority of the British people did vote to leave the European Union. Noble Lords from around the House have made the point, however, that we should never forget that just over 48% of people who cast their vote wanted us to remain a member. The priority must indeed be to make the decision work for everybody in the United Kingdom, whichever way they voted. The implementation of this decision will not be straightforward: we have already seen that there will be adjustments within our economy, and they have continued overnight. There are complex constitutional issues to consider, and there will be a challenging negotiation to undertake with Europe. However, our guiding principle throughout will be to ensure the best possible outcome for all British people.

With this in mind, I shall address first the process of implementing the decision. That is, of course, the matter of Article 50 and what it entails. There has been much debate over the last two days about the route by which the UK will leave the European Union. Several noble Lords expressed reservations about whether, indeed, we should leave. The Article 50 procedure is the only lawful route by which the UK can leave the EU. Our own European Union Committee's report on the process of withdrawing from the EU, published on 4 May, made clear:

"If a Member State decides to withdraw from the EU, the process described in Article 50 is the only way of doing so consistent with EU and international law".

My right honourable friend David Cameron has made it clear that it is for the next Prime Minister to decide when to trigger Article 50 and start the formal and legal process of leaving the EU. This was clearly understood and respected by the most recent European Council. A considerable part of this debate has understandably focused on the role of Parliament in the Article 50 process, and I was pleased to hear all contributions on this matter.

In law, Article 50 explicitly recognises that a member state may decide to withdraw in accordance with its own constitutional requirements, so it is for the member state concerned to determine what those constitutional requirements are. In the UK there is no legal obligation to consult Parliament. In law—I emphasise that—the Government alone can trigger the Article 50 process under their inherent prerogative power to conduct foreign affairs, which includes the power to withdraw from a treaty or international organisations. But, as the Prime Minister said, we now have to look at all the detailed arrangements and Parliament will clearly have a role in that, making sure that we find the best way forward. I realise that Parliament will have a variety of views, just as we have heard a variety of views over these two days. It is that richness from noble Lords that we need to hear.

[BARONESS ANELAY OF ST JOHNS]

Some have argued that there should be an Order in Council or an Act of Parliament before withdrawal from the EU takes place. Noble Lords have indicated that there may be legal challenges on these matters. If that does happen and there are legal challenges, I will not be able to comment on those specific events but we can talk later in other debates about the general range of powers that are around. It is important to note that the Prime Minister has recognised that Parliament will have—does have—a role. The views expressed by Members of both Houses provide important advice to the Government, and the Government listen.

Further debate is focused on the timing of an application to trigger the Article 50 process. Some noble Lords wish to hurry; others have followed the advice of one of my noble friends who said, “Bad certainty now doesn’t trump good certainty later”. This is indeed a time for calm reflection and preparation of a cogent application for an exit which benefits us all. By “us all”, of course, I include all those who live within the United Kingdom, whatever their nationality. I will come to that later, but it always occurs to me that if we do not treat those who live here well, they cannot contribute to our economy, so it is in our interests to consider that they are a benefit, too.

There has been debate about the timing of the repeal of the European Communities Act. I would say that that is the end of the process, not the beginning, but I note an interesting suggestion that the Bill of repeal should be introduced early, with what I would call a sunrise clause to deliver a delayed implementation date, which I believe my noble friend mentioned.

Considerable reference has been made to the issue of a second referendum. I will say that tomorrow we have a Question for Short Debate on this matter, too. In theory there could be a second referendum. However, from the word go the Prime Minister made it absolutely clear that there should not be a second referendum because that would break faith with a decision made by the public on 23 June. He has always made it clear that the referendum would be a once-in-a-generation decision. Noble Lords from all Benches have also made the point that holding a second referendum would prolong the argument and prevent that healing process which this country needs, and which noble Lords have recognised the country needs.

So what happens to European Union business and the UK over the next two years, or however long it takes to negotiate our exit from the EU? Once Article 50 is invoked, we will remain bound by EU law until the withdrawal agreement itself comes into force. The period between the invocation of Article 50 and our eventual exit from the EU is indeed up to two years—unless, of course, other member states agree to extend it.

Questions have been asked about what will happen to the UK’s participation in EU business in that period. I was asked specifically about the matter of regulation-making, and particular reference was made by two noble Lords to the agri-food sector and the need for transitional provisions. Clearly, the EU will continue to function and make progress with its legislative agenda, but it is important to note, too, that EU directives usually have quite a long time delay before

they come into effect. So the question in the mind of noble Lords is, I think, whether the UK can block legislation during our negotiating period. The only way that we could do that with certainty is if we are able to exercise a veto. We could ask for specific legislation to exclude the UK, but this would generally be subject to qualified majority voting in the Council and would require other member states to vote with us.

I was asked that the Government do all in their power to ensure that the voice and expertise of the Civil Aviation Authority should not be wasted when we withdraw from the EU. I think that this is a detailed example of just the kind of important issue that will need to be addressed during our renegotiation. I was asked why there was no plan B and why we did not create a Brexit unit before. I say gently to noble Lords that we have been round that particular house many times before in our debates, particularly when we were debating the passage of the referendum Act through this House. It was made clear by the Prime Minister that, in setting out his view as to why it was right to accept the renegotiated deal that he had with the other 27 states, it was right to put a positive case to the public and not to say, “I think I am going to lose and, therefore, we will arrange the alternative”. We always said that it was for those who wanted to leave the European Union to say what the alternative was.

But we have clearly acted very quickly indeed. A new unit is already being set up in Whitehall, as of last week, bringing together officials and policy expertise not only from across the Cabinet Office, Treasury, Foreign Office and BIS, but—I can confirm to noble Lords who asked about this—from other spheres as well. I also absolutely agree that there is invaluable expertise in this House upon which we will need to call. The unit is based in the Cabinet Office and will report to the Cabinet on delivering the outcome of the referendum. It will advise on transitional issues and objectively explore options for our future relationship with Europe—and with the rest of the world, from our new position outside the EU. Questions were asked, quite rightly, about what legislation will be required to guarantee those rights and responsibilities flowing from EU law which the UK wants to retain—and there will be many. I expect the unit to play a crucial part in assisting government departments to rapidly identify such legislation as is required and how it may be put into practice.

It was absolutely right that a House of this nature should ask detailed questions about what happens to the areas outside London—and indeed in London, too—and I understand the concerns about the devolved Administrations and others. As we prepare for a negotiation on our new relationship with the EU, we need to ensure that we look to preserve—and advance—the interests of all parts of the United Kingdom. I can give assurance that the British Government will fully involve the Scottish, Welsh and Northern Ireland Governments, as well as the Government of Gibraltar, in this process. We will also consult the Crown dependencies, the overseas territories and all regional centres of power, including the London Assembly, to ensure that all their interests are taken properly into account. Indeed, the Prime Minister has spoken to the First Ministers of Scotland and Wales, as well as to

the First and Deputy First Ministers in Northern Ireland, and to the Taoiseach. Officials will work intensively together during the coming weeks to bring our devolved Administrations into the process for determining the decisions that need to be taken. I have to say again—I know it will irritate noble Lords but I hope not to have to say it too much more—that, while all the key decisions will have to await the arrival of the new Prime Minister, there is a lot of work we can do right now.

Concern has been expressed about the impact on Scotland. I can give the House an assurance that the Prime Minister remains of the view that there should not be a second Scottish referendum. Less than two years ago, the people of Scotland voted clearly to remain part of the UK. That vote was conducted in the context of a clear manifesto commitment by the Prime Minister to hold a UK-wide, in/out referendum on our membership, so it was already known about then. The reasons for Scotland to be in the UK are as strong now as they were 18 months ago.

Proper concern was expressed, of course, about the position of Northern Ireland. All political parties in Northern Ireland and the Irish Government share a vision of peace and prosperity for Northern Ireland. The EU referendum result does not and should not change that. It will not change that. The Taoiseach has been very clear that he wants to minimise any possible disruption to the flow of people, goods and services between Northern Ireland and the Republic. In that context, the British and Irish Governments have already met to discuss the challenges relating to the common border area. Our relationship is special and it will remain so.

I have heard very strong and passionate feelings expressed around the House with regard to the issue of what happens to UK citizens within the EU and to EU citizens here in the UK. I have heard the strong feeling expressed that the Government should give an immediate, absolute assurance that all EU citizens legally in the UK should be allowed to remain indefinitely and work or study here. While I am not quite in the position to be able to create new policy at the Dispatch Box, I can give some helpful indications. The Government value highly the contribution made by EU nationals to our daily lives. As I said earlier this week, I deplore the fact that, during the referendum campaign—and subsequently—there have been reported increases in hate crimes against our EU friends.

I was asked whether the Home Office is going to publish its action plan on tackling hate crime. Although a date has not actually been confirmed yet, it will be published shortly. As my noble friend Lord Ahmad made clear on Monday in a Statement to the House, the position of EU nationals remains unchanged during the process of applying to leave the EU.

Earlier today, there was a debate in another place, to which noble Lords have already referred. During that debate, my right honourable friend James Brokenshire made clear to the House of Commons that the Government,

“want to be able to guarantee the legal status of EU nationals who are living in the UK”.

He said that he was confident—and so, therefore, am I confident—

“that we will be able to do just that. We must also win the same rights for British nationals living in European countries and it will be an early objective for the Government to achieve those things together”.

He then went on to say:

“I am confident that we will be able to work to secure and guarantee the legal status of EU nationals living here in conjunction with the rights of British citizens”.

As has been said, it is important that we consider everybody who believes that they have acquired rights and we need to work from there.

The Minister for Europe and the Foreign Secretary have been holding—

Lord Howard of Lympne: I am sure my noble friend understands that, by talking about this guarantee in the future, she has done little to allay the real anxieties which hang over the heads of millions of people from the European Union who are lawfully in this country now. This is a guarantee that could—and should—be given now and it does not take the matter further to suggest that it can be given at some time in the future.

Baroness Anelay of St Johns: My Lords, as I said, I do not think that I am in a position to invent new policy at the Dispatch Box. I have listened very carefully to the views of the House, and those views will be taken very strongly into account—as every single view about every part of this debate will be taken into account by the Government. This House has had an opportunity, which another place has not yet had, to spend two days debating these matters in detail. The value of this has been that we have been able to go into details that another place has not. It is important that we consider the position of all. That includes UK citizens who are within the EU. I can give an assurance—I was asked a specific question on this—that it also covers UK citizens who work in the EU institutions. It is true that acquired rights are a difficult matter; what I have given today is an assurance, made in another place by James Brokenshire, which I believe should be able to deliver the right result.

Noble Lords referred to the impact of the referendum result on the economy. The Prime Minister and the Chancellor have been clear that Britain's economy is fundamentally strong. As a result of the Government's long-term plan, ours is one of the strongest major advanced economies in the world. We are well placed to face the challenges ahead. We have low, stable inflation; the budget deficit is down from 11% of national income and is forecast to be below 3% this year; the financial system is also substantially more resilient than it was six years ago. It is true that the markets may not have been expecting the referendum result but, as the Chancellor set out on 27 June, the Treasury, the Bank of England and our other financial authorities have spent the last few months putting in place robust contingency plans to maintain financial stability—and they will not hesitate to take further measures if required.

It is important that we make the most of our great ability as a trading nation to be even more entrepreneurial than in the past. The Prime Minister has made it clear that the UK will remain a member of the single market during the period of renegotiation. There will be no immediate change in the way that our goods can

[BARONESS ANELAY OF ST JOHNS]

move, nor in the way that our services can be sold. Britain is and always will be open for business. We are indeed a special country—a great trading nation. The Government's ambition remains that Britain should be the best and easiest place in the world to do business, and a global trading partner.

There has been considerable disagreement around the House about the precise relationship which the UK should or should not have with the single market. We have had a great opportunity to hear some of the plans that could be put forward to have almost a single market-light or single market-heavy. There is a lot on which we need to reflect from these debates, which have also reflected the extent of disagreement about what our approach to free movement might be after we have negotiated the exit. What should be part of that agreement? I have listened carefully to all those diverse views, which will all contribute great value to the development of the work on policy from now on.

This House has excelled in the work that it has carried out in the international field. Our withdrawal from the EU will be the biggest institutional change that this country has undergone in a generation—but not everything has changed. The United Kingdom remains a permanent member of the UN Security Council, the second largest contributor to NATO and a member of the G7, the G20 and the Commonwealth. We must not forget the Commonwealth's role in preventing and helping to resolve conflicts. We remain fully engaged

and prominent on the world stage, projecting our values, protecting our security and promoting our prosperity, with the strongest economic links with our European neighbours, as well as with our close friends in North America and the Commonwealth, and important partners such as India and China.

We live in a truly great country. We will continue to thrive and prosper, whatever the nature of our relationship with the EU and whatever challenges lie ahead. In tackling those challenges we must have one guiding principle in mind: to ensure the best outcome for all those who live in these great islands of ours.

I referred earlier to the thoughtfulness that has threaded its way through our debate. Peers have rightly advised that we should all find new ways of living well together. I shall break my rule about not referring to particular noble Lords: I must, I feel, refer at the end to the words of the most reverend Primate the Archbishop of Canterbury yesterday. He said:

“We need a deep renewal of our values in this country. We need a renewal of a commitment to the common good and of solidarity. We need a sense of generosity, hospitality and gratuity, of the overflowing of the riches and flourishing that we possess, not only into our society but across the world”.—[*Official Report*, 5/7/16; col. 1860.]

I agree. That is the way forward. I beg to move.

Motion agreed.

House adjourned at 10.16 pm.

Grand Committee

Wednesday 6 July 2016

3.45 pm

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): My Lords, if there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung and will resume after 10 minutes.

Children and Social Work Bill [HL]

Committee (3rd Day)

Relevant documents: 1st Report from the Delegated Powers Committee

Clause 4: Duty of local authority in relation to previously looked after children

Amendment 80

Moved by Lord Ramsbotham

80: Clause 4, page 5, line 39, at end insert—

“() The person appointed by the local authority must be trained to have an awareness of speech, language and communication needs.”

Lord Ramsbotham (CB): My Lords, I will be brief. These amendments require all speech, language and communication needs to be assessed, and those concerned to be trained. Any assessed needs should then be treated—something we discussed earlier in the Bill. I am therefore simply referring them to the designated people who are listed in these clauses. I beg to move.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, as has already been pointed out, this group is closely related to the group beginning with Amendment 30 on ensuring that the voice of the child or young person is heard and understood. These amendments would ensure that personal advisers have an awareness of speech and language communication difficulties and needs. Personal advisers do not need to be fully trained speech and language therapists, but they need to be aware of any possible lack of communication skills on the part of young care leavers.

I listened with interest to the Minister on Monday when she said that the Government have put £650,000 into speech and language support—this at a time when the proportion of children in the population is increasing. From 2010 to 2014, the birth to 17 year-old population grew by around 550,000, an increase of 4.9%, and the rate of children being looked after has increased from 57 per 10,000 in 2010 to 60 per 10,000 in 2015. The sum of £650,000 appears to be woefully inadequate. Over the same period, local authority budgets have come under intense pressure and as a result some non-statutory preventive services for children have been considerably reduced. Over the spending review period, against the baseline, in 2010-11 local authority spending on children's centres and early years reduced by 38%, or £538 million, while spending

on youth services reduced by 53% or £623 million. Without adequate awareness of the speech and language needs of children and young people, personal advisers will not be able to support them in the way I believe the Government intend. More resources other than the £650,000 already mentioned will be needed for their strategy to be successful. I fully support the amendments in the name of the noble Lord, Lord Ramsbotham.

Baroness Hughes of Stretford (Lab): My Lords, I rise to speak to Amendments 88A and 88B, which are tabled in my name. In doing so I declare an interest in this area because of my role as chair of the Governing Council of Salford University. These amendments are slightly different from those already being considered; none the less, they are concerned with maximising the educational attainment of looked-after children, albeit at the other end of the educational experience—higher education—that we do not hear about too much.

Amendment 88A would require each university to collect and publish data on their recruitment of students from looked-after backgrounds, the demographic characteristics of those students, their educational outcomes and their destinations on leaving university. Amendment 88B would place a duty on universities to assess the needs of students coming in from an experience of care, to provide the support—financial and non-financial—that they need to continue with their studies, to support them in vacations and to give them priority in the allocation of bursaries to cover fees and maintenance. The educational underachievement of children in care is significant, long standing and well known to everybody here.

At every level—through early years, schools, colleges and so on—children from care quickly fall behind their peers and often stay behind them. Recent figures show, for example, that less than 15% of children in care gained five good GCSEs, including maths and English, compared to almost 60% of all children. Over a third of care leavers aged 19 are NEET, compared with about 19% of all 19 to 24 year-olds. In higher education, although it is a considerable improvement on the 1% it was not long ago, still only 7% of care leavers go to university, compared to about 30% of all young people.

We know broadly the reasons why. Children in care have experiences before—and unfortunately very often during—their care experience that make learning much more difficult. I know that all of us here believe passionately that when the state is in loco parentis, the support and targeted interventions to make up for those experiences should be there. We should ensure that children in care come through the care experience having developed and attained everything they are capable of.

Successive Governments have focused on the outcomes, particularly educational, for children in care, and there has been some steady, if not dramatic, improvement in schools, colleges and local authorities. There is some excellent practice, which we can disseminate in those sectors. For example, there is the virtual head teachers scheme, which is extended in the Bill. Local authorities now require an educational plan for every looked-after child, and monitor that at senior levels.

[BARONESS HUGHES OF STRETTFORD]

However, there has been much less attention paid to what needs to happen in the HE sector to increase the number of children in care going to university, staying there and succeeding. There is some good practice, and a real focus on looked-after children in some universities. Two significant charities—Buttle UK, with its quality mark, and the Who Cares? Trust—have done a great deal to encourage universities to focus on looked-after children, but the situation is very patchy.

One of the first problems is that we do not even know how patchy it is, because there is very little data. Colleagues in HE have said to me that because the Higher Education Funding Council does not require any statistics on looked-after children, none are collected. OFFA, the fair access body, again encourages universities to include looked-after children in their access agreement, but does not require it. So we do not know how many looked-after children apply to university, how many go to each university or what their characteristics are. We do not know how they fare when they get to university and whether they complete their courses or disproportionately drop out, like some other vulnerable groups. Nor do we know the kind of employment or destination they go to.

Much of this information is collected for students as a whole, and some of it is disaggregated for other groups—for example, students from minority-ethnic groups and disabled students. But it is not disaggregated for students who come in from a care background, as it is in schools, so we cannot see the outcomes for those students and compare them with those for the rest, and we cannot compare the performance of universities.

Requiring universities to collect and publish data for looked-after students would enable us to see how students from care were doing, and which universities were doing well and which were not. It would be a driver, as it has been for schools and colleges, for steadily improving performance overall. Then, of course, there is the question of the additional support looked-after students are likely to need to go to university, to stay there and to be successful. Amendment 88B is not exhaustive, but it outlines the kinds of support likely to be necessary.

It is time to bring to the higher education sector the same obligations we have placed on schools, colleges and local authorities, and to try to make a real difference to the numbers of looked-after children going to university and coming out successfully. I hope these amendments will stimulate that debate and that the Minister will give full consideration to these issues.

The Earl of Listowel (CB): My Lords, I support what the noble Baroness, Lady Hughes of Stretford, has just said and pay tribute to the work of the Labour Government—their huge investment of funds to improve the education of looked-after children; the change in the law; the introduction of designated teachers; and the reform of the school admissions process, which is so important for these young people.

There has been concern about the success in higher education achieved by young people leaving care. It is also very important to bear in mind that many of these young people mature late. As I have mentioned

in the Chamber, Dr Mark Kerr, a care leaver himself, who has done research in this area, found that upwards of a quarter of 25 year-olds in the group he looked at had gone on to higher education. I hope these statistics will provide a means of monitoring how many mature students have been through care, so that we can get a more accurate idea of how successful our efforts are. It has been somewhat demoralising to think that all the effort we have put into the education of looked-after children has not been reflected in higher education attainment, although there has been a significant increase from a very low base. Regarding how we might make best use of our resources, it may be helpful to know how many 25 year-olds who have been in care go on to higher education, for instance.

The noble Baroness referred to the Frank Buttle Trust, which has done such important work in this area, and the Who Cares? Trust. One issue the Frank Buttle Trust has identified is that, where there is someone to champion care leavers at university, one needs to plan carefully for that person's succession. One can have a very good person in place but when they move on, everything can fall back. Therefore, I hope that can be kept in mind in any guidance arising from this work. I am very grateful to the noble Baroness, Lady Hughes, for tabling these two amendments and look forward to the Minister's response.

Baroness Butler-Sloss (CB): My Lords, I, too, support the amendments tabled by the noble Baroness, Lady Hughes. When I was chancellor of a former polytechnic, which became a very successful university, we had a worrying number of undergraduates who left at the end of the first year, or sometimes the second year. We did not know whether or not they had been in care. There was a very good support service at the university which could have been used to help them if they had been identified as needing extra help. These two amendments are very helpful.

Lord Watson of Invergowrie (Lab): My Lords, we support all these amendments. In speaking to Amendments 88A and 88B, I simply echo the remarks of my noble friend Lady Hughes of Stretford. This would be a very important addition to the Bill. As regards the other amendments, we welcome the commitment to ensure that academies and maintained schools are held to the same standards of educational achievement for relevant children, and the requirement to consult upon, and publish, a local care offer for care leavers. This would allow best practice to be shared throughout the sector and ensure full accountability and informed choices for children and young people.

The post of designated lead for looked-after children already exists in all schools, so the extension to previously looked-after children is welcome, but in reality these duties in a school are often overlaid on top of existing responsibilities. For instance, the duty regarding looked-after children is often added to the SEN co-ordinator's role or to that of a senior manager. Therefore, the implications could be significant in terms of time allocation for the member of staff concerned.

We also believe that academy trusts should be required to designate a lead person, and that somebody at a senior level should be involved, such as an executive

member within the trust. An individual member of staff may be the designated staff member, but he or she should report to someone at executive level to ensure that the executive member assumes ultimate responsibility for the interests of looked-after and previously looked-after children, and that the designated staff member is allocated the requisite time and resources to do his or her job properly.

4 pm

In the debate on Monday on Amendment 77, I referred to the need for adequate time and resources to be made available, and the Minister assured me that that would be the case in respect of virtual head teachers. The same arguments apply here, and I hope I will receive the same assurances. The noble Lord, Lord Ramsbotham, focused on the importance of ensuring that children receive the speech and language therapy support they require, and we wholeheartedly support that aim. This is particularly important as communication underpins literacy, and good communication skills are essential to academic attainment.

In a wider sense, it is essential that those who take on responsibilities for promoting the educational achievement of looked-after and previously looked-after children and young people are trained in awareness of the various needs those children may have, whether speech, language and communication, autism or physical disabilities. Whatever a child's needs, it is the duty of the local authority to ensure that those needs are met. Clearly, no single person can cover any more than one of those needs in full, so there must be collaboration with neighbouring schools where necessary to ensure adequate provision. The child's needs are paramount, and that must always be so.

Baroness Evans of Bowes Park (Con): My Lords, I shall speak to Amendments 80 to 85 and Amendments 88A and 88B.

Amendments 80 to 85 seek to ensure that the virtual school head and the designated teacher for looked-after and previously looked-after children are trained in awareness of speech, language and communication needs. I am grateful to noble Lords for these amendments. As the noble Lord, Lord Ramsbotham, said, we discussed the importance of speech, language and communication skills to children's development in our previous session.

Children who are looked after or who were previously looked after are particularly vulnerable to having poor speech and language as they often will not have had parents who helped maximise their communication skills and development. Early identification is essential so that the right support is in place as soon as possible. Our vision for children and young people with special educational needs and disabilities, including those with speech, language and communication needs, is the same as it is for all children and young people. We want them to achieve well in their early years, at school and in further education, to find employment, to lead happy and fulfilled lives and to experience choice and control. That is why we introduced a new early years progress check in 2012 for children at the age of two as part of the reformed early years foundation stage. This is helping to pick up potential difficulties early to ensure that support plans are put in place for tackling them.

As I explained when discussing Amendment 30, the Children and Families Act 2014 introduced a requirement for local authorities to publish a local offer of services across education, health and social care for children and young people with special educational needs or disabilities. We expect these offers to include details of services to meet speech, language and communication needs, and details of how they can be accessed.

While I fully sympathise with the noble Lord's intentions, we are not convinced that we need to prescribe in legislation that every virtual school head and designated teacher must have training on this issue. Designated teachers, like all teachers, will have covered identifying and responding to all children's needs, including speech, language and communication needs, as part of their initial teacher training. The National College for Teaching and Leadership has also produced a series of online training materials for teachers with a focus on the most prevalent forms of SEN. That includes a module on speech, language and communication needs.

As I explained during our previous session, we are also funding the Communication Trust, a consortium of more than 40 voluntary and community-sector organisations working in the field of speech, language and communication to build on existing resources and programmes to ensure that practitioners working with children and young people up to the age of 25 are supported and helped to meet their needs and, as the noble Lord said, to ensure consistency of practice.

The noble Baroness, Lady Bakewell, mentioned the figure I referred to in the previous session relating to this element. We have increased funding for SEN support as the population has increased. We announced an additional £92.5 million in December 2015 for the high-needs element of the dedicated school grant for SEN provision. The £650,000 that I mentioned was only part of the £130 million that we have allocated between 2014-15 and 2016-17 for SEN implementation.

Most virtual school heads are also former teachers, and will have access to training provided by their local authority to ensure that they can effectively do their job and meet the needs of local children. Their role will not be to work directly with children but to work closely with those who will, such as the school's designated teacher and SEN co-ordinator. Together, they will identify and support children with special educational needs, including those with speech, language and communication needs. However, in light of the discussions we had on our previous Committee day, we will go further and discuss with the National Association of Virtual School Heads whether we need to do more to make sure that their members and the designated teachers with whom they work have the necessary training in speech, language and communication need to ensure greater consistency of practice. I hope that in light of that, noble Lords are reassured and that the amendments will not be pressed.

On Amendments 88A and 88B, everyone who wants to and who has the ability to go to university, including, of course, care leavers and those who were previously looked-after children, should have the opportunity and be encouraged to do so. The rationale behind the amendments is about making sure that universities

[BARONESS EVANS OF BOWES PARK]

support those two groups of young people by publishing a range of data as well as prioritising their applications and supporting them financially and emotionally while they are studying. We know that the figures nationally for the number of care leavers going into higher education are lower than the average. As the noble Baroness, Lady Hughes, pointed out, 7% of care leavers aged 19 to 21 are in higher education, compared to around 30% for the same age group as a whole. While we entirely understand the aim of the amendments, we are not convinced that it is the best way to achieve that aim. I shall talk about the steps that we are taking in a number of ways.

Universities are independent and autonomous bodies, and are best placed to make their own decisions about how best to support their students. Many are supporting more vulnerable children to go to university than ever before. The independent Director of Fair Access has agreed 183 access arrangements for 2016-17, which include plans for universities to spend more than £745 million on measures to improve access and support the success of students from disadvantaged backgrounds. This is up significantly from the £404 million in 2009, and care leavers are a specific target group for access arrangements. Support for care leavers in access arrangements has grown considerably over the years, with around 80% of access agreements including specific action to support care leavers. There is a particular focus on supporting care leavers during the admissions process. Access activities referred to by institutions concerning care leavers in their agreements include subject-specific activities, pre-entry visits to institutions, taster sessions, summer schools and pre-entry attainment raising. One-third of institutions refer to undertaking long-term outreach activity with care leavers and looked-after children.

In addition, the Government have funded a National Network for the Education of Care Leavers, which provides HE activities and resources for care leavers, children in care and the people who support them. The Government are absolutely committed to widening access to higher education for students from disadvantaged backgrounds, and the HE sector takes its responsibilities in this area very seriously. That is why the Children Act 1989 places a duty on local authorities to promote the educational achievement of the children they look after, which is backed up by a requirement that every local authority must appoint a virtual school head. Statutory guidance on promoting the educational achievement of looked-after children makes it clear that their aspirations to go to university must be encouraged, nurtured and supported. Local authorities as corporate parents must provide financial assistance to the extent that the young person's educational needs require it, including support for accommodation outside university term time. They must also provide a £2,000 higher education bursary.

Supporting previously looked-after children is important, too. We are extending the role of the personal adviser so that those key people have a role in providing information and advice in relation to previously looked-after children. Of course, the situation is different for young people who were looked after but who leave care through, for example, an adoption or special

guardianship order. Those young people have parents and carers who will be there to support and encourage them as they consider and undertake higher education, in much the same way as young people who have never been in care. But we recognise that some of those young people may have ongoing issues stemming from the trauma of their early life experiences. That is why in April of this year we extended the upper age limit for access to therapeutic support funded by the adoption support fund from 18 to 21.

We are in a better place than we were a few years ago. As the noble Baroness, Lady Hughes, mentioned, since Buttle UK developed its quality mark for care leaver-friendly universities, their awareness of the needs of care leavers has increased and the Who Cares? Trust website, as the noble Baroness mentioned, is a hugely valuable resource for care leavers on the help available to them in individual institutions. Care leavers can succeed in university. In Hertfordshire, the virtual school head has confirmed that numbers going to university are growing, with 61 currently at university and a further 24 planning to go in the autumn, each of whom is the first in their families to go to university. She also confirms that four of their care leavers have won first-class honours degrees and expects notification of a fifth.

The noble Baroness, Lady Hughes, the noble and learned Baroness, Lady Butler-Sloss, and the noble Earl, Lord Listowel, talked about the importance of data. We have increased the age range of care leavers on whom we collect data from 19 to 20 and 21 year-olds and will be doing this in future for 18 year-olds, so that we know their destinations in relation to education and training. As part of our higher education reforms, the Government also are increasing the amount of data that universities will need to publish as part of the new teaching excellence framework, so that we can better see the progress of students and measure the quality of teaching. We also, of course, have set a challenging ambition to increase the number of disadvantaged young people going to university, which again will need to be monitored by clear data. I do not have the full datasets, but perhaps it would be helpful if I wrote to noble Lords to set out some of the new data that will be published and collected. I do not have the details here. On that basis and given that, hopefully, I have shown the seriousness with which we take this issue, I hope that the noble Baroness feels able to withdraw her amendments.

Baroness Bakewell of Hardington Mandeville: Before the Minister sits down, I thank her for her response but wonder if I could have some clarification. Given the Minister's comments about teacher and SEN training including communication skills modules, is the assumption that personal advisers will all be drawn from the ranks of ex-teachers?

Baroness Evans of Bowes Park: No, that is not the assumption.

Lord Ramsbotham: My Lords, I am grateful to the Minister for that comprehensive response and to the noble Baroness, Lady Bakewell, for her comments.

I also support the comments of the noble Baroness, Lady Hughes of Stretford, which came from a different angle, as it were, from the rest of the group, but nevertheless were very meaningful. As I said in respect of Amendment 30, the importance of having speech, language and communication needs assessed and treated is that unless they are, the children who are the subject of this Bill will not be able to understand or engage in any of the changes the Bill proposes. As I said in that debate, when we in the all-party group conducted our review of the link between speech, language and communication needs and social disadvantage, we discovered tremendous inconsistency all over the country, both in the understanding of what was needed and in the training of the people who were responsible for doing the assessing. We discovered, for example, that in Northern Ireland, the social services and the health visitors worked together very closely, but in other places the two were not connected. As I mentioned, we discovered in Walsall that continuous training was done throughout the secondary school stage, but that was rare elsewhere in the United Kingdom. In talking about children previously in care, we are talking about the needs of people who have slipped through the net much earlier.

Therefore, I am very concerned that the Minister should suggest that these amendments are not necessary; I think they are. She mentioned the Communication Trust, which is a considerable partner in the all-party group that I have with worked very closely. There would be considerable merit in the Communication Trust, the Royal College of Speech and Language Therapists and the ministerial Bill team having a discussion before we come to Report, so that hopefully, the Government can decide that they can include such a provision in the Bill, rather than our proposing amendments such as this. Such a provision is very important to the Government's achieving their aim. I know from talking to both organisations that they would be very happy to do that, and I suspect that a number of noble Lords would like to be involved in that discussion.

4.15 pm

Baroness Evans of Bowes Park: Before the noble Lord sits down, yes, we would be very happy to have an early discussion.

Lord Ramsbotham (CB): I beg leave to withdraw the amendment.

Amendment 80 withdrawn.

Amendment 80A not moved.

Clause 4 agreed.

Clause 5: Maintained schools: staff member for previously looked after pupils

Amendments 81 to 82 not moved.

Clause 5 agreed.

Clause 6: Academies: staff member for looked after and previously looked after pupils

Amendments 83 to 84A not moved.

Clause 6 agreed.

Clause 7: Maintained schools: guidance for staff member for looked after pupils

Amendments 85 to 88B not moved.

Clause 7 agreed.

Clause 8: Care orders: permanence provisions

Amendment 89

Moved by Lord Hunt of Kings Heath

89: Clause 8, page 8, line 42, leave out from beginning to end of line 2 on page 9 and insert—

- “(i) the child to live with any parent of the child's or a person with parental responsibility for the child;
- (ii) long-term foster care, with a connected person, existing foster carer or other person;
- (iii) adoption, with an existing foster carer, foster to adopt or other person;
- (iv) long-term care not within sub-paragraph (i), (ii) or (iii);”

Lord Hunt of Kings Heath (Lab): Clause 8 extends the definition of permanence provisions as it appears in the Children Act 1989 so courts will also be required to consider provisions in the plan that set out the impact on the child concerned of any harm they have suffered or are likely to have suffered, their current and future needs and the ways in which the long-term plan for the child's upbringing would meet all those current and future needs. This is an important provision and one that we are very glad to see within the Bill.

My Amendment 89 wants to encourage the Government to take this a little further by extending the circumstances under which permanence provisions will operate to embrace long-term foster care. There are two reasons for seeking to do this: first, to ensure that we have legal clarity—I will be interested to hear the noble Lord's response on that—and secondly, to avoid some options, particularly adoption, being seen as more important than others in the hierarchy of care. This is particularly important in relation to long-term foster care.

My understanding is that a legal framework is already in place to allow this to happen. Since amendments to the permanence provisions were made in the Children and Families Act 2014, a legal definition for long-term foster care has been introduced. The Care Planning, Placement and Case Review (England) Regulations 2010 have been amended to introduce a new definition of a long-term foster care placement, and set out the conditions that must be met. This step rightly strengthens the importance of foster care as a permanence option for children and young people in care. As the Government have therefore placed long-term foster care on a legal

[LORD HUNT OF KINGS HEATH]

footing, the opportunity should be taken in this legislation to make a link. I remind the Government that *The Children Act 1989 guidance and regulations Volume 2: care planning, placement and case review* of June 2015 includes reference to the range of options for permanence and could be used as a basis on which to amend subsection (3B) of the Children Act to reflect the range of options for permanence that already exist in law, all of which can deliver good outcomes for individual children.

Since three-quarters of looked-after children are fostered, surely any change to improve the outcomes for children in care needs to concentrate on those children as well as children who may be adopted. I beg to move.

Baroness Walmsley (LD): My Lords, I have Amendment 90 in this group, which adds, “the child’s wishes and feelings”,

to the list of matters that must be included in the local authority Section 31A plan. This is the plan that must be in place before a court can consider whether to make a care order.

There are many issues on which the child may have particular wishes and feelings, such as who is to foster them, where they are to live and what contact they are to have with members of their family and others. The inclusion of the child’s wishes and feelings is vital and should be uncontroversial. The court is required under the welfare checklist to have regard to the ascertainable wishes and feelings of the child concerned, considered in the light of his or her age and understanding. Therefore, placing local authorities under a similar duty will ensure that family judges have access to the information they need to determine what is in the child’s best interests. Local authorities are subject to comparable duties when undertaking child protection inquiries, assessing need and making decisions about a child they are looking after or proposing to look after. Independent reviewing officers are required to ensure that a child who is subject to a care order has been informed—again, in accordance with his or her age or understanding—of the steps he or she can take to challenge the order.

It makes no sense to arrange for children to be assisted in challenging their care order without any parallel requirement that they be encouraged to express their wishes and feelings prior to such an order being made. It is like closing the stable door after the horse has bolted. That is the basis of my argument for Amendment 90.

The Earl of Listowel: My Lords, I would like to support Amendment 89. I am grateful to the Government for clarifying the importance they place on long-term foster placements, but this amendment is also welcome. In the Government’s very important drive to secure more adoption placements, the risk is that it might appear to some that they do not value as much the very important role of foster carers who provide long-term placements for children. I welcome this debate and I encourage the Minister and his colleagues to take every opportunity, whenever they talk about the continuity of care that young people who have been traumatised

and enter the care system need, to also speak very highly and positively of foster carers who provide long-term foster placements.

Baroness King of Bow (Lab): My Lords, I rise to speak to Amendment 90A, which would place a duty on local authorities and specialist NHS children and young people’s mental health services in England to provide long-term support for adopted children. I thank Adoption UK and the other adoption agencies for the work they have done on this issue. We believe that it is imperative that the Government change the law to give all adoptive families the right to appropriate adoption support when they need it. I have been calling for this for many years, as have all those colleagues who sat on the Lords Select Committee on Adoption Legislation, chaired by the noble and learned Baroness, Lady Butler-Sloss, whom we heard from earlier.

Our 2013 report stated:

“We are concerned that the provision of post-adoption support is often variable and sometimes inadequate. We believe such support is essential to ensuring the stability of adoptive placements, and to increasing the number of adopters coming forward. We therefore recommend a statutory duty on local authorities and other service commissioning bodies to cooperate to ensure the provision of post-adoption support”.

That, essentially, is what the amendment would do in the areas outlined.

This is a very important issue. Most adopted children have experienced abuse or neglect in their early lives, and they require ongoing support. I usually welcome programmes such as the adoption support fund, which the Minister mentioned earlier, but as we know, it is currently dependent on short-term funding arrangements. Given the extreme difficulties adoptive families can face, they need to be given a right to access programmes such as the adoption support fund.

Further supporting evidence from the research report *Beyond the Adoption Order: Challenges, Interventions and Adoption Disruption* of April 2014 highlights startling findings. We should bear in mind that this was a government-backed report. It found, for example, that the majority of adoptive parents were,

“dissatisfied with the overall response from support agencies”.

It also stated:

“About a quarter of parents described major challenges with children who had multiple and overlapping difficulties”.

Some of the children’s behaviour, such as aggression, “self-harm, night terrors, soiling, manipulation and control”, was literally ruining their lives. The report continued:

“Many were struggling to get the right support in place. Parents reported that they were physically and mentally exhausted”. In some cases, a lack of support led to a breakdown in adoption. The report also stated:

“Respite care was often used as a last ditch attempt to keep the family together”,

and was almost never used “proactively”. I cite one other finding from the research report which is possibly its most shocking—namely, that adoptive parents were forced to use the police “as a support agency”.

I strongly urge the Government to accept the spirit behind Amendment 90A, which places a duty on local authorities and specialist services. We all know that children adopted from care are the most vulnerable in Britain. The neglect and abuse they experience, even in

the womb or after birth, does not disappear just because they are adopted. We clearly must do better for these children.

Baroness Hodgson of Abinger (Con): My Lords, I support Amendment 90 tabled by the noble Baronesses, Lady Walmsley and Lady Pinnock. In many cases it must be truly terrifying for a child who feels that their future is out of control. It surely is absolutely imperative that they be listened to and given the feeling that their wishes will be respected. Disregarding them will only add to their trauma and the feeling of insecurity they are going through. Surely, any solutions are likely to be less successful if they do not have buy-in from the child.

Lord Warner (Non-Aff): My Lords, I support Amendments 89 and 90. I say to the Minister that in any legislation you cannot sprinkle too many references to taking account of children's wishes and feelings. I encourage the Minister to be even more liberal than the measure proposed by the noble Baroness, Lady Walmsley. I very much support the amendment spoken to by the noble Lord, Lord Hunt. I say that having been on the Select Committee on Adoption Legislation, which was so ably chaired by the noble and learned Baroness, Lady Butler-Sloss. We heard a number of pieces of evidence in which concern was expressed about whether the balance between adoption and fostering was getting out of kilter. I have certainly been in the company of social workers—I will not say where or when, but reasonably recently—who have talked about the adoption “hawks” taking over the Department for Education. The prospects of older children who are fostered being adopted are extremely limited. Therefore, we should give stronger encouragement to long-term fostering arrangements and indicate in the Bill an equivalence between adoption and long-term fostering that is currently lacking. Sometimes we get carried away with what can be achieved with adoption, which I support. However, it is not right for everybody and where children have established a good fostering relationship with foster parents, we need to encourage that and not make foster parents feel like second-class citizens.

Baroness Butler-Sloss: My Lords, I support all these amendments and pick up what the noble Lord, Lord Warner, has just said. I entirely agree with him about supporting long-term fostering as a very important alternative. However, we are living at a time when adoption is not doing very well. One has to recognise that as much support for adoption as possible should be given because, since the publication of the *Adoption Post-Legislative Scrutiny* report by the Select Committee to which the noble Lord referred, which I chaired, we have had fewer adoptions. We have to bear that in mind. However, I totally support the idea that long-term fostering is an extremely important alternative, particularly for the older child who wants to retain some links with the natural family, and for whom adoption is therefore inappropriate.

4.30 pm

I would like to say something about the child's wishes and feelings. I sat as a family judge, one way or another, for 35 years, and that was of great importance

to me. Section 1 of the Children Act talks about the requirement on the judge to take into account the “wishes and feelings” of the child, to which the noble Baroness, Lady Walmsley, referred. I have no doubt that most local authorities want to know what children think, but they may not, and they do not actually have any legal requirement to do what judges have to do as a legal requirement. It seems odd that in Part 4 of the Children Act there is no requirement for that, as far as I can remember, although I have such a tiny rendering of it on my iPad that I cannot quite read it, and I forgot to bring a better copy of the Children Act with me. But I do not think that under Section 31, or any of the other sections—those who know better are agreeing with me—there is any requirement on the local authority to take account of the wishes and feelings of children. I can understand that being the case in 1989. Despite my Cleveland report, and despite Lord Denning and the Gillick case, we did not take children's feelings and wishes all that seriously. But in 2016, we have moved on—and the Children Act in this aspect should move on. I hope the Government take the amendment very seriously.

On the third point that the noble Baroness, Lady King of Bow, made about the mental health problems of adopted children, in our post-legislative scrutiny committee we got a lot of evidence about the real hardship of parents who have adopted, some of whom had not quite realised the extent of the trauma of the children they had taken on. They were not equipped to deal with it and, at the very worst, some of those children went back into care, which was not just a failure for the adoptive parents—it was the most appalling failure for the child. It was one failure after another.

If it is possible for the adoptive parents to get proper help at an early enough stage to be told how to cope, you can stop that disaster of the child going back into care. We got such a lot of evidence—and I have heard it from elsewhere, as many other noble Lords in this Room have—of how adoptive parents have sought help and not received it, or have not known how to seek it. It is the local authority or adoption agency that has the responsibility to put them in the right place to get the help. So I support what the noble Baroness, Lady King, suggested.

Baroness Tyler of Enfield (LD): My Lords, I add my support to this group of amendments, which are all extremely important, and I want to make two points. I support what has already been said about adoption. For some children, it works very well indeed, and it is absolutely right that we are supporting prospective adopters and giving all the support and help that children who are being adopted need, but it is not right for everyone. In particular, it is not easy for children over the age of five. We need to understand how it becomes progressively a lot more difficult to adopt children as they become older.

Secondly, I want to add to the wise remarks of the noble and learned Baroness, Lady Butler-Sloss, about local authorities being required to take children's wishes and feelings into account. I say that as the chair of the Children and Family Court Advisory and Support Service, as in my declared interests. Our role,

[BARONESS TYLER OF ENFIELD]

as noble Lords may be aware, is to assist the courts and provide reports to the family courts so that judges know what children's wishes and feelings are and can make their decisions accordingly. The work that we do there is very important, but it is absolutely vital that all parts of the family justice system—and I include local authorities as a key part of that system—have that first and foremost in their minds, so that children's wishes and feelings really are what drives the whole process.

Baroness Howarth of Breckland (CB): My Lords, I, too, want wishes and feelings to be included in the Bill. As noble Lords know, I am not really very keen on having additions to the Bill. I have taken part in a series of legislative debates that involved discussion of the inclusion of wishes and feelings, but I cannot remember exactly where they are and are not omitted. I have been chair of CAFCASS, and I know that judges have to take wishes and feelings into account. If local authorities had to do that before the report stage, it would save time because, often, judges have to send reports back because local authorities have not carried out the proper work on wishes and feelings. The present chair of CAFCASS, the noble and learned Baroness, Lady Butler-Sloss, is nodding. If such a provision were in the Bill, that work would be more likely to be undertaken.

My other point is about adoption and fostering. At the moment, there is a groundswell among a group of women who feel that they have had their children prised from them into adoption—I hope that officials have picked that up—and a campaign to look more closely at preventive work, with children being kept in their own homes. However, I have to say that, often, these children should be removed from home. Whether they should then be adopted is the question. I raise that issue because good work with the parents might mean the child could return home. However, they are often very difficult children whose parents are on drugs or have alcohol problems, and who are seeking help for themselves but not making it, and the children are in real difficulties. These are the children whom fostering would help. Fostering would maintain the situation until there is more stability. These are the children who in some situations have been placed for adoption, when we have not given the kind of support the Government previously discussed—ongoing care for adopters, adoption allowances and adoption support through the local authority, to ensure no further breakdown. Where is such a programme? There had been very positive thinking about adoption.

The Government have for a long time resisted proper research on adoption breakdown in order to understand why these children are sometimes being placed several times over. Sometimes adoption does not break down just once; it may break down more than once, and that is a total disaster. I have met young people who have been in that situation. The sooner we gain a greater understanding, either through government research or through gathering the research of others, the sooner we can intervene better by preventing breakdown or not placing these children in such situations in the first instance.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, I shall speak to Amendments 89, 90 and 90A which seek to amend Clause 8. Before I do so it may be helpful if I take a moment to set out the intention behind Clause 8. It seeks to improve decision-making about child placements and to improve the information that is put before courts in care proceedings. It is about making sure that children's long term-needs are at the forefront of decision-makers' minds when significant decisions are made about where the child should live. Under current legislation, when deciding whether to make a care order, courts must consider the local authority's long-term plan for the upbringing of a child. Clause 8 asks courts, when doing this, to consider the individual needs of the child now and, crucially, in the future, particularly in the light of any abuse or neglect they have experienced, and to consider how well the proposed care placement will meet those needs. The intention is to ensure that children receive placements which will meet their needs throughout their childhood.

I turn to Amendment 89, tabled by the noble Lords, Lord Watson of Invergowrie and Lord Hunt of Kings Heath. Every child deserves a loving and stable family. For those children who cannot live with their birth parents, it is vital that we find them permanent new homes as quickly as possible. Often, the best place will be with kinship carers or foster carers, and that is why we remain committed to improving those routes to permanence. The Government are pro adoption because it is a strong, permanent option for many children which provides them with the support and care they need throughout their lives. However, we also support other forms of permanence. Indeed, the Bill includes measures to improve educational support for children who leave care through a special guardianship order or child arrangements order, and the clause we are discussing will improve decision-making for all permanent options, which I think we would all agree is a good thing.

I recognise the intention behind the amendment, which is to ensure that all placement orders are given equal consideration. However, the amendment would duplicate wording that is already set out elsewhere, in the Children Act 1989. Section 22C of the 1989 Act and accompanying statutory guidance sets out clearly how looked-after children are to be accommodated by local authorities. This includes placements with family members, foster placements and placements in children's homes. We have no evidence that local authorities and courts are not clear about what placement options they need to consider during care proceedings, so the amendment would add nothing to the current legislation.

Amendment 90, tabled by the noble Baroness, Lady Walmsley, proposes additional wording for Clause 8 to ensure that courts take into account the wishes and feelings of the child when deciding whether to make a care order. I am sure that no one questions the need for the child's voice to be heard by the court charged with making important decisions about them. It is absolutely crucial that a child's wishes and feelings should play a significant role in any decision-making about their upbringing. However, I want to reassure the noble Baroness and others that this principle is already captured in existing legislation.

On the point raised by the noble and learned Baroness, Lady Butler-Sloss, Section 22F of the 1989 Act states that in making any decision in relation to the child, the local authority should give due consideration to the child's wishes and feelings, having regard to that child's age and understanding.

Baroness Butler-Sloss: I apologise to the Minister, but that is in Part 3 of the Bill, which deals with the accommodation of children who are not children in care. The point about the amendment is that this provision should be included where the parent is also the local authority. The local authority has parental responsibility under Part 4, which it does not have under Part 3, when it is looking at the care plan. Authorities do not look back at Part 3 when dealing with Part 4. I suggest to the Minister that he is not being entirely legally accurate about this.

Lord Nash: In view of that suggestion, I will not attempt even to get to that ball, let alone try to hit it back over the net. I will have the appropriate conversations and write to the noble and learned Baroness. We will certainly get our minds clear on this point.

I am grateful to the noble Baroness, Lady King, for Amendment 90A, which seeks to place a specific duty on local authorities and NHS mental health services to support the needs identified in children's care plans. Where children are in the care of a local authority, as the corporate parent it is under a specific duty to both assess and meet all their support needs. The Department for Education and the Department of Health have issued joint statutory guidance on the planning, commissioning and delivery of health services for looked-after children. It aims to ensure that these children have access to any physical or mental healthcare they may need. Statutory guidance is issued by law so both local authorities and health authorities must follow it unless there is a good reason not to do so.

We are also working with the Department of Health and NHS England to develop a mental health care pathway for looked-after and formerly looked-after children. The expert working group on the mental health of looked-after and adopted children will look at the needs of parents and what interventions can be applied to improve outcomes for the whole family. This would include adopted children. All clinical commissioning groups have had to set out how they will implement the CAMHS review, Future in Mind, and improve support for adoptive children. Given the reassurances and the undertaking to discuss some of the points further, and given that the intentions behind these amendments are already largely captured in legislation, I hope the noble Lord, Lord Hunt, will withdraw his amendment and the noble Baronesses, Lady Walmsley and Lady King, will not press theirs.

4.45 pm

Baroness Walmsley: I am grateful to the Minister, and I am particularly grateful to the noble and learned Baroness, Lady Butler-Sloss, for her legal advice. I wonder whether we can sort this matter out. Perhaps the Minister can review the issue we have just discussed, and if he is still convinced that we do not need this amendment he can give us chapter and verse about exactly why that is. As far as I can tell, it is needed to

make sure that we do not waste the court's time. If the court gets the information from the local authority about the child's wishes and feelings, it does not have to get it itself. We all want to save the court time. Perhaps the Minister could undertake to do that.

Lord Hunt of Kings Heath: That was a very helpful intervention from the noble Baroness, Lady Walmsley, and I am grateful to the Minister for setting out the intention of this clause which—I am sure I speak for all noble Lords—we very much support. The noble Lord clearly believes that current legislation covers the substance of the points raised, though that is subject to further clarification. Clearly we will have time between now and Report to consider this further.

There are also issues relating to practice. I understand what the Minister said about him, his department and Ministers being pro-adoption, and the noble and learned Baroness, Lady Butler-Sloss, equally made the point that it is right to encourage adoption. However, as my noble friend Lord Warner said, there is a risk of a hierarchy of options in which long-term foster care cannot always be supported in the way it should be. I worry that when this gets down to the level of children's services there is a risk of perverse behaviour because of a belief that adoption is always to be preferred to foster care. I would particularly welcome further clarification and reassurance on that area.

On the issue of the child's wishes and feelings, again, I am sure we will sort out the legal position. What has come from the debate is that in the experience of some of the courts, local authorities do not always seem to have found out the child's feelings or wishes or to have taken proper account of them. Even if the legal position is okay—and obviously there are some concerns about that—some practice within children's services needs to be improved.

Finally, my noble friend Lady King raised NHS mental health services. We will have further debate on this because we will be debating an amendment that looks at the problem of children covered by this legislation being sent for out-of-area placements. This is a horrendous problem, particularly for adolescents with mental health issues. Sometimes those young people can find themselves being sent to places 100 or 150 miles away. The NHS has some strong responsibilities here, which at the moment it is not discharging. I listened with great interest to what the Minister said about the work between his department and the Department of Health on care pathways. It is to be welcomed, but it is in the context of long-term consistent failure within the NHS in relation to mental health services for young people. Again, I hope we will have a further opportunity to debate that. This has been an excellent debate, and I beg leave to withdraw my amendment.

Amendment 89 withdrawn.

Amendment 90 not moved.

Amendment 90A

Tabled by Baroness King of Bow

90A: Clause 8, page 9, line 9, at end insert—

() In section 31 of the Children Act 1989 (care and supervision orders), after subsection (3C) insert—

“(3D) Local authorities and specialist NHS children and young people’s mental health services in England have a duty to support the current and future needs of the child, as identified in the long-term plan under section (3B)(a).”

Baroness King of Bow: From what the noble Lord says, current legislation provides a duty to meet children’s needs. This is not the understanding I have from Adoption UK and other agencies, nor indeed from the many social workers I have spoken to who are involved with providing support. I will reflect on what the Minister has said, particularly in relation to NHS mental health services, but for the moment I will not move this amendment.

Amendment 90A not moved.

Clause 8 agreed.

Amendment 91

Moved by Lord Watson of Invergowrie

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

“Sibling contact for looked after children

(1) In section 34(1) of the Children Act 1989, after paragraph (d) insert—

“(e) his siblings (whether of the whole or half blood).”

(2) In paragraph 15 of Schedule 2 to the Children Act 1989, after paragraph (c) insert—

“(d) his siblings (whether of the whole or half blood).”

Lord Watson of Invergowrie: My Lords, like Amendment 90, moved by my noble friend Lord Hunt, Amendments 91, 94, 96, 97 and 98, which are in my name and that of my noble friend, seek to strengthen the permanence provisions of care orders.

Amendment 91 aims to require local authorities to allow children in care reasonable contact with their siblings. The law currently requires local authorities to allow a looked-after child reasonable contact with their parents, and this amendment would extend that duty to siblings, a step that would reflect the important role of sibling relationships in the lives of children in care. The amendment would also provide a sound foundation for ensuring the recognition of the importance of sibling relationships for young people who have left care. For those young people leaving care who are also expectant parents, siblings can often prove an important source of emotional and practical support.

In January 2015, the Family Rights Group published its report into the current experience of siblings in the care system, looking at whether some placement types are more likely than others to enable siblings to be raised together when it is assessed as being in their interests. The report revealed that children in unrelated foster and residential care are overrepresented among those separated from their siblings, compared to the overall numbers in the care population. Only 1% of sibling groups who were all placed together were living in residential care. By contrast, children in kinship foster care were less likely to be separated from their siblings.

The report highlighted research showing the benefits that siblings can gain from being raised together. For many, it is the closest relationship they ever experience. They are able to share information and feelings and develop a shared sense of identity. Last year, a report by the Centre for Social Justice said:

“One of our greatest concerns is that the bonds between siblings in care, which can lead to greatly valued lifelong relationships, are being broken”.

Other studies have shown that young people overwhelmingly say they want siblings to be kept together. On average, 86% of all children in care thought it important to keep all siblings together in care, while more than three-quarters thought that councils should help children and young people to keep in touch with their brothers and sisters.

As the noble Lord, Lord Warner, said in the debate on the previous group of amendments, and as noble Lords have said on numerous occasions during our deliberations on the Bill, we should listen to what children in care are saying. They know better than anyone what life in care is like and speak from experience—much of it, perhaps, not particularly pleasant. Government guidance recognises that maintaining contact with siblings is reported by children to be one of their highest priorities. It acknowledges the value of sibling contact for continuity, stability and promoting self-esteem and a sense of identity at a time of change or unfamiliarity. Further guidance emphasises the importance of sibling contact, where children can be placed together.

I shall not speak to Amendments 94, 96, 97 and 98 in such detail. Amendment 94 deals with pre-proceedings work with families and would ensure that effective work is undertaken with the family, so that all safe family options are explored if a child needs to become looked-after. The importance of family in this situation cannot be overstated. Amendment 96 would insert a new clause entitled, “Promoting the educational achievement of children who are living permanently away from their parents”. It would apply the provisions set out in Clauses 4, 5 and 6 for promoting the educational achievement of previously looked-after children to children who are living permanently away from their parents, including those being cared for by a relative or a wider family member, those under a special guardianship order or those who have been adopted.

Amendment 97 inserts a new clause entitled, “Support for family and friends carers where children are not looked after children”. It would ensure provision through local authorities appointing,

“a designated lead for family and friends care”,

carrying out assessments of,

“needs for family and friends care support services”,

and making arrangements for “counselling, advice and information”.

Amendment 98 states that a local authority must report,

“must report to the Secretary of State each year on outcomes for children in need; children subject to child protection plans; children who are the subject of care proceedings; looked after children; and care leavers”.

The amendment covers the headings contained in the local offer in Clause 2. It is important that the Secretary of State not only reports on these areas but lays a copy

of the report before Parliament each year so that both Houses can measure progress and comment on it. The Minister may say in reply that that is an administrative burden or a burden in some other way, but it would be appropriate for the Government to accept this amendment. It would underline their commitment to children and young people in care by allowing access to reports to the Secretary of State for the Secretary of State and Members of both Houses to comment on. I beg to move.

Baroness Bakewell of Hardington Mandeville: My Lords, I support the amendments in this group tabled by the noble Lord, Lord Watson of Invergowrie, and shall speak specifically to my Amendment 92. Grandparents play among the most important roles in a child's life. The Children Act 2004 removed the right of grandparents to have access to their grandchildren. While this may be necessary in some cases, I believe that it was a retrograde step. In recent weeks, we saw the tragic case of Ellie Butler who, after five happy years with her grandparents, was returned to the care of her parents, with disastrous results. Her loving grandparents had been in the process of adopting Ellie legally. All was going well with the support of the local council, when the adoption was blocked by a social worker. As we all know, the decision to disregard the grandparents led to Ellie's early death. We have already debated the need to listen to the views of the child and for communication with the child. It is essential that children's wishes, including staying with supportive grandparents, while still having some access to their parents, are adhered to wherever possible. I am firmly of the opinion that now is the time to reinstate the importance of grandparents in a child's life and would like to see this amendment in the Bill. I look forward to the Minister's response.

Lord Warner: My Lords, I support Amendments 91 and 92. I declare my interest as a grandparent several times over. On siblings, we now know a lot more about the importance of siblings to children taken into care than we did when the 1989 Act was passed. It is too often forgotten that siblings have often gone through the bad experiences that the children taken into care have experienced. There is a bond over some of the bad things which have happened to them which is important for their survivability in future. We too often underestimate the importance of siblings, and I therefore very strongly support the amendments tabled by the noble Lord, Lord Watson.

I was seriously shocked by the Ellie Butler case. I thought it was the most appalling outcome for that child, and I will return to this issue on a later amendment. We have rather lost the plot on grandparents, who are a major resource for caring. We seem to forget that people can become grandparents very much younger than in previous eras; they can be grandparents in their late 40s and early 50s. In addition, grandparents are living longer and many of them are living fitter lives; they are quite capable of dealing with children. We are missing a trick in not recognising grandparents as a serious care resource. We should try to establish that very firmly in the Bill and recognise that we are in a very different position with grandparents from that which pertained several decades ago.

5 pm

Baroness Tyler of Enfield: My Lords, I support Amendment 91, to which my name is attached. In doing so, as in the previous group I want once again to draw on my experience as the chair of CAFCASS. From our work at CAFCASS, we have found that children in care who have regular contact with their siblings tend to do better in terms of outcomes. It is absolutely the case that relationships with siblings are often the most enduring that those children have. Indeed, as we have just heard from the noble Lord, Lord Warner, they can be as important to children as the relationship with their parents, particularly if they have supported each other through difficult times.

The reason why I most wanted to add my name to the amendment was that I attended a meeting last October of the All-Party Parliamentary Group on Looked After Children and Care Leavers. Indeed, the noble Earl, Lord Listowel, was there as well. It was a very moving meeting; we heard from a large number of children in care and who had recently left care about their experiences, in particular about the barriers that they had encountered in terms of having sibling contact. Perhaps I may mention some examples. A young person said that he had asked for contact with his siblings, but the local social services said no, because the siblings were in the care of a different local authority. That young person had not seen his siblings for 10 years. Another young person told us that he was the oldest of 13 siblings and had been allowed to see only two of them. He said that his adoptive parents were actively preventing him from seeing his brothers and sisters. We heard about other barriers, such as the issue not being high on the agenda for the local authority; we heard of young people who could not even get together the travel costs to see their siblings. We heard about a lot of things like that—but we also heard, more encouragingly, about some good practice, including young people being able to use Skype to make contact, and memory boxes for their siblings being put together.

I came away from that meeting feeling profoundly shocked and moved by those issues. It would seem so easy to do something about them, so why were we not? Along with the noble Earl, Lord Listowel, in November last year I signed a letter to Edward Timpson, the Minister responsible, setting out what had happened at the meeting and asking him what could be done to make it the norm for sibling contact to happen.

This Bill provides the ideal opportunity to add a provision like that set out in Amendment 91, which would make it much easier for young people like the ones I met to maintain sibling contact. I think that the impact on the rest of their lives could be really profound.

Baroness Butler-Sloss: My Lords, I would like to support what the noble Baroness, Lady Tyler, has just said. The Select Committee responsible for the post-adoption legislative inquiry came to the conclusion that I and one or two other Peers who served on the committee ought to meet children. We met a group of around a dozen adopted children to ask about their experiences. We then thought that it would only be fair to meet children who are in care, and again we spoke to about a dozen of those children. Everything that the noble Baroness, Lady Tyler, has just said we

[BARONESS BUTLER-SLOSS]

experienced, and it was very moving. I was the only Peer actually to talk to those children and their enablers. They told me frankly how they felt, and nearly everything they talked about was in relation to their brothers and sisters. One young person who was just about to leave care had been the father figure to three or four younger children. They were taken away and all divided up between different families. He said, "I was responsible for them. No one will even tell me how they are getting on. I think of them every night". It was really terrible. The idea that siblings are taken into account should not be part of the actual law of the land seems utterly wrong.

We know that local authorities are in difficulties, and I am not suggesting that every sibling, perhaps particularly the eldest of 13, should be able to see every one of their brothers and sisters once a week; that would be silly. The use of Skype, Facebook and so on provides an opportunity to be in touch but, unless it is a requirement, it is extremely easy to overlook. That is why it needs to be in primary legislation.

I am a grandmother, six times over I am glad to say, but I am also a not-particularly effective president of the Grandparents' Association and, on its behalf, I would like to say how important grandparents are—and the stories I have heard of how grandparents are taken for granted. If they are able to look after the children, that is great, but when they come in asking to take over the care of children, who basically they have been looking after for years and years, they are utterly disregarded. In the best of local authorities and, I have to say, the best of CAFCASS, they are taken into account, but many times they are not. It is about time that also was on the face of primary legislation. I should add, of course, that not every grandparent is a good one—one has to recognise this. The fact they are on primary legislation does not mean the local authority has to deal with thoroughly obstructive, unhelpful grandparents, who are trying to destroy whatever the situation is. Speaking now as a former judge, I had that sort of grandparent too, so one has to be realistic. But the majority of grandparents love their grandchildren and work incredibly hard for them, and they really should be recognised.

Baroness Hughes of Stretford: My Lords, I also support very strongly the amendments tabled by my noble friends and other noble Baronesses and noble Lords in this group. I will speak briefly but very particularly in relation to the points about siblings and grandparents. The noble Baroness, Lady Tyler, and the noble and learned Baroness, Lady Butler-Sloss, have spoken very movingly about the importance to children of contact with their siblings. The new and rising role of grandparents also means that we have to look at that in terms of policy, as well.

I want to reflect on something that I find quite depressing. Most people in this room now were also participants when we debated the Children and Families Bill, not too long ago. We had extensive debates then about the importance of contact with siblings and the importance of considering kinship care before alternatives were gone towards too quickly, yet it seems to be the default position of the Department for Education not to recognise this in primary legislation. When he replies,

I hope the Minister will speak to that, because I thought we had convinced him and his officials then, when we debated that Bill—but here we are again, with other legislation presented to us, that completely disregards siblings and other important family members. As the evidence my noble friend cited from the Family Rights Group and others shows, there is still very poor practice. Unless we put these issues in legislation to demonstrate their importance when the decisions about individual children and families are being made, we will still keep going around in circles. We will come back with another Bill and they will still not be there, and we will still have children separated from their brothers and sisters. Now is the time really to put this right.

Baroness Howarth of Breckland: My lords, I believe that the latest Ofsted findings show that siblings are being kept together and placed without undue delay in most circumstances, which is extremely good news. I wonder if the Minister could verify that. Certainly, it was what was said at the presentation of the latest Ofsted report and I greeted the news with some joy. However, it does not mean that I do not support this amendment, because the very fact that Ofsted has to report on this and say how much better it is getting shows that we have had to reach a point of changing practice to make sure that children are able to talk to their brothers and sisters. I am delighted that it seems to be getting better, if that is so, but it does emphasise the need for this proposal. I am the very unlikely founder of the All-Party Parliamentary Group for Grandparents—they could not find anybody else—but, as people know, I have brought up children and still find myself with my great-nieces and great-nephews for care, and for all the things that grandparents do.

What I have learned from working in the north of England, where all my family are, is that grandparents up there are mostly caring informally for their grandchildren. It is only when things go seriously wrong that they suddenly find that they are not adequate to care for those grandchildren, because the assessment says that they have to be moved somewhere else. That is where the two parts of this Bill meet, because we are looking for good assessment by a social worker. Of course, the child's needs must be paramount; you do not leave a child with a grandparent who does not have the ability to care for that child—but surely it is better, if they have made that relationship and the grandparent is fit to care, that they continue. The recent death of Ellie Butler is an example of that.

The Earl of Listowel: My Lords, I welcome this group of amendments, and particularly welcome what the noble Baroness, Lady Tyler, said. It is so important to the young people who come to the All-Party Parliamentary Group for Children, young people in care, care leavers, and their foster carers and social workers, that they are heard by parliamentarians. They often express their regret that not more MPs and parliamentarians are there. I am so very grateful to the noble Baroness for taking such great pains to listen, record and share with the Grand Committee her experience of visiting that meeting. I agree of course with everything that she said.

I flag up one more time the important role that Delma Hughes has played over the past 10 or 15 years in terms of advocacy for sibling contact. As I mentioned before to your Lordships, she entered care and lost contact with her five siblings; she went on to become an art therapist and practised for many years. On recognising about 10 years ago the lack of facilities for facilitating sibling contact, she set up her own charity, Siblings Together, and has organised workshops over many summers and Easters where groups of siblings who would otherwise be separated have come together to enjoy performing in plays and camping together. She has made a big mark in this area. She met with Ed Balls, the former Secretary of State, to advocate on their behalf, and has been a member of the SCIE consultation group on this area. She has really made a big difference, and I pay tribute to her.

It is encouraging to hear what my noble friend Lady Howarth said about the recent Ofsted findings. To enable siblings to stay together, one obviously has to have foster carers with the capacity to offer the larger placements—so congratulations are due all round that some progress is being made.

I can summarise the last two or three amendments by saying that they are about better supporting special guardians, kinship carers and others. The problem is that local authorities are very stretched for resources. If they have no legal obligation to support such families, who are standing in, those families may get very little if any support. Yet those families save the Exchequer huge sums of money each year by caring for many thousands of children. They often do so at their own expense, not being able to do the job that they might otherwise be able to do. They may have to live in a very cramped housing environment because of the extra child they take in. Anything that the Bill can do to make central government more aware of the duty that we owe those families and of the support, or lack of it, is very welcome.

We recently discussed a housing Bill and a welfare reform Bill in which concerns about the helpful role that these special guardians and kinship carers offer was raised. To some degree, their concerns were answered, but we need always to keep our minds on those people. The noble Baroness, Lady Walmsley, argued in earlier amendments for making Secretaries of State bear much more in mind of the United Nations Convention on the Rights of the Child, so that we can look, across all departments, at the impact of Bills on children, whether they are welfare or housing Bills. So often those Bills have other priorities, and there is a risk that different departments will not work together to improve the outcomes of children but work against such outcomes. I welcome this group of amendments and look forward to the Minister's response.

5.15 pm

Baroness Evans of Bowes Park: My Lords, I will respond to Amendments 91 and to Amendments 92, 94 and 96 to 98, which are grouped with it. These clauses address a number of topics, relating to maintaining a child's relationship with the birth family or keeping them within that family, promoting the educational achievement of children living away from their birth parents, providing support to family and friends carers,

reporting on the outcomes for vulnerable children and applying Clause 9 to cover Wales. I thank all noble Lords for raising several important points and for the moving and high-quality contributions that have been made.

Amendments 91, 92 and 94 all seek to maintain a child's links with their birth family where they are unable to live with their birth parents. The Government absolutely agree that a child maintaining contact with their birth family wherever possible can provide continuity and stability at a time when other aspects of their life can be subject to uncertainty. Guidance under the Children Act 1989 and the Care Planning, Placement and Case Review (England) Regulations 2010 is clear that,

“wherever it is in the best interests of the child, siblings should be placed together”,

and that if siblings have not been placed together, arrangements must be made to promote contact between them if that is consistent with welfare considerations. On top of that, it is also set out in the regulations that arrangements must be made to promote contact with siblings unless it is not in the child's best interests to do so.

No one could help but be moved by the contributions, particularly of the noble and learned Baroness, Lady Butler-Sloss, and the noble Baroness, Lady Tyler. However, we believe that the issue is not about what the law says. As the noble Baroness, Lady Hughes, said, it is about poor practice on the ground. Indeed, the noble Lord, Lord Watson, highlighted the findings of the Family Rights Group which further emphasise the issue. We have asked officials to meet representatives of the Family Rights Group to discuss its findings, and if necessary we will look to strengthen the statutory guidance in this area.

As for ensuring that grandparents are considered as possible carers at the point when adoption decisions are made, the law already provides for this in the Children Act 1989. Where courts and adoption agencies feel that there is a significant relationship between a child and their grandparents, they have the authority to consider a grandparent to be a “relevant person” and take that relationship into account. The noble Lord, Lord Warner, and the noble Baroness, Lady Bakewell, rightly raised the deeply tragic case of Ellie Butler. We welcome the fact that a serious case review has been carried out. It is absolutely vital that lessons are learned. That is why we are establishing the new Child Safeguarding Practice Review Panel, which we will be discussing later, to identify and undertake reviews of the most serious incidents that raise issues of national importance, so that learning from them can be properly understood and shared.

However, noble Lords will of course recognise that, as the noble and learned Baroness, Lady Butler-Sloss, said, unfortunately not every child will have an existing, positive relationship with their grandparents. That is why we do not believe that it would be the most effective use of courts' and adoption agencies' time to legislate that grandparents must be considered in every case. Rather, we believe that courts and agencies should retain the freedom to decide on a case-by-case basis whether a child's relationship with their grandparents may be relevant, depending on the facts of the case.

[BARONESS EVANS OF BOWES PARK]

Amendment 94 seeks to place a duty on local authorities, at the point when they feel that a child needs to enter care, to consider family and friends as potential carers for that child. Again, I wish to reassure noble Lords that the requirement for authorities to demonstrate that they have considered family members and friends as potential carers at each stage of the decision-making process already exists in the legislation framework. Section 22C of the Children Act 1989 makes clear that local authorities must give priority to parents, persons with parental responsibility and placements with local authority foster carers who are relatives or friends of persons otherwise connected with the child. We feel that this amendment would largely, if not completely, replicate the existing duty and practice that local authorities should already follow.

While on the topic of family and friends carers, I will address Amendment 97, which seeks to place a duty on local authorities to provide support services for family and friends carers of children who are not looked after. I reassure the noble Earl, Lord Listowel, that the Government fully recognise the invaluable contribution made by many family members and friends up and down the country who are caring for children. The Children Act 1989 sets out the duties and responsibilities of local authorities to support the needs of all children living with family and friends carers. Statutory guidance published during the previous Parliament strengthens these requirements on local authorities.

As noble Lords will be aware, because we have discussed this previously, family and friends care, or kinship care, covers a wide range of arrangements, both formal and informal. How kinship carers are able to access financial support depends on the individual circumstances of the carer and the child. Local authorities have the power to provide financial and other support to those looking after children in informal relationships following an assessment of needs. Statutory guidance on family and friends makes clear that children and young people who are living with relatives or friends should receive the support they and their carers need.

We do not believe that adding to the legislative framework will be effective in driving improved practice in this area. Rather, it is through ensuring that we have a highly skilled and expert children's social care workforce that we can ensure that those in kinship care arrangements have access to the support they need. That is what we are trying to achieve through our social work reform programme. My noble friend the Minister has agreed to meet with the Kinship Care Alliance to discuss how we can support kinship carers and to discuss the range of issues that noble Lords have brought up during our discussions so far. That meeting will happen next week, and I am sure that this issue will be one of those that we discuss.

Amendments 96 and 98 seek to protect the educational and wider outcomes of vulnerable children. Amendment 96 seeks to place a duty on local authorities and schools to provide a virtual school head and designated teacher to all children living permanently away from their parents who are cared for by a family under a special guardianship order, a child arrangement order or an adoption order, where the child has not been in care.

Our intention with Clauses 4, 5 and 6 is to place a duty on local authorities to extend the duties of virtual school heads and designated teachers to support looked-after children who have left the care system under a permanent order. The aim is to ensure that children do not lose the support they received while in care when they move to their permanent family. This amendment would extend that support to a new group of children who have not previously been in care.

Baroness Hughes of Stretford: I was rather concerned about the wording of Clause 4 in extending the virtual head teacher role as it refers only to “advice and information”, so we made inquiries of the Bill team, who said that they envisage that the role of the virtual head teacher as applied by the Bill in relation to these new groups of children will be very light touch. In other words, it will be limited to advice and information on request. It will not consist of monitoring and targeting the progress of those children. Will the Minister confirm that that is the case? I do not think that that is clear, either in the Explanatory Notes or in the wording of the Bill. If that is the case, it does envisage a rather different—and, as I say, much lighter-touch—role for these groups of children. I am not sure that would be effective.

Baroness Evans of Bowes Park: For children who have left care and are now with a family, the noble Baroness is right, because obviously those children will have that family playing a role in a way that children in care would not. The virtual head and the designated teacher will be liaising with the family, but the family will obviously be playing a role, and a child in care will not have that family. This was covered in a group of amendments that we discussed in the previous session in Committee, so perhaps the noble Baroness would like to have a look at what I said then. If she has any further questions, I would be very happy to answer them.

Amendment 98 seeks to introduce a new clause that would place a requirement on local authorities to report on various outcomes for vulnerable children, such as those in need, looked-after children and others. It also asks the Secretary of State to publish an annual report on these outcomes. I hope noble Lords will be reassured to hear that the importance of reporting on outcomes is recognised by the Government. We have already placed a duty on local authorities to report information about children in need and looked-after children and their outcomes. Annual reports and statistical tables are produced and published by the Department for Education. These show a range of information about the outcomes of looked-after children and care leavers. Last year, for the first time, the national children in need census data also published factors identified by social workers in assessments of children. These included parental and child risk factors such as drug and alcohol misuse, mental health and domestic violence, among others. However, I am happy to inform the Committee that we will be reviewing our national data collections across government to make sure they are joined up and consistent and to make use of technological advances to ensure that we collect more timely data.

I hope that these explanations and reassurances will allow the noble Lord to feel able to withdraw the amendment.

Lord Watson of Invergowrie: My Lords, this has been a stimulating debate with a number of excellent contributions. I should say to the noble Baroness, Lady Bakewell, that we are very much in agreement with her comments in speaking to her amendment, and also with those of the noble Lord, Lord Warner. We would be more than happy to accept Amendment 92. The noble and learned Baroness, Lady Butler-Sloss, quoting from her vast experience, made the case for Amendment 91 more effectively than I was able to do, and I am grateful to her for that. She spoke eloquently about the need to put siblings in the Bill. I think the remarks of the Minister, the noble Baroness, Lady Evans, were helpful in that regard and may have drawn some of the sting from some of the contributions. I do not doubt the Government's intentions here, but there has to be something more than exists at the moment because, while I am delighted to hear that meetings are to take place with both the organisations she mentioned, the Family Rights Group and the Kinship Care Alliance, they are dealing with these issues on a day-to-day basis and so would not be as concerned if the issue of siblings was not a problem. We will be looking to see what comes out from what the Minister said about strengthening the statutory guidance. We will want to see that. I doubt that will be coming out before Report but, given that Report may be some time away, there may be some option. We perhaps could discuss it again on Report because it is an important issue, as the number of contributions suggested.

It is the same concerning grandparents. The Minister said that grandparents should not be considered in every case. I suppose that is right, but at the same time it may or may not be appropriate for them to be considered. Questions at least should be asked about whether there are grandparents, what the situation is and whether they can make a contribution to situations when the children are in need of care from a family member. This is just one of the groups that would be included in terms of the Bill, and it may be appropriate to return to this as well on Report, because the number of comments by noble Lords suggests that it is an issue that is seen as important.

On the other issues, briefly, I hear what the Minister says. We think they are important. She pointed to some areas where these issues are being covered to some extent but, in terms of the annual report, local authorities make annual reports to the Secretary of State. Maybe they are published, maybe they are just there, we cannot find them or we do not look for them, but it would be helpful to have that information made available. It would be helpful, if not every year, at least from time to time, to get a debate in either the House of Lords or in another place so that the figures could be placed year by year, side by side to see what progress is being made. That was the thinking behind the amendment; it was no more than that. We want to have the ability to see what is there, to question and to debate it. This has been a very good debate on a number of issues, and I beg leave to withdraw the amendment.

Amendment 91 withdrawn.

Amendment 91A

Moved by Lord Hunt of Kings Heath

91A: After Clause 8, insert the following new Clause—

“Legal aid for parents whose children are in voluntary accommodation and are to be placed in foster for adoption placement

After regulation 5(1)(e) of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013, insert—

“(ea) family help (lower) in any matter described in paragraph 1(1)(b) (care, supervision and protection of children) or paragraph 1(1)(i) (placement orders, recovery orders or adoption orders) of Part 1 of Schedule 1 to the Act to the extent that the matter concerns a placement to be made or contemplated to be made under section 22C(9B)(c) of the Children Act 1989 (placement with a local authority foster parent who has been approved as a prospective adopter), where the child is being accommodated under section 20 of that Act, and the individual to whom the family help (lower) may be provided is—

- (i) the parent of a child, or the person with parental responsibility for a child within the meaning of the Children Act 1989 in respect of whom a local authority has given notice of a placement or contemplated placement under section 22C(9B)(c) of that Act; or
- (ii) in the case of an unborn child in respect of whom a local authority has given notice of a placement or contemplated placement under section 22C(9B)(c) of the Children Act 1989, the person who, following the birth of the child—

(aa) will be the parent of the child; and

(bb) will have parental responsibility for the child within the meaning of the Children Act 1989;”.

Lord Hunt of Kings Heath: My Lords, this amendment was previously in the name of my noble friend Lady Armstrong. Understandably, she is very much engaged in giving responses to the Chilcot commission today, so I move this on her behalf.

My understanding is that Section 20 of the Children Act 1989 provides the machinery by which a child can be received into the care of a local authority with the consent of a parent. However, parents do not have the right to free legal advice and representation prior to agreeing to the voluntary accommodation of their child unless the local authority has initiated or is planning care proceedings. It has been put to my noble friend that, without such independent legal advice, there is concern as to whether parents actually are giving informed consent. Obviously, this is particularly worrying in respect of younger parents who have lost their children to the care system and may lack other established sources of support, including advice. Our debate on Monday, particularly about children who have been in care and are themselves young parents, is particularly apposite to that issue.

5.30 pm

Provisions in the Children and Families Act 2014 mean that children who are looked after either under a care order or under Section 20 with the voluntary agreement of their parents can be placed with potential adopters who are proven foster carers. This is known as foster for adoption. Children who are looked after under Section 20 may be placed in a foster for adoption

[LORD HUNT OF KINGS HEATH]

placement without the parents or their family network having had a right to independent legal advice. If there have been no proceedings, there will have been no court oversight of the process, nor any court decision that the child should be permanently removed from their parents. Once the child is living with the potential adopter, it is much harder for the parents or the wider family to get the child into their care because of the status quo argument, which, understandably, aims to minimise disruption for the child.

A freedom of information survey of English local authorities in summer 2015 found at that stage that at least 58 voluntarily accommodated children had been placed with a potential adopter in a foster for adoption placement. In that situation parents who, on any definition, will be vulnerable, may not be receiving legal advice because they are not eligible for legal aid provision and often would need legal aid to be able to obtain legal advice. I hope the Minister will see the strength of this argument and can respond in a positive way. I beg to move.

Baroness Walmsley: My Lords, I recall having some briefings about this issue in relation to a previous Bill in your Lordships' House—I am afraid the name escapes me. It clearly is a real issue. As the noble Lord, Lord Hunt of Kings Heath, said, many of these parents are quite young and may not really understand the significance of what is happening when they agree to the voluntary placement, or the power of the status quo argument. Once the child is settled and there are no other reasons why the foster parent should not become the adoptive parent, it is unlikely that the court is not going to agree to the final adoption order. Particularly given the poor availability of legal aid for so many things these days, it is important that such parents are able to get advice, at the very least to make them aware of what they are agreeing to. If they then feel unwilling to agree, they need advice as to how to make their case to keep their child at home.

Baroness Evans of Bowes Park: Amendment 91A seeks to amend the Civil Legal Aid Regulations 2013 to provide parents with free legal advice when their children are voluntarily accommodated under Section 20 of the Children Act 1989 and the local authority wishes to put them in a foster for adoption placement. I understand the concern that parents need to have access to information and advice before they agree to their child being accommodated. The law is clear that a local authority cannot accommodate a child under Section 20 without the consent of a parent. The local authority must provide advice and information to parents to ensure that they fully understand the arrangements and give their informed consent. In addition, any parent can remove the child from the care of the local authority at any time. If individuals satisfy a means and merits test, they may be eligible for some funding for civil legal services, including initial advice about the nature of voluntary agreements. If the local authority later decides that a child should not return home and the best option would be to pursue adoption, the usual court process must be followed. It remains the case that a child cannot be placed for

adoption unless the birth parents give their consent, or the court has made a placement order. That means that the court must consider the birth parent's view before deciding that the adoption placement order is necessary. When a local authority informs a parent of the intention to initiate an application for an adoption placement order, they will become eligible for civil legal services, free of any means test, in the usual way.

I hope this explanation means that the noble Lord will agree to withdraw the amendment tabled by the noble Baroness, Lady Armstrong.

Lord Hunt of Kings Heath: My Lords, I am grateful to the Minister for her response and to the noble Baroness, Lady Walmsley, for her support. I thought the Minister was pretty encouraging, but clearly this depends on the local authority doing the right thing in ensuring that informed consent truly means informed consent, that the parents in the situations that she described have access to independent advice, and that that advice actually is independent. Clearly, there seems to be a gap between the legal guidance given to local authorities and the reality. I am sure that my noble friend Lady Armstrong will wish to consider that issue in due course, but I thank the Minister for her response. I beg leave to withdraw the amendment.

Amendment 91A withdrawn.

Amendment 92 not moved.

Amendment 92ZA had been withdrawn from the Marshalled List.

Clause 9 agreed.

Amendment 92A

Moved by Lord Ramsbotham

92A: After Clause 9, insert the following new Clause—

“Profit-making and children's social services functions

- (1) Social services functions conferred on or exercisable by a local authority so far as those functions relate to children shall not be discharged by a body corporate that is carried on for profit.
- (2) “Social services functions” has the meaning given by section 1A of the Local Authority Social Services Act 1970.”

Lord Ramsbotham: My Lords, first, let me correct an omission from my contribution at Second Reading—namely, that I did not publicly thank Thomas Brown for his typically helpful Library note, from which I quoted Dr Ruth Allen, chief executive of the British Association of Social Workers, who said that government reforms,

“need to be driven by social worker knowledge and skills”.

Noble Lords may question the words “be driven” and prefer something like “take account of”, but the sentiment is the same. Partnerships imply co-operation, and co-operation includes consultation.

I acknowledge that an amendment that seeks to give extra force to an existing ban on profit-making in children's services by regulation by enshrining it in

primary legislation does not sit easily in the group of clauses headed, “Care and adoption proceedings in England and Wales”, but neither does any fear that the Government might use Section 1 of the Children and Young Persons Act 2008 in this regard, which enables the social care functions of a local authority to be discharged by a body corporate. That would not sit easily with partners such as the Association of Directors of Children’s Services and many other organisations, which rejected any profit motive in the provision of children’s services in the consultation that the Government held in 2014 on draft regulations concerning a significant extension to the children’s service functions that could be outsourced. In its response, the association said:

“Decisions taken about a child’s life should only ever be based on what is in the best interests of the child as assessed by skilled and qualified social workers and the courts system. These decisions cannot, and must not, be subordinate to the pursuit of financial profit”.

In their response, the Government said:

“The proposals were concerned with improving the quality of children’s services rather than savings, ‘privatisation’ or profit-making”. They inserted a prohibition on profit-making into the final regulations, which extended the children’s services functions that could be outsourced.

Local authorities are living in hard financial times that are likely to get harder rather than easier, as many noble Lords have pointed out. I do not believe that a single penny of what is allocated to protecting children and young people and keeping them safe should be diverted from that purpose. In ideal circumstances, of course, such services should be funded adequately to ensure that they are effective and timely, but what is absolutely clear is that no one should profit out of that allocation other than children.

The Minister said at Second Reading that the Government had no intention of removing the ban on profit in child protection. However, the 2014 regulations and Section 1 of the Children and Young Persons Act 2008 allow the outsourcing of many other children’s services functions. I would be grateful if the Minister clarified exactly what the Government’s position is regarding a profit ban on children’s services. Regulations are easier to circumvent than primary legislation, which is where I believe any ban should be. I beg to move.

Baroness Walmsley: My Lords, children’s social care services are some of the most important functions of local authorities and, of course, councils should be able to work with local partners to secure some elements of children’s well-being while retaining overall leadership and accountability for commissioning and delivery. But because of the mandatory duties, the majority of the experience and expertise in undertaking safeguarding work remains with councils. The complex and difficult tasks in child protection do not readily attract commercial or not-for-profit providers, and it is crucial that we do not create a situation where the easy or profitable aspects of children’s services are cherry-picked, leaving councils with an unmanageable portfolio of the really difficult services.

We had a briefing from the LGA, which believes that the introduction of a perceived profit motive into decisions about our most vulnerable children and young people risks undermining public confidence in this

highly challenging work. I agree with the association. It is significant that it has briefed us, because this work is difficult and costly, so it would have been easy for the LGA to leave things as they are and not encourage us to support an amendment that seeks to put this in the Bill. It is an indication of how seriously the LGA is taking this matter.

As we have heard, in 2014 the Government consulted on draft regulations which significantly extended the children’s services functions that could be outsourced. The responses at the time overwhelmingly disagreed with the regulations. The Association of Directors of Children’s Services pointed out that a local authority’s duty of care is not delegable, although of course its functions are. It felt that services designed to keep children safe should not be predicated on a profit motive. There is far too much temptation to cut corners where there is a profit motive, especially when budgets are tight and the funding of the contract is very challenging, which often happens. As the noble Lord, Lord Ramsbotham, has just said, such decisions should only ever be based on the best interests of the child.

The Minister told us in the meeting we had before the Committee began that the Government are not minded to remove the current ban on for-profit organisations but, unfortunately, that ban is only in regulations, which we all know are not difficult to remove by negative resolution. That is why I support this amendment to put the matter into primary legislation, because it is far too important to put it at risk.

The Lord Bishop of Durham: My Lords, I was pleased to add my name to this amendment and I support the arguments that have been put by the noble Lord, Lord Ramsbotham, and the noble Baroness, Lady Walmsley. I want to add that this is about the best interests of the child, and children are the only ones who should profit from anything here. However, I add another concern. When we come to debate Clause 15, and the possibility of exemptions, I am slightly concerned that, if this measure is not in the Bill, such exemptions might be used as a way of circumventing the issue around profit and not for profit. I lend my support to this amendment.

5.45 pm

Baroness Howarth of Breckland: My Lords, clearly there are other organisations that undertake work on behalf of the local authority in some of these areas. They are usually not-for-profit organisations, such as Barnardo’s, the Children’s Society and others. They will wish to continue to work with local authorities in these areas. However, it is interesting that Article 39, an organisation which looks at the legal position of children, stated:

“Research on the first five social work practice pilots (one of which was run for profit) ... found mixed views on whether looked after children and care leavers received a better service”.

But the telling point was that:

“Three of the five local authorities involved said the practices had cost more than equivalent in-house services and evaluators noted, ‘Interviews held with local authority commissioners in 2011 made it clear that SWPs were not judged to have been financially advantageous’”.

[BARONESS HOWARTH OF BRECKLAND]

So if the Government are looking for a way of delivering services that offers value for money, clearly “for profit” services are not necessarily the best way forward.

Lord Watson of Invergowrie: My Lords, I think it is fair to say that this is the most contentious issue to have arisen in our consideration of the Bill so far. We will discuss Clause 15 next week. In passing, I have to say that I am not quite sure why this measure is being discussed at this point. The noble Lord, Lord Ramsbotham, has stated his views on that, but I wondered why the Clerks did not direct it elsewhere. However, as I say, we will discuss Clause 15 next week. That clause will allow local authorities to opt out of providing some children’s social services. Many people fear that that could pave the way for the privatisation of those and—perhaps, later—other services, in ways outlined by noble Lords in this group of amendments.

The Bill refers to “different ways of working”, which I think most of us understand is code for exempting local authorities from requirements hitherto imposed by children’s social care legislation. Certainly, Labour holds strongly to the view that child protection and wider social care should not be run by an organisation seeking to make a profit. That is why we have joined with Lib Dem and Cross-Bench Peers, as well as the right reverend Prelate the Bishop of Durham, demonstrating the breadth of support for that requirement to appear on the face of the Bill.

We do not object per se to outside organisations working with, or for, local authorities in delivering children’s social services functions, but do so where a company or organisation designed to make a profit, as opposed to a surplus, takes on such functions that would expose the local authority—and, by definition, the children under its care—to the danger that the company might for whatever reason fail, and fall into receivership. Unfortunately, there is no shortage of examples of such occurrences since local authorities began to outsource various services.

Equally, if profit were the motive, the company or organisation may conclude after a period of time that the margins were insufficient in delivering those services and other avenues offered better prospects, and as a result end the contract. In either case, the local authority, which would have handed over the role of providing those services, would be faced with having to find another partner to deliver them or to bring them back in-house. Meanwhile, the quality of services provided for social care or child protection would be, at best, jeopardised. That is not a situation that any of us would wish to see. It is, therefore, a situation that should be ruled out.

At Second Reading, the Minister relied on the fact that in 2014 the Government had introduced legislation that prevented profit-making where local authorities delegate child protection functions. However, there remains the possibility of profit-making companies setting up their own non-profit subsidiaries to take over the critical and sensitive function of deciding how best to protect vulnerable children. There is a serious risk that the likes of Serco and G4S could create these subsidiaries as part of their wider businesses

and, in that manner, these companies could indeed profit from the care of vulnerable children and their families, even if only indirectly.

There will be an obvious conflict of interest because some of these companies will also run children’s homes. That will make it difficult to know how funds might flow between the profit-making and non-profit-making arms. That is why the changes outlined in Clause 15 have caused such concern in the sector, and they could undermine public confidence in the services provided to children and young people. It cannot be stressed too much that effective child protection relies on public trust. The public need to be able to trust local child protection teams so that they feel sufficiently confident to report concerns they may have about a child and to have faith that if they raise a concern the service will act in the best interests of that child.

I invite the Minister to provide answers on two aspects of this crucial matter. First, the provisions of the 2014 legislation notwithstanding, can he guarantee that funds will not be transferred between profit and non-profit arms of a company where the latter is delivering services? Secondly, will the purpose and culture of companies or organisations bidding for the right to deliver child protection and social care services be taken into consideration when decisions are made about delivery partners? When an organisation’s primary aim and main business has nothing to do with children, would it be considered a suitable partner for a local authority?

Nothing can be more important than the safeguarding and protection of children, especially those who are at greatest risk or are the most vulnerable. Organisations prominent in the social care and child protection sectors have registered their anxiety over the exemption proposals in the Bill. At Second Reading, I asked the Minister whether the Government had made any assessment of the risk to children in allowing local authorities exemption from some key duties for keeping children safe. I hope he will now be in a position to let me have his response.

Lord Warner: Will the Minister clarify the position of social enterprise companies which often have to make a surplus or a profit, depending on where you come from? The Minister and I have been having a flourishing series of exchanges through Written Questions and Answers on what happens when Ofsted regards children’s services as inadequate. The outgoing Prime Minister seems to think that two strikes and you are out is a good idea. I have been asking the Minister for a lot of information about the cost of setting up these trusts, which are quite considerable, and what the Government’s policy on this is. The Government’s policy, most recently exemplified in relation to Birmingham, seems to be that where there are two inadequate reports from Ofsted the local authority could well be required to put its services into what is sometimes called a voluntary trust. On further, closer inspection, a voluntary trust can also be a social enterprise company, and social enterprise companies need to generate surpluses or profits in order to invest in continuing improvements in the services they are running. Since Ofsted has said that one-quarter of children’s social care services are inadequate, will the Minister clarify where this agenda is going? Does it

mean that in five or six years' time we will see a very large number of local authorities' children's social care services placed under contract with a number of bodies separate from the local authority, with the local authority still held accountable? Those separate entities, I understand from the Answers I have been receiving, could include all social care services, including child protection. Where are the Government taking this agenda? Have they thought through their position on surpluses or profits from the kinds of organisations that would be under contract with local authorities in which Ofsted determined that social services were inadequate?

Lord Nash: My Lords, I spoke to this issue at Second Reading. It is an important question to clarify, and I am very grateful to noble Lords for the chance to return to it so that I can be crystal clear. We are not seeking in this Bill to revisit the established position on profit-making. That is not our intention. There has, of course, been a mixed market in children's social care for many years, and local authority children's services regularly work with private and third sector organisations—for example in the provision of foster care and residential care. The Children and Young Persons Act 2008 allowed local authorities to take this relationship further by contracting with these partners for the full discharge of their functions relating to looked-after children and young people.

Noble Lords will remember debating regulations in 2014 to widen the range of functions that a local authority could delegate in this manner to cover other children's social care functions, notably child protection. The Children and Young Persons Act 2008 (Relevant Care Functions) (England) Regulations 2014 explicitly ruled out profit-making from this wider set of functions. Nothing is more important than the safety and well-being of children, and we are committed to supporting professionals in finding new and more effective approaches to improving outcomes for the vulnerable young people in their care. In recent years that has involved promoting new models of delivery, but we have absolutely no intention of revisiting the position on profit-making settled by Parliament two years ago. I reassure noble Lords that any change to the 2014 regulations would need to be by the affirmative route.

As the noble Lord, Lord Watson, said, we will revisit the innovation clauses next week, but I will say again now that we have no intention of using Clause 15 to allow the existing position to be circumvented. In our conversations with local authorities, there has been no discussion of using Clause 15 to allow profit-making. This is not what we are seeking to do with that clause. I think noble Lords were reassured when we showed them the examples of innovations and they understood a bit more what this was all about. I hope that further examples will help clarify the position.

The noble Lord, Lord Warner, referred to the depressing situation in Birmingham. He slightly lost me on the concept of profit, because obviously organisations such as charities or local authorities are often trying to generate a surplus in order to reinvest. I do not think it is very helpful in this debate to wander into that, but I hope that when we give further examples of how the clause on innovation will be used, noble Lords will be reassured.

Lord Warner: Can I challenge the Minister on this? I would agree that there is a world of difference when it comes to a private company, which is perhaps going to make profits to distribute to its shareholders. That is one set of circumstances, but we then start to move down a series of alternatives. I cited the example of a social enterprise company, which is a body corporate and is entitled to make surpluses. They are not called profits, but it is taking income out of the local authority and building a surplus in an organisation which is not a public body. That must have some effect on the extent to which the resources devoted by the local authority to that social enterprise are available for services in any one given year. How big can those surpluses get before they have an impact on the volume of services that can be delivered? The Minister is trying to brush this away. I am not trying to score points, but the noble Lord, Lord Watson, has raised an important issue. You cannot just say that these are not distributed-profit companies—these companies can build up surpluses which could have an impact on the revenue that is available in any one financial year for the provision of services.

Lord Nash: I will reflect further on what the noble Lord has said. What we are trying to do in these situations is make sure that where services have been provided badly—in the case we are talking about, they clearly were—they are provided better by alternative suppliers. I will reflect further on the point he makes and come back to him on it, but in view of the reassurance I have given to noble Lords that we have no intention of revisiting our position on this, I hope the noble Lord will feel able to withdraw his amendment.

6 pm

Lord Ramsbotham: My Lords, I am grateful to the Minister for that and to all those noble Lords who have contributed to this short debate. I must admit that, on this issue, I am something of a cynic, because I watched what happened when the probation service was taken over by the profit-making sector, including the pernicious system of payment by results. We have no indication that that is the way in which this is moving, but I think that it should be put in primary legislation and not merely left to reassurances—although I do not doubt the Minister's sincerity in giving that reassurance—or to regulations. This is a matter to which we ought to return on Report, but in the meantime I beg leave to withdraw the amendment.

Amendment 92A withdrawn.

Amendment 93

Moved by The Earl of Listowel

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

“Information sharing and notification for looked after children placed out of area

(1) The Care Planning, Placement and Case Review (England) Regulations 2010 are amended as follows.

(2) In regulation 11 (placement decision)—

(a) in paragraph (2)(d)(i) after “authority” insert “, clinical commissioning group (or local health board in Wales) and police force”;

(b) in paragraph (2)(d)(ii) after “plan” insert “and the area clinical commissioning group (or local health board in Wales) and police force have been notified”.

(3) In regulation 13 (notification of placement)—

(a) after paragraph 2(i) insert—

“(j) the area police force for the area in which C is living and, if different, for the area in which C is to be placed.”;

(b) after paragraph 4(b)(ii) insert—

“(iii) the child’s name and date of birth,

(iv) whether the child is—

(a) provided with accommodation under section 20 or 21 of the Children Act 1989, or

(b) subject to a care or supervision order under section 31 of the Children Act 1989,

(v) the contact details for—

(a) the child’s placing authority, and

(b) the independent reviewing officer appointed for the child’s case under section 25A(1) of the Children Act 1989,

(vi) whether the child has a statement of special educational needs and, if so, details of the local authority that maintains the statement,

(vii) a risk assessment, with specific information about the risk of them going missing from the placement.””

The Earl of Listowel: My Lords, the amendment would ensure that information is shared and that notifications are made to relevant authorities when a looked-after child is placed out of area. The noble Lord, Lord Hunt of Kings Heath, referred to the amendment earlier. It concerns the fact that health services, in particular, are losing track of these vulnerable young people when they are placed out of authority.

Currently, there are a variety of different procedures for placing children out of area, which are dependent on distance, the type of placement and the home nation in which a child is placed. There are also different information-sharing requirements, which means that in some areas crucial safeguarding partners are not always aware of vulnerable looked-after children living in their area and any risks that they may face.

As of March 2015, 37% of looked-after children were placed outside their local authority, with 14% being placed more than 20 miles away from their home authority. Sometimes, an out-of-area placement is important in keeping a child or young person safe—for example, where a child is targeted for exploitation in their home area.

Currently, a distant placement—an out-of-area placement that is not in an adjoining local authority—must be approved by the responsible authority’s director of children’s services and all other out-of-area placements must be approved by a nominated officer. I am grateful to the coalition Government for introducing this change, which means that the director of children’s services has to be involved in the process of sending children out of their local authority. Local authorities across England adopt their own notification processes, but a different approach has been taken in Wales, where a national out-of-area notification protocol is in place to ensure consistency.

Children living outside of their local area are more likely to be reported missing or absent: 50% of all looked-after children reported missing or absent are placed out of area. The Children’s Society sees in its practice many examples of the criminal exploitation of young people thus placed. It sees particular difficulties in ensuring an appropriate multi-agency response because

of a lack of information sharing and confusion about responsibilities with these children. It is estimated that 60% of suspected child victims of trafficking in local authority care go missing and almost two-thirds of trafficked children are never found. Most victims go missing within one week of being in care, many within 48 hours and often before being fully registered with social services.

Given these significant risks, if information is not shared with partners before the placement is made there may be significant delays in responding to the child if they go missing or are targeted, while the police and other partners try to gather all the information about a child that they need to keep that young person safe. Does the Minister agree that the police and health services are as important as local authorities in making sure that looked-after children placed out of area are appropriately safeguarded? I beg to move.

Lord Ramsbotham: My Lords, I added my name to this amendment, and entirely agree with what my noble friend has said so far. I endorse his proposal that the Wales protocol should be adopted in England as well. The number of people they put on the informed list under that protocol is interesting, as it means that most people who are likely to need to know, such as the police, health services and the director of social services, are included.

This reminded me of something that happened when I was Chief Inspector of Prisons, when the chief inspectors of constabulary, the courts services, education, probation and social services were collectively worried about the lack of information flowing around the system. We published a thematic review of what each of our particular responsibilities needed of the others, what was readily available, what was obtainable only with difficulty and what was not obtainable. We presented this to our respective Ministers, who were interested, but the tragedy was that it fell on stony ground because no one Minister was responsible for cross-governmental working to ensure that all this information was shared by those who needed it.

To the categories mentioned by my noble friend, I would just add that of unaccompanied asylum-seeking children, who are frequently moved from their port or airport of entry to local authorities all over the country in order to share the burden. We need to know where they are and what is happening to them, so the information mentioned in this amendment needs to be shared by many others—not just the directors of social services but immigration authorities and others covered in the Wales protocol. I recommend that, which is why I support my noble friend’s amendment.

Lord Hunt of Kings Heath: My Lords, I am very glad to wind up for the Opposition and speak in this short debate. As the noble Earl, Lord Listowel, said, there are sound reasons why out-of-area placements may occur, but they present real challenges, not least the inconsistency of approach between different local authorities and this particular problem about a multi-agency response.

The noble Earl raised the issue of vulnerability to trafficking, and the noble Lord, Lord Ramsbotham, brought unaccompanied asylum seekers into consideration.

I have already referred to my own concerns about the role of the National Health Service. We know that mental health services, especially child and adolescent mental health services, are inadequate and that many disturbed young people are being sent a long way from home.

The Minister in a previous debate referred to an agreement, or work, between his department and the Department of Health in establishing the care pathway. That is to be welcomed, but I would like to hear more about how he is going to make it grip when it comes to children who are being placed out of area and a long way from their homes. Has the Minister's department had an opportunity to see how the Welsh protocol is working in Wales and whether there would be an opportunity to build on the good practice that has been developed there?

Lord Nash: I am grateful to the noble Earl, Lord Listowel, and the noble Lord, Lord Ramsbotham, for this amendment and for raising the very important issue of children being placed at a distance from their home authority.

I recognise that the amendment seeks to improve safeguards and access to services for children placed outside their home authority. I reassure your Lordships that there are already significant safeguards in place that ensure children are placed out of area only when it is in their best interests and, importantly, that appropriate agencies are notified. Most crucially in relation to this amendment, local authorities are already required to notify the host local authority and health services when making out-of-area placements under Regulation 13 of the Care Planning, Placement and Case Review (England) Regulations 2010. This also requires the host local authority to be given a copy of their assessment of needs and care plan. Much of the information this amendment seeks to have included in out-of-area placement notifications is already legislated for, because the care plan already contains it or it is in statutory guidance. We have issued guidance that contains a model notification for out-of-area placements to help guide authorities, which includes the key information about the child. Personal education plans should identify any statement of educational needs or any education, health and care plan. Placement plans must include details of how welfare will be promoted and safeguarded.

I note noble Lords' desire to ensure the police are made aware of children placed in their area and given their care plans so that they can help support these vulnerable children. We have already amended the regulations so the police can access the addresses of children's homes in their area, enabling them to form positive relationships with children's homes and to be more aware of children placed from other areas. I again sympathise with the intent behind providing the police with children's care plans, but these plans contain deeply personal information, and children in care have, as part of previous government consultations, expressed concern about police access to less sensitive information. Children absolutely need to be protected, but this must be balanced with protecting their privacy.

We shall consider the Wales protocol and how it could be helpful to local authorities in England. The noble Lord, Lord Ramsbotham, raised the point of

unaccompanied asylum-seeking children being placed out of area. They will be looked-after children under the Children Act, and so will be subject to the existing duties placed on local authorities in that Act and under the care planning regulations. The local authority must therefore give notification when a child is placed out of area. In view of the strong safeguards and notification requirements already in place regarding out-of-area placements, I hope that the noble Earl will feel reassured enough to withdraw the amendment.

The Earl of Listowel: My Lords, I am grateful to my noble friend Lord Ramsbotham for adding his name to this amendment and to the noble Lord, Lord Hunt of Kings Heath, for his support. I am also grateful to the Minister for his careful reply, which I will examine with care but to a large extent find reassuring. It is good to be reminded of the important steps the Government have taken in recent years to protect children placed out of their local authority area better. He refers to the fact that there is now a duty for police forces to be told of the whereabouts of children's homes in their area, which is an important step forward.

However, as I think the Minister appreciates, there is still considerable concern about the numbers of children being placed outside their own local authority's care. In March 2015, 37% were placed outside their local authority. Clearly, these are more vulnerable children, and it might be helpful to look at some examples of good practice to reinforce the improvements the Government have made so far. For instance, the Children's Society has an example from the Greater Manchester Combined Authority which the Government might wish to look at, and I will send the Minister information on that. I am grateful to him for agreeing to look at the Wales protocol and beg leave to withdraw the amendment.

Amendment 93 withdrawn.

Amendments 94 not moved.

Amendment 95 had been retabled as Amendment 92A.

Amendments 96 to 98B not moved.

Amendment 98C had been withdrawn from the Marshalled List.

6.15 pm

Amendment 98D

Moved by Baroness King of Bow

98D: After Clause 9, insert the following new Clause—

“Adopted children: exemptions in relation to child benefits

- (1) The Secretary of State must, by regulation made by statutory instrument, make provision for child related benefits to be payable in respect of all adopted children, whether or not they are adopted in sibling groups, and regardless of any limit on the number of children in respect of whom those benefits are usually payable.
- (2) Regulations under this section are subject to the affirmative resolution procedure.”

Baroness King of Bow: My Lords, this amendment seeks to prevent the introduction of financial disincentives for adoptive parents. I strongly commend the Government's stated desire to increase adoption rates where adoption is an appropriate outcome for the child concerned. However, recently passed legislation will have the opposite effect, which is why I have tabled this amendment. The noble and learned Baroness, Lady Butler-Sloss, first brought this to my attention, and the Committee reminded itself this afternoon that if she thinks something is a problem, it is a problem.

At present, if you have one child and you adopt a sibling group of two or more children, you will receive child benefit for all three children, despite the Government's new legislation that restricts child benefit to two children in all other cases. However, if you adopt your two children separately—that is, they are not in a sibling group, like my three adopted children who are not siblings—the exemption does not apply, so lower-income families which would get child benefit and who already have a child will get child benefit for the first adopted child but not for any subsequent adopted children who take them over the two-child limit, unless the adopted child is adopted with a sibling. This simply makes no sense. The exemption the Government have introduced is linked to genetics, not adoption, yet the whole point of adoption is to circumvent genetics. As my children are mine through both adoption and genetics, I feel very strongly that there should not be a difference, and certainly not one that is put into law.

I will raise one other very important issue relevant to this debate. It is also based on my experience of adopting three children in three separate adoption processes. I now have three amazing foster families who gave my kids a home before they came to me. I am linked into all their foster carer networks, through which I have met dozens of foster families. Added to those foster families, I have many others through the work I do with adoption agencies, so in total I have met upwards of 100 foster families. In the vast majority of cases, these amazing families are moved entirely by their desire to help the children they love and foster, so much so that when, inevitably, children with complex needs are not adopted, foster families often step in to adopt. In the case of my daughter's foster family, the next child placed with them was attacked by her parents while a baby and left deaf, blind and severely brain-damaged. She requires 24-hour care. No family came forward to adopt her. She was going to spend her life being shunted around the care system. Her amazing foster carers therefore said that they would adopt her, even though they had no intention of doing that when they first fostered her. By adopting her, they dramatically restricted their quality of life. They did it because they are truly amazing.

What is amazing is that they had so little to start with. That is when I realised a strange thing: despite meeting so many foster families, I have never met, not even once, a middle-class foster family because on the whole, more well-off families do not foster children, they adopt children. Do professional women like me give up their careers to bring society's most needy children under their own roof? The harsh but honest truth, which I wish was not true, but it is, is that on the whole, we do not. I would love to see more data on the

economic background of foster families which adopt, but from my experience, and I have quite a bit of it, Britain relies on low-income families to bring up our most vulnerable kids, those with complex needs who too often are unfortunately—we do not do it on purpose—left to rot in the care system. It is quite shocking when you think about it, but what is even more shocking is that we are going to make it harder for low-income families to adopt. Taking away child benefit from low-income families who adopt children is literally shameful.

I grant that the Government have not done this on purpose—well, they have done it on purpose but I do not think they set out to do it. I hope the Minister will tell me I am right when I say that I am sure they did not set out to do something so diametrically opposed to their objective of increasing adoption. It is all about that law which we always seem to pass around here without meaning to: the law of unintended consequences.

A failure to exempt all adopted children from the child benefit two-child limit will be particularly perverse for this reason: it will not stop babies without complex needs being adopted by better-off families like mine. If I was going to lose £60 a month for my adopted daughter, it would not actually stop me adopting her. But for kids with complex needs who cannot easily be adopted and who often fall back on low-income foster families, that £60 absolutely will make the difference between whether they are adopted or not, particularly when set against the experience on the ground of the failure of post-adoption support, notwithstanding the Minister's earlier comments.

It is always the exception that proves the rule. I know of one foster family that is not on a low income. Happily, that family belongs to the Minister of State for Children and Families at the Department for Education, Edward Timpson, whose family has fostered more than 80 children. I therefore have one question for the Minister. I think very highly of him, which is unfortunate because I will be devastated if he cannot help me out with this fairly simple request. I know that he must have enough power to do what I am asking—no pressure—which is this. Please will he meet with his colleague, the Minister for Children and Families, and work out a plan to bring into force this simple exemption in child benefit for all adopted children? I cannot believe that the Government want to increase disincentives for adoptive parents, and I beg to move.

Baroness Howarth of Breckland: My Lords, I support the amendment because I argued for it during the passage of the Welfare Reform Bill. When the Minister turned it down then, he did agree to a whole range of other benefits such as kinship carers' allowance and so on. Frankly, I think he reached the point where he could give no more. The illogicality of saying that benefits could be paid for two sibling children but not for two children who have been adopted separately must have been for the noble Lord, Lord Freud, who is an intelligent man, something to do with the politics of it all. I say that because it was clear at the time that this exception would make sense.

We trying to increase the rate of adoption. We know that the children who are now being placed for adoption are not easy. There are very few if any white

middle-class babies being placed for adoption. Most of these children have special needs or they are older and therefore it is much more difficult to find a placement.

I recognise that the Minister here may not have the power to agree to the amendment, but he can go back and talk to his colleagues. We have discussed silos in government at length and how people need to talk across government departments. This is an area in which we could make a real difference to a group of people who wish to look after children and, more importantly, it would offer a better standard of living to the children being adopted. It would be easy and I am sure that it would not be vastly expensive, although I have not yet done the maths.

Lord Storey (LD): My Lords, there are moments in Committee when we can listen to people with a lifetime of experience in law and the military, but we ignore at our peril someone with experience of adoption who speaks from the heart and makes such an emotional plea. Certainly our side thinks that this is an important issue.

It is not just an emotional issue, of course; it is also fulfils that awful phrase we use constantly—it would be value for money. This obviously makes sense. I had not appreciated how many low-income families adopt children. We should support them and thereby, we hope, increase the number of children who are adopted.

The last time I heard such an emotional plea was when my noble friend Lady Benjamin made a similar presentation and, I believe, stalked the Minister on a few occasions outside his office. Perhaps the noble Baroness, Lady King, could do the same, but I hope the Minister will take note of this issue.

Lord Warner: My Lords, I support this amendment. I will not offer flattery, as the Minister probably knows, but I take him back to the post-legislative scrutiny report of the Select Committee on Adoption Legislation. It is a shame that the noble and learned Baroness, Lady Butler-Sloss, is not in her place, but some of us met a lot of adoptive parents, some of whom were on quite low incomes. They made two points to us very strongly. One was the issue we have already discussed, about the levels of support for adoptive parents, but the second came from people who had been foster parents. They pointed out brutally—but in an amiable sort of way—that the financial disincentive in moving from being a foster parent to an adoptive parent was very high. This seemed to me and other members of that Select Committee pretty bizarre, given that the Government were at that point going hell for leather to promote adoption as the gold standard for permanence.

There is something not quite right here about what we might call the intragovernmental strategy—this applies not just in the Minister's department—on how we align the financial incentives with the policy objectives. Therefore, the Minister should start to raise some of those issues not just within his own department but across Whitehall.

The Earl of Listowel: My Lords, I, too, support the amendment. The noble Baroness speaks so eloquently from her experience and makes a strong case. She takes me back to research that was discussed at the

Thomas Coram Research Unit about eight years ago. That unit has carried out comparative research into residential care and foster care in France, Denmark and Germany. It is a long time ago but what stood out for me was that in those continental countries, many more teachers and social workers were recruited into foster care.

Professor Jackson, one of the leading academics on the educational attainment of looked-after children, has raised concerns that many foster carers have themselves had difficult experiences at school. That is another reason why we need to support them very well. The issue of professionalisation comes into this debate. Do we want professional foster carers? My recollection suggests that they are better paid on the continent. That may be why one can recruit from the middle classes there. There is an argument on the other side that we should not pay foster carers a lot of money, as they should be doing this out of love. I have sympathy with that argument as well. However, the very least we can do is to pay them child benefit. I hope that helps the noble Baroness's argument. I look forward to the Minister's response, which I am sure will be sympathetic. I hope that we will see some action.

Lord Watson of Invergowrie: My Lords, I support the amendment tabled by my noble friend Lady King. Noble Lords recognise when they hear an outstanding contribution. My experience is that such a contribution tends to have three elements. First, it must have a strong and convincing narrative. Secondly, it must be delivered with emotion—but controlled emotion—often based on personal experience. Thirdly, it must be powerfully delivered in a way that carries other noble Lords with it. All those elements were contained in my noble friend's notable contribution. We are happy to support the amendment. This is indeed an issue to which we will come back on Report if the Minister, as I suspect, is unable to give the answers that are sought today. This is an important issue and it has to be put right.

6.30 pm

Lord Nash: My Lords, I am very grateful to the noble Baroness, Lady King, for raising the issue of adopters being exempt from the policy that child tax credit and the child element of universal credit will be limited to two children from April next year, and for her moving speech. I assure her that, in relation to her expectation of me, the feeling is entirely mutual. I am grateful to the noble Lord, Lord Storey, the noble Baroness, Lady Howarth, the noble Earl, Lord Listowel, and the noble Lords, Lord Watson and Lord Warner, for their comments.

I am very glad that the noble Baroness, Lady King, mentioned the experience of my colleague, Minister Timpson. I put on record the achievements of his mother, who sadly died relatively recently, in fostering over 80 children. I am very happy to be stalked by her; I think that I would probably prefer that than to be stalked by the noble Lord, Lord Warner—no offence. I am very interested in the point that she makes about the income background of people who foster and adopt. I would be delighted to meet, discuss and understand the issues further. I know that Minister

[LORD NASH]

Timpson has been having discussions with the DWP—it is that department’s responsibility. But, of course, I would be happy to discuss this further and take it up with the DWP. I hope that against that background the noble Baroness feels able to withdraw her amendment.

Baroness King of Bow: I am sincerely moved by all my colleagues who came in behind me. It means so much to me, and I thank them. I am very grateful to the Minister for his sympathetic response. I feel a duty to explain to some of my colleagues that in October I shall be taking leave of absence from this House. I would not for a second want anyone to say, “Where the hell did she disappear to?” after this discussion. Without a shadow of a doubt, this will be brought back again; I shall table it again at Report. I hope that my friends—all of you are my friends at this moment—will be able to maintain the argument, as I feel so passionately that it is important. The argument is about the illogicality of it, which I am sure that the Government do not intend. The important point made by so many is about the cost; it is so much more expensive for us to have the state taking the role that those low-income foster families are willing to take when they adopt. On the basis that the Minister has been very responsive, I beg leave to withdraw the amendment.

Amendment 98D withdrawn.

Clause 10 agreed.

Amendment 99

Moved by The Lord Bishop of Durham

99: Before Clause 11, insert the following new Clause—
“Data collection

The Secretary of State shall examine, and within 6 months of the passing of this Act, report to Parliament on the options for implementing the World Health Organisation’s recommendation in the European Report on Preventing Child Maltreatment (2013) regarding the collection of reliable and valid data on socioeconomic factors underlying child maltreatment.”

The Lord Bishop of Durham: My Lords, in moving this amendment I should explain that I speak on behalf of the noble Baroness, Lady Lister of Burtersett, who has done the bulk of the work on this amendment. She is unable to be present today and sends her apologies.

Amendment 99 would require the Secretary of State to report to Parliament within six months of Royal Assent on ways of implementing the World Health Organization’s recommendation in the *European Report on Preventing Child Maltreatment* regarding improved data collection for monitoring and evaluation. The recommendation points to the,
“urgent need for reliable and valid data”,

on, among other things, “socioeconomic factors”, reflecting the earlier statement in the report that:

“Child maltreatment is linked to variations in socioeconomic means”.

The aim of the noble Baroness and me in tabling this amendment is to encourage the Minister to set out the Government’s position on the relationship between socioeconomic inequalities and child neglect and abuse,

and then to commit to exploring how the Government might collect the data called for by the WHO—and more recently, in 2015, in a Council of Europe Parliamentary Assembly report to the Committee on Social Affairs, Health and Sustainable Development, which recommended that member states,

“collect anonymised data on the care population in member States”,

which is disaggregated by a number of factors, including socioeconomic background. The amendment deliberately allows plenty of time, because we know that working out the best way in which to collect such data is not a straightforward matter. Here we would both like to thank Professors Paul Bywaters and Brid Featherstone for their help with the amendment.

At Second Reading, the noble Baroness quoted from a recent Joseph Rowntree Foundation/Nuffield Foundation evidence review on the relationship between poverty, child abuse and neglect, by Professor Bywaters and colleagues. One of the points it made was that,

“poverty often slides out of focus in policy and practice”.

I am afraid it slid out of focus in the Minister’s response to the debate at Second Reading, so we want to bring it back into focus now. The noble Baroness urged the Minister then to undertake to look into the failure of the official statistics to tell us anything about the socioeconomic circumstances of looked-after children’s parents. He did not respond at the time, so we are giving him the opportunity to do so today.

The JRF evidence review is the best source of evidence currently available. Drawing on the data sources available, it found a “strong association”, forming a clear gradient, between families’ socioeconomic circumstances and child abuse and neglect:

“The greater the economic hardship, the greater the likelihood and severity of CAN”.

The report stresses that this is not a question of individual blame, but rather a question of public policy and of socioeconomic inequality. Parents living in poverty all too often already feel judged and shamed, and this simply adds to the pressures they face. Over the decades, study after study has shown how poverty can undermine parental capacity so that the very survival strategies parents, especially mothers, adopt to get by can so deplete their mental and physical resources that they are unable to be the parents that they want to be.

The context of the WHO’s recommendation is a strong emphasis on prevention, a theme that runs through many of the contributions to Second Reading and indeed our debates in Committee. It argues that:

“In view of the emerging evidence on the scale of maltreatment, its recurrent and chronic nature and the fact that there is good evidence to support preventive approaches, there is a need to focus on prevention ... Maltreatment of children instils a sense of moral outrage, but it is important to go beyond this reaction to address the problem through a public health, science-informed approach”.

It suggests that “prevention programmes”, such as parenting support, which focus on the social, economic, cultural and biological determinants of child maltreatment are “cost-effective” and that more “‘upstream’ activities” that focus on, among other things,

“deprivation, social and gender inequalities ... are worthwhile investments in the long term”.

But to target such programmes effectively, we need reliable scientific evidence about the socioeconomic conditions in which at-risk children are being raised—data about their parents’ circumstances. At present, official data tell us nothing about their parents’ circumstances, as if children grow up as isolated units.

On reading the JRF/Nuffield evidence review, I was struck by the fact that the authors had to rely on area-based analysis, smaller-scale studies and professional experience, together with data from other countries. They were confident of their broad conclusions about the relationship between socioeconomic circumstances and poverty, and child abuse and neglect,

“despite the major limitations in the evidence from the UK”.

But because the relationship,

“has been almost entirely unresearched in the recent past in the UK”,

they were unable to draw,

“detailed conclusions about the extent to which poverty is a factor in the occurrence and prevalence of CAN in the UK”.

This is not good enough, and the first step must be to see what can be done to collect and publish, on a regular basis, official data that will facilitate informed evidence-based policy-making. Furthermore, it appears to me that this amendment is entirely in line with the intentions of the Government’s life chances strategy, in which there is an intentional recognition that there are key factors which affect the life chances of a child. This research into the linkage between maltreatment and socioeconomic factors surely fits squarely into that intention. Hence the aim of this amendment is to further enhance the base on which the life chances strategy is built.

The amendment does not require the production of any particular set of statistics, because of the complex question of how this can best be done. It simply requires the Secretary of State to look into the question and report back to Parliament. The noble Baroness, Lady Lister, and I cannot see how the Minister could possibly object to that. I hope therefore he is willing to accept this amendment or to make a commitment that embodies the spirit of it. I beg to move.

Lord Hunt of Kings Heath: I shall add a couple of words to the excellent introduction by the right reverend Prelate. His argument about the need to collect statistics to look at the relationship between poverty, child abuse and neglect is very persuasive. The Minister will know that local authorities have now been given responsibility for public health. Each local authority employs a director of public health and the practice—I think it may be a requirement—is for the director of public health to produce an annual report on, essentially, the health statistics of the people living in the local authority area identifying the problem areas and weak spots to drive the public health policy of the local authority. It strikes me that to poverty, child abuse and neglect, you can add health and well-being. One practical way through might be to add to the responsibilities of the director of public health a duty to produce consistent, uniform statistics throughout the country. It would also mean that the local authority response would not be in relation to just one sector but would be a more general response. I suspect that if one were to look at the statistics in relation to health outcomes, one would

find that many of the families to which the right reverend Prelate referred would also be affected by those health issues. A holistic response is probably required here.

Lord Nash: My Lords, I am grateful to the right reverend Prelate the Bishop of Durham and the noble Baroness, Lady Lister, for raising this important issue. High-quality data are crucial at both national and local level. They can inform the development of government policy, help us to understand how the system is working, help us to support and challenge local areas and facilitate local learning. At local level, high-quality data can ensure that children’s needs are identified early, resources are targeted appropriately, services are commissioned effectively, risk is managed well and the right support is put in place for children and their families. I assure noble Lords that we are looking at ways in which we can improve the quality of the data we collect.

Noble Lords may be aware that following Professor Eileen Munro’s 2011 review of child protection in England, the Government produced a children’s safeguarding performance information framework to help professionals get the most out of the range of data available nationally and locally. We are also taking steps to improve the national children in need census data collection. For example, last year, for the first time, we published factors identified by social workers in assessments of children, exactly the sort of issue raised by the World Health Organization’s report. Indeed, the World Health Organization suggested that a cost-effective way of implementing its recommendations would be to include key questions in existing or planned surveys. The Department for Education will shortly be running its first children’s services omnibus survey. This biannual survey will allow us to gather a range of useful information from local authorities. The questionnaire is still in development, but we intend to ask local areas about how they analyse demands for services locally, which should include using socioeconomic factors. We know that many local areas are making great strides in their data analytic capabilities. Noble Lords may be interested to look at the Association of Directors of Children’s Services’ *Pillars & Foundations* report.

We continue to work across government to align collections, better join up different collections and make use of technological advances to collect data in real time. However, we do not believe that requiring the Secretary of State to produce a report on ways to implement the World Health Organization’s recommendation in the European report on preventing child maltreatment is necessary. We have lots of work planned in this area and already in train. I hope that noble Lords are assured that the Government recognise the importance of effective data collection and are striving to make improvements in this area. I will pass on to colleagues in the Department of Health the point made by the noble Lord, Lord Hunt, about a more holistic approach, but in the light of what I have said, I hope the right reverend Prelate will feel able to withdraw his amendment.

The Lord Bishop of Durham: My Lords, I thank the Minister for that response, and I have no doubt that my colleague, the noble Baroness, Lady Lister, will

[THE LORD BISHOP OF DURHAM]
examine minutely what he has said; I shall certainly look at it as well. I am grateful to the noble Lord, Lord Hunt, for his comments and for the Minister's agreement to take the issue away and report it elsewhere. At this point, I am content to withdraw the amendment.

Amendment 99 withdrawn.

6.45 pm

Amendment 99A

Moved by Lord Hunt of Kings Heath

99A: Before Clause 11, insert the following new Clause—
“Post-removal counselling for parents and legal guardians

After section 19 of the Children Act 1989 insert—

“19A Post-removal counselling for parents and legal guardians

Where a child is permanently removed from the care of a birth parent or a child's guardian further to the powers under section 31 of the Children Act 1989 (care and supervision orders), a local authority must, so far as is reasonably practicable, provide a counselling service and commission therapeutic support for the parent or guardian of the child, in order to help them to keep any future children.””

Lord Hunt of Kings Heath: My Lords, in the unavoidable absence of my noble friend Lady Armstrong of Hill Top, I shall move Amendment 99A, which is tabled in her name, on her behalf. The amendment has been drafted because there are concerns about the impact of the removal of a child on the parents. Clearly the interests of the child must come first, but the removal of a child, whatever the challenges facing the parents and whatever the circumstances, is a momentous event, so it is right to consider what support should be given to the parents. It also makes sense because the parents may well go on to become parents again, and indeed sometimes again and again. Surely to give those children any chance at all, it makes sense to see whether an intervention being made post a child being taken into care might help any future children.

I know that, in the light of her experience, my noble friend feels that this is an important issue, and I hope that the Minister may be able to be sympathetic to looking at whether we can find a way of encouraging local authorities to do the right thing in this regard. I beg to move.

Lord Storey: My Lords, this is an important amendment that is worthy of serious consideration. There must be something worryingly and seriously wrong when mothers constantly have their babies removed from them. We have seen social services almost having to get care orders in place as the child is born, and it can happen three, four, five or six times. Obviously in all circumstances the interests of the child must be put first, but there also must be a realisation that something must be done to support the mother. Are there mental health or emotional issues at play? This constant removal of children safeguards those children, but it does not safeguard the mother. We need to try where possible to look at why this is happening.

This is an issue of which I do not have any experience and, indeed, I have not considered it. The amendment asks in a sensible and supportive way for us to look at

therapeutic support and so on. There is also the cost aspect. If a child is taken away from its natural family and we as a society have not considered effective treatments that could reasonably be made available to keep the parent and child together, then surely as a society we are failing.

Baroness Howarth of Breckland: My Lords, I simply want to mention the organisation Pause, which has found a way of intervening with these families. I know that the Government hope to set up a unit looking at what works and that there are programmes that work in this field. I do not think this is a legislative issue. I think it is again an issue of spreading good practice through all local authorities. Sometimes the voluntary sector develops the best ways forward, and I hope the Government will do all they can to promulgate these programmes. I have removed children at birth from their mothers. It is a traumatic and appalling process to have to be involved in when working in social services. The follow up has always been poor for the mothers. We now have an opportunity to do something about it. We know how to do it.

Baroness Howe of Idlicote (CB): My Lords, I very much support this amendment. We have already heard in previous debates about the danger of the repeat performance—women who have been in care becoming mothers and having a problem with children being taken away. It is a vitally important matter. My noble friend Lady Howarth mentioned Pause as one of the organisations offering practical help in this respect. It certainly could be called on. I hope that in this instance we will be able to get support from the Minister so that this can be looked at rather more seriously than, perhaps, in the past.

Lord Nash: I thank the noble Lord, Lord Hunt, for moving the noble Baroness's amendment. This is an important issue, and I am pleased that she has raised it. I also thank the noble Lord, Lord Storey, and the noble Baronesses, Lady Howarth and Lady Howe, for their comments. The Government believe that children are best looked after within their families, with their parents playing a full part in their lives, unless intervention in that family's life is truly necessary and in the child's best interests. Legislation reflects this, and local authorities have statutory functions to provide services that support children in need and their families. They also have a duty to return a looked-after child to their family unless this is against their best interests.

The noble Baroness is right to emphasise how important it is to support parents who have had children taken into care. They need the right support to allow them to be effective parents to any other children in their care and to any children they may have in the future. We share this commitment. Our statutory guidance *Working Together to Safeguard Children* is clear that every assessment of need must be child-centred. The statutory guidance acknowledges that many of the services provided as part of the child in need or child protection plan need to support the parents to make sustained change. The plan that arises from this assessment should set out the expectations

required of parents, detailing clear measurable actions and indicating the services they should engage with in order for their child to remain at home. If a child is removed, their parents should continue to receive help and support. If the parents go on to have further children *Working Together to Safeguard Children* is clear that the level and nature of any risk to the child needs to be identified at a prebirth assessment and appropriate help and support should be given to these parents to help them make a sustained change.

I am sure noble Lords will be interested in the Department for Education's innovation programme's support to the tune of £3 million for Pause's project to support women who have experienced or are at risk of repeat removals of children from their care. The project aims to break this cycle and give women the opportunity to develop new skills and responses to help them create a more positive future. Changing practice like this provides a more effective means of ensuring that we attempt to break the cycle. We want to extend approaches such as Pause's into new areas to break this intergenerational cycle of care. This is of particular importance to care leavers who go on to have children in their late teens that are at risk of being taken into care. Mandating local authorities to provide counselling or therapy may help some, but it will not be the answer to all the complex problems in this context. Given what I have said, I hope the noble Lord will feel able to withdraw the amendment.

Lord Hunt of Kings Heath: I thank the noble Lords who have taken part in this short debate for their support. Clearly, this is an issue in relation to mothers, in particular, who have a number of children after one of their children has been taken into care. I was glad that the noble Baroness, Lady Howarth, raised the work of Pause. The Minister referred to the money that his department is giving to it. That is very good to hear. The Minister said he does not think mandation is the right avenue down which to go. Some noble Lords who have spoken agree with the Minister. I am sure my noble friend will wish to consider that between now and Report. The principles here are well recognised. We have the great work of Pause. We clearly have good practice in a number of local authority areas, and the question is how best to ensure that there is more consistency and uniformity throughout the country. Whether it is through mandation or just through spreading good practice is a matter for another debate. I thank the Minister for the tone in which he responded to this amendment. I beg leave to withdraw the amendment.

Amendment 99A withdrawn.

Amendment 99B

Moved by Baroness Pinnock

99B: Before Clause 11, insert the following new Clause—

“Early intervention

A local authority must put in place early intervention strategies to prevent children and young people in their area who are on the Troubled Families Programme going into care, which may include providing those children with specific support.”

Baroness Pinnock (LD): My Lords, on both previous Committee days and at Second Reading, there has been a reference to the importance of early intervention and prevention strategies. Amendment 99B adds a clause that draws attention to the fact that early intervention and prevention is a better outcome for the child and may be as cost-effective as well.

The thrust of this whole Bill is to improve outcomes for care leavers because, currently, however good the foster or residential care, these children do not, on average, do nearly as well as they might otherwise. The Government's troubled families programme has demonstrated that a collaborative approach from government and local authorities in a well-defined, focused way, can turn lives around, and prevent children from going into care. As set out in the Queen's Speech, the programme is now being expanded to work with up to a further 400,000 families in the years ahead, targeting a wider range of families with a wider range of problems—including debt, drug and alcohol addiction, mental and physical health problems—and children under the age of five.

Unfortunately, the Government have halved the cost benefit to local authorities in this phase of the programme. For example, in Leeds, the city council's families first programme—a much more positive way of naming it—focuses particularly on families with youngsters classed as children in need by social services. Many of the 1,300 families identified so far have come via reports of domestic violence. Police already refer any household where they find children are resident, when they are called to an alleged incident, to social work teams. These families typify those in which children are often taken into the care system. We know that once children are taken into the care system, the outcomes for them are not particularly promising. There is also a significant cost to the public purse. While there is a huge range, the National Audit Office figures from 2014 for the average cost of maintaining a child in foster care is about £500 a week. In residential care—again with a very wide range—the average cost is about £2,500 per week.

This month, the Government published the document, *Putting Children First—Delivering our Vision for Excellent Children's Social Care*. Paragraph 139 states:

“The Troubled Families Programme is undoubtedly one programme already adding to our understanding of what works to support complex families to secure better life chances for themselves and for their children, to avoid the need for children's social care to get involved, and to break the cycle of disadvantage, in particular through getting parents into work. The Programme continues to be a key plank of the government's life chances agenda, and will increase its focus on improving parenting, family stability and ensuring pre-school children within the Troubled Families cohort are meeting child development milestones.

All that we have heard so far, and indeed what is set out in the Government's own strategy, suggests that what we ought to be doing is putting much more emphasis on early intervention and prevention. It would be helpful to have in the Bill a reference to that in order to ensure that the focus of those who have to put it into effect look first at early intervention and prevention strategies rather than focusing on improving the lives of children who have been taken into the care system. That would be in line with what the Government's intentions seem to be, according to the document from

[BARONESS PINNOCK]

which I have just quoted. From what I have read in government sources, focusing on intervention and prevention can result in a much better future for a child and represents a cost saving for the local authority, hence the purpose of this amendment. I beg to move.

7 pm

Lord Nash: My Lords, Amendment 99B seeks to place a duty on local authorities to,

“put in place early intervention strategies to prevent children and young people in their area who are on the Troubled Families Programme going into care, which may include providing those children with specific support”.

We expect local authorities to have early intervention strategies to prevent children and young people going into care irrespective of whether those children are part of the troubled families programme. Our statutory guidance, *Working Together to Safeguard Children 2015*, is clear that providing early help is more effective in promoting the welfare of children than reacting later in their lives, as the noble Baroness, Lady Pinnock, has said.

The existing legislation in Section 17 of the Children Act 1989 imposes a general duty on local authorities to safeguard and promote the welfare of children in need in their area, and so far as is consistent with that duty, to promote the upbringing of children by their families. This is achieved by providing a range and level of services appropriate to those children's needs. Services are provided to children and their families and should help families to make sustained change in their lives so that children are safe and can remain living with their parents. Such services can include accommodation, assistance in kind or cash.

The working together guidance provides that local authorities and their partners should develop and publish local protocols for their assessment of children's needs and how any social care assessment should be informed by other specialist assessments. The purpose of an assessment is to provide support for children and families to address their specific needs. Our troubled families programme, which has been very effective, is one such intervention that can support families to work together and with other agencies, including children's social care, to help improve outcomes for children. Where levels of risk of harm remain high for children and their needs cannot be met from within their families, it is right that steps are taken for children to be taken into care. In other cases, intensive support combined with challenge may allow children to remain safely with their families. The recently published document, *Putting Children First: Delivering our Vision for Excellent Children's Social Care*, highlights how the Government will work to effectively reduce the needs and risks for a specific group of,

“children right on the edge or just within social care”.

We will use our innovation programme to test and develop national understanding, and over time use the new What Works centre to bring together learning and spread best practice. In view of the existing duty in primary legislation to provide services and support for children who are in need, I hope that the noble Baroness will feel reassured enough to withdraw her amendment.

Baroness Pinnock: I thank the Minister for that response and for quoting the subsequent paragraph to the one I quoted. The current troubled families programme does not necessarily focus on children who, as it states, are,

“right on the edge or just within children's social care”.

What the role of children's social care should be for those children is what needs to be focused on. That is the purpose of the amendment that I put before your Lordships' Committee. Focusing on the troubled families programme does not necessarily meet the needs of those children right on the edge of going into care. The more we can do through interventions to ensure that those children do not go into care, the better it will be for them and, indeed, for the public purse. With those comments, I thank the Minister for his response and beg leave to withdraw the amendment.

Amendment 99B withdrawn.

Clause 11: Child Safeguarding Practice Review Panel

Amendment 100

Moved by Lord Nash

100: Clause 11, page 10, line 20, leave out “after section 16” and insert “before section 17”

Lord Nash: My Lords, Amendments 100, 106 and 112 are technical amendments regarding the Child Safeguarding Practice Review Panel. A separate amendment proposes the repeal of Sections 13 to 16 of the Children Act 2004 relating to local safeguarding children boards, and Amendment 100 will enable the new provisions relating to the Child Safeguarding Practice Review Panel to be sited correctly in the 2004 Act. Amendments 106 and 112 will ensure that the language in the clauses which cover the Child Safeguarding Practice Review Panel is consistent throughout the clauses. I beg to move.

Amendment 100 agreed.

Amendment 101

Moved by Lord Watson of Invergowrie

101: Clause 11, page 10, leave out lines 25 to 27 and insert—

“(2) The Secretary of State may by regulations made by statutory instrument make arrangements for the establishment of the Panel in accordance with this section.

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

Lord Watson of Invergowrie: My Lords, Amendments 101 and 102 are in my name and that of my noble friend Lord Hunt. The Bill establishes a national Child Safeguarding Practice Review Panel. Concerns have been raised about a potential diminution of local accountability and about the panel being rather too closely linked to the Secretary of State, which could undermine the

independence of the reviews undertaken and limit the ability to suggest meaningful change at national level.

We hope that these issues can be appropriately dealt with, but in general we welcome the introduction of the panel and the Government's decision to adopt some of the recommendations in the Wood review on local safeguarding children boards and serious case reviews. At their best, serious case reviews offer an opportunity to review current practice, alter systems that are ineffective and provide insight into some of the problems that face the wide range of professionals responsible for the safety of vulnerable children. A system that adds weight to the process and encourages the development of expertise in this area is therefore welcome.

Part of our concern with the Bill as a whole relates to the large extent to which it relies on secondary legislation. The establishment of the Child Safeguarding Practice Review Panel does not even have that fig-leaf, because the Bill allows the Secretary of State to make any arrangements she thinks fit when establishing the panel. We believe that is not good enough. The panel will consider serious child safeguarding cases and form an important part of the landscape in the months and years ahead. It is an important part of the Bill, and therefore requires oversight. The arrangements for establishing the panel should be for affirmative regulations, offering your Lordships' House the opportunity to consider the draft regulations and express its opinion.

As for Amendment 102, the appointment of the chair of the panel will be important, particularly in the first instance. There is no reason why the Secretary of State should not have enough confidence in the person whom she decides to appoint to that position for him or her to face a pre-appointment hearing with the Education Select Committee. The committee contains considerable experience, and a public hearing will provide the wider sector the opportunity to get an understanding of the potential strengths of the Secretary of State's candidate. I beg to move.

Baroness Pinnock: My Lords, I will respond to what the noble Lord, Lord Watson, has said. I totally agree with him that the proposals in the Bill are so important that they ought to be subject to the statutory instrument procedure that he defined. In particular, the chair of this safeguarding review panel should be appointed after a public hearing with the Education Select Committee has taken place. The noble Lord has our support.

Baroness Howarth of Breckland: My Lords, I declare an interest as a vice-president of the Local Government Association, which is particularly concerned that the national panel is too closely controlled by the Secretary of State. The association believes that that risks politicising the serious case review process. If reviewers are to identify the root cause of safeguarding failings, the association believes that they must be fully independent of government control to ensure that they are able to consider without undue influence whether changes are required at both the national and the local level. The association also believes that to ensure that reviews of national significance are able to pass comment on the

impact of national policies without undue influence, they must be able to identify these root causes, again without undue political interference. I therefore support Amendments 101 and 102.

It is important to recognise that the Local Government Association, which wants to work with this process and take some of it forward, has these concerns. We are in this position as a result of having so little time to look at these amendments. The basic principles are probably ones with which we would all agree but there are some fundamental flaws in the way the process is being put together.

Lord Nash: My Lords, I am grateful to the noble Lords, Lord Watson and Lord Hunt, for their amendments relating to the arrangements for the new child safeguarding practice review panel set out in Clause 11, and for the observations of the noble Baronesses, Lady Pinnock and Lady Howarth.

Amendment 101 raises an important issue, which is that both Houses should have an opportunity to scrutinise regulations in secondary legislation where it is appropriate to do so. Noble Lords will be aware that the Delegated Powers and Regulatory Reform Committee has issued its report on the clauses within the Bill. I hope that noble Lords can be reassured that while the DPRRC commented on other clauses, it raised no concerns about this one. The arrangements that will be made in respect of the establishment of the panel set out high-level matters that relate to the processes, arrangements and administration of the panel rather than matters of substance that the Houses would need to debate. This clause covers processes and arrangements. I will turn to the question of regulations in a later discussion on the functions of the panel. This clause provides for the making of arrangements that are necessary to enable the functioning of the panel which may include clarity around such matters as reporting and its day-to-day operation.

Amendment 102 seeks to involve the Education Select Committee in the appointment of the chair. I would expect the appointment of the chair to be subject to a full and open Cabinet Office public appointments process involving advertisements for the position, applications and formal interviewing. Panel members could also be subject to this process if that were deemed necessary. I would expect the number of panel members to be sufficient to enable the effective operation of the panel and for the chair to be able to draw on the expertise that he or she considers necessary for the right decisions to be made about individual cases. We would of course welcome any views that the Education Select Committee may have, but we do not believe that we should prescribe a pre-appointment hearing. In view of this, I hope that the noble Lord will feel sufficiently reassured to withdraw the amendment.

Lord Watson of Invergowrie: I thank the Minister for that response, predictable though it was. I take his point about someone who is appointed being subject to the full appointments process; that is understood. However, I feel that there is room for the affirmative resolution procedure that I mentioned earlier, but clearly that is not going to happen. I think also that it

[LORD WATSON OF INVERGOWRIE]
would have been appropriate to involve the Education Select Committee at least in the initial appointment of the first chair of the panel. However, no other Members of the Committee have insisted on this, so on that basis I beg leave to withdraw the amendment.

Amendment 101 withdrawn.

Amendment 102 not moved.

7.15 pm

Amendment 103

Moved by Lord Warner

103: Clause 11, page 10, line 39, after “proceedings” insert “, including its powers to secure the submission of material subject to legal or medical privilege”

Lord Warner: My Lords, I will speak to Amendments 103 and 104. Amendment 103 seeks clarification from the Minister on the powers of the new child safeguarding practice review panel to require information in relation to its functions. In Clause 14 a,

“person or body to whom a request ... is made must comply with the request”,

without, apparently, any exemption.

The report of this House’s Constitution Committee published on 13 June pointed out that:

“This is a broad obligation ... and could possibly include information of an incriminatory nature”.

As far as I can see, there is no explicit exemption for material that would ordinarily be the subject of either legal or medical privilege. I can see that a broad exemption of that kind could hamstring the panel in its difficult work, and I will say a bit more about that in relation to a particular case. However, I do not think that we should wait until a case of this kind arises and then find that we are not sure what the rules really are. That is why I support the Constitution Committee’s request for greater clarification.

To illustrate my concerns, let me cite a recent case that could be said to raise this issue if the new review panel were in existence. We have already mentioned today the recent case where Mrs Justice Hogg was criticised by a case review for her decision to take Ellie Butler away from her grandparents and return her to her parents where her father beat her to death 11 months later. My understanding—the Minister may be able to correct me if I have this wrong—is that the judiciary does not consider that the judge can be required to explain her actions to a review panel. In particular, this would make it difficult to consider the system implications of whether a judge should have been able to set aside the judgment of the local authority social workers who had been protecting Ellie and appoint new private social workers to make a different assessment of the protection she required, which sadly resulted in her being returned to her parents with catastrophic results.

This is a systems issue about how the judiciary works. I can see that that could involve incriminatory evidence. Let me reassure the Minister that I am not

trying to discuss this case but I am using it to indicate that there may be confusion in the wording regarding the panel’s ability to request information when people may or may not conform for reasons of incrimination. I hope that the Minister can help us with this because we need greater clarity about whether there are any exemptions to a request for information by the panel and the nature of those exemptions.

Amendment 104 is an attempt to introduce time limits into the production of review panel reports. This panel will be considering serious systems matters which are referred to it. It is important that we complete these reviews quickly so that people can learn from mistakes. We do not want very long and drawn-out reviews that hold up learning. We need some kind of time limit here. I am not particularly wedded to the six-month time limit that I put in just to probe the issue, but it would be worth the department and the Minister considering the insertion of time limits for the work of these review panels. I beg to move.

Lord Nash: My Lords, I am grateful to the noble Lord, Lord Warner, for Amendment 103. It raises important issues which I welcome the opportunity to address.

Baroness Pinnock: My Lords, I think there was some confusion over which of us was going to speak. The noble Baroness, Lady Meacher, who gave notice of her intention to oppose the Question that Clause 11 should stand part, is not present, so with the Minister’s permission I will speak to that element in the group.

There is a fundamental concern about the proposal in Clause 11. It does not have anything to do with the establishment of a national safeguarding review panel, which is appropriate, but what it contains and the way it is defined in the Bill are of concern because apparently it will remove local responsibility and accountability for the most serious of child abuse and harm incidents. The current situation is that local safeguarding children boards follow statutory guidance for conducting a serious case review. The LSCB itself is chaired by an independent expert and includes representatives from local NHS organisations, the local authority, probation, housing, the voluntary sector and so on.

Following a serious case of harm to a child, the LSCB must notify the national panel of independent experts and Ofsted. It will then appoint one or more reviewers to lead the serious case review. The lead reviewer must be independent of the LSCB and any other organisations which are involved in the case. The LSCB should also submit the names of the reviewers to the national panel of independent experts. The key factors in the existing process are that the chair is independent and formally agreed to by a national panel of independent experts and that, crucially, representations can be made in the same geographical area by individuals who were involved with the child and the family and thus have an understanding of the local context.

None of this is to deny the positive contribution that potentially can be made by establishing a national panel to improve national learning from these serious case reviews. What is unfortunate is that local knowledge

and understanding may be lost and, worse still, that a national panel would take away local responsibility from those who are charged with safeguarding children. A national hearing can seem remote. It will lose the local context and therefore the nuances of understanding in these most complex of situations. It would be most helpful if the Minister would be willing to set up a meeting for those of us who are concerned about the implications of these proposals so that we can discuss these matters. It is not because we oppose them, but because we are concerned about how they will be implemented.

I shall refer again to the review document which I think was published yesterday. Paragraph 118 on page 55 refers to Alan Wood on the role and functions of the local safeguarding children boards. He wants to set up a stronger statutory framework that will introduce greater accountability for the three key agencies involved in safeguarding children; namely local authorities, local police and the local health service. That is why I was willing to oppose the question that Clause 11 should stand part so that these issues can be explored further before we make a decision to move to a national safeguarding review panel for the most important and serious cases, thus eliminating local involvement, responsibility and accountability. I think that that is very important if we are to make progress in preventing, if possible, some of these serious incidents. But certainly we should get national learning from the local example.

Lord Watson of Invergowrie: The noble Baroness, Lady Pinnock, has raised some important points and the name of my noble friend Lord Hunt is also on the clause stand part debate. We do not propose to do that just now; we think the broad principles can be transferred to the debate that we shall have on Monday on the next section or group. We shall say no more at this stage.

Lord Nash: I am grateful to the noble Lord, Lord Warner, for Amendment 103. This raises important issues, which I welcome the opportunity to discuss. My exchanges with my noble friend Lord Lang of Monkton and the noble Baroness, Lady Dean, at Second Reading followed the helpful report of the Select Committee on the Constitution. This report cogently raised the question of how the panel will handle information subject to legal or medical privilege. I explained at that time that the Bill does not prevent those whom the panel asks for information asserting legal or medical privilege, where applicable. The panel would need to consider any such assertion against the need for the information. This amendment would add a specific provision for the Secretary of State to include, in her arrangements for the panel, information about the panel's powers to secure the submission of material, subject to legal or medical privilege. I agree that it will be important for the Secretary of State to specify clearly to the panel the considerations which it should bring to bear in respect of the information which it requests. I agree that this should include specific reference not only to the question of legal and medical privilege but also to the way in which it handles this information, once requested and received. This is particularly important in respect of the information which is included in final published reports. The panel will be expected to handle

all the information it receives with due care. Much of the information which it gathers will be highly sensitive, including information which is privileged in the way the noble Lord has set out.

As far as the issues arising from the very sad case of Ellie Butler are concerned, the independence of the judiciary is a constitutional matter and enforcement provisions will not apply, although there is scope to appeal judges' decisions. I do not believe, however, that it is essential to say anything more in the Bill. It will not add anything to the powers of the panel to request this information, which are clearly set out in Clause 14. In view of this, I hope the noble Lord will feel reassured enough to withdraw his amendment.

Clause 11 requires the Secretary of State to establish a child safeguarding practice review panel and is central to this discussion. I will speak at a little length on this topic and in doing so, I hope to address some of the concerns expressed by noble Lords during the Second Reading of the Bill. The Government first announced their intention to decentralise the serious case review process in December last year. The background to the decision to seek to legislate to introduce the panel was set out in response to Alan Woods's review of local safeguarding children boards. Alan Woods suggested that the body which supports the centralised review process should be one that is independent of government and the key agencies and operates in a transparent and objective fashion. The intention is to establish the panel as an expert committee, defined by the Cabinet Office as a committee of independent specialists who are politically and operationally independent. The panel is clearly set up to make its own decisions. We have just discussed arrangements for the appointment of panel members.

The Secretary of State will also be responsible for removing members, if satisfied they are no longer able to fulfil their duties—for example, due to ill-health, or if they are adjudged to have behaved in a way incompatible with their role. The clause also makes provision for the Secretary of State to provide whatever assistance is required to enable the panel to carry out its functions, including staff, facilities or other assistance. The Secretary of State may also pay remuneration of expenses to the chair and members of the panel. This will be commensurate with the level of time and commitment required. The clause further provides that the Secretary of State may make further arrangements to support the functioning of the panel, including, for example, the production of an annual report. This will serve to enhance the transparency of proceedings and in addition—although this is not specified in the Bill—I am able to say that the panel will be free to offer advice to the Secretary of State on such matters as it sees fit, and to make any such advice public.

The establishment of a strong, independently-operating national panel is an essential component, along with the What Works Centre for Children's Social Care, in taking forward the Government's plans to develop a better understanding of the factors which give rise to serious cases, in order to inform policy and practice nationally, and to support local agencies in improving the quality of the services that they provide to vulnerable children and families.

7.30 pm

Moving on to Clause 12, the noble Lord, Lord Warner, raised an important issue in his Amendment 104 concerning the time it takes for national reviews into serious safeguarding cases involving children to be produced and the reports to be made public. I recognise that the amendment seeks to speed up the process by formally setting a statutory time limit in which a report must be produced, and I welcome his thoughtful comments about the need for this. Statutory guidance states that local safeguarding children boards should aim for completion of serious case reviews within six months. Currently the average time is 15 months to publication. In most cases this is far too long and recommendations made after the event tend to have little impact on practice improvement. It is important to note, however, that in some cases there might be potential prejudice to related court proceedings, so some delay may be unavoidable.

We think that six months to report would be adequate in many cases, but what is important is that the reviews are proportionate, timely and not driven by arbitrary timescales. Indeed, while some will tend to take less than six months to produce, others will necessarily take longer for reasons such as the one I have already stated. An important aspect of the panel's work is to help to resolve long-term issues of quality, and importantly, timeliness of reviews and reports. As Clause 12 states:

“Where the Panel arrange for a case to be reviewed under their supervision,”

it will be the panel's responsibility to ensure that the reviewer provides,

“a report on the outcome of the review”,

and makes “satisfactory progress”. The panel will be able to intervene if it believes that the reviewer is not making satisfactory progress.

The national panel should have autonomy to use its judgment about what constitutes a reasonable length of time for a review to be produced, although we intend to provide guidance that will aid it in making its decision in this regard. I have already made comments

about our thoughts on the time that it is taking currently. I can assure the noble Lord that we will take particular care to reflect on the points raised in this debate. However, as I have explained, there are risks in placing a specific limitation in the Bill, and in view of that I hope that he will feel able not to press his amendment.

Lord Warner: My Lords, I am grateful to the Minister for his explanation. I certainly do not wish to pursue Amendment 104 and I am grateful for what he said about giving friendly guidance on timetables. I am still a bit puzzled about the issue of exemption from a request for information. If he is saying that there are no exceptions although there is an expectation that the panel would use its good judgment, I am reasonably comfortable with that. However, I am still fretting a little about the position of the judiciary. I understand the constitutional arguments, but there are some important issues here where, particularly in the Ellie Butler case, if it had been a social worker who had behaved like that, they would have been publicly hanged, drawn and quartered. I would welcome a meeting with the Minister and some of the lawyers about this. I understand that this is a tricky issue, but in the light of that particular case, I would like to get to the root of where the judiciary is in the review process. I do not think that we can just leave it up in the air and say that it is just a constitutional matter.

I accept that this is probably not something for the Bill, but it is worth having a discussion about it. On that basis, I am happy to withdraw the amendment.

Amendment 103 withdrawn.

Clause 11, as amended, agreed.

Clause 12: Functions of the Panel

Amendment 104 not moved.

Committee adjourned at 7.33 pm.

CONTENTS

Wednesday 6 July 2016

Questions

Sudan	2003
Bilateral Aid Review	2006
Litter	2008
Southern Rail: Service Cuts	2010

NHS: Junior Doctors' Contract

<i>Private Notice Question</i>	2012
--------------------------------------	------

Report of the Iraq Inquiry

<i>Statement</i>	2016
------------------------	------

Supply and Appropriation (Main Estimates) Bill

<i>First Reading</i>	2034
----------------------------	------

Outcome of the European Union Referendum

<i>Motion to Take Note (Continued)</i>	2034
--	------

Grand Committee

Children and Social Work Bill [HL]

<i>Committee (3rd Day)</i>	GC 199
----------------------------------	--------
