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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Grand Committee

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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.

House of Lords

Tuesday 12 July 2016

2.30 pm

Prayers—read by the Lord Bishop of London.

Crown Dependencies
Question

2.36 pm

Asked by ***Lord Beith***

To ask Her Majesty's Government what recent discussions they have had with the Governments of the Crown dependencies about the dependencies' relationships with other countries and with the European Union.

The Minister of State, Ministry of Justice (Lord Faulks): My Lords, regular dialogue happens between the UK Government and the Crown dependencies at both ministerial and official level across a range of issues, including Crown dependencies' interests in relation to the EU and other countries. This has become especially important in the light of the result of the EU referendum, and on 27 June the Prime Minister confirmed that the Crown dependencies will be consulted on any new negotiation with the European Union.

Lord Beith (LD): My Lords, although the Channel Islands and the Isle of Man are not in the EU, they benefit from the single market in goods. They also have a pressing need to conclude bilateral investment treaties with a number of third countries. Given the huge task facing UK negotiators, what mechanism will be put in place to ensure that Crown dependency interests are not lost sight of in EU negotiations? In order that third country treaty negotiations do not grind to a halt, will more use be made of letters of entrustment, so that they can get on with the job themselves?

Lord Faulks: The noble Lord has had a continued interest in the Crown dependencies: as chair of the Justice Select Committee, he wrote an influential report and a subsequent report in 2014, in which he applauded the response of the UK Government to the challenges that the Crown dependencies threw up. As the Prime Minister said, we are most concerned to ensure that the Crown dependencies' interests are reflected in any negotiation. We are also anxious to encourage letters of entrustment where appropriate, to ensure that those interests are recognised in all treaties. There was a 2007-08 agreement which paved the way for such arrangements.

Lord Watts (Lab): What would the effect of our leaving the European Union be on Gibraltar's borders?

Lord Faulks: My Lords, there will be no immediate change in the way Gibraltar's people can travel, or how its services can be sold. The Government are most anxious to maintain the Gibraltar-Spain border: it is one of our top priorities. As for the details, I am afraid that, as with so many things in this negotiation, we will have to wait.

Baroness Ludford (LD): I, too, want to ask about Gibraltar. Obviously it is not a Crown dependency, but naturally there is a great deal of concern in Gibraltar, whose inhabitants voted remain, not only about the economy but also that Spain will be emboldened to press its sovereign claim. How will the Government protect the interests of Gibraltar in all those dimensions?

Lord Faulks: As the noble Baroness says, Gibraltar is not a Crown dependency—the subject of this Question. None the less, the Government of Gibraltar have put forward some specific ideas for ensuring that trade will continue between the UK and Gibraltar, and we look on this matter as a priority. We also continue to uphold sovereignty over British Gibraltarian territorial waters by challenging and protesting all incursions, and we are continually monitoring the situation. We will continue to do so, and the long-term aim is to return to the trilateral forum for dialogue between the UK, Spain and Gibraltar.

Lord Faulkner of Worcester (Lab): As regards the Channel Islands, I declare an interest as chairman of the Alderney Gambling Control Commission. The Minister enjoys a very high reputation in the islands and is known to be a friend of them. I know how much trouble the disagreement caused by Defra over the Guernsey fisheries agreement caused him and the MoJ last year. Putting that to one side and looking ahead to the post-EU world, does he accept that Channel Islands Governments will have the constitutional right to legislate on such matters as fisheries in future, and to take greater control over their international agreements?

Lord Faulks: I am grateful to the noble Lord for his comments. Of course, we do our best to maintain the relationship between the Ministry of Justice and the Crown dependencies. I spoke to all the Chief Ministers on the day of the referendum and attended the APPG meeting. We are anxious to ensure that the relationship is secured for the future. Of course, the noble Lord is aware of the fisheries dispute with Guernsey. That is the subject of litigation, so I cannot comment further on it. As I said earlier in answers to questions, we are anxious that there should be an appropriate degree of autonomy, and that each of the Crown dependencies should be able to secure matters that are in their interests. Of course, how matters finally turn out following the conclusion of our negotiations is difficult to predict with exactitude.

Lord Flight (Con): My Lords, among the first batch of non-member territories expected to receive AIFM passporting towards the end of this year are Guernsey and, I believe, Jersey, as well as Hong Kong and the USA. Does the Minister feel that if that goes ahead it

[LORD FLIGHT]
could be an extremely helpful precedent for this country when potentially negotiating passporting?

Lord Faulks: Passporting is extremely important. Negotiations about the UK's future relationship with the EU have not started and we should not assume their outcome. However, we are acutely aware of how important passporting rights for financial services are everywhere.

Lord Davies of Oldham (Lab): My Lords, the House will be reassured by the Government's solicitous concern for the dependencies but sometimes it seems to be somewhat one-way traffic. We are concerned about their interests but to what extent do they fulfil their obligations to concern themselves with British interests, particularly on the question of successful taxation of multinational global companies, and the whole issue of their taxation regimes in relation to ours?

Lord Faulks: My Lords, in April, the Government secured an agreement with finance centres in the Crown dependencies of Jersey and the Isle of Man—Guernsey is yet to sign—to provide the UK law enforcement and tax authorities with unrestricted and near-real-time access to information on beneficial ownership of companies from a central register. This is part of the Prime Minister's anti-corruption drive. They are playing their part and it is important that they do so.

Lord Foulkes of Cumnock (Lab): My Lords, is the Minister aware that I have asked repeatedly in this House for a regular air service to start to one of our overseas dependent territories—namely, St Helena—but on each occasion the noble Baroness, Lady Verma, has said, "Come and see officials in my office"? I have been in touch with her office and she says that they cannot see me before October. As a distinguished lawyer and well-respected Minister, will the noble Lord use his good offices to find out how I can get an answer?

Lord Faulks: It is very difficult to refuse the noble Lord anything. I will, of course, speak to my ministerial colleague and try to ensure that appropriate meetings take place when they can.

Lord Empey (UUP): My Lords, is the Minister aware that the Channel Islands and the Isle of Man have specific relations with the Irish Republic through our treaties that were developed as part of the peace process in 1998, and that those relationships would need to be dealt with separately, as well as the relationships with the rest of the European Union? Are the Government aware of the significance and sensitivity of these relationships, and that they should be preserved at all costs?

Lord Faulks: The noble Lord identifies one of an immensely complicated set of relationships which need to be considered in the renegotiation. I accept that this is a matter that ought to be communicated to those with responsibility for the negotiations.

Wales: Economic Investment Projects

Question

2.45 pm

Asked by ***Lord Wigley***

To ask Her Majesty's Government what discussions they have had with the Government of Wales in relation to the financing of economic investment projects in Wales from 2020 onwards.

The Commercial Secretary to the Treasury (Lord O'Neill of Gatley) (Con): My Lords, Ministers regularly meet to discuss issues relating to the economy of Wales. The role and ambition of the Welsh Government in economic investment in Wales is clearly important. They are responsible for a significant proportion of capital spending in Wales, with £8.7 billion of capital block grant funding up to 2020-21. Through the Wales Act 2014, they are gaining new tax and borrowing powers that can be used to further increase investment.

Lord Wigley (PC): My Lords, with your indulgence, may I thank people in every party and of no party and in all parts of these islands for the warm support given to Wales in the recent Euro 2016 tournament? This is already bringing an economic spin-off for Wales by way of a surge in tourist inquiries.

As the Government are committed to delivering Brexit, will the Minister confirm that they will also honour the commitments on which the Brexit vote was secured, including the vow that the European structural funds from which Wales is currently benefiting will be fully replaced by UK Treasury funding?

Lord O'Neill of Gatley: My Lords, as a keen football supporter, let me also add my congratulations on the performance of Wales. I look forward to Manchester United signing some of those players. On the specific question from the noble Lord, that is a matter for the next Prime Minister. What has been committed to in the specific deals between this Government and the various places, particularly Cardiff city, will of course be stood behind.

Lord Thomas of Gresford (LD): My Lords, if I could put a figure on it, £0.5 billion a year of EU investment funds are coming to Wales. Surely the Government will take note of the fact that those who were in favour of Brexit said it was "our" money, and not EU money. Perhaps we can have some of "our" money in the future. Will the Minister guarantee that?

Lord O'Neill of Gatley: My Lords, I suspect that this will be a rather repetitious session. It will be a decision for the new Prime Minister. Wales is not the only place in the United Kingdom that is in this position, and there are many others that we have to consider.

Lord Lansley (Con): My Lords, my noble friend will recall that in the last Parliament we legislated for access to infrastructure investment so that projects

could have access to the Government's capacity to borrow at relatively very low rates. Can he tell us to what extent Wales has been able to access that facility for projects in Wales?

Lord O'Neill of Gatley: My Lords, as I mentioned in my opening statement, the legislation that is currently being discussed in the other place makes provision for the Welsh Government to use income taxes to give themselves a lot more leeway to spend and invest in the way that they see fit.

Lord Anderson of Swansea (Lab): My Lords, one of the major investment projects in Wales is the Swansea lagoon, which is pending and has been delayed on a number of occasions. Can the Minister indicate whether there will be further delays to this valuable project?

Lord O'Neill of Gatley: My Lords, I have two quick answers. First, there are many investment projects that have, in principle, been committed to all over the United Kingdom, not just in Wales. Secondly, I am unaware of any specific delay on anything that has been agreed with respect to the Swansea tidal lagoon plant.

Lord Elystan-Morgan (CB): My Lords, does the Minister recollect that, when the devolution legislation was going through Parliament about 20 years ago, solemn undertakings were given by the Government of the day, with regard to concordances between the Government and the Welsh Assembly, which were to operate in those fields which had not been transferred? Can he tell the House whether those bodies are alive and active, and if so, will they play their full part in preserving the rights and the interests of the land and nation of Wales in this context?

Lord O'Neill of Gatley: My Lords, my simple answer is no, I cannot tell the noble Lord because I am not entirely sure what he is specifically referring to. I also point out—I look forward to discussions with the new Welsh Economy Minister—that the scope for devolution inside Wales greatly depends on decisions for them rather than us here in Whitehall.

Lord Kinnock (Lab): My Lords, I ask the Minister a question to which he can provide an answer because he is not under today's usual restrictions. In recent years, Wales has benefited significantly from loans at very low cost from the European Investment Bank. Participation in the work of that bank is not necessarily confined to members of the European Union. Can the Minister assure me that he and his colleagues in the Government will strive to ensure that the best possible conditions are achieved so that there is continuity of flow of investment—crucially needed in Wales, as demonstrated in Swansea University—in future years, regardless of our status in relation to the European Union?

Lord O'Neill of Gatley: My Lords, I thank the noble Lord for pointing out the specific legal status of the EIB for those unfamiliar with it. It is the case that any change to the EIB's shareholder structure or lending activity is a decision for member states. It is important that we pursue discussions because, as I am sure the noble Lord is aware, lending in the UK right now is at record levels, covering more than 30 different projects.

Lord Davies of Oldham (Lab): My Lords, leading Brexiteers such as Michael Gove and Chris Grayling made it quite clear that Wales, as others, would benefit from the decision to leave the European Community. Can the Minister assure us that, given that Wales benefited from a surplus of £245 million a year from Europe, the Welsh will not be sold short by future decisions of the Government?

Lord O'Neill of Gatley: My Lords, the third repetition of the day. That specific issue will be a choice for the new Prime Minister. Many other parts of the United Kingdom are facing a similar challenge.

Syrian Refugees

Question

2.52 pm

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

To ask Her Majesty's Government what steps they are taking to fulfil their pledge to accept 20,000 refugees from Syria into the United Kingdom by 2020.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, the Syrian vulnerable persons resettlement scheme is on track to deliver the Government's commitment. The most recent statistics published on 26 May 2016 show that a total of 1,854 people have been resettled in the United Kingdom under the scheme since it began in March 2014.

Lord Roberts of Llandudno (LD): My Lords, I thank the Minister for his disappointing reply. In February, there were 1,194 people under the scheme. The number has risen by only 700. To reach the number of 20,000 by 2020 means that we will have to take 4,000 a year, not 700. How on earth will the Government keep their promise when they are unable even at the beginning to fulfil their pledge?

Lord Keen of Elie: It is important that we understand the facts. The scheme began in March 2014, when it was decided that a number of hundreds of vulnerable Syrians would be resettled here. It was on 1 September 2015 that the Prime Minister determined to increase the number to 20,000, and it is since that date that the numbers have been increasing. As I said, it is anticipated that within the life of this Parliament, which will be until 2020, we will resettle 20,000.

Lord Wright of Richmond (CB): My Lords, does the Minister agree that, in addition to the need for generosity towards Syrian refugees, it is important that we and our existing European partners use our diplomatic strength to help the Syrians and others to reach a

[Lord Wright of Richmond]
solution to this dreadful civil war in the hope that some refugees will start to return to their beloved country?

Lord Keen of Elie: I entirely concur with the observations of the noble Lord. Of course, we are not only making efforts to bring vulnerable refugees into Europe and into the United Kingdom but also expending vast sums—£2.3 billion—to assist those refugees who are determined to remain in the vicinity of their homeland in Syria. We continue with these efforts.

Baroness Berridge (Con): My Lords, since the introduction of this scheme, the Chilcot report, which your Lordships' House will debate this afternoon, has left considerable unease about how we are ever going to reconcile ourselves to the effects of our actions. So will the Minister ask the Prime Minister, in the light of the attitude that has been created to some extent with regard to refugees, whether she would use her first day in office to extend the Syrian vulnerable persons resettlement scheme to include a few thousand Iraqis who are currently ineligible merely because they hold the wrong passport, but who have suffered the same injustice as the Syrians at the hands of Daesh?

Lord Keen of Elie: Of course, the observations of the noble Baroness will be noted by the present Prime Minister—and, no doubt, by the future Prime Minister—but I cannot give a further commitment at this time.

Lord Newby (LD): My Lords, the report said that there had been 1,700 people coming into the scheme in 10 months. By my calculation, that means that at current rates of progress, by the end of the five-year period, 10,200 will have been given admittance to the UK. In the light of that arithmetic, can the Minister explain what he means when he says that the programme is on track?

Lord Keen of Elie: Of course, because it is necessary to distinguish between simple arithmetic and administration and policy. We are working with the United Nations High Commissioner for Refugees to ensure that appropriate numbers are brought in. The numbers vary from quarter to quarter, depending on those who are determined by the commissioner to be available for resettlement. The numbers vary.

Lord Alton of Liverpool (CB): My Lords, at a meeting in your Lordships' House this morning with the Red Cross and UNICEF we were told that the figure of 10,000 unaccompanied minors who had disappeared in Europe is an underestimate. We were told that there is no system, that it is hit and miss and that many are still falling through the cracks. Will the Minister tell the House how many unaccompanied minors have so far arrived in the United Kingdom under the terms of the Dubs amendment, which was approved by the House of Commons and has now been enacted?

Lord Keen of Elie: At the present time, we are still in negotiations with the Commissioner for Refugees and local authorities in this country to determine the transfer of these children. It is anticipated that the first transfers will take place before the end of the year.

Lord Rosser (Lab): Why are the negotiations on unaccompanied child refugees taking as long as they are? I ask that because the *Observer* said, on Sunday, that not a single unaccompanied child refugee has been brought into the UK from continental Europe, or even been identified by the British Government, since Mr Cameron promised two months ago that vulnerable minors would be offered sanctuary. The same article said that the Government are struggling to encourage local councils to accept more child refugees. Although they have increased the money they are offering to support child refugees, the funding is guaranteed for only a year. Is that true?

Lord Keen of Elie: On the question of funding, the Government provide funding for the first year directly and fund indirectly thereafter. On the question of bringing children here, it is not the case that we can go out to Europe and kidnap the children. We have to negotiate with the authorities there, with the Commissioner for Refugees and with the local authorities in this country to ensure a sensible and civilised transfer of these children.

Baroness Goldie (Con): My Lords, Scotland has been able to accept, I am very proud to say, over a third of the Syrian refugees rehomed here under the resettlement scheme. That has been working very well in Scotland—apart, perhaps, from the need to become familiar with the Scottish midge. But does the Minister agree that this scheme may proceed in a more fruitful manner if there is continued discussion with the devolved legislators? Certainly, in the case of Scotland, I understand that there is a willingness to try to accommodate more of our share of the Syrian refugees, and this could act as a catalyst to help the scheme to work more productively.

Lord Keen of Elie: My noble friend is quite right: some 38% of resettled Syrian refugees have been resettled in Scotland. We are, however, dealing with 71 local authorities which have so far taken resettled refugees and we continue in discussions with all local authorities, in all areas of the United Kingdom, to ensure a sensible and equitable spread of these refugees throughout the country. I have no doubt that if matters can be advanced by discussions with the devolved Administrations, those discussions will take place in addition to the discussions with local authorities.

Universities: Erasmus Programme

Question

3 pm

Asked by ***Lord Cormack***

To ask Her Majesty's Government what steps they are taking to ensure the continued participation by British universities in the Erasmus programme.

Baroness Evans of Bowes Park (Con): The referendum result has no immediate effect on those currently participating in or about to embark on Erasmus exchanges. The future of UK access to the Erasmus programme is one of the many issues that will need to be addressed as part of negotiations. The Erasmus national agency, which delivers the programme in the UK, continues to provide practical advice to universities and other participants.

Lord Cormack (Con): Does my noble friend accept that that is an extremely worrying Answer? There is enormous concern, especially in the Russell Group of universities, and uncertainty. Does she accept that 200,000-plus students and more than 20,000 academic staff have benefited from this scheme up to now? If this is at risk after two years, it will put back education and educational exchange by light-years.

Baroness Evans of Bowes Park: As I said, the referendum result does not affect students studying in the EU, those currently on the programme or those who applied in the 2016 application round. It was important that the Government took immediate steps to confirm that student finance would continue to be available to existing EU students and those starting from this autumn, to ensure that existing and future students know exactly where they stand.

Baroness Coussins (CB): My Lords, post-Brexit, will the Government commit either to signing up as a partner country in the Erasmus programme, as Switzerland is, or to putting an equivalent opportunity in place so that graduate employability is not seriously damaged?

Baroness Evans of Bowes Park: I know that the noble Baroness has long supported languages and their importance, and I entirely agree with her. But I am afraid that all I can say at this stage is what I have said, and that any future issues will be addressed as part of negotiations.

Baroness Sharp of Guildford (LD): My Lords, I appreciate that the Government cannot at this moment make any promises about what will happen in the longer term, but will the Minister take back the message that this House regards this issue as one of extreme importance and that in any negotiations which take place, we hope that those conducting them and her department will take this into account and do their utmost to make sure that these programmes continue at full pace?

Baroness Evans of Bowes Park: I can certainly assure the noble Baroness and the House that we take these matters seriously. My honourable friend the Minister for Universities and Science is in close contact with universities to make sure that their voice is heard. As a Government, we take the importance of foreign languages extremely seriously, which is why compulsory modern languages are part of the EBacc and why it is good news that modern language GSCE numbers have increased by 20% since 2010, while A-level entries have increased by nearly 4% since 2014. We are seeing improvements, which we want to continue, and are well aware of the importance of this issue.

Lord Pearson of Rannoch (UKIP): My Lords, do the Government accept that there is no such thing as EU aid to the United Kingdom because we send it some £20 billion a year gross, of which it sends back around half, or some £10 billion per annum? In other words, for every pound that it sends us we have sent it two. Surely that means that we have plenty in hand to go on funding this sort of programme and other worthy initiatives, if that is what our elected Government want to do?

Baroness Evans of Bowes Park: What I can say is that EU and international students and academics play an important role in our universities, and our European neighbours are among some of our closest research partners. We want these relationships to continue, and we are doing what we can to give them the confidence we can in the short term. Everything else, I am afraid, is up for negotiation but I certainly reassure the House that we take these issues seriously and want our university sector to remain the world-class, leading international sector that it is.

Baroness Watkins of Tavistock (CB): My Lords, does the Minister agree that the four English-speaking countries of the United Kingdom are extremely popular for student exchanges from other parts of Europe? This could be an opportunity for a quick win in negotiations. As she has pointed out, extra students are studying A-level modern languages, yet at the moment if they are going to university in 2019 they are not certain whether they will be able to have such an exchange.

Baroness Evans of Bowes Park: Certainly, I accept the value of foreign exchanges, and students on study years abroad—whether under Erasmus or not—pay only 15% of the tuition fee they would otherwise pay, and are eligible for an additional loan to cover this.

Baroness Symons of Vernham Dean (Lab): My Lords, the Minister's department will be keeping records of how many universities have already been in touch since the referendum vote expressing their concerns because they have already heard from partner universities under the Erasmus programme. Can she tell us how many universities have been in touch with her department to express their concerns about the future of their funding?

Baroness Evans of Bowes Park: The noble Baroness is absolutely right: we are in regular contact with the universities. What they are also telling us is that they would welcome the higher education Bill that we are due to bring forward in order to provide a stable framework, and to ensure that our research base and our universities continue to be world class.

Lord Howell of Guildford (Con): My Lords, we must all hope that the benefits of the Erasmus programme are continued and preserved. Is it not worth bearing in mind that English, and indeed Welsh and Scottish,

[Lord Howell of Guildford]
universities have had very close links with all continental universities for the last 700 years, and there is no reason why the benefits of that should not continue? Is it also worth bearing in mind that the Association of Commonwealth Universities has contact with 530 universities and millions of students across the entire globe, and that this contribution to exchange and the development and interweaving of our higher education with other countries can continue apace and be strengthened further?

Baroness Evans of Bowes Park: I entirely agree with the noble Lord about the importance of all our international relationships, which is why, for instance—particularly at school level—we have been working with exam boards to protect community languages such as Punjabi, Portuguese and Japanese to ensure that schools can choose from a diverse range of high-quality courses. It is also why we have been putting a particular focus on Mandarin, and our ambition is that by 2020, 5,000 pupils will be on track for a high degree of fluency in Mandarin. We are an international-facing country, and we want to make sure all our young people have the opportunity to study whichever languages they like, and to take whichever jobs they like within the world.

Hereditary Peers By-election

Announcement

3.07 pm

The Clerk of the Parliaments announced the result of the by-election to elect a Cross-Bench hereditary Peer, in the place of Lord Bridges, in accordance with Standing Order 10.

A paper setting out the complete results is available in the Printed Paper Office and online. The successful candidate was the Earl of Cork and Orrery.

Contracts for Difference (Miscellaneous Amendments) Regulations 2016

Electricity Capacity (Amendment) Regulations 2016

Motions to Approve

3.07 pm

Moved by ***Lord Bourne of Aberystwyth***

That the draft regulations laid before the House on 9 and 12 May be approved.

Relevant document: 2nd Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 5 July.

Motions agreed.

Supply and Appropriation (Main Estimates) Bill

Second Reading (and remaining stages)

3.08 pm

Moved by ***Lord O'Neill of Gatley***

That the Bill be read a second time.

Bill read a second time. Committee negatived. Standing Order 46 having been dispensed with, the Bill was read a third time and passed.

Iraq Inquiry

Motion to Take Note

3.10 pm

Moved by ***Earl Howe***

That this House takes note of the Report of the Iraq Inquiry.

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, we meet today, less than a week after its publication, to debate the report of the Iraq inquiry by Sir John Chilcot and his committee. It is a report which has already received extensive tributes as a seminal and extraordinarily impressive document, but it is appropriate that I should begin by expressing the Government's deep gratitude to Sir John and his team of privy counsellors, including the late Sir Martin Gilbert, for their conscientious, forensic and thorough analysis. As an account of what happened during the years in question, it surely cannot be bettered, and because of, rather than despite, its length, it undoubtedly affords the best possible basis for public debate and reflection.

Indeed, for the long term, that is where the value of this report lies. Stones can be cast in many directions, and have been. That is the painful part and, in the nature of major inquiries, an almost inescapable consequence, but in confronting uncomfortable truths, as we must, I would contend that the more important role for us all, but particularly for government, is also to confront current realities. As a Government, and as Parliament, it behoves us to ask some searching questions arising out of Sir John's findings, not just about what happened in 2002-03 and subsequently, but also about today. What can we say now, for example, about the process of decision-making in government? What are the differences today in the way that intelligence is gathered, assimilated and presented? How effective are we in equipping our Armed Forces to enable them to undertake the tasks we place upon them? In short, could the same thing happen again?

Happily, we are well placed in this Chamber to examine these and other questions in a frank and informed way. There are many here with very considerable experience of Iraq and other military conflicts. We have those who were members of the Government during the period of the report or who were serving as Members of Parliament as events unfolded and many who, like me, were in this House and remember the events of that time very vividly.

Following the Prime Minister's Statement last Wednesday, we had a brief opportunity to discuss Sir John's report, but it is right that we now have a day set aside in this House, and two days in the other place, to discuss it at greater length. The Iraq war set in train events which cost the lives of scores of thousands of Iraqis, thousands of international troops and many of our own brave service men and women, and we owe

it to the memory of all those who served, to all those who suffered life-changing injuries and to all those who lost loved ones to do justice to the report's findings, whether in Parliament during the course of this week or more fully still over the weeks and months ahead as we continue to digest the detailed findings.

In speaking of our service men and women, at all levels, it is right too to remind ourselves that this report is most certainly not an indictment of their performance or their conduct. On the contrary, as Sir John made clear in his statement, our Armed Forces prosecuted a successful military campaign, took Basra, saw the fall of Baghdad in less than a month and helped remove Saddam Hussein, a man who was, let us not forget, a brutal dictator who oppressed and murdered his own people. The service personnel, civilians deployed to Iraq and Iraqis who worked for the UK showed great courage in the face of huge danger. They deserve our lasting gratitude and respect. For all its present troubles, Iraq is now a better, freer and more democratic country than it ever was under Saddam. Our Armed Forces can be proud that they made a difference.

However, their efforts cannot disguise the shortcomings in decision-making and planning surrounding the operation and its aftermath that make Sir John's report such uncomfortable reading. While it may appear to be restrained, almost quiet, in its approach, its conclusions are stark and devastating. There were too many failures—failures of process, of knowledge and understanding, of decision-making, of strategy, of planning and of preparation. His ultimate conclusion is damning. The Government failed to achieve their stated objectives in Iraq and the UK military role there ended a very long way from success.

There will, therefore, be many lessons to learn. Indeed, on that theme, one of the things that I hope will emerge clearly from this debate is that many lessons have already been addressed. We have not stood still waiting for Chilcot to be published. We have learned lessons from the Butler and Hutton reviews, and in 2010 the Prime Minister established the National Security Council to ensure joined-up strategic decision-making at the top of government. Thanks to the NSC structures, the conflict pool and latterly the Conflict, Stability and Security Fund mechanism, there is a much stronger culture of cross-government working on strategy, policy and delivery issues in fragile and conflict-affected countries. Indeed, we are seen as world leaders in the way that we integrate our work across departments. The NSC is not an ad hoc committee but, rather, a standing committee of the Cabinet with its own secretariat, meeting regularly both inside and outside parliamentary term time and including as members the service and security chiefs and the Attorney-General.

Within the Ministry of Defence, we have gone a long way to addressing the criticisms made in the report relating to equipment. Underpinning those changes, we have corrected failings in the MoD's finances so that we can better match our strategy and our plans to the level of our resources. This has allowed us to commit to £178 billion of investment over the next 10 years in the right equipment for our Armed Forces. The reforms led by the noble Lord, Lord Levene, have led to a much greater degree of accountability and sense of ownership of the equipment programme within the service commands.

In addition, we have systems in place to enable us to respond swiftly and appropriately to calls from a conflict zone for additional equipment to support and protect our troops on the ground. In Afghanistan, for example, some £5 billion was approved for urgent operational requirements, enabling our personnel to benefit from, for instance, mine detection and counter-IED equipment and protected patrol vehicles. There is now a senior military officer within the Ministry of Defence whose direct responsibility it is to commission and co-ordinate such approvals.

In the context of post-conflict planning, I mention too the work that we have been doing to enable civilians and the military to train, plan and work together routinely. DfID officials attend the MoD's training courses for senior military personnel, DfID advisers regularly take part in military planning exercises so that development and humanitarian needs are considered as part of the MoD's planning and decision-making and the MoD, the FCO, DfID and other departments undertake joint assessments of the causes of instability and conflict in our priority countries, which in turn inform the deliberations of the NSC.

In the coming months, government will analyse what more must be done. We are not complacent. In the Ministry of Defence, the Secretary of State has, with the Chief of the Defence Staff and the Permanent Secretary, already established a team to review the findings and set out the changes that must be made. I look forward to the outcome of that work.

For now, I conclude by echoing the words of the Prime Minister when he said there are some lessons we should not draw from Iraq—not least, the notion that intervention is always wrong. The UK and the international community have intervened successfully in the past, such as in Sierra Leone and Kosovo. There have been times when we perhaps should have intervened but did not, or did not do so effectively, such as in Rwanda and Srebrenica. Today we are intervening again to assist coalition efforts in Iraq and Syria against Daesh, and we are surely right to do so. So our challenge, the challenge of the Government and the military in future, is not simply to prevent bad intervention but to ensure better intervention when intervention is needed. With that end in view, I look forward to the debate that lies ahead of us.

3.20 pm

Lord Touhig (Lab): My Lords, one of the greatest British leaders of all time, writing between the two terrible world wars of the last century, left us this cautionary reminder. Winston Churchill wrote:

> "Let us learn our lessons. Never, never, never believe any war will be smooth and easy, or that anyone who embarks on that strange voyage can measure the tides and hurricanes he will encounter. The Statesman who yields to war fever must realise that once the signal is given, he is no longer the master of policy but the slave of unforeseeable and uncontrollable events".

That is a fair epitaph for the Iraq war that Sir John Chilcot was asked to investigate, along with telling us what lessons should be learned.

[Lord Touhig]

At the outset I pay tribute to Britain's Armed Forces and their families who loved and sustained them during the conflict, and especially to the 179 of our service personnel and 23 civilians who lost their lives. Our thoughts and prayers are with them. For my part I can only imagine the pain they are enduring even now. We remember, too, those who suffered physical and mental injuries as a result—what a price they have paid for doing their duty.

My noble friend Lady Smith of Basildon spoke for many in both Houses when she said in response to last week's Statement that the decisions about when our Armed Forces are deployed are not theirs. As we faced war in Iraq, for the first time in our history the House of Commons was invited to vote yes or no to military action. The decision was made there. I voted for it. Again, my noble friend spoke for me, and, I am sure, many others, when she said that no MP who voted for action took the decision lightly. In my experience of that time, there was mutual respect for all who took a different view. We cannot and will not forget the thousands of Iraqi civilians who have lost their lives in the conflict and since.

The Chilcot report has been a long time coming but we must thank Sir John and his team for taking on this mammoth task. Sir John said that the two key questions for the inquiry to consider were whether it was right and necessary to invade Iraq in 2003, and whether the UK could and should have been better prepared. Politicians, commentators and historians will ponder the answers to those two questions for decades to come but for me, and I suspect for many others, the big question to consider now is: what lessons can we learn from the war and from the process of decision-making that led us into it?

I welcomed the Prime Minister's Statement last week when he said he was taking on board the question of how decision-making across government can be improved. We all know from the report that Britain urged President Bush in 2001 not to take hasty action in Iraq, and we continued beyond that to seek a settlement and work with the UN before finally concluding that war was the only course left. We know that by April 2002 the Joint Intelligence Committee had concluded that Saddam Hussein could not be removed without invasion, and that by then our Government believed that Iraq posed a threat and had to disarm or be disarmed. Sir John concludes that this implied we would use force if Iraq did not comply.

I do not intend to rehearse in detail the conclusions reached by Sir John in his report. His key criticisms are well known and must be addressed. However, I recognise the importance of his criticisms about process and procedure. He also raises questions about proper analysing and decision-making, and about planning and preparation. However, I note that Sir John did not conclude that the Government acted in bad faith. I paraphrase the comment made last Wednesday by the noble Viscount, Lord Hailsham, who is in his place. He said that the Prime Minister and his colleagues were seeking to serve the national interest. Even though he had opposed the war as an MP, he did not believe the Government were actuated by ignoble motives.

Saddam Hussein was a murderous, evil tyrant, who slaughtered tens of thousands of his own people and caused the deaths of countless others in a war with Iran and through the invasion of Kuwait. Sir John's report makes clear that both we and the Americans had an "ingrained belief" that he had the ability to produce chemical and biological weapons. He had done so in the past and certainly wanted his neighbours and the rest of the world to believe he still had such weapons. We believed it, and this is where the Americans and we stood at the start of the conflict.

Perhaps I may share with the House an American analysis of how the USA saw the conflict. The analysis says that the key assumptions—that Saddam had weapons of mass destruction, that,

"Iraqi reconstruction would pay for itself, that the majority Shiite population would welcome coalition forces as liberators",

that Iraqi tribal structures could be ignored, that only a small military footprint was necessary, that large-scale de-Baathification of the country could be carried out without a problem and that there would be,

"a rapid transfer to Iraqi control",

—all proved wrong.

The distinguished authors of the report write:

"The failure to plan adequately and comprehensively for the postconflict period ushered in a new, dangerous, and intractable phase that saw a rapid descent first into insurgency and then into intense sectarian violence".

The plain fact is that post-conflict planning in the US was minimal and it was no better here in Britain. That is the key lesson we must learn. But are we learning the lessons?

The Prime Minister stated that he was taking on board the question of how decision-making across government can be improved. The Minister has given us some indications of what the Government have in mind and have already put in train. In paragraph 409, Sir John says that,

"there should have been collective discussion by a cabinet committee or a small group of Ministers on the basis of inter-departmental advice".

Do the Government accept that and, if they do, can the Minister say how the Government will respond to this aspect of the report? Sir John goes on in paragraph 410 to say that,

"a Cabinet committee or a more structured process might have identified some of the wider implications and risks associated with the deployment of military forces to Iraq".

Do the Government agree with Sir John on this? Indeed, can the Minister say whether the Government intend to respond to Sir John's report as a whole, setting out how we might do things better in the future? Having said that, I appreciate that the Minister has started to advise the House on this already.

One further point is that the Department for International Development has a humanitarian unit for failed states to help them rebuild, yet no equivalent exists for post-conflict states to assist in post-conflict planning. I suggest that there is a role for such a unit within the Ministry of Defence. Indeed, we could look at post-conflict planning with our closest ally, the United States.

NATO has held many joint exercises over the last year, but they were all about war fighting. Should we not initiate with equal vigour joint exercises in post-conflict planning? Such exercises would reveal weaknesses in our planning processes, force allies to agree decision-making structures and familiarise individuals with peers in allied nations—particularly the United States—in terms of how we each operate. This would mean that, if it looked as though a post-conflict situation might be emerging, planning could be smoothly and effectively initiated.

The major failure post the Iraq invasion was that no one felt it was their responsibility to take the lead on this. The Iraq conflict has proved divisive and contentious in this country. It has divided families and communities, and we can all understand that. But it must not be allowed to undermine our determination to protect British interests, and our best interests, by making us resolutely opposed to interventions of any sort in the future—a point made, I think, by the Minister.

There will be times ahead when we face a decision about whether to intervene—whether militarily or for humanitarian reasons—in some situation or another. The Iraq conflict has left many painful scars on the body of our country, but we must not—we cannot—turn our back and fail to intervene when it is needed. Let us remember our successful intervention in Sierra Leone and the benefits it brought to that country, but let us not forget that we did not intervene in Bosnia and Rwanda, or the grave consequences that befell those countries as a result. Regardless of the strong views held on all sides about this conflict, let us all agree that there is one thing on which we should be united: following the Iraq war and the publication of the Chilcot report, we should be determined to learn the lessons of the failure of post-conflict management.

3.30 pm

Lord Campbell of Pittenweem (LD): My Lords, I begin by associating myself with the expressions of gratitude to Sir John Chilcot and his committee and with the expressions of sympathy for families who lost loved ones—and let us not forget those who were grievously injured as a result of their service.

The noble Earl said at one stage that Iraq was a better, freer place. I suspect that that judgment might be challenged by some, at least in Iraq, not least following some of the events of the last fortnight or so, when great loss of life has been incurred.

The noble Lord, Lord Touhig, said that there was an atmosphere of mutual respect at the time of the vote. I beg leave to question that judgment. Charles Kennedy was described as being guilty of appeasement. He was told that he was similar to Neville Chamberlain, and a national newspaper printed a photograph of him with the word "Traitor" underneath. There was by no means mutual respect. So the reactions on these Benches to the report from Sir John Chilcot are, as might be imagined, somewhat mixed. But the one thing on which I hope we can all agree is that Charles Kennedy's principled leadership on this issue has been vindicated, as indeed has the similarly principled stance taken by Robin Cook.

Noble Lords: Hear, hear.

Lord Campbell of Pittenweem: In the few minutes available, it is not possible to do justice to the herculean efforts of the Chilcot committee. The passages on the lack of preparation for the aftermath of military action and those that deal with the adequacy—or, some might prefer, inadequacy—of the equipment available to the forces make compelling and sombre reading, and there are certainly lessons to be learned from them. But I will concentrate for a few moments on the events leading up to the war and the inevitable consequences of that decision. Indeed, there are lessons to be learned from that also.

Contrary to popular belief, I have never believed that what we were presented with was a false premise—implying that there was some effort at deception—but I have always believed that it was flawed, and the distinction is important. But it is clear that throughout these events Mr Blair thought that it was the right thing to do—and he still does. That was inevitably a moral judgment, but the strength of it gave rise to the error of making the evidence fit the judgment rather than the judgment fit the evidence.

The belief that the United Kingdom should be with the United States "whatever" was a flawed belief. Indeed, some would say that that single word reveals all that lay at the heart of the disastrous decision to go to war against Saddam Hussein. On reflection, there seems to have been a complete misunderstanding of the position of the United States. George W Bush always wanted regime change—it was no secret—but why was that? It was because around him was a cluster of influential neocons who thought that his father had made a fatal error in not instructing American forces to go to Baghdad at the end of the first Gulf War. If anyone doubts the good reasons for that decision, I suggest they read the memoirs of Sir John Major, who sets out with great clarity his support for that decision.

These were the same neocons who wrote to President Clinton telling him he was in breach of his responsibilities as commander-in-chief for not seeking to remove Saddam Hussein. It is true that the Motion passed at the end of the two-day debate in the House of Commons concentrated on weapons of mass destruction as a justification for what was being proposed, but I suggest that by our concurrence with the United States' military action we inevitably became party to the policy of regime change and the responsibilities that flowed from it.

At the heart of all this was the belief that we had to stay close to the United States to be of influence. We had, we have, and I hope that we will continue to have an intimate and rewarding relationship with the United States, but we cannot allow our foreign policy to be defined by that relationship alone. "My ally right or wrong" is not sustainable.

It is clear that the intelligence assessments were accepted at face value and without demur. They formed the basis of the document of 24 September 2002 but were never revisited after publication, even when Dr Blix and Dr ElBaradei were saying something different. Indeed, as Sir John Chilcot records, no one ever considered that Iraq might be telling the truth or that Dr Blix and Dr ElBaradei were right.

[Lord Campbell of Pittenweem]

The really dodgy dossier was not the one of September 2002 but the one produced in the spring of 2003 in advance of the decision-making. It was based on the 10 year-old thesis of an American PhD student—hardly, one might think, a compelling basis for justifying actions of the kind being contemplated. There are questions here. Why was no account taken of Dr Blix and Dr ElBaradei? There has been no proper answer to that. Was it because their reports undermined the case for intervention, even if Resolution 1441 allowed it? Was it because they contradicted the assertion that Saddam Hussein's weapons programmes were "active, detailed and growing", made by the Prime Minister on 24 September? This was plainly not true but it became, as Sir John Chilcot has recorded, an "ingrained belief" that inevitably polluted all other thinking.

The authority for intervention was said to be derived from Resolution 1441 of the Security Council. But read that resolution: it is a masterpiece of ambiguity, designed to persuade the French, who were wholly opposed to military action, to sign. There is more than a hint of Lewis Carroll: "Words mean what I want them to say". United Nations-speak for authorisation is the expression "all necessary means", but Resolution 1441 simply talked about "serious consequences".

Sir John Chilcot is highly critical of the process by which legal advice was provided. Without going into that in detail, because it is fully recorded, let me put it this way: at the highest the Attorney-General's final view was little more than lukewarm and,

"on balance, the better view".

I respectfully suggest that, if we are going to commit thousands of our young men and women to circumstances where their lives may be at risk, we need something a little better than a "better view".

We know that the Cabinet was not provided with the full, detailed opinions of the Attorney-General. Sir John Chilcot forcefully finds that that was not proper and should not happen again. He says that he had no obligation to take a view on legality, but he has provided all the information necessary to do so. He found that military action was not yet the last resort, that diplomatic options were still available, that there was no imminent threat, that Dr Blix and Dr ElBaradei were still able to fulfil their responsibilities, and that there were conflicting views about Resolution 1441. When you add to that Article 2 of the United Nations charter which prohibits regime change, it is a legitimate judgment that this was not a legal war.

No account was taken of Iraq's recent history: no account of the anger and frustration felt by the Shia majority at their brutal subjugation by the Sunni-dominated regime of Saddam Hussein; and no account of Iran's resentment of Saddam Hussein's 10-year war against it, in the course of which he used chemical weapons. As a result, a vacuum was created and, as a consequence of the failure to have a plan, the Shia population, encouraged by Iran, was emboldened to take revenge against the Sunnis, who, not surprisingly, fought back. We became embroiled in a civil war. The welcome army of liberation became an army of hated occupation.

I began by saying that the prospectus was flawed. The unhappy truth is that the prospectus was flawed not simply in conception but in execution. The lessons to be learned from that are manifold. It will only be a justification of Sir John's work and that of his committee if we can say with confidence, now and in the future, that these lessons have been properly learned.

3.41 pm

Lord Butler of Brockwell (CB): My Lords, it is a privilege to follow the noble Lord, Lord Campbell, with whom I had the pleasure of serving on the Intelligence and Security Committee. It is marvellous to see him bringing his wisdom to the deliberations of this House.

I have had plenty of opportunity to comment on the matters covered by the Chilcot report and so today I intend to be brief. Sir John Chilcot and his colleagues have taken a lot of stick over the past few years, so it gives me pleasure—but not surprise—that their report has been welcomed as a thorough and forthright one which has given satisfaction and comfort to relatives of the bereaved. If a quicker report had been required, the terms of reference should have been more limited.

Errors in the assessment and use of intelligence have inevitably received much attention. We need to remember that at the time when the Government produced their intelligence dossier in September 2002, virtually all the intelligence agencies in the world were assessing that Iraq had weapons of mass destruction and was seeking to acquire more. Hans Blix himself believed this when he took his inspectors to Iraq in November 2002. The problem was that this conclusion was based on relatively few sources and on inference, and the sources subsequently turned out to be unreliable.

As Chilcot says, the intelligence was presented with more certainty than was justified. But it was also a mistake to use it as a means of political persuasion. The Government were saying, in effect, "Don't just believe us: believe the intelligence". As countless examples from history show, intelligence is not uniquely worthy of belief: it is uniquely worth of scepticism.

However, this should not lead us to the conclusion that intelligence is valueless or stop us investing in it. In today's world, intelligence is crucial. When we have weapons which can be directed to land on a sixpence, it is all the more important to know which sixpence to direct them towards. We need to learn the lesson that intelligence is a very valuable—indeed, indispensable—aid to political and military judgment, but it is not a determinant.

I have considerable sympathy for Mr Blair in the obloquy which is being poured on him. I have never believed that he lied to the British people, and I accept that he was sincere in believing that military action to remove Saddam Hussein was necessary as a last resort. The trouble was that he got caught in a trap in which a decision on whether or not to join the Americans in military action became unavoidable before other means of containing Saddam had been exhausted.

There is one more thing that I want to say. The Chilcot report paints a picture of a Government which—with great respect to those who served in it—as a collective

entity was dysfunctional. The defence and overseas policies never met in the lead-up to the war. Plans were not shared with senior Ministers for fear that they would leak. The full legal reasoning of the Attorney-General was not made available to the Cabinet. Official papers were not circulated.

Proper Cabinet procedures should not be seen as pettifogging, bureaucratic impositions on busy Ministers. They are the means—inherited from successive generations of Ministers and officials—to ensure that the full expertise, experience and resources of government are brought to bear on crucial decisions. That is all the more important when the decisions are about peace and war. With hindsight, the Blair Government's disregard for the machinery of government looks not like modernisation but like irresponsibility.

I am not so naive as to suppose that the interplay of personalities will not always play a part in politics, as in other human affairs, but one of the lessons of the Chilcot report is that when the great responsibility of governing the country is accepted by Ministers, their main duty is good government of the people, not personal political manoeuvring. If government is allowed to become a "Game of Thrones" it is the interests of the governed that will suffer. That lesson is going to be more important than ever in the difficult challenges that our Government are now facing today.

3.47 pm

The Lord Bishop of London: My Lords, it is humbling to follow such a powerful and authoritative voice. I am also grateful to the Minister for the constructive way he introduced this debate and invited us to think about the lessons we can apply now. Sir John Chilcot recommends more thorough analysis before military action and a more collaborative approach to policy-making. I imagine that every one of your Lordships would probably agree that the case is well made, but politicians caught up in oppressive events, a rapidly changing situation and a 24/7 news environment, and with an ally who is losing patience, do not have much time for pondering decisions. Therefore—this echoes many of the remarks of the previous noble Lord—the culture and assumptions that leaders bring to the crisis are hugely significant.

9/11 was a great shock to the West's confidence. It was very well expressed in Francis Fukuyama's influential 1992 book, *The End of History*. The thesis, as your Lordships will remember, is that with the advent of liberal democracy and market economics, the human project had reached its consummation. There were still places in the world awaiting enlightenment but the contours of the future were already clear. This world view fuelled impatience with the kind of historical analysis we heard about from the previous speaker. It fuelled impatience with the history that many thought had come to an end, and it fuelled a confident sense of destiny.

There is no doubt that someone who dwells on history can be somewhat tedious, but at the same time someone with a sense of destiny and no sense of history can be very dangerous. With a faith in the future, religion, in particular in this crisis, was regarded as largely irrelevant and often reduced by western commentators simply to a surrogate for something else—usually economic distress—and it was not analysed with any precision or profundity. There was, and I dare say is, a lack of awareness of the religious dynamics of other regions of the world and this has led to repeated misreadings of events.

As a former co-chair of the Islam and the West symposium established by the World Economic Forum, I know from colleagues in the region of their astonishment at the one-dimensional approach to the Arab spring and the repeated use in news broadcasts in the early days of the Syrian tragedy of the phrase, "Pro-democracy demonstrators", while ignoring and oversimplifying the complex cultural and religious dynamics. These misreadings obscured, for example, the fact that Saddam Hussein's regime, utterly odious in so many ways, was actually hostile to Islamism. The JIC, according to Chilcot, correctly reported in November 2001 that practical co-operation between Iraq and al-Qaeda was "unlikely". Later, in February 2003, the JIC assessment was that the serious al-Qaeda threat,

"would be heightened by military action against Iraq".

There was confusion between the tyranny of Saddam Hussein and the Islamist threat, but also a huge confidence, as has been mentioned by the noble Lord, Lord Campbell, that our intervention would be welcomed. It was reported to me at the time that a senior American official, challenged about the lack of planning for the aftermath of the war, said, "Once we zap the bad guys, there will be cheering all the way to the ballot box". It was that kind of confidence that led the Pentagon to set aside the plans the State Department had made for post-conflict reconstruction. One of the report's most sobering conclusions is that the post-war difficulties were predicted at the time—this was not hindsight—but our military involvement did not enable us to exercise influence on decisions such as the dismantling of the entire Baathist state apparatus.

What are some of the lessons? The tectonic plates of the world are shifting. Unchallengeable western hegemony is passing and a new multipolar world, in which we still have a crucial role, is emerging. It will still be necessary, as previous speakers have said, to be prepared to project our power in conjunction with NATO allies. At the same time, there needs to be less hubris and a greater awareness of different world views, with which we should be in dialogue.

Our work in Iraq is not finished. The Government have acknowledged this through substantial humanitarian support in recent years, but the bulk of humanitarian operations in Iraq have focused on meeting needs in camps in the relatively secure Iraqi Kurdistan area. There are also thousands of displaced persons, many of them from minorities such as the Christians and the Yazidis, who do not feel safe in the camps and who are sheltering in schools, building sites and rented accommodation. Government assistance for organisations working among these neglected and vulnerable people is urgent. The diocese of London, for example, has been working with a Catholic charity, Aid to the Church in Need. It has an extensive local ecumenical and interfaith network and is in touch with some of the most vulnerable people outside the camps. As we consider where we go from here, I hope it might be

[The Lord Bishop of London]
possible, as part of our recognition of partial responsibility for the post-war state of Iraq, to channel our aid through such grass-roots bodies, as well as through the UN agencies.

3.55 pm

Lord King of Bridgwater (Con): My Lords, I am very pleased to follow the right reverend Prelate, because I think there has been a suggestion that perhaps things have turned out for the better in Iraq since the events of 2003, and he has rightly drawn attention to the absolutely tragic situation that Iraq now faces. Noble Lords may have seen the perceptive article by Jeremy Bowen in the *New Statesman*, in which he says that Iraq,

"has not had a day of real peace since 2003".

The pressures that we face, and the damage that has been done, make us absolutely beholden to learn every lesson that we possibly can from this exercise. If I may say so, I have already heard enough speeches in your Lordships' House today to recognise that this House has a particular contribution to make—probably rather more than the other place, because some of us lived through some of these periods, and we have a duty to bring our experience to bear.

The first lesson that I would like to pick up, which was also referred to by the noble Lord, Lord Butler, is that if we want to learn lessons from an inquiry like this, it must not take seven years. Noble Lords may have seen the interesting article by the noble and learned Lord, Lord Saville, who criticised the process of "Maxwellisation". He said that when he conducted the Bloody Sunday inquiry—which, as we know, went on for quite long enough anyway—he had a procedure whereby, if there were criticisms to be made, they were made to the witnesses or to those who came to give evidence in front of them, at the actual inquiry, rather than going through this very laborious Maxwellisation process, which added so much to the time this exercise took.

I would like to take noble Lords back to the start of the problem, and the origin of, "We're with you for ever", or, "I will be with you, whatever". The image in my mind is of the very excellent thing that Tony Blair did when, within 10 days of 9/11, he went to Washington and was present when, 10 days after 9/11, President Bush addressed a joint meeting of the House of Representatives and the Senate. There, in Congress, there was a particular moment when President Bush was trying to restore the morale of the American people, and he said, "At a time of real difficulty and danger, you know who your real friends are". And he looked up at the gallery and said, "Good to have you here, friend". Tony Blair stood up, and the whole of the Senate and all the Congressmen turned and gave him a standing ovation. I think that that commitment—"I will be with you, whatever"—really started right there.

My own experience goes back some way, because I was involved in the first Gulf War. I was involved on that last day, when the very successful Left Hook land campaign expelled the Iraqi armed forces from Kuwait. They were fleeing for their lives—I remember Medina Ridge, and it was just a turkey shoot: "Mr President, shall we go on?". I understand that at a meeting at the White House, after that, there was consideration as to whether they should go on—that is, go on to Baghdad and remove Saddam Hussein. The diplomatic advice was, "Well, you could do it. You'll lose a few votes in the UN, because you're invading another sovereign country, and it's not the same as expelling somebody from a country that they shouldn't be in". From the military point of view, the advice was, "You could do it, but we may have rather more casualties, because we haven't yet really faced the full Republican Guard divisions, which are a completely different kettle of fish from some of the less formidable Iraqi forces. But you could do it".

One voice then said, "Well, you can certainly do it, but there are two questions you need to answer. If you have decided to get rid of Saddam Hussein, who will you put in his place? The second question is: how long are you prepared to be there?". What a pity those questions were not asked.

The noble Lord, Lord Campbell, made an excellent contribution to this debate. I strongly agree that President Bush was not necessarily in the lead on this. My former opposite number, Dick Cheney, was the most powerful vice-president America has had, with his considerable international experience gained before President George W Bush came to office. The Americans also had Donald Rumsfeld. There is no doubt that Secretary Rumsfeld was completely committed to regime change. Some may have heard General Tim Cross on the radio recently saying that Rumsfeld would listen to nobody. He would not listen to the State Department or the US military and he certainly would not listen to the UK. I do not think it is conceited to say that we have some knowledge and experience of Arab countries and the Gulf area. That knowledge and experience go back a long time. Our duty in these situations is not just to be a loyal, supportive friend, but a candid friend. I do not think there is a proper understanding in the Pentagon of the real depth of the problems of the Sunni/Shia issue, Arab/Kurd hostilities and conflicts and the sort of problems that could be unlocked. I say to the right reverend Prelate that when one looks at the situation now and the conflict that has broken out, and one thinks of the situation of the Christians, one has to note that for all the awfulness of Saddam Hussein, his Foreign Minister—Tariq Aziz—was a Christian. How different the situation is now in that regard.

I agree very strongly with the comments made by the noble Lord, Lord Butler, in his most interesting contribution as regards the absence of proper Cabinet discussion or of any War Cabinet. I think that the Cabinet Secretary and Sir David Omand, as he was then, were excluded from discussions—the people who could have contributed significantly to the discussions and analysis of some of the intelligence that was coming in. The officials involved in the sofa government activity—David Manning, Jonathan Powell and Alastair Campbell—were, after all, loyal to the Prime Minister. They had a duty to support him but I do not think they provided the degree of critical approach that was needed at the time. I pay tribute to the speech made by Robin Cook in that fateful debate in the House of Commons. He was the only Minister to ask why there

had been no discovery so far of any weapons of mass destruction, and called for more time for inspection. As he said, the Government had tried so hard to get a second resolution. They showed how important it was to get it and they could not then say the fact that they had not got it really did not matter at all. He pointed out that there was no agreement to support us on the part of others. We did not have NATO, the European Union or the Security Council on our side in undertaking these activities.

As regards the failure properly to analyse the intelligence, those of us who have had top secret intelligence files put in front of us know that this information is tremendously seductive. You want to believe it; you think that you are extremely privileged to have access to this information but then you need some wiser old heads around to tell you that there may be a few other considerations that need taking into account. They can ask whether the information has been checked and whether there is corroboration. I certainly found that that was the case in Northern Ireland, where a wonderful new source of intelligence appeared one day, but after a pause of a few months, when one asked what had happened to it, one was told that, for one reason or another, the source had been found to be a complete fraud. However, that sort of challenge and check did not exist in this case.

The tragedy of this sofa government approach, which has been referred to, is that no proper minutes were taken. The fact that they were not taken is as alleged by one official to have been because the people concerned were worried that if they were taken they would be leaked to either Gordon Brown or Clare Short. That shows the tragedy of the dysfunctional nature of that Government and that Cabinet situation.

Those are just a few points drawn from my own experience of these problems with regard to the lessons that have to be learned as we gradually plough our way through the Chilcot report.

4.05 pm

Lord Blunkett (Lab): My Lords, as one would expect, the debate in this House, like the references to Sir John Chilcot's report last week, has been conducted with thoughtfulness and without emotion. I want to start this afternoon by saying how regrettable it has been that over these last 13 years, the vitriol poured upon individuals, and the disdain with which people have been treated, has led to an atmosphere which makes it extremely difficult to address key issues arising out of Chilcot, and future decisions which will need to be taken by government.

Leading up to, on the day of and immediately after the publication, some of our media, which should know better—our main broadcast media, not just social media or the tabloid press—had already assumed that it would be found that Tony Blair was a liar and had sought to mislead the nation, even though Chilcot found exactly the opposite. The atmosphere created around the publication did not shed a great deal of light on a detailed, thoughtful and extremely valuable report.

I intend to deal very briefly with three key issues: the context and history within which the decision was taken; the information on which it was taken and the structures of government, including the part that I had to play as a member of Cabinet at that time; and the lessons we can learn, now and for the future.

The context has to be seen in the history of the Iraqi nation and, in particular, the leadership, actions and—I have to say—maniacal behaviour of Saddam Hussein. It cannot be swept aside that the Shia majority attempted to rise up at the time of the first Gulf War in 1991. It cannot be swept aside that Saddam Hussein used chemical weapons to kill thousands of Shia Marsh Arabs. It cannot be swept aside—and the noble Lord, Lord Campbell, mentioned it, but in the opposite context—that Saddam Hussein was prepared to use chemical weapons in the war with Iran. It cannot be swept aside that in 1998 it was clear that the inspectorate had determined that such weapons, and the potential for their use and re-creation, existed.

It cannot be set aside that Resolution 1441—yes, with all its ambiguities—led the world to believe that the United Nations Security Council and all leading intelligence agencies believed that he had either weapons of mass destruction or the ability to reproduce them. If they did not believe that, they should not have put their names to Resolution 1441 on 7 November 2002. It was in that context, with the information that was available at the time, that some of us believed that the actions we were moving to take were justified—albeit extremely painful and very often on a knife edge.

Robin Cook has been referred to in this debate, quite rightly. Robin Cook was a very close friend of mine. I shared many moments with him, not just in Cabinet but in my party's National Executive Committee. Robin Cook did make many of the points that have been made this afternoon and are reiterated in the Chilcot report. I make this point because you would think, from the way in which these issues have been debated, that somehow everyone was misled and therefore that in 2003 there was no debate that addressed some of the key issues—but there was. People were questioning: asking the right questions. There was a genuine disagreement within Cabinet, within Parliament and within the country about the right steps to take.

You see, no decision is a decision. The difference is that if you do not take a decision, it is unlikely that you will be blamed for the decision you did not take—to paraphrase a Rumsfeld version of how you present the world. In other words, those who take the most difficult decisions and agonise over them should not automatically be felt to be—as I, Tony Blair and Alistair Campbell were described in the Communist *Morning Star* last weekend—warmongers. We were not.

The information was flawed; we know it was flawed. We had no idea at the time that one of the three key pieces of evidence presented—by "Curveball"—was a complete fraud. In fact, of course, as Chilcot shows so graphically, over the period from December 2001 all the way through to July 2003, four months after the invasion of Iraq, the Secret Intelligence Service, MI6, had not revealed to the Prime Minister, never mind to other members of the Cabinet, that those pieces of information based on flawed intelligence were as outwith reality as they really were.

So the context has to be understood, not least in terms of what happened on 11 September 2001, which has been referred to this afternoon, because it did

[Lord Blunkett]
matter when we said, as the noble Lord, Lord King, paraphrased in terms of the welcome of Congress for the Prime Minister of the United Kingdom, that we all believed that we should stand shoulder to shoulder with the United States in the post-2001 attack.

Information flawed, context understood, structures of government, to which the noble Lord, Lord Butler, referred—yes, they were flawed. There is no question in my mind but that we could have done a lot better. We could have had more formalised procedures, we could have included a wider group of voices, minds and brains, and I think we learned the lesson. But make no mistake about it, no structure would in any way have set aside the flawed intelligence or changed the human nature of having to make decisions on that intelligence. This decision was not made in a vacuum; people were making decisions on the basis of what they knew at the time.

I do not believe for a minute that what has happened with Syria and the greatest refugee crisis in our history has any roots back to the decision in 2003. Yes, the Arab spring and the uprising of people seeking freedom from tyranny; but we must not place on what happened in the decision of March 2003 other things that have happened since and continually refer back to them as though they were the inevitable arising consequence of decisions taken by Parliament on 18 March 2003.

If I had had the same information again, sitting in the same Cabinet with the same context, I would make the same decision. Those who say they would not need to ask the question: well, what would it have been that changed their mind? Not hindsight but a different form of wisdom and an agreement with those with whom they were genuinely, openly disagreeing at the time—as I was with Robin Cook. That is the context, that is the information, that is the need for better structures and to learn the lessons, but not to continually denigrate those who genuinely took a decision in what they believed to be the best interests not just of the United Kingdom but of the world as a whole.

4.13 pm

Lord Tyler (LD): My Lords, my father served on the Western Front in the First World War as a Royal Engineer officer. He was in the Somme valley from 1915 right through and beyond Armistice into 1919, so he was there throughout the build-up and there through the appalling slaughter of the Battle of the Somme, about which we have been thinking in recent days. Unsurprisingly, like many others of those who survived, he never really talked about his experiences on the Western Front and we knew only recently that he was awarded the Croix de Guerre.

His attitude later was undoubtedly reflected by that of many historians that the First World War was a matter of lions led by donkeys. If he were to summarise the Chilcot report, he would say that it was lions misled by political ostriches: politicians deliberately ignoring the facts and rushing into war to avoid them, on both sides of the Atlantic.

I note that last weekend the noble Lord, Lord Prescott —second-in-command in the Blair Government —wrote:

"In 2004, the UN Secretary-General Kofi Annan said that as regime change was the prime aim of the Iraq war, it was illegal. With great sadness and anger, I now believe him to be right".

I salute the noble Lord for that. I would be even more impressed by his candour if he admitted that Charles Kennedy, and Liberal Democrat MPs, of whom I was one, took precisely that same view in March 2003.

I have few regrets from my political life, although I have some. However, I certainly do not regret that vote. Incidentally, those Conservatives who now revisit their enthusiastic support for the invasion on the basis that nobody could reasonably doubt the evidence and rationale that Prime Minister Blair placed before Parliament, seem to forget that Ken Clarke and 14 Conservative Members of Parliament also voted with us in the Division Lobby. They, just as much as Robin Cook, to whom reference has been made by many this afternoon, deserve to be recognised for sticking to their international principles in those difficult circumstances.

As the Chilcot report makes abundantly clear, the acceleration towards invasion was motivated by complicated US and UK government initiatives. In the UN they were having difficulty, and they had further doubts about Saddam's elusive WMD, because they could not believe that Hans Blix's investigations were, at that stage, correct. They were worried that their casus belli might be stymied by those doubts.

In the following weeks I had a particular reason for pursuing that aspect of the sorry saga. The first British casualty—the first British fatality—of the invasion was Sergeant Steven Roberts, whose family lived in my North Cornwall constituency. Within days his family had been informed, by letter from an officer in his unit, of the stark details of his death: his malfunctioning weapon; the fatal shot might well have come from a colleague; but, most significantly, he was not wearing appropriate protective armour—enhanced combat body armour, or ECBA. On their behalf, I asked a number of questions of the Ministry of Defence, and I received total brick-wall answers. Meanwhile, we were amazed by a revelation from the National Audit Office, referring to ECBA:

"200,000 sets had been issued since the Kosovo campaign in 1999, greatly exceeding the theoretical requirement, but these seem to have disappeared".

Even when I secured a meeting with the then Secretary of State for Defence, Mr Geoff Hoon, for Sergeant Roberts's widow, mother and brother, we got no satisfactory explanations for that extraordinary situation. The nearest we came to understanding was when a senior officer attending our meeting with Mr Hoon claimed that preparations for the invasion had to proceed "with some secrecy". Paragraphs 811 to 813 of the executive summary of the Chilcot report make specific reference to this.

That is why I need to concentrate on that part of the report. It is clear that, egged on by the US President, who was still bent on misdirected revenge for 9/11, the Prime Minister was desperate not to appear to be preparing for an invasion while still seeking a peaceful outcome via the United Nations in the autumn of 2002. On this point Chilcot is quite explicit: going to war without a majority in the United Nations Security Council,

"undermined the authority of the UN".

The subsequent board of inquiry report into Sergeant Roberts's death identified political constraints,

"at the level of the Secretary of State, which held up ordering and deployment of sufficient sets of ECBA to protect all our troops in dangerous positions in Iraq".

What Sergeant Roberts himself described as a joke was far, far worse: it was the end result of political subterfuge and misjudgment. At the inquest into his death, the coroner said that it was,

"as a result of delay and serious failures in the acquisition and support chain that resulted in a significant shortage within his fighting unit of enhanced combat body armour, none being available for him",

and concluded that this was "unforgivable and inexcusable".

Nearly four years after Sergeant Roberts's death, in January 2007, the then Minister for Defence Procurement admitted in answer to a Parliamentary Question in your Lordships' House that:

"At that time the United Kingdom was deeply involved in diplomatic activity endeavouring to find a peaceful solution to the crisis in Iraq and no decision to commit a UK land force to any potential operation had been taken. The judgment was that to place orders for equipment which would have indicated preparations for the deployment of a large land force would have risked undermining this diplomatic effort".—[*Official Report*, 10/1/07; col. *WA 90*.]

In other words, Sergeant Roberts died because the UK Government spent several months trying to cover up the intentions of the US and UK Governments. I make no apology for emphasising this one very specific aspect of the Chilcot report.

Members of your Lordships' House will, I think, understand why I feel so passionately that Tony Blair should now admit that his insistence on following President Bush willy-nilly into war was a tragic mistake. As the noble Lord, Lord King, said, that brief sentence:

"I will be with you, whatever",

had tragic consequences. Of course, Sergeant Roberts's unnecessary death has been followed by countless other tragedies—for Iraqi civilians as well as allied troops—and Britain's international reputation is severely tarnished to this day as a direct result.

Perhaps the last word can best come from Charles Kennedy, in that fateful debate on 18 March 2003:

"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.]

That is where we are today.

4.22 pm

Lord Craig of Radley (CB): My Lords, this long-awaited report has done a thorough and commendable job. I wish to comment on two particular issues: the way the inquiry has sought to apportion responsibility for things that did not go right in the period from 2002 to 2009, and some of the lessons that should be drawn from what happened.

By and large, the report's criticisms are directed at either Ministers or senior service personnel. I do not intend to attempt to second-guess any of those criticisms, other than to make the perhaps obvious point that what is clear with the benefits of mature reflection and 20/20 hindsight may not have been known to, or so apparent to, those concerned at the time. It is certainly my recollection that the prevailing view at the time, post-conflict, was very much optimistic. One enduring issue—not, it appears, so explicitly dealt with in the inquiry—which I am aware of from my own experience with the first Gulf War in 1991, is how to apportion the responsibility shared between Ministers and the military for shortfalls. For example, there were shortfalls in preparations for operations and their subsequent periods, or in the conduct of operations.

If, for instance, Ministers wish to commit forces to an operation, how far should they or their predecessors in office be held blameworthy because of gaps or shortages in capability recommended by the operational requirement process but judged to be less important or unaffordable at the time? With the timescales for major equipment programmes, it is indeed unlikely that the Ministers involved in procurement decisions will still be in office.

The military can-do reaction to ministerial demands—as commended by Chilcot—is of course laudable, and with £35 billion or so of annual budgets, blunt refusals are unrealistic. But pressures to delay or shorten preparation for deployment times lie uneasily with the reasonable Chilcot view that military timetables should not dictate diplomatic ones. At heart are matters of risk, not just the major risk of a failure of a mission, but also the risk of casualties, and that is never easy to predict in a fight. Another risk, as highlighted in the inquiry, was that the UK feared being excluded from US plans unless they were offering ground forces. Taking such risks, while important to consider, cannot realistically be blamed individually, if they occur. A decision to commit forces beyond planning assumptions sounds unwise, unless national interests are under serious attack, when the decision to fight has to be with what you have, or to surrender. The commitment of forces to an expeditionary operation would seem to lend itself to a judgment about how far, and at what risk, to go. But as in so much else to do with such operations, the unfolding of events and the macrostrategic issues are most likely the dominant drivers, rather than putative risks, in reaching decisions.

The separation of responsibility between Ministers and senior commanders in operations is now also very different in the days of instant communication. I am reminded of an apocryphal story. An admiral at sea in the days of sail, seeking ministerial direction, would hand his quill-written request to the captain of his fastest frigate. Sails set, he would make all speed to bear the message to their Lordships in London, catching a tide up the Thames some three weeks later. Immediately—and to catch the falling tide—he would have their Lordships' response. This would be with the admiral some six weeks after he had sent it. Today, the commander at sea, or in the field, can of course instantaneously signal the Ministry of Defence. The response will also reach him instantaneously, maybe some six weeks later.

Modern communications though, have also led to the explicit involvement of Ministers in live operations; for instance, giving approval to aerial attacks on a

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target. The scale and pace of recent operations make such involvement practical, and politically it may be essential for Ministers, who have the responsibility to describe and defend operations in public. Faced with a more aggressive foe, however, leading to the loss of ships or aircraft, such minute-to-minute involvement could become unmanageable. If things do not go as planned, who then is to blame?

Finally, I endorse strongly Chilcot's views on the importance of news management. In the first Gulf War, when dealing, for example, with the loss of aircraft, comment would be sought almost simultaneously in the 24-hour news cycle from spokesmen in Riyadh, London and maybe Washington. Getting consistency in responses—when the veracity of the original claim had perhaps not been fully established—called for constant interaction and preparation against possible events or calamities. News management—I do not mean that in a pejorative sense—was difficult then. Social media have compounded the difficulties, but the success or failure of public support for an operation may depend on how the facts are reported and commented on. Chilcot is right to give this vital lesson renewed prominence.

4.29 pm

Baroness Neville-Jones (Con): My Lords, this is a definitive and exceptionally valuable report, even if it has been a long time in gestation. It has not changed the overall view I had already come to about the Iraq war, but I did not expect it to, and I doubt that I am alone in that. What it does so excellently is to tell the factual narrative in compelling detail and draw conclusions which are well supported by the text. It is the very fairness of the judgments made that renders them so cogent. As the noble Lord, Lord Blunkett, rightly remarked, their tone contrasts markedly with the tone of some current comments, which are beneath those who make them.

I cannot claim to have read all 12 volumes, but I have read a couple. Volume 4, which relates to the use of intelligence, is a telling narrative and I want to focus on it for a moment. It tells a sad story of professional error, exaggeration and political manipulation of information which has left a damaging legacy of suspicion and mistrust of the agencies and of government generally which we see played out in many contexts, even more than a decade later. For instance, I see expressions of it in our current debate about the investigatory powers legislation.

The initial intelligence error arose from what the report terms the "ingrained belief" that Saddam Hussein still possessed weapons of mass destruction and was still pursuing the goal of obtaining them. Such fragile assumptions—which, as other noble Lords have rightly remarked, were widely, in fact I think universally, shared in the intelligence community—were the starting point for a disastrous chain of events. That demonstrates that even if everybody believes something, it is not necessarily right.

The manipulation occurred as the result of the desire to find intelligence to support policy and to use it to make the public case for intervention. JIC material was embedded in a political document. Moreover, in the search to demonstrate that Iraq represented a direct threat to UK security, unassessed and entirely false intelligence was brought into play. The JIC assessment then became the political benchmark against which Saddam Hussein's response was judged. An intelligence assessment became a policy document. Saddam Hussein was on to a hiding to nothing because if, as he repeatedly did, he denied possessing weapons of mass destruction, he was seen as being guilty of hiding them. On the other hand, had he acknowledged possession, he would have made the case for military action.

When one reads the story of this episode, one has the feeling that the way intelligence was used did not really matter to many, although not all, of those who were using it because the view was that even if it was subsequently criticised, that criticism would be overwhelmed by the discovery of the hidden WMD stocks: ends justifying means.

So what are the lessons? In the intelligence field, changes have been made in the way intelligence is assessed and in presentation to make clearer to Ministers the level of confidence in any given judgement. Ministers have shown they understand the perils of intelligence misuse in public. The House will recall that during the coalition Government, when it came to whether there should be a military response to Assad's possession and use of chemical weapons, the Government released an unadorned JIC assessment. It did not make the Government's case, and if somebody thought it would, they should not have expected it to do so.

We already know that the use of intelligence in court is fraught with difficulty and, although the problems are different, they exist with the use of intelligence in the wider public arena. I reckon it should be the exception. However, in a world of hybrid and cyber warfare, such sources may be uniquely valuable and central to a public understanding of what is happening, so we cannot not rule out the use of intelligence in public entirely. The policy for which they provide evidence has to carry conviction in its own right.

The events recounted in volume 4 of the report would have been much less likely if the centre of Mr Blair's Government had been operating properly. At this point, I come to the issue of sofa government. The disregard for the conventional institution and processes of government had set in before the intervention in Iraq loomed, but it was greatly accelerated by that intervention. Special advisers must never again be allowed line authority over civil servants or be able to interfere in professional intelligence assessment. Circumstances must not arise in which intelligence from untested sources is handed to Ministers unassessed. Above all, Cabinet government and collective responsibility must function if trust in government is to be maintained.

When I advised David Cameron to set up a national security council, I had in mind three main considerations. The first was the need, for which the then Cabinet committee system did not adequately provide, to bring foreign policy and domestic security together in one place for decision and to increase the Government's ability to operate across the piece. Secondly, in an era of the increasing importance of intelligence to policy-making, it made sense to create a forum for

direct discussion between the agency heads and senior Ministers. The National Security Council now provides this.

My third and overriding consideration was indeed to try to prevent sofa government and instead to provide regular and inescapable time for consideration of the complex threats and challenges to the security of this country that the weekly Cabinet meeting agenda does not in reality provide. I recall my time as Deputy Cabinet Secretary. Foreign affairs came right at the end and tended to be squeezed. No system can be proof against perversion nor, as others have said, against operating on wrong information. I hope that some of the changes that have been made, and to which the Minister has alluded, will prove to have made sofa government less tempting and less likely.

Another part of the design was the proposal to create a fully fledged parliamentary committee to oversee the intelligence agencies. The heads of the agencies, to their credit, supported the need for much more credible accountability. It is certainly arguable that, had the current arrangements existed during Mr Blair's Administration, some of what we witnessed might not have taken place and the Government as a whole might have been more resilient to American pressure.

However, there is the other side of this issue. It is a point made in the current edition of the *Economist*, and by a noble Lord earlier, and it is important. We must not allow this episode in our history, or the conclusions we draw from it, to prevent, deter or discourage us from continuing to play an active role in international politics.

4.38 pm

Baroness Morgan of Huyton (Lab): My Lords, like others I have still not had the opportunity to read the whole report and have relied to a large extent on the executive summary. I suspect that over the coming weeks and months new insights will emerge that will be useful to us all. However, let us try today to draw the right conclusions and lessons from the Chilcot inquiry. That means we should not regurgitate the oft-repeated theories that some will never drop, no matter how many inquiries are held. I have been particularly distressed by some of the media coverage that we saw in the past week, which was deeply inappropriate and irresponsible.

The inquiry was set up to examine what happened in the run-up to, during and after the conflict, and to learn lessons. The report finds, first, that there was no falsification of intelligence. I quote, so that it is clear:

"There is no evidence that intelligence was improperly included in the dossier or that No. 10 improperly influenced the text".

That comes from paragraphs 533 and 807. It also says:

"The inquiry is not questioning Mr Blair's belief, which he consistently reiterated in his evidence to the inquiry, or his legitimate role in advocating government policy".

The reality is:

"The JIC accepted ownership of the dossier and agreed its content".

Further, members of the then Cabinet and senior parliamentarians across the House of Commons—including the then leader of the Opposition and shadow Ministers—had regular briefings on the intelligence available at that time. That the intelligence was wrong is not in doubt. What do not stand up are the stories about political misuse of the intelligence.

Secondly, there was no deception of the Cabinet. The advice of the then Attorney-General to the Cabinet is well known. The majority of the Cabinet took the position that the role of the Attorney-General on 17 March was simply to tell the Cabinet whether there was a legal basis for military action, as it says in paragraph 950. That is what he did, and he was open to questioning on his advice. The report makes it clear that there was no so-called side deal. We should also be clear that the then Attorney-General, my noble and learned friend Lord Goldsmith, made it clear again last week that he believed at the time, and still does, that his legal advice was right.

I am not suggesting for a moment that the processes involved up to and after the military action could not have been much better—that would be foolish. I am simply stating for the record what the report finds in two key areas where mistruths continue to be repeated. Sir John of course makes strong, valid and important criticisms of the process of decision-making. The report understood that the nature of foreign policy requires the Prime Minister, the Foreign Secretary and officials to be negotiating policy almost hour by hour, and that the nature of the so-called sofa government in this period involved what the noble Lord, Lord Turnbull, described as "a professional forum" with, broadly,

"the right people in the room"—

that is, Secretaries of State, the Chief of the Defence Staff and, as appropriate, intelligence chiefs, not a cosy cabal. The full Cabinet discussed Iraq many times too, of course.

That said, the report's view that there should have been a Cabinet committee and should be in future, receiving all appropriate papers and having all decisions properly minuted, is obviously right. Similarly, the view that the Attorney-General's advice should have been tabled in full is also sensible. My only pushback is this: we must not delude ourselves collectively that better processes, while right, will ever make such decisions easy, or even that different decisions would necessarily get taken. The Prime Minister, in a considered and thoughtful Statement in the other place last week, described the sensible changes that have been introduced, including the introduction of the National Security Council. He was, however, also honest enough to recognise that the changes had not made either decision-making or outcomes in Libya and Syria either easy or necessarily successful. There is not some magic box that can be pulled down from the shelf. In the end, decisions about military interventions made by military leaders are tough. There is no more difficult decision for a Prime Minister to take than the one that commits troops.

The other lesson that I sincerely hope we do not learn collectively is that intervention is too difficult and should just be avoided if at all possible—that we should step back from international involvements and look the other way. We know that there are serious consequences when we do not intervene. Think of the ethnic massacres in Rwanda, where over 1 million people died. Failure to act quickly enough in Bosnia

[Baroness Morgan of Huyton]
led to more than 100,000 dead and the catastrophes that we know about too well. The humanitarian disaster in Syria has led to many millions of refugees and displaced persons, starvation, deaths and panic throughout Europe about migration. Think too about the positive effects of intervention in Kosovo, without UN authorisation as it would have been vetoed, and in Sierra Leone. Both actions are widely supported, but of course may not have been if the outcomes had been less successful.

It is important to move on from recriminations and learn the right lessons about process and decision-making in government, proper preparations and detailed planning. Do not let us decide that the only way through in future is to avoid our responsibility when we see humanitarian disasters or dictators terrorising their peoples. Intervention is not always wrong, but we have to try to do better.

4.44 pm

Lord Dobbs (Con): My Lords, it is humbling to take part in such a valuable and thoughtful debate with so many excellent contributions. I believe we owe a debt of gratitude to Sir John Chilcot. This report was never going to be easy or lacking in controversy. We might argue about the remit that he was given but not about the dedication that he has shown.

We are told that the Government of the day acted in good faith, but there were too many acts, there was far too much faith and I find it difficult to accept that there was much good in it. Was the war legal? Sir John was not allowed to say, but others will have a view. Was it effective? Well, the tyranny of one man has been replaced by a terror inflicted by many more across many borders. On the questions of cause and effect, I suppose history will decide. But above all, it is worth asking the simple things: was it just, proper and decent?

My first political memory dates back to 1956. As a young boy, I was captivated by a speech made to a huge crowd in Trafalgar Square by Aneurin Bevan. You can still watch it on YouTube. In his saggy suit and with his wonderful Welsh lyricism, Bevan addressed the Prime Minister of the day about another Middle East war in Suez. He said of the then Government:

"They have besmirched the name of Britain. They have made us ashamed of the things for which formerly we were proud. They have offended against decency".

Pointing towards Anthony Eden, who was then in Downing Street, he said:

"If he is sincere in what he is saying—and he may be—then he is too stupid to be Prime Minister",

words that echo even today. All of us, I suppose, bear some responsibility for the events in Iraq—the Labour Government bear responsibility, of course, but we in the Conservative Party did not do our proper job of analytical and responsible opposition. Yet above all it was the responsibility of one man, the then Prime Minister. Clausewitz once said that war is the continuation of policy by other means, but surely war must be a final option, a last resort, not merely a matter of prime ministerial preference. To coin his own phrase, it is right that Tony Blair should feel "the hand of history" on his shoulder.

Chilcot must not be the last word, debated then put away in some dusty drawer. Instead we should use it for a new beginning—but what sort of beginning? First, I have a few questions. Who is to take responsibility for what happened? Someone must, otherwise it might all happen again. We cannot have yet another example of the establishment being above the law and above any form of responsibility. We had enough of that with the bankers. Have we done enough yet to ensure that we do not repeat the errors? Somehow, our systems seemed to fail at every step—in the Cabinet, in the Civil Service, with our Law Officers, in the intelligence services, even in Parliament. How do we balance the right of a Prime Minister to lead and his duty to defend our interests—even to intervene—without once again falling victim to one man's unwisdom?

Secondly, I can think of no better time than in the wake of Chilcot to undertake a comprehensive reappraisal of our foreign policy: its past effectiveness—particularly since the end of the Cold War—its strategy, its objectives, its implementation and the values that it reflects.

We are a decent and democratic people, so why are we having so much trouble showing it? We were once a beacon of hope in a dark world. Where have we gone wrong? Specifically in the Middle East, in the six decades since Suez, where are the successes to point to? One was the first Gulf War, certainly, which was co-operative and, as the noble Lord, Lord King, said, limited. But what about Iraq, Afghanistan, Libya, Syria and the Arab spring? How good have we been at learning the lessons? Not good enough, I suggest.

Thirdly, I believe that, as an establishment, we owe an apology for our failures in Iraq: to the families of the 179 service men and women who died; to the thousands more who came back home dragging their wounded bodies and wounded minds behind them; to the perhaps 1 million ordinary citizens who marched through the streets without hindsight before the war started, yet who were ignored; and to many others who suffered, like Dr David Kelly. To all of them we should say that we could and should have done better.

Yet it would be a tragedy if we tried to load all the blame on to Mr Blair, finding whatever room there is left between his shoulder blades to stick in another knife, because if that is all we do we will have lost the huge opportunity that Chilcot offers us—to reflect; to analyse the uncomfortable truths, as the noble Earl described them earlier; to revitalise the grounding principles behind our foreign policy; and to ensure that such appalling errors never happen again.

Above all, Chilcot is about responsibility, which can all too easily slip into recrimination. That would be a mistake. Instead of recrimination, I hope that it will be used to meet the need for reconciliation and for renewal of our national purpose. Great countries sometimes make great mistakes. We must learn from them.

4.51 pm

Lord Morris of Aberavon (Lab): My Lords, I have been very critical of what I have called the scandalous delays in the publication of this report. I was not the only one. The Prime Minister was a prisoner of the mantra that this was an independent inquiry and

therefore untouchable. I promised in the debate in October 2015 that, if the committee members turned out to be knights in shining armour and produced an authoritative report, I would withdraw my criticism. I am satisfied, subject to more leisurely reading, that all paths have been followed to the point of exhaustion. The committee deserves our thanks for its masterly analysis.

I intend to concentrate on some of the lessons to be learned. First, the families of those killed and grievously injured did not deserve such a delay in finding out what happened. My sympathies are those of a former Defence Minister and a former young soldier of many years ago.

The second lesson flows from the way the inquiry was set up. I was a member of a Select Committee of this House, under the noble Lord, Lord Shutt, that suggested a more permanent machinery in the Cabinet Office to give guidance to Ministers and provide continuity in materials. That was rejected by the coalition Government. It is time to think again.

The third lesson flows from the inquiry's terms of reference. Respect for good government is undermined if reports do not see the light of day because of their breadth and before issues become dimmer and dimmer in the public memory. I have said previously that Sir John was not given the opportunity to discuss the scope of the inquiry. The Cabinet Office was in such a hurry that he was given only 10 minutes to decide whether to accept the chair. I suspect that Prime Minister Gordon Brown had no more than limited experience of setting up inquiries of this kind, having heard the arguments for choosing tightly drawn terms as opposed to all-encompassing ones. What he had in mind was about a year for the inquiry to report. The Butler inquiry took five months. As a young man, my name was proposed for the Falklands inquiry. I was in busy professional practice at the Bar, and I cleared my desk for the intended six months. I was very relieved when somebody else was preferred.

My fourth point concerns the fact that there was no lawyer on the committee, which shows up a little in the cross-examinations I have seen and read. The Leveson inquiry was a good example of a senior judge taking the chair, although this is not essential. Equally important was the advantage of having as counsel Sir Robert Jay, who could ensure and marshal the evidence, and undoubtedly shortened the proceedings.

I fully understand the concept of the independence of the inquiry, but surely this does not mean a free rein, without any parliamentary consideration when things are going wrong and costs are mounting year by year. There is a mechanism for control under Section 13 of the Inquiries Act 2005. For some reason this path was not chosen and we had an unbridled, non-statutory inquiry. It is the second major inquiry—the Londonderry inquiry being the other—that has grossly exceeded expectations in its length and costs. Have lessons been learned for the current historical sex abuse inquiry under Justice Goddard?

The Attorney-General had the very difficult task of ruling on the legality of the war and gave his honestly held views. I have never commented on the legal position. In my book I advocated that, despite the equivocation of the French, we should have tried for a second resolution. This was not a war of last resort. I do not find the consideration the Cabinet gave to the basis for going to war attractive, and the noble Lord, Lord Butler, has ruthlessly demolished it for lacking appropriate processes. Mr Blair has accepted responsibility—and rightly—for the way the decisions were taken. The Attorney-General was not asked why he had changed his mind that it would have been safer to obtain a second resolution because of the risk of legal challenge. He was surprised at the lack of interest. He is independent of the Government in this role, but the office is sometimes regarded as the fifth wheel of the coach by his political colleagues.

I was Attorney-General during the Kosovo war. In two war Cabinets I invited myself to speak—this was probably presumptuous. I also put all of my important arguments to No. 10 in writing. We were indeed, and as I had advised, challenged and, with eight other NATO countries, appeared as defendants before the International Court of Justice in The Hague, where I was leading counsel for the United Kingdom. There is always a danger of a challenge, and we were indeed challenged for one long week. I find the attitude of the Cabinet consistent with the Attorney-General's evidence—it can be nervous of a legal spanner in the works.

Finally, I turn to post-war planning. We could all go into some detail on this issue, but there are more expert minds regarding the appropriate amount of equipment that should have been available. The Americans mainly bear the responsibility for the lack of planning but we share it, too, and are paying the price now.

4.58 pm

Lord Williams of Baglan (CB): My Lords, I declare my interest as a former special adviser to the late Robin Cook when he was Foreign Secretary from 1999 to 2001, and to Jack Straw when he was Foreign Secretary from 2001 to 2005. In that year I returned to the UN, where I was director for the Middle East in the Department of Political Affairs in New York. In all three positions I had much to do with Iraq.

Let me record my high regard for the work of Sir John Chilcot and his fellow commissioners, in particular the noble Baroness, Lady Usha Prashar. The report is a forensic critique of the Iraq war, probably the most divisive issue in British foreign policy since the Suez war of 1956, to which the noble Lord, Lord Dobbs, has just referred, and which, of course, brought down the Government of Sir Anthony Eden. But the legacy of the 1956 war, in the region and here at home, was not as profound as that of the Iraq war. Moreover, the UK death toll in the Suez conflict was barely 12% of that during the Iraq war.

In my remarks today I want to focus on the continuing effects of the war, 13 years after the invasion. An early indication and warning of what that invasion was likely to bring was the looting of the fabled treasures of the Baghdad museum in the early days of the 2003 war. The inability, or the unwillingness, of the invading forces to take adequate responsibility for the maintenance of law and order was a foretaste of the occupation to come.

[Lord Williams of Baglan]

On 2 July 2003, I accompanied Jack Straw on a visit to Baghdad. In addition to meeting with Iraqi politicians, we met with Mr Paul Bremer, the head of the Coalition Provisional Authority, as well as the late Sérgio Vieira de Mello, the United Nations special representative. The two men could not have been more different. Although Mr Bremer had the title of ambassador, he reported not to the State Department but directly and only to Donald Rumsfeld, then the Secretary of Defense. His previous diplomatic experience was limited to postings in Norway and the Netherlands. The contrast with Mr de Mello could not have been more marked. Widely tipped as a future secretary-general, the Brazilian diplomat had served in the Congo, Mozambique and East Timor, as well as in Cambodia and the Balkans, where I worked with him. There was no senior figure in the UN who came close to de Mello in terms of his incomparable experience in conflict and post-conflict situations, as well as in humanitarian affairs.

De Mello hoped that the CPA would move quickly to allow a provisional Iraqi Government—after all, the Security Council Resolution 1483 envisaged the coalition as a temporary authority in Iraq—but he was not able to influence the United States and, as Sir John Chilcot tartly notes, neither was the UK. There was, chillingly, no reporting line from the CPA to the UK. Moreover, the US, as Sir John Chilcot again outlines, refused to accept a memorandum of understanding to establish procedures for working together on occupation issues. The UK's ability to influence decisions made by the CPA was, Sir John says, not commensurate with its responsibilities as joint occupying power. It was under Bremer's leadership that de-Baathification became a disaster and fatally wounded the Iraqi state, from which it has still not recovered today.

The subaltern position of the UK did not match the commitment that the Blair Government had made. It meant that from the very beginning the traction that London had on Washington was not adequate to the enormity of the tasks of the occupation.

For all its faults and crushing brutality, Iraq under Saddam Hussein was a nation state. It was a bulwark against Iran, with whom it had fought a bitter war. Since the invasion, Iraq has not become again a functioning nation state. We see the position of the Christians in Iraq. At the time of the invasion, their numbers were about 1,700,000. Today they are fewer than 20% of that number. Post-Saddam Governments have been less successful—or, frankly, less willing—in protecting Christians and other minorities from coming under attack.

It is important to look at the conclusions Chilcot outlines regarding post-conflict situations. In paragraph 859 of the executive summary he looks at the fundamental elements of post-conflict situations. The first is,

"the best possible appreciation of the theatre of operations".

The second is,

"a hard-headed assessment of risks".

The third is realistic objectives and the fourth is the allocation of the necessary resources. In paragraph 860 he says:

"All of these elements were lacking in the UK's approach to its role in post-conflict Iraq".

At the regional level in 2003 the UK, and Tony Blair in person, pushed strongly for a settlement between Israel and the Palestinians. Now, 13 years on, we are no nearer that settlement. Indeed, the Middle East peace process, far from being advanced by the Iraq war, has for several years now barely existed. There have been no meetings between the parties for nearly three years. There was a fragile Middle East peace process in 2003. Now there is none.

Chilcot also shows conclusively that there were no links between the Baathist regime and al-Qaeda. It is, then, one of the cruellest outcomes of the Iraq invasion that since 2003 Iraq has been the source of many of the jihadi threats to the region and to the West itself. Today, Daesh or ISIS is stronger in Iraq than in any other Arab country, including Syria. Mosul, a city larger than Manchester, has been under ISIS occupation for more than two years now. It functions like a state and is an incubator for many of the plots and threats against the West. The situation is so serious that yesterday Ash Carter, the US Defense Secretary, announced that a further 600 US troops were being dispatched to Iraq, bringing the current total there to nearly 5,000. I ask the Minister: what is the UK Government's view of the threat posed by the ISIS state in Iraq and are we considering further assistance to the Iraq Government?

Finally, I urge the Minister to make sure that the lessons of the Chilcot inquiry and, more importantly, its report, are fully understood and the policy implications absorbed across Whitehall, especially in the FCO, the MoD and DfID.

5.07 pm

Earl Attlee (Con): My Lords, I have an interest to declare because I was a TA officer serving in Kuwait and Iraq in early 2003. I was serving as a G1/G4 ops watchkeeper in HQ DSG, part of 1 (UK) Armoured Division.

Before I was called up on 26 February 2003, I was the Opposition Front-Bench spokesman for defence in your Lordships' House. While I thought the "dodgy dossier" was appropriately named, I honestly had faith in the Prime Minister. I thought that perhaps the officials were telling him that he had to deal with Saddam Hussein then or he would never be able to deal with him. I believed it my duty to believe the Prime Minister on a matter of national security. During the run-up to the operation, Dr El Baradei had more or less told us that there was no nuclear threat from Saddam, and in the HQ and in the theatre we honestly believed that we faced a threat from imminent chemical attack and it was not just some conspiracy in No. 10.

My noble friend Lord King mentioned the Maxwellisation process. It seems to me that Maxwellisation is an invitation to witnesses to be as economical as possible with the quantity of evidence, safe in the knowledge that if the inquiry gets a bit too close they can give further details.

Mr Blair and I had privileged upbringings. We were both privately educated and many of our teachers would have served in the Second World War and had a terrible time. My teachers drummed into me time and again that war is to be avoided at all possible costs.

Nevertheless, they also ensured that we knew how to defend our nation, particularly in respect of leadership, so I am not quite sure what went wrong.

There are some good aspects to this. The SDR 1998, initiated by the noble Lord, Lord Robertson, was a particularly good defence review. It recognised that we would be getting into expeditionary warfare. We practised it with Exercise Saif Sareea in Oman in 2001, and we learned a lot of lessons. Some tried to suggest that Labour Ministers deployed UK forces on Op Telic 1 ill trained and inadequately equipped for the military task that had been set for them. They did no such thing. The problems, as we know, were with the legality and the necessity of the operation and with post-conflict planning, but I have no issue at all with the way that Op Telic 1 was conducted. It was a brilliant operation, very rapidly executed.

Initially, up until December 2002, the plan was to deploy through Turkey with a British armoured brigade and two logistic brigades. Then, in December, the plan was changed to go in through the south of Iraq with an armoured brigade, a commando brigade and an air mobile brigade. This was a massive change in plan; nevertheless, we were ready to cross the start line in early March 2003. That was very fast indeed—it gave little time for our opponents to prepare and its speed minimised our casualties. Of course, once a force is deployed, you cannot leave it deployed very long. You have to recognise that your own forces will never be perfectly prepared and the longer you wait, the better prepared your opponents will be. It is not generally recognised that only the US, UK, France and Russia can deploy an armoured formation out of area, away from their own land mass. Other nations simply cannot do it; they lack both the physical and conceptual components to do so.

I want to dispel a few myths. Take the matter of body armour, raised by the noble Lord, Lord Tyler. When I mobilised I was issued with brand-new body armour at Chilwell, as were all the other people being mobilised. Yes, there was a shortage of body armour in theatre. Body armour is very heavy and I suspect that what happened was that some enterprising quartermaster put his unit's body armour in an ISO container in order to allow the troops to carry more of their own gear into theatre, not realising how fast we were going to move. We ended up in the situation that we were short of about 600 sets of body armour in theatre and the logistical system is simply not geared up to deal with that sort of problem. Unfortunately, the fact that we did not have a system of tracking the ISO shipping containers was a problem, but that is not a reason for not deploying. I am very sorry to have to tell the noble Lord, Lord Tyler, that the reality is that body armour, no matter how good—unless you cannot pick it up—will not protect a soldier from a burst of fire from a general-purpose machine gun mounted on a vehicle. You simply do not have a snowflake's chance in a blast furnace.

I can say, years later, that I am ashamed of some of the attacks made by my honourable friends on Labour Ministers. They should have known better. Parliamentarians have to understand that it is impossible to engage in war-fighting operations without taking numerous casualties. I have said before and I will say again that the attention we pay to each casualty is inversely proportionate to the number of casualties we take. Some outside the House think that the MoD, the staff and senior officers have a sort of "Blackadder" attitude to taking casualties. They do not. In every HQ, at every level, every casualty hurts like hell. I know; I have been there.

Now I will say a word about protective ability. In late May 2003 I was running around Basra province in a soft-skin Land Rover. I was heavily armed, with a Browning 9 millimetre pistol, my body armour was somewhere in the back of the Land Rover, and I hoped that my driver had remembered to bring his rifle. We did not need anything more: it was a benign environment. It was only later, when the post-conflict plan was unravelling and we lost the consent of the people, that it became a dangerous environment.

The report observes that MoD staff in the UK were preoccupied with the FRES programme—a new armoured vehicle programme. The danger with buying a large UOR fleet is that you end up with a wide range of flat platforms with different build standards, and no plan for sustaining the fleet in the future. I am sorry to say that that is exactly what we have now—as I am sure Mr Putin's military advisers are well aware.

The shocking part of the report is not the intelligence failures but the late consideration of the legal issues, the total lack of Cabinet government, and the problem in involving Ministers, such as Defence Ministers and Foreign Office Ministers, at all levels. Finally, I would like to say that the blame does not all lie with Labour Ministers. My noble friend Lord Dobbs touched on the role of Her Majesty's Opposition. I am not clear, and the report does not cover, what role Her Majesty's Opposition took in asking the very difficult questions of Ministers. If they had done that, the outcome might have been different.

5.16 pm

Lord Morgan (Lab): My Lords, the Chilcot report is a devastating record of what Gibbon called "the crimes and follies of mankind". It does nevertheless suggest some heroes in this dreary saga. We should mention Elizabeth Wilmshurst, the legal adviser to the Foreign Office, who resigned so courageously when it became clear that the attack planned on Iraq was illegal, and insisted that we should keep within international law and the UN charter. Her arguments were never made public.

In Parliament, as we have rightly been told, the Liberal Democrats—the noble Lord, Lord Campbell, and his colleagues—stood out. Charles Kennedy was a great party leader, who showed great courage. It was the Liberal Democrats' finest hour, and reminds me of the South African war, when Campbell-Bannerman and Lloyd George condemned the British Government for "methods of barbarism". In government there was, of course, Robin Cook. Chilcot is a complete vindication of what he said on every aspect—on weapons, on security and on the flouting of the United Nations. He was indeed a great man, and a very considerable loss.

Internationally, we should honour France. What President Chirac and Dominique de Villepin did at the United Nations has been totally vindicated. They pointed

[Lord Morgan]
out the flaws in the argument, despite all the crude abuse they got from people like Cheney and Rumsfeld. I recall reading what Tony Blair said: "Poor old Jacques. He just doesn't get it". But he did get it.

Finally, there were the people of England—1.5 million of them—who marched through London. My daughter and I were very proud to be with them. They expressed their disgust, many of them people who had never demonstrated about anything before. This was the greatest public display of citizenship since the days of the Chartists. It was visibly democracy on the march.

The key errors were all known at the time, but Chilcot demonstrates them remorselessly and explicitly. There was the misguided reaction of the United States to the horrors of 9/11. The US linked it with Saddam Hussein and his alleged encouragement of al-Qaeda. These beliefs were all untrue. As we have heard, in any case Saddam Hussein ran a secular regime and had nothing to do with 9/11. Nevertheless, the United States immediately began planning reprisals on Baghdad and regime change. The United States actively defied the United Nations, even though it claimed to be its champion. The United Kingdom encouraged this and promised to take part in military action.

There was the extraordinary development of the Anglo-American so-called special relationship. After the secret talks at Crawford, Texas, in April 2002, which were never given much publicity at the time, the British and American Governments discussed pre-emptive strikes in Iraq and the forcible removal of Saddam Hussein, even though their intelligence told them that there was no military threat from him. This country took a completely servile view of the special relationship. I suspect that one factor was that old Labour was so often associated with pacifism and anti-Americanism, and new Labour was going to be different. Well, it certainly was.

The legality of the war is spelled out very fascinatingly. It had to be shown that Iraq was in defiance of Resolution 1441. The person to do that was the Prime Minister, who in effect was advising himself about the legality of an attack on Iraq. The effect was—it is a shame that Chilcot's team had no lawyers within its ranks—that all the doctrines of a legal war, namely the backing of the United Nations and the doctrines of a just war going back to Grotius or, indeed, in the case of the Church, to Aquinas in the Middle Ages, were set aside.

The military case was equally unacceptable—to quote Chilcot's wonderful phrase, it was "far from satisfactory" with the failures of MI6; plagiarism; no visible threat from Saddam Hussein; no biological and chemical weapons; no uranium from Niger; no 45-minutes delivery of weapons; and Hans Blix finding absolutely nothing. The evidence was flawed and far more weight was put on it than it could justifiably bear. One should say that Saddam Hussein did have some horrible weapons—anthrax, botulin and West Nile virus. Of course he had them—we gave them to him. He was our honoured partner in the war against Iran. It is sheer hypocrisy that we should suddenly express our horror at this.

Finally, as so many noble Lords with personal knowledge of this situation have said, there was the failure to plan for the aftermath. I remember Lord Bramall, who spoke just after me in the debate in 2003, saying that there was no strategic objective and no plan. I recall Lord Hurd explaining the errors that would result to the whole region from an attack on Iraq, with the dismantling of the Baath regime, ferocious civil war between Shias and Sunnis and a chaotic bloodbath ever since. As the old Roman said, they created a wilderness and they called it peace. As a consequence of this, al-Qaeda became far stronger and the rise of ISIL was encouraged, and 250,000 people lost their lives, along with a significant number of ill-equipped brave British servicemen, as a result of these miscalculations and distortions. And, of course, the threat of terrorism spread from Iraq to the streets of London.

The results of this catastrophe are now all too visible. In Iraq, we have seen the triggering of the refugee crisis, which loomed so large in the campaign over Brexit, and is a source of turbulence in this and other countries. We have seen politicians discredited as crooks and liars—again, we saw that in the Brexit crisis. My own party, of which I have been a member since 1955, has been in disarray ever since. Beginning with the 2005 election, it is now deeply divided over the legacy of Iraq. It is clearly not a party of government; it is difficult to say that it is even a party of opposition.

I once read about the life of Michael Foot, who wrote a famous pamphlet in 1940. This, very oddly, was quoted, and its argument used by George Bush, in a completely ill-informed linking of appeasement in the 1930s and Iraq, and a totally unhistorical parallel was drawn between Hitler and Saddam Hussein. So the evidence was misused, but there is force in the opening words: "Bring forth your guilty men". Chilcot is the sombre, devastating chronicle of that guilt.

5.26 pm

Lord Beith (LD): My Lords, I have had the pleasure of working under the chairmanship of Sir John Chilcot, admittedly on a task less monumental than this one. I was a little surprised at the amount of time the work took, but I am not at all surprised at the thoroughness, care and clear expression of criticism which we find in the Chilcot report. This is very much to his credit and to that of his team.

I voted against the Iraq war, and had clear reasons for doing so. It was illegal under international law. The intelligence, some of which I was familiar with through the work of the Intelligence and Security Committee, was in no way conclusive as to the presence of weapons of mass destruction, even if it could have been made to appear consistent with that possibility. There was no plan for the consequences: as Sir John says, the Government had,

"failed to take account of the magnitude of the task of … reconstructing Iraq".

The Government were also unable to deflect the United States from its own catastrophic plan to dismantle most of the military and administrative infrastructure left from the Saddam regime and the Baath party, without which Iraq, at that stage, was ungovernable,

which was the point made earlier by the noble Lord, Lord Williams. My other reason was that there was no need—containment and inspection were still functioning.

I want to turn from those reasons to the intelligence failure. There was an inappropriate use of intelligence to bolster beliefs already held, and to make a public case for war, for which purpose it was surrounded by over-interpretation and spin. There was a fatal and inexcusable absence of challenges in the assessment process, at the level of JIC and below. The most telling example of that is that those in the Defence Intelligence Staff with the expertise to assess whether material from the so-called new source was in any way credible were not given full access, and did not have their written concerns reported to the Joint Intelligence Committee. The Ministry of Defence was so embarrassed by this that it withheld details from the Intelligence and Security Committee even when the Secretary of State and officials were questioned about it. The committee strongly criticised both the Minister and officials for this in its report, and Geoff Hoon subsequently apologised to the House of Commons.

The 2004 report by the noble Lord, Lord Butler, and his committee, which included Sir John Chilcot as a member, did a lot of the work which was needed in the intelligence area—on the intelligence failure and on its lessons. In this area, there is not a lot the Chilcot report could add to the work done by the noble Lord and his team. I am optimistic that, as a result of the Butler report, challenge processes have been built into intelligence assessment, and the role of the Joint Intelligence Committee is better understood. We now also have the National Security Council.

Incidentally, speaking of challenge, from a personal standpoint I am still puzzled that no one in the entire intelligence community seemed to have considered the possibility that Saddam Hussein thought it was in his interest, in the power rivalries of the Middle East, that other nations should continue to believe that he had or was close to having weapons of mass destruction.

Chilcot's sections on the conduct of the war and its aftermath pose serious questions for the Ministry of Defence. Why was there inadequate preparation for the known danger of IEDs? Why was there such a failure to provide adequately armoured vehicles and what Chilcot calls an "unacceptable" failure to identify where responsibility for these things lay? My noble friend Lord Tyler reminded us that political obstacles were put in the way of prior preparation, with a resultant cost in human lives. There is surely a lesson there. Churchill went to considerable lengths during the Second World War so that he could continue to make various kinds of preparation while leading the enemy to believe that he was doing something completely different. We ought to know a little from that experience.

Is there a problem with the can-do approach which is in many ways a commendable part of the tradition of our service chiefs? It may get in the way of telling the truth to power if the truth is: "No, we cannot actually do it in this case"—at least, not in the timescale proposed or not in the way suggested. If the truth cannot be told to power, bad decisions will be made. Sometimes, very good motives may cause that to happen. Those are all issues which must now be given serious consideration.

The Chilcot report taken as a whole is a searing criticism of Tony Blair and those across the political spectrum who gave him uncritical support in this matter. It is also a severe criticism of those within the intelligence and policy-making processes of government who allow themselves to be caught up in groupthink without opposing the alternatives. I have believed all along, and Chilcot provides the evidence, that Tony Blair was motivated by a conviction that our central and vital alliance with the United States required us to be alongside it "whatever". That seems to neglect the fact that in two important conflicts—important to each of our countries respectively—we had considerable differences. I refer to the Vietnam War and the Falklands War. In both cases, we took very different views, but our alliance survived and there was a degree of understanding between our two countries as to how each handled the conflict in which they were involved.

A leader with Tony Blair's skills, determination and unquenchable self-belief should not have been presiding over a system which offered so little challenge. This sad story, which cost many British lives and is still costing so many Iraqi lives, has done lasting damage to public confidence in politicians and the political process. It has undermined in our country the very democratic institutions which our Armed Forces risk their lives to defend, and we owe them better.

5.33 pm

Lord Harries of Pentregarth (CB): I opposed the Iraq War and in my speech of 26 February 2003, at col. 260 in *Hansard*, I set out the reasons why, in my judgment, it failed three of the just war criteria for a morally justified military intervention.

However, I begin by saying that I believe the decision to go to war taken by the Prime Minister and Parliament at the time was an honourable one and was honourably made. It was in my view a tragic misjudgment, but it was not criminal. Mr Blair is now being pilloried in the press, but I suspect that if the intervention had turned out to be a long-term success rather than a very short-lived military one, some of those now vilifying him would have been praising him as a successful war leader. Tragically, instead of stability, we have had sectarian strife, massive displacement of people and terrible casualties. It is only fair, however, to note that there was no easy way in which the situation in Iraq was going to be resolved and what is happening in Syria is a literally deadly reminder of what can happen when matters are left just to take their course without an external invasion by major powers.

That said, however, the worst aspect of the Iraqi intervention for me has always been the failure to prepare properly for the aftermath of the military victory, as highlighted so powerfully in the Chilcot report. A Roman emperor on his deathbed was alleged to have given his sons three pieces of advice: "Don't quarrel among yourselves, pay your soldiers well and despise everyone else". Leaving aside the last point, the invasion failed dismally on the first two counts. There were entirely contradictory signals coming from

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those in charge in the United States, not least on the troop levels that would be necessary. Then there was the disastrous decision to let 400,000 Iraqi soldiers loose into the community, many with access to weapons, leaving the country in a state of virtual anarchy. A more properly realistic policy would have been to offer to double the pay of those in the Iraqi Army, leaving the process of de-Baathification to take place over a much longer period.

I would now like to look much more closely at how some of the just war criteria apply in the light of the Chilcot judgments. I do so because of future lessons that might be learned about the application to modern warfare. First, as Chilcot says:

"We have concluded that the UK chose to join the invasion of Iraq before the peaceful options for disarmament had been exhausted. Military action at that time was not a last resort".

What is important to spell out for the future, however, is that last resort is very much a matter of judgment and it cannot mean waiting for ever. In fact, a malevolent enemy will use every delaying trick in the book to retain and strengthen their position, with time usually being on their side. In theory, you can always go on negotiating, but that could be fatal. In practice, if an enemy is to be confronted, action has to be taken when it has the maximum chance of success.

For that reason, I am not altogether easy about the phrase in the Chilcot report,

"before the peaceful options for disarmament had been exhausted",

because with Saddam Hussein, there was never going to be a peaceful means of disarming him. Like the intelligence community that advised the Government, I believed it likely that Saddam Hussein had weapons of mass destruction, although they had not been found at the time; and that, in any case, he certainly intended to develop them if he possibly could. Although I believed that to be the case, I still took the view that the less hazardous course in 2003 was to continue the policy of containment with its no-fly zones, which was working very well. I did so in part because I did not believe that at that point there was sufficient significant international consensus for military action. This leads on to the whole question of legality.

Chilcot declined to comment on the legality of the war—wisely, in my view. In fact, there was reputable neutral opinion at the time which said that military intervention was justified under Resolution 1441, even without a second UN resolution. The point I wish to make is that legality may not be enough. The relevant just war criterion here is that there must be proper authority. In the modern world, we rightly look to the Security Council of the UN to provide that authority but, as the late, lamented Sir Michael Quinlan showed so persuasively at the time in his contrast of the intervention in Kosovo with that in Iraq, although the former had no UN resolution to justify it, it had the kind of international consensus which morally authorised it in a way that the Iraq invasion did not. In the case of Iraq, although a case could be made out for its legality, it lacked the authority of a true international consensus. That is the lesson we need to bear in mind for the future. That is why my view then was that we should have continued the successful policy of containment, working towards greater consensus and, as we see in retrospect, much more thorough planning for the period following a military victory.

The other just war criteria that I wish to discuss very briefly is that there must be a reasonable chance of success. This poses a sharp question as to what counts as success. The military campaign was highly successful but, as Chilcot emphasises, the wider goal of a just and ordered Iraq has been for the most part a terrible failure.

However, the question of success goes much further even than that. The Iraq invasion took place in a world in which the main threat—then, as now—was terrorism. The struggle against terrorism is not just a matter of military victories or even achieving ordered government: it is a struggle of hearts and minds against a twisted ideology. This means that every action must be judged as to whether it is going to further or frustrate that goal—that kind of success. An invasion led by a US-led coalition in a deeply suspicious Middle East was problematic from the first in its capacity to arouse and reinforce that ideology—and, as we have seen, to reinforce its strength around the world. This did not rule invasion out but ought to have been much more in the minds of the planners.

There are many lessons to be learnt from what has gone so badly wrong. My concern, then and now, is the application of traditional just war criteria, which I still think are highly relevant to every possible conflict in the modern world. With all due respect to the noble and very scholarly Lord, Lord Morgan, they actually go back to St Augustine. They are highly applicable in the modern world but need to be applied with a proper sensitivity to the conditions of modern warfare, as I have tried to suggest in one or two places.

5.41 pm

Baroness Armstrong of Hill Top (Lab): My Lords, along with colleagues who were in Cabinet at the time of the decision in 2003, I take responsibility for my decisions. I have had the sort of upbringing that would never allow me to do anything but take responsibility for them. Of course, I associate myself with the expressions of gratitude to all those who served in Iraq, and especially to the families of those who paid the ultimate sacrifice. The parents of one of the victims live in the small town near me in the constituency I represented at the time. They are very proud of their son, and rightly so.

I supported the decision to go to war after considerable discussion with colleagues. Even though at the time I was not in one of the central departments—a department relevant to the war decision and the aftermath of the invasion—we were involved in extensive discussions. It was not just sprung on us at a Cabinet meeting. I, too, had the opportunity to meet the chairman of the Joint Intelligence Committee, and I believe that I challenged him, asked serious questions and took some considerable time at the meeting.

It was very clear to me after that meeting, and after discussions with colleagues, that it was not just the British intelligence view that Saddam Hussein still had weapons of mass destruction. Most of the other intelligence communities, in countries that had that

sort of information, thought that Saddam Hussein still had weapons of mass destruction. I had also met, in previous years, a range of Iraqis. I considered the reports of the dictator having already killed many of his own people. I knew that he had used weapons of mass destruction in doing so, and that he was in breach of 17 existing UN resolutions. It was in that context that I took the decision I did, and I concur with the views of my noble friend Lord Blunkett, who was much more centrally involved than me but who nevertheless expressed the views that were common around the Cabinet table at the time.

I am very confident that I was not lied to, and that Parliament was not lied to. The report criticises our judgment, and I accept that as their view. I do not believe that it criticises our integrity, or that we did anything other than act in good faith. I saw how hard the Prime Minister tried for a second resolution, partly because he just felt that the Americans should have been putting more effort into making the UN work, but mainly because he saw that it was important for political reasons.

I also saw his determination in getting the Americans to deliver a commitment to a Middle East peace process. My noble friend on the Cross Benches, the noble Lord, Lord Williams, reminded us of how unsuccessful it was. However, I remind the House that from my very clear knowledge, it was a very important issue for the then Prime Minister, as he has always seen the peaceful coexistence of Israel and Palestine as a necessary part of a peaceful way forward in the Middle East.

The report, however, makes it clear that serious mistakes were made, and that government and Parliament must learn lessons. That is very important. What is now clear is that Parliament will for ever more be asked to make these decisions. This was, however, the first time that Parliament had been asked for a decision to commit British troops in that way. Difficult as it was, I believe that that was the right call at that time.

There are those who criticise the decision to share intelligence information, and they have done so today. But I suggest that it would have been difficult to give Parliament the opportunity to vote without offering it the view of the intelligence community in some way. Again, we forget just how little parliamentarians had been allowed to see, or hear from, intelligence sources before then.

We are all very good at hindsight. None of us, thank goodness, is furnished with foresight. We do not know what would have happened if there had been no invasion of Iraq or if Saddam Hussein had still been there. The current state of the country and the vicious conflict in neighbouring states is frightening. The real differences between Shia and Sunni are being played out in ways that no one knows how to deal with. I hope that people do not take from this inquiry any belief that we can just ignore what is going on in the world. Many more people have been killed in Syria—in what is a horrendous civil war—and more people have been displaced from there than in the history of the world. This does affect us; it destabilises people in this country. It also destabilises and challenges the democratic values that we proclaim so proudly. What is happening is a challenge to the whole world. I hope that one lesson we learn is that we need to strengthen and reform the United Nations so that it is capable of protecting people from those brutal dictators who terrorise their own populations in the way that Saddam Hussain did.

5.49 pm

Lord Owen (Ind SD): My Lords, I deeply regret my own decision to support the invasion of Iraq in 2003. When I look at Iraq today, the spillover into Syria and the emergence of Daesh, I believe that it is incumbent on us not just to praise the Chilcot report, but to apply the same forensic examination to what we are to do about it that it gave to providing us with the facts.

I say immediately that the decision of the young leader of the Liberal Democrats, Charles Kennedy, to oppose the war was an outstanding example of political integrity and courage. The judgment of Robin Cook, when he exercised his right to look at the actual intelligence reports and came out against the war, was also a vindication of his intelligence and his integrity. I would furthermore say that the left and the pacifists, which are essential elements in our political society and have often got wars wrong, got this war correct—and all credit to the present leader of the Labour Party, Jeremy Corbyn, for doing so. I have one measure of pride in all this: that my own daughter and son-in-law marched on the protest.

There is one positive element, which came out from the speech of the noble Baroness, Lady Neville-Jones. Having chaired the JIC extremely skilfully and with a deep knowledge for many years, few are better equipped than her to draw attention to what must be done. That is the National Security Council, which has been established and which the Minister spoke about. I hope that he might deal with this question a little in his closing speech: how can we entrench that mechanism whereby Prime Ministers and politicians have to be involved in direct dialogue with senior defence chiefs, and in a disciplined framework with papers presented to the National Security Council in advance, assessed accurately and concrete, detailed and specific notes taken? None of this was done during the Iraq war, which was exceptional. It was done in the first Gulf War and even in the Suez crisis, when the Cabinet was told about collusion even though the House of Commons was lied to. It was a terrible mistake not to have a serious examination in Parliament of what had gone wrong in Suez; let us not make the same mistake again.

In some parts of this debate, it somehow seems that this is all over. Chilcot made very few actual judgments but presided with great skill over the facts. Here I must say something direct to the noble Lord, Lord Butler of Brockwell, whose speech today we listened to with attention, as always. Not only was he the chairman of the first report on intelligence but, on 22 February 2007, he made a very powerful speech in this House. Listening to it at the time, he made me feel that he too had learned some lessons from his own report. He said:

"But here was the rub: neither the United Kingdom nor the United States had the intelligence that proved conclusively that Iraq had those weapons. The Prime Minister was disingenuous about that. The United Kingdom intelligence community told him on 23 August 2002 that, 'we ... know little about Iraq's

[Lord Owen]
chemical and biological weapons work since late 1988'. The Prime Minister did not tell us that. Indeed, he told Parliament only just over a month later that the picture painted by our intelligence services was 'extensive, detailed and authoritative'. Those words could simply not have been justified by the material that the intelligence community provided to him".—[*Official Report*, 22/2/07; col. 1231.]

I agreed with the noble Lord's statement when he made it in 2007 and it is a pity that it was not reiterated today.

Let us now go to the question of what to do. It would have been much easier if the former Prime Minister had made an open confession that he had made many mistakes. Unfortunately, on the day of the report, having no doubt had access to it for some time, he produced a written statement of defiance. That defiance—the only word to describe it— cannot be left unchallenged. He said:

"If I was back in the same place with the same information, I would take the same decision".

If that is left to stand unchallenged, Chilcot will have failed. Let us be quite clear: that statement is unacceptable and it is no honest reading of the Chilcot report. Some people say that there should be no scapegoating. No, there should not, but it is the duty of Parliament, and particularly the House of Commons, to examine this report and make judgments.

The *Times* editorial "Catalogue of Failure" on 7 July charges that we went to war,

"on the basis of intelligence on weapons of mass destruction that remained privy to the prime minister and his closest aides but which he insisted, in private as well as public, was incontrovertible".

I may say that he did so in private to me, on privy counsellor terms, on 24 July 2002. The editorial goes on to say:

"It was anything but. Still defiant 13 years on, Mr Blair insisted in a written statement that the Chilcot report alleged 'no falsification or improper use of intelligence'. In fact the report states that the intelligence 'was not challenged and should have been'. Many will conclude that amounts to improper use".

I am one who believes that it implies improper use. The question is: what to do?

It is arguable that the statement which the Prime Minister made on 28 July 2002 that he would support President Bush "whatever" is almost an impeachable offence. Certainly, Lord Sanderson made it perfectly clear, in describing what impeachment meant in February 1906—when he was dealing with the question of the military conversations in that year in which the French and British staff forces got together to plan a British expeditionary force, but did not tell the Cabinet for five years—that the terms of an impeachable offence would be,

"to go to war in certain circumstances, and were not to mention this pledge to Parliament, and if at the expiration of some months the country suddenly found itself pledged to war in consequence of this assurance, the case would be one which would justify impeachment".

I do not believe that impeachment is the right solution to our present problems. I make it quite clear that I do not think you can do that in the 21st century.

We now have a body of civil law to represent a civil society. It is for the courts to decide on that for the families of the soldiers who tragically lost their lives, or those suffering appalling injuries, much of which we still do not really know about. There is the question of bringing Parliament into disrepute. That is why in another place they are perfectly right and proper to examine whether this represents contempt of Parliament; otherwise, what do we do? Do we just leave it? How many people ever knew, years on from the Suez crisis, that we had colluded with the Israelis and the French to occupy the Suez Canal? It is absolutely essential that this much is learned, because I am one who believes that we may have to intervene in the future. I do not want what happened in the aftermath of this war to condemn all military interventions in the future. Let us be courageous enough to face the need to examine this issue in Parliament, in another place if not in this place.

5.59 pm

Lord Selsdon (Con): My Lords, I am very honoured to follow my friend the noble Lord, Lord Owen, but I operate at a much lower level. I have been interested my whole life in trade and the financing of trade. Reading back from trade, there were the books when we first founded the Council of Trade. For many years I served as chairman of the Committee for Middle East Trade, having taken over from my then noble friend Lord Limerick. It is the link between trade, finance and politics that I find fascinating, particularly at this moment in Iraq and Iran. I wanted to go to Iraq to see how things were, and was told I must have a proper introduction, and the introduction to Iraq was not the Foreign Office, and it was nothing British. I went to Egypt and asked there if there were any relationships. Before I knew it, someone had suggested that if I would like to get in a car with them and drive to the Jordanian border, we would be well received and it would open up for commercial activities. There is an undercurrent of co-operation between these countries, many of which compete with one another, and I got very interested in Iraq.

I went to Iraq one or two times and then met the Trade Minister, Hassan Ali, to ask how we could co-operate. He said it was very simple; they wanted to sell us oil, and I said it was very simple; we might like to acquire oil in order to finance other activities. He said to come and have a look with him in his next-door office. We went through and he said it was a one-way mirror and that I would see in there a negotiation taking place between the Government of France and his own Government on sanction-busting for the acquisition of oils and materials. I realise that we ourselves, as a nation, are a little bit too passive and do not go out to make the necessary suggestions. I went and talked to the Foreign Office, but before that, when I first went to Iraq, I was told not to go near the British embassy, because it was not the right place to go this time. When I went to the Foreign Office, I was then told that if I was going to Iraq, what I must have is a strange instrument that I had never heard of—a permission to speak—and that without a permission to speak, you would be breaking sanctions or rules of that sort. I did a little bit more research and realised, to my surprise, the enormous productive capability that Iraq had, and wondered what we should do on this front. The Minister then said he would accept my invitation to come on a trade visit to the United Kingdom, provided there was going to be some trade. We found, in our discussions over here, that the historic

purchasing of oil and natural resources from Iraq was far greater than anyone had realised and that at one time, we had been by far their biggest customer. I asked the Foreign Office again whether it would be a good idea if we could enter into, or find, some long-term agreement with Iraq, where we could help in the rebuilding of its infrastructure, and it in turn could provide us with a long secure supply of oil and other materials at a reasonable fixed price. This came to the point; this was felt perfectly reasonable, but there was an anxiety about whether they could trust us in the continuity of our relationship. As I looked once more at what the French were doing, I found it rather concerning.

When I went to Iraq again, I was told to please not go near the British embassy. I wondered why this was the case, because there was some concern that there might be a political fix of some form or other. I was told to go and see Iraqi Ministers, and to go around Baghdad. I had not realised the quality or quantity of production of oil that could be possible with our help, and we started to discuss the concept of a major offtake agreement, which would finance all the development. One looks at Iraq as a potential partner in trade and in finance, and I discussed whether it had the capability—which it had—whether it had the willingness and when the Minister of Trade came to England, there was no doubt that it was prepared to do it. But I was not sure what to do next, because when I went along, this business of a permission to speak came up. I then discussed with those out there what was needed by Iraq at that time, and they came up with a request for healthcare and medical products. I said that was fine, to let me know what they wanted and I would see if we could go and get it. When I came to England, I was then told that this was not possible unless there was a permission to speak. I had never heard of a permission to speak before, but I was given a permission to speak and then went out—when I was there again—and found that I could speak with them.

When this came further, I thought it might be reasonable to see the Chilcot team. It was suggested that if I provided the information on Iraq and things, that might be helpful on other issues. I was told that this was totally unimportant; that trade was not the principal thing at all, and felt that there was nothing I could do to help. In this strange grouping of people in the energy business, they all know one another and I took a flyer and said that if we can get Iraqi oil production up with an offtake agreement, we can get all the cash flow necessary to finance goodness knows what. This is where I started from, and then I found at the same time, looking at Iran—only across the water—that those two countries together had such a productive level that it would be quite a remarkable achievement. Trade, politics and finance are the triumvirate that you do. I am not sure what we do next on this front, but I would like to feel that we were looking at the potential development of Iraq—willingly in full co-operation—which could regenerate the whole country and provide all the resources necessary.

6.05 pm

Baroness Hilton of Eggardon (Lab): My Lords, I intend to concentrate on a matter that has been referred to by other noble Lords, which is the so-called special relationship with the United States, and the seductive assumption that we all share the same values. It was the perceived need to preserve the special relationship that in my view was an important element in leading to our disastrous involvement in the invasion of Iraq.

I took part in the House of Lords debate 12 months before the invasion, when almost all noble Lords spoke against the folly of this tragic venture and presaged the consequences that have been detailed in the Chilcot report. I was also a member of the House of Lords Select Committee, chaired so expertly by the noble Lord, Lord Jopling, that visited Washington two months before the invasion. We were horrified first by the gung-ho attitude of the Pentagon; secondly by the total lack of planning for the aftermath; and thirdly by the attitude of the Heritage Foundation, which accused us of cowardice and of having no experience of terrorism, and said they would be giving democracy to Iraq.

The idea that we have a special relationship with that great country the United States is very seductive but dangerous. We do of course share what appears to be a common language, we have been in a defensive alliance—NATO—with the United States since the Second World War, and we have important trading relationships. However, our values, like those of most of our European colleagues, favour dialogue and soft power, whereas the United States has favoured military force as the primary and universal solution to most international problems. This has implications now for the functioning of NATO.

I have now monitored more than 20 elections in the republics that were once part of the Soviet Union, in company with parliamentarians from across Europe. The countries that I have visited include Russia, several times, the Caucasus and Ukraine, which I have now been to nine times. After the collapse of the Soviet Union, NATO—which had been a very effective defensive alliance during the Cold War—sought a new role. Driven, I believe, largely by the Americans, NATO began to adopt a more expansionary stance, not only taking in the Baltic states and Poland, but also putting out encouraging feelers to Georgia and Ukraine. These were needlessly provocative of Russia. The consequence was that the naive President of Georgia, Saakashvili—who was a New York-educated lawyer—was led to believe that NATO would support him against Russia over the secession of South Ossetia.

When I was in Ukraine two years ago, every politician who spoke to us said that the policy of their party was to join NATO: a complete fantasy, of course. More realistically perhaps, they also wanted to join the EU. It continues to be worrying that both Georgia and Ukraine have been having military exercises recently, apparently encouraged by NATO. However, it is more encouraging that at the NATO summit last week in Warsaw, there was talk about constructive dialogue with Russia, and the rhetoric on both sides has cooled both there and at last week's meeting of the OSCE Parliamentary Assembly in Tbilisi, which I attended.

The outcome of the American presidential elections will be critical for our relationship with the United States. If—disastrously—they elect Donald Trump, I hope we will remember that our roots lie in Europe, and that we have more in common with our European

[Baroness Hilton of Eggardon]
neighbours than with the great country across the Atlantic. In this tragically post-Brexit era, and with our detachment from Europe, we must avoid romantic illusions about our closeness to the United States.

6.10 pm

Lord Bew (CB): My Lords, I rise to express my respect for the work of Sir John Chilcot and his colleagues in the production of this extremely serious and important report. The remarks I will make are different in tone from any of the other remarks that have been made in the House this afternoon because I intend to concentrate simply on the domestic context of the Chilcot report.

It seems only yesterday that we were widely assured by the media that Sir John was a man with no conscience, that he was another empty Whitehall suit, that we could be reasonably assured that the report would be yet another cover-up, and so on. It has most certainly not been so. Everyone now accepts that to be the case. There was no reason ever to think that it might be so. I shall make the obvious observation that at the time he was appointed Sir John Chilcot was the chair of the advisory committee of the Centre for Contemporary British History. The Centre for Contemporary British History has only two purposes: first, to assert the importance of what we can learn from contemporary history for policy-making, and, secondly, to assert the importance of the public accountability of government and officials. Nobody would devote their time to that job if they were the sort of person who believed that it is better to sweep things under the carpet. It is such an obvious fact in his curriculum vitae, yet it did not seem to occur to anybody over the past year or two in their discussion in the lead-up to this report.

The second obvious thing about Sir John's career is that he was Permanent Under-Secretary in Northern Ireland between 1990 and 1997 and played a major role, working first for John Major and then for Tony Blair, in bringing about the success of the peace process based on historic compromise. In those seven years, Sir John was confronted by heart-rending, dreadful moments in the history of Northern Ireland. Those who heard him speak at funerals et cetera had no reason to believe anything other than that he was a man who had a serious heart and a serious moral centre. Quite why these perfectly obvious stand-out features of his career have somehow disappeared in the past three or four years from contemporary discussion in the media of this report and its evolution is quite beyond me. I am very happy that at this moment we can say that it is perfectly clear that Sir John Chilcot was determined to bring about a report characterised by honesty, clarity and serious research.

I am a little uneasy about one question with respect to the reputation of the former Prime Minister Mr Blair. More than 700 British soldiers died in Northern Ireland. He played a major role in bringing that conflict to an end. Some of those currently on the left of the Labour Party—now at the apex of the Labour Party—are the most bitter in their criticisms of him and of the errors clearly made that are located in the Chilcot report. Some of those people were bitter opponents of the work that he did and disagreed fundamentally with his attempt to bring about an historic compromise in Northern Ireland. It is worth mentioning it at this difficult moment to put that point into the balance.

This report is excellent but it will, in certain respects at least, be challenged over time in certain areas. This is inevitable. I was the historical adviser on the Bloody Sunday tribunal, which was the last great report of this kind. There are now articles written in books, serious commentaries and new documents coming to light, even now, after all the work and all the time, which raise reasonable doubts about certain arguments of the Bloody Sunday tribunal. There is nothing that comes close to breaking the fundamental structure of the argument of the noble and learned Lord, Lord Saville, but when it comes to significant parts about the role of x or y you would have to say that there may be another way of looking at it. This must inevitably be the case with parts of this report. More documents will come out in America and so on. I simply make the point that what is said this afternoon cannot be absolutely the last word. It is most unlikely that the fundamental arguments will change, but it cannot be absolutely the last word on all the issues addressed.

I took great comfort from what both Front Benches said at the beginning of the debate. We cannot give up on the idea that at some stage this country may again be called to make an international humanitarian intervention, and it would be disastrous if we interpreted the Chilcot report as saying that under no circumstances can we ever respond again because in this case things went so badly wrong. This problem has been with us for a long time. In 1859, in his *A Few Words on Non-Intervention,* John Stuart Mill wrote that it was time that,

"some rule or criterion whereby the justifiableness of intervening in the affairs of other countries, and (what is sometimes fully as questionable) the justifiableness of refraining from intervention, may be brought to a definite and rational test".

We have been assured that with the national security and other new arrangements in place the context for that definite and rational test is probably wiser and better than it has ever been, but we cannot allow this report to send out the message that under no circumstances will the United Kingdom be available for humanitarian intervention, even though we have had a very sharp lesson in its risks.

6.16 pm

Lord Naseby (Con): My Lords, I associate myself with the words of condolence from both Front Benches to the families who lost loved ones in the second Gulf War. I can say that because I held a letter from my son in the first Gulf War which, thankfully, did not have to be opened as he came home safely. Nevertheless, I am quite clear: I supported the action that was taken in going to war against Iraq. I did it because of the environment at the time. We forget too easily what the environment was: 9/11, other atrocities against the United States, considerable evidence of chemical warfare and of provisions for chemical warfare and the evidence that was given to Parliament.

There is no way that Tony Blair is a war criminal or that he is guilty of war crimes. The action he took as Prime Minister was taken in the interests of our country.

He was the democratically elected leader of our country, not a dictator. This maxim about democratically elected leaders must apply all over the world as far as leadership is concerned.

Others have commented on military equipment. Whatever one says, it was an absolute shambles and a total disgrace. Post-war planning was poor. Post-Brexit planning is poor. That lies with the Prime Minister of the day and his Cabinet.

Have we learned the lessons, or have we had to wait for Chilcot to learn them? As far as I can see, we have not. Why did we go into Libya? It is not at all clear to me. Why did we try to force democracy on Egypt? We must have known that the Muslim Brotherhood had been trying since 1921 to get "democratically elected". We supported elections there and what happened? It got elected, and then we discovered that it is almost as bad as Daesh, and the army in Egypt moved in again. Why did we not think twice about Syria? Why did those of us who know a little about that part of the world not realise that it is the fourth Sunni/Shia war? The only thing that is slightly different is that there are far more western-educated people on one side. That war had no real implications for the West. Why did we not check who the people supporting the new democracy in Syria were? Surely we should have been able to discover that the vast majority of them are jihadists.

I urge my noble friends on the Front Bench to get a proper communications strategy and action plan geared solely against Daesh and to work with Assad to implement it. If that does not happen, we shall once again be in terrible turmoil.

Action Aid and Christian Aid are right to raise the problem of the 3 million people—at least 3 million refugees, poor souls—with nowhere to live and no livelihood, wondering day after day what is going to happen to them. Have we in the West really got an action plan to deal with that? If we have, I hope that somebody is going to deploy it so that we can discuss it.

This may surprise most though not all of your Lordships but I need to relate Chilcot to the situation in Sri Lanka today. A press release on 7 June from our High Commission in Colombo after the visit of no less a person than the head of the British Diplomatic Service, Sir Simon McDonald, concludes:

> "The UK will continue its programme of support for Sri Lanka to help the Government fulfil its goals on reconciliation, human rights and strengthening democracy".

That is fine, but there is a parallel with Iraq where the UK was, in effect, tackling terrorism in the form of weapons of mass destruction. A battle is undertaken. Here I refer to page 181 of volume 12 of the report under the heading "Battle Damage Assessment":

> "Section 6.2 describes the main principles of International Humanitarian Law (IHL), also known as the Law of Armed Conflict … or the Law of War, how they were disseminated to those engaged in military action, and how they were reflected in the UK's Targeting Directive and Rules of Engagement. The key elements of IHL which apply to targeting of military objectives during a conflict are set out in the 1977 Protocol Additional to the Geneva Conventions",

and then it lists the four main principles.

The Chilcot inquiry's assessment was undertaken by British judges and members of the Privy Council. No foreign judges were called in to do this assessment. We see how well it has been done. In Sri Lanka, there was a war against the terrorists, the Tamil Tigers. However, instead of its being assessed against the Geneva convention, to which I have just referred, the UK and US Governments have endorsed investigation by the UN High Commissioner for Human Rights with the addition of foreign judges. This is wrong and misconceived. After all, there is a reasonable number of fair-minded judges across the ethnic groups who could undertake the task of judging what happened against the principles of the Geneva convention.

If the UK Government really want to help, they should release the full text of the dispatches of our military attaché there during the war, Lieutenant-Colonel Gash, containing his independent observations. The Ministers here will know that for two years I have been trying to obtain these under the Freedom of Information Act. However, so far I have received some 30 pages of those dispatches, provided reluctantly, some very heavily redacted. As I go to the next stage of the tribunal, I find the Foreign Office hiding behind policy that releasing these dispatches might undermine relationships with other countries such as Saudi Arabia, which is hardly a democracy.

I ask the Foreign Office to reflect carefully on the full implications of Chilcot, namely that we should treat each situation separately and recognise that the truth will get out. It is better to publish evidence that is available than to hide it. If in future we as a country follow that in any engagements that we may have, we shall be a country that can be proud of what we achieve democratically.

Parliament owes a huge debt to Chilcot for what he has done. It must be for Parliament to decide how to take it forward.

6.24 pm

Lord Lea of Crondall (Lab): My Lords, I shall concentrate on what one might call the fiasco of the intelligence being over-egged. The Chilcot report is very thorough. In a sense, the Government come out with a clean sheet for honest dealing. With regard to my noble and learned friend Lord Goldsmith, there is no finding that the legal controversy was hidden from Cabinet. Indeed paragraph 953 of vol. 5 of the report clearly states that:

> "Cabinet was not misled on 17 March and the exchange of letters between the Attorney General's office and No. 10 on 14 and 15 March did not constitute, as suggested to the Inquiry by Ms Short, a 'side deal'".

However, in the whole network, something did go badly wrong somewhere in the area of MI6 or GCHQ.

I have noticed today an interesting theme. Many questions that are answerable have been answered but I do not think that anyone has answered a couple of questions that, at the moment, are unanswerable.

One of the problems concerns the relationship between what we as parliamentarians know and parliamentary scrutiny of the intelligence services, in which the noble Lord, Lord King, has been heavily involved. This led to something that was unsatisfactory. Dr Hans Blix,

[Lord Lea of Crondall]
the distinguished former director-general of the International Atomic Energy Agency and chairman of the United Nations Monitoring, Verification and Inspection Commission, has on several occasions said that he was not satisfied with the quality of the information given to him by the British Government. Is that partly because the British Government were not satisfied with the sort of intelligence that they were getting?

Pages 64 and 65 of vol. 3 of the report record:

"Sir Jeremy Greenstock also reported that Dr ElBaradei had appealed to Member States to offer whatever information they had to assist UNMOVIC and the IAEA in reaching credible conclusions on Iraq's weapons programmes …

Mr Campbell recorded that Mr Blair was 'worried about Blix's comments that we had not been helping enough with the intelligence'. Mr William Ehrman, FCO Director General of Defence and Intelligence, advised Mr Straw's Private Secretary on 19 December"—

I think that that is 2002—

"that the UK was passing intelligence to UNMOVIC but 'We had not found a silver bullet yet'".

Will the noble Lord, Lord Bridges, when he replies, address the transparency of the work of parliamentary scrutiny committees on the relations between the Cabinet and the intelligence services?

I think that we are saying that what went wrong was not really the way in which people dealt with the intelligence. What went wrong was that the intelligence was faulty. Intelligence cannot always be right, but the fact is that no one seems to have drilled down satisfactorily into what seems to be the highly critical question of the quality of the intelligence. I thought that last week's government Statement could have said more about that.

The concern about the intelligence services is not only that ordinary mortals cannot be given all the state secrets but that you do not need to be a fan of all the novels by John Le Carré, such as *The Night Manager*, to know that there are interests within the security services in terms of their own turf. We saw, as we have seen in other fields as well, reluctance to let someone as distinguished as the United Nations weapons inspector have all the information that we had. Why not give him the opportunity to cross-question the suppliers of the information if in his judgment he thought the information did not prove that there were weapons of mass destruction? If the intelligence services are saying, "Yes, it did prove that", we need a much clearer process regarding why they were not confronted very explicitly in the course of the end of 2002 and the first part of 2003.

That means that people like the Attorney-General are in a very difficult position because they have to go on the conclusion of a Government on the basis of information that is given to them by the security services. This is a point that I have not heard elaborated on sufficiently in the debate so far. Right from the start, there was dubiety about this whole question. This is not hindsight. I asked a question on 8 January 2003:

"My Lords, given press reports that some circles in Washington are sedulously denigrating the work of Hans Blix, can my noble friend the Minister assure us that there is no question of a casus belli being constructed from information that has not been corroborated by Hans Blix, simply on the grounds that it has not been passed to him?"—

let alone him being able to scrutinise it. The Minister of State said:

"My Lords, there have been voices in the background criticising Dr Blix since before he got to Iraq in the first place. I repeat to your Lordships that Her Majesty's Government has the utmost confidence in Dr Blix and in Dr El Baradei. There will be a discussion on the Iraqi declaration made on 8th September … at the UNSC tomorrow, 9th January. That will be an opportunity for Dr Blix and Dr El Baradei to give an update on their work, and I suggest that that will be an opportunity for any of the worries that the noble Lord mentioned to be aired in the most suitable place—the Security Council".—[*Official Report*, 8/1/03; cols. 1015-16.]

Well, not quite.

6.34 pm

Lord Thomas of Gresford (LD): My Lords, the decision to go to war in Iraq is not history; it is the here and now. I have to reject the assertion made today by the noble Lord, Lord Blunkett, that the conflict between Sunni and Shia that is ravaging Iraq and Syria has nothing at all to do with the decision of the Blair Government to join with the USA in the invasion of Iraq. As the noble Lord, Lord Williams of Baglan, pointed out, since that invasion Iraq has never become a functioning state.

Chilcot throws light on matters of which we knew nothing in late 2002 and 2003. I will focus on legality. On 4 January 2003, Mr Blair had concluded that the "likelihood was war" and, if conflict could not be avoided, the right thing to do was fully to support the US. On 14 January, the Attorney-General, the noble and learned Lord, Lord Goldsmith, gave draft advice that Resolution 1441 would not by itself authorise the use of military force. Indeed, the purpose of that resolution was to set up an enhanced inspection regime under Dr Blix with the aim of bringing to full and verified completion the disarmament process established by Resolution 687. There was nothing in it to authorise war.

On 27 February the Attorney-General told No. 10 officials that the safest legal course for future military action would be to secure a further Security Council resolution. However, he had reached the view that a "reasonable case" could be made that Resolution 1441 was,

"capable of reviving the authorisation to use force in resolution 678 (1990) without a further resolution, if there were strong factual grounds for concluding that Iraq had failed to take the final opportunity offered by resolution 1441".

He advised that to avoid undermining the case for reliance on Resolution 1441, it would be important to avoid giving any impression that the UK believed that a second resolution was legally required. That was the get-out clause.

Germany, Russia and France stated on 5 March that they would not let a resolution pass that authorised the use of force. It was Mr Straw who suggested on 11 March that the UK should adopt the strategy floated by the Attorney-General as a "reasonable case", his alternative approach.

The critical letter from the Attorney-General to the Prime Minister on 14 March passed the parcel: it placed the issue of legality foursquare in the hands of

the Prime Minister. Mr Blair was advised that an essential ingredient of the legal basis was that he himself should be satisfied of the fact that Iraq was in breach of Resolution 1441. To no surprise, Mr Blair simply announced that Iraq was, and remained, in breach, a point strongly made by the noble Lord, Lord Morgan. Was that honourable, as the noble and right reverend Lord, Lord Harries of Pentregarth, would suggest? I do not think so. No record was kept of that decision, and Chilcot says that,

"the precise grounds on which it was made remain unclear".

They are unclear because there was no evidential basis for that assertion by Mr Blair, as any lawyer would know, and there lies the essence of Mr Blair's culpability.

On 17 March, three days before the invasion of Iraq began, my noble friend Lord Goodhart initiated a debate on the legality of going to war—it was thought that we would make one last attempt. He said that the Attorney-General's opinion reached,

"a highly questionable conclusion, which is based on a dubious interpretation of deliberately ambiguous wording … The idea that vague and ambiguous words in those resolutions can be read as implying a delegation",

to take decisions on the use of military force from the United Nations,

"to the United States, with or without the United Kingdom"—

as the Attorney-General had argued—

"verges on the absurd … The Government should face up to the fact that what we are about to do is not lawful. They will have to bear the consequences of that, and so will we".—[*Official Report*, 17/3/03; cols. 70-72.]

The noble Lord, Lord Touhig, said that opposition to the invasion was treated with respect. I remind him that a Member of this House described my noble friend's argument as "bizarre". Noble Lords from the Labour Benches—the noble Lords, Lord Archer of Sandwell and Lord Brennan, both of whom were distinguished lawyers—were in support. I said that it was for the Security Council to decide whether and to what extent Iraq was in breach of its obligations and to determine what the appropriate action was. I said:

"The United Kingdom may, by promoting a resolution in cahoots with the United States and Spain, act as prosecutor, but it has to persuade the jury of world opinion, represented by the Security Council, that there has been a material breach of Resolution 1441 which is punishable only by recourse to war. Neither the United Kingdom nor the United States is entitled to enforce the 'will' of the Security Council"—[Official Report, 17/3/03; col. 79]—

when it has not been expressed.

Three days later, the invasion began and the United Kingdom became embroiled in an illegal war of aggression. The International Criminal Court now has jurisdiction over the crime of aggression. It was defined in 2010 by the state parties as,

"the planning, preparation, initiation or execution by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations".

I consider that the invasion of Iraq without the consent of the United Nations was a manifest violation of its charter. Mr Blair has a case to answer and, as the noble Lord, Lord Owen, pointed out, his reaction is simply defiance.

The International Criminal Court postponed the exercise of its jurisdiction over the crime of aggression until 2017 and it will not be retrospective—so what can one do about instituting a war of aggression? There are calls for Mr Blair to be brought before Parliament for contempt of Parliament on the grounds of his misleading the House of Commons. Such an offence has a long and ancient history in law, and it is not obsolete. It was used in Canada as recently as March 2011; as a result, the then Canadian Government fell and there was a general election. I support those who seek to move in that direction—as, judging by his speech, the noble Lord, Lord Owen, clearly does, supported, I believe, by the noble Lord, Lord Bew.

For the moment, Mr Blair faces the court of public opinion. Chilcot supplies the evidence which convicts both him and those who surrounded him in making that fatal decision.

6.43 pm

Baroness Deech (CB): My Lords, I wish to deal with a further casualty of the war. I was a BBC governor in 2003, when the infamous Gilligan broadcast took place at 6.07 am on 29 May. In it, he claimed that, on the orders of Downing Street, the intelligence dossier was "sexed up"—a phrase which quickly entered the English language lexicon—and this led to complaints from Mr Alastair Campbell on behalf on the Government. Later that day, Mr Gilligan returned to the radio to say that the evidence was not sufficiently corroborated and may be wrong. Other reporters and the press also put it out that the emphasis on the 45-minute assessment went too far, but it was to be Mr Gilligan at the centre of the row.

I say Mr Campbell made a complaint, but it was more like a tsunami of vengeance. Had the BBC treated it like any other complaint from a member of the public, history might have been different. But Mr Campbell did not accept this course of action. He asked for an apology. He later accused the BBC of having an anti-war agenda and alleged that the BBC had tried to prove that the Prime Minister had led the country to war on a false basis. This became a story about the responsibility of journalists to report their concerns, the responsibility of their overseers to the public, and the importance of the freedom to broadcast. It is also about the essential value of investigative journalism. The approach taken to the governors' investigation of the Gilligan broadcast by the noble and learned Lord, Lord Hutton, in his subsequent inquiry—that they should have checked the accuracy of the broadcast—would kill off investigative journalism.

What unfolded thereafter revealed the Government's determination to "get" the BBC as punishment for allowing a reporter to cast doubt on the reliability of the evidence that took the country into war. The Government nearly brought the BBC to its knees. We know now from the Chilcot inquiry that the dossier was not sexed up. On the contrary, we now know that it was limp evidence, unable to sustain the real justification for going to war. The implication of the words "sexed up" was wrong but, in retrospect, this was an issue peripheral to the non-existence of weapons of mass destruction.

[Baroness Deech]

In his report, the noble and learned Lord, Lord Hutton, condemned Gilligan and the BBC management. But in retrospect, they were right and he was not. Gilligan was right to report suspicion that the push for war was overdone. The events led indirectly to the suicide of Dr David Kelly, the resignation of Gavyn Davies, chair of the BBC and the resignation of Greg Dyke, a much loved and successful director-general, whose departure is still mourned. I was one of the governors who did not want to accept his resignation. Andrew Gilligan had to leave the BBC.

The ferocious attack by the Government in this case has left me with an abiding suspicion of the good intentions of the Government—any Government—when it comes to the independence of BBC reporting: a lesson we all need to remember as we renew another charter. It would be good to hear some expressions of regret for the damage done to the careers of some good men and for the attitude taken to whistleblowing.

This episode shows clearly the value of having a completely independent BBC board, consisting of people able to stand up to the Government. Editorial processes should be protected by the trustees from political bullying—a lesson for the future. The governors of the time, rightly, could do no more than check that the proper editorial processes had been followed. It was not for them—for us—to tell the journalist to back down when the Government were angered.

It is generally agreed that the inquiry was worth waiting for. I pay tribute to the late Sir Martin Gilbert, a panel member, who was taken seriously ill in April 2012 and died in February 2015. The biographer of Churchill, he was one of the pre-eminent historians working in the 20th century, who left behind imperishable works. He was a supremely gifted academic scholar, with meticulous attention to detail, and I would be surprised if the progress of the inquiry was not affected by his death and the loss of his special talents.

At his memorial service, the former Prime Minister, Gordon Brown, said that Martin Gilbert was on course to be a Member of this House. His death was a great loss to the inquiry and, potentially, to this House.

6.48 pm

Lord Lyell (Con): My Lords, to rise at number 30 in the "batting list" of today's debate, and on this subject, is no mean privilege for a Back-Bencher who has very little experience of the diplomatic world, let alone of the military world. I do it with one humble thought. From 1957 to 1959, I was a young soldier. I am 77 now, so anybody younger than me would not have been a conscript. I was—full time, for two years, in the Scots Guards. I was following in the footsteps of other members of my family, one of whom was a politician: a Parliamentary Private Secretary to a Prime Minister, no less. He was a Member of Parliament. He went to fight in the First World War, where he was wounded, and he was among the 40 million victims of Spanish flu. My grandfather is buried in Arlington.

My father—my noble and gallant father—also went to fight. He was not a Member of your Lordships' House but he went to war with the Scots Guards. When I was four years old he was killed. The Front Bench may say that I am out of order in referring to him as "noble and gallant" but, if your Lordships have a look at a book at the end of the corridor, they will see that I can refer to him in that way, and I do so today. That is one reason that I am in your Lordships' House—I am a hereditary Peer.

I have had very many interests spread over 50 years and more. I think that it was 54 or 55 years ago that I was a fresh Back-Bencher, sitting right where I am now. Back then, the Leader of the House had to intervene when a Minister referred to another Peer as being somewhat out of order and there was a bit of a hubbub. Over the years, I have taken part in the activities of your Lordships' House and today's debate is one of the more notable occasions in my career here.

My noble friend Lord Dobbs, who, alas, is not in his place, referred to 1956, which was 60 years ago. It was a very wet summer. It was a time of great triumph for English cricketers, who beat the Australians handsomely. But in July the Suez problem happened. It was referred to by my noble friend Lord Dobbs and many other speakers, notably the noble Lord, Lord Owen, about whom I hope to make one or two complimentary remarks. In 1958, when I was a young soldier, we worked at Windsor. We wore bearskins and tunics, and it is the only place outside London where proper tunics are worn. There was also a proper band. Quite suddenly, on 14 July 1958, there was a Nasserite putsch in Iraq and the king was assassinated. Nuri al-Said, the Prime Minister, who was a good friend of this country, was also murdered. There was a period of considerable instability in both diplomatic and military terms. One should remember that this was just two years after President Nasser seized the Suez Canal, which rocked the boat considerably both here and elsewhere in the world.

In 1958, as a young soldier and a platoon commander, I was addressed by the father of my noble friend Lord Cathcart. Every member of the battalion was told, "You are going on active service". They were hideous words. When that order is issued to soldiers or other members of the Armed Forces, they are definitely threatened with the front line. It is no idle threat: punishments might rain down on you if you do not perform to your best. However, I survived that and went on.

I remember walking through Parliament Square on 3 or 4 April 1982 to come to your Lordships' House on a Saturday morning to hear of the invasion of the Falklands. I remember Lord Carrington—not his namesake, my noble friend Lord Carrington, who is here today, but the other Lord Carrington—at the Dispatch Box. His knuckles were quite white because he and others realised that we were threatening to send men and women to war. Decisions were being taken in your Lordships' House and elsewhere, including in Downing Street, on the basis of everything that we have seen in the Chilcot report. It was the same style and the same system, although Chilcot took much longer. So I have seen that, and it made a deep imprint on my mind.

The subject of today's debate is the Chilcot inquiry and I will look briefly at three or four paragraphs of the report. Paragraph 16 says that the timing of any

action was entirely a matter for the United States. That is fair enough. But I recall reading in a notable newspaper—which perhaps I am not allowed to advertise; it is a coloured one—about a young reporter who, in the first fortnight of March 2002, happened to be at a high-level, although not totally secret, briefing in the White House in the presence of high-up people in security and in the military. He and they obviously knew the rules. The President happened to put his head into the room and said, "Good to see you all". The President was told, "We are discussing what action might be taken in Iraq". I repeat: this was early March 2002. The President said, "Yes, just you watch". He mentioned—I think—14 March. They scratched their heads and someone said, "Mr President, I understand that in military terms the full moon is very useful for invading, but the full moon is on the 16th". He said, "No, 14 March—next year". So no one can tell me that this was not planned a fairly long time in advance by the United States military.

Paragraph 74 of the Chilcot report points out that, among the grounds for going to war, regime change in Iraq would have been unlawful. I shall definitely have to leave that to the lawyers. However, as somebody who has spent more than 40 years with your Lordships' defence group visiting men and women, mainly in the Army but in all three services, and seeing their kit and equipment, the most important paragraphs for me begin with paragraph 797. Sir John uses some fairly strong language. He says that there was a very serious breach between the objectives and the available resources and materials. In paragraph 821 he goes on to say that the lack of equipment for the protected patrol vehicles and the helicopters, and the associated errors, should not have been tolerated. Other strong language is used elsewhere in the report.

I think that Sir John did a particularly good job, as I believe that your Lordships will agree. The speech earlier today of the noble Lord, Lord Owen, will live in my memory and, I suspect, in the memory of many of us. It was one of the top half-dozen speeches that I have heard during my career in your Lordships' House.

6.57 pm

Lord Judd (Lab): My Lords, it has been a fascinating debate and I want to make two personal observations about certain contributions. First, I say to the noble Lord, Lord Owen—I had the stimulating experience of working as his Minister of State at the Foreign Office in the 1970s—how interesting it was to hear his description of how he has changed his position. I also want to put very firmly on the record how outstanding the speech of the noble Lord, Lord Campbell, was. Although it may not have been comfortable for everybody to listen to, it was a speech that we would be very foolish not to take extremely seriously.

Sir John Chilcot has, rightly, produced a report that has proved to be very important to the families of the bereaved, and indeed to those who, with awful wounds, continue to fight to make a life for themselves in the aftermath of the war. It has brought all kinds of comfort and encouragement. We cannot say often enough how much we owe those people. They are the responsibility of all of us in Parliament and we must never forget that. However, I am glad that the Chilcot report has also drawn attention to the number of casualties in Iraq, because they too are our responsibility in this House, and we cannot escape that. That is why this kind of analysis is so important.

There has been an argument about whether the war was legal or illegal. What is absolutely clear from the report is that it far from lacked the moral and legal authority it should have had. We cannot have it both ways: if we want to be a principal player in international affairs, the UN is obviously going to be crucial, and as we like to emphasise the importance of our role on the Security Council it is doubly important to take it seriously. But it is absolutely clear, on any reading, that the UN was not taken as profoundly seriously as it should have been and was seen as an inconvenience which had to be handled.

I also like the way the report has brought out illustrations of the challenges that were clear for all prepared to face up to them. There was, of course, the forensic challenging of Robin Cook; that existed in the party's own ranks, but there was more than that. I was very troubled, and said so at the time, about the rubbishing of Dr Blix, an honourable, committed and fine international civil servant who was doing an outstanding job—as was totally proved in the aftermath. Part of the reason that I so much appreciated the speech of the noble Lord, Lord Campbell, is that I was also uncomfortable that we were rubbishing the French. I hold no brief for the French Government of the time but I thought their position was abundantly clear. They wanted to let the inspectors finish their job and bring the results of that work to the Security Council and for it to decide in light of that.

It was not only Dr Blix and his team saying that the evidence was not there; Mohamed El Baradei from UNMOVIC also could not see it. Again, he was derided; he has been totally vindicated. Within our own Government, there was a courageous woman in the legal department of the Foreign Office who took the situation so seriously that she did the honourable thing and resigned—that was something to be taken pretty seriously.

Something that particularly troubled me at the time was a result of approaching Geoff Hoon at a meeting. I asked whether we were getting into a situation that we would not be able to pull out from because of the vast deployment of apparatus which was a wasting asset because time was not on our side and we would have to use it. He said to me—I do not mind repeating it in the House—"Oh, Frank, come off it, we can stop the operation as easily as go forward with it". I went away from that deeply disturbed.

The counterproductivity of the war was never taken as seriously as it should have been. There was an easy phrase: "collateral damage". But each person killed was a real person with a real family and real connections, and quite apart from the suffering and agony caused by that, for which we should be concerned, there was its political impact. When an American general actually said, "We don't do body counts", I thought that what we were doing was so counterproductive it was not true.

On the special relationship, I will say only the following. I worked for some years as a member of Harold Wilson's team as one of his Parliamentary Private Secretaries. We have only to look to his resolute

[Lord Judd]
refusal to be drawn in to military action in the Vietnam War to see that doing so did not in any way damage the special relationship. I also think of when I was serving with my then boss, the noble Lord, Lord Owen, and a quite senior American diplomat I knew came to see me at the Foreign Office, asking for a private conversation. In that conversation he was very candid. He said, "Frank, you people should know that in a way many of us in the States respect the French more than you because even though they are difficult they have views and positions. But you are always moving so fast to be more American than the Americans that you are actually shutting down arguments and analyses within our Administration. It's not helpful".

In the end, this is about people: it is about judgment, character and what strong leadership is and is not. It is about recognising that strong leadership is that which can work well in a collegiate setting—primus inter pares—and can take other people's views seriously. It is about not always looking for supporting evidence for your prejudices but looking to challenges and meeting those as well as any other part of your responsibility.

7.06 pm

Baroness Tonge (Ind LD): My Lords, I am no expert on defence or foreign affairs but the invasion of Iraq has had so many consequences and raised so many issues that I feel I must get a few things off my chest and into *Hansard*.

I well remember a meeting of our weekly parliamentary party in the Commons to discuss whether or not we would support the call for the invasion of Iraq. Conditions in Iraq at that time were pretty bad because sanctions had been used by Saddam Hussein to half-starve his people and limit what had been good medical services. That was all blamed on the West, of course. There was enough from the amount of oil he was allowed to sell to get by but his people did not get that benefit.

As international development spokesperson at the time, I was very concerned that going to war in Iraq would make the humanitarian situation far worse. I went to the Library and asked for the latest publication on the evidence of weapons of mass destruction, known ever since as the dodgy dossier. Some of my colleagues may remember me coming back from the Library and waving it about, saying that it looked a bit like a student's A-level dissertation and did not contain much evidence. That was actually not far from the truth because, as my noble friend Lord Campbell reminded us, it was in fact taken from the thesis of a PhD student from somewhere in California. Our instincts were right. It was not impressive or convincing and I am proud to remember that my party, led by Charles Kennedy—against the jeers and mockery of a lot of people in other parties—opposed military action at that time. We wanted to see a second UN resolution and Hans Blix and his team given time to finish their work. Those were heady days and I am proud to remember them.

What struck me when reading the summary of the report, and even more so the Prime Minister's Statement this week, was the frequent use of the words "belief" and "believed". They were constantly recurring: in only two pages of the Statement, they were mentioned five times. Tony Blair "believed" that Saddam Hussein had weapons of mass destruction and was a threat to us as well as the wider Middle East, but would a surgeon operate on a patient who he "believed" had a cancerous tumour? No, of course he would not. He would weigh up the facts revealed by investigations and conclude that surgery was necessary. I am glad that Tony Blair was never a surgeon. He went to war because of his beliefs, and I find that very chilling.

I also pay tribute to those people who constantly warned that no plans had been made for the aftermath once Saddam Hussein was defeated. It seems a common problem nowadays. What do you do? "Lessons will be learned", they say. How many times have I heard "Lessons will be learned" in this Chamber today? Are they ever learned? Do our children ever learn from the lessons we learned? No, we have to learn for ourselves. I despair of the phrase "Lessons will be learned" because I do not think that they are.

We have heard tributes to Robin Cook, who was honest, extremely honourable and resigned from the Government at the time. I also pay tribute to Clare Short, who warned consistently of lack of planning and eventually resigned at the end of that period. In particular, I would like to mention Caroline Spelman MP, who was the shadow Secretary of State for International Development and had several meetings with us on the international development teams. She asked many times of the Government where the plan was for the reconstruction of Iraq, and who was going to take charge when it was over. Answer came there none. Those people should be remembered.

During the discussions with the then President of the United States, and in return for supporting his invasion of Iraq in the absence of a second resolution, Tony Blair asked that we would make progress on the Israel/Palestine peace process, which had been "quiescent", to use the term of the Chilcot report and as Tony Blair described it, since the Oslo accord in 1993. That word is a sick joke if you are a Palestinian—nothing was ever quiescent.

Much has been said about the invasion of Iraq leading to the rise of Islamic fundamentalists and the so-called Islamic State or Daesh—I call them barbarians still. Anyone who has travelled in the Middle East knows that the causes lie much deeper and longer ago. The justified angst of the Arabs started after the First World War with the Sykes-Picot agreement. A major cause of this angst continuing is the increasingly appalling policies and brutality of the Israeli Government and the lack of any solution to that problem. Israel is allowed to break international law and the Geneva Convention with impunity. Together with Saudi Arabia, Bahrain and the other Gulf states, they abuse the human rights of people in their countries. If we in the West could stop this totally hypocritical foreign policy and treat all nations equally and fairly according to international law, we maybe would have more peace in the world.

7.13 pm

Lord Carrington of Fulham (Con): My Lords, as has been said, the Chilcot report is a dispiriting document. It is a sad catalogue of failure and incompetence.

However, we need to move forward. Certainly there are lessons to be learned. I am with the noble Baroness, Lady Tonge, in her pessimism, I fear: I hope lessons will be learned but I am not confident that they will be.

Your Lordships, as keen students of history, will know that the mixture of political and Civil Service hubris and military overconfidence has not been confined to the Iraq war. It has characterised many British military engagements over the centuries, the Boer War, at the zenith of the British Empire, being a classic example. However, I do not want to speak about what went wrong. I want to look at the problems that our invasion of Iraq has created in the Middle East and what, if anything, we can do to help the region back on to an even keel.

I spend a great part of my life involved in the Middle East, as recorded in the *Register of Lords' Interests*. For more than 30 years I have studied Islamic banking and finance and, indeed, at times earned my living as a Sharia-compliant banker. Over the years this has brought me into contact with many devout Muslims from all walks of life—rich, poor, traditional and western-educated. If there is one lesson I hope we can learn from the Chilcot report it is that, as the noble Lord, Lord Green of Deddington, said on Wednesday last week,

"these Middle Eastern societies are extremely complex".—[*Official Report*, 6/7/16; col. 2031.]

I would add that the variations in the Islamic religion are also much more complex than we often suppose. The conflicts in the region are not just between the Sunnis and the Shias, serious as those are. They have an overlay of historic disputes and enmities quite divorced from religion. Some are tribal—the historic differences between the Bedouin and the coastal Arab are far from forgotten. Some are interfamily, some are based on disputes over land, some are legacies of the Ottoman Empire, some inevitably go back to the League of Nations mandates given to us and the French, and few Gulf Arabs ever forget that Shia Iranians are not Shia Arabs.

If there is one message from all this, it is that we do not and cannot know what we are doing if we interfere in the politics of the region. Still less can we understand and anticipate the consequences of sending in troops.

That is not to say that we cannot be involved. We have very strong interests in the Arab world, but to think that we can tell Arabs and Arab nations how to resolve their conflicts, let alone impose a resolution on them, is deluding ourselves. As in Iraq, it leads to unforeseen and unforeseeable consequences, most of them very bloody. What we can do is to help our friends, of whom we have many in the region, to find their own solutions and to support them in implementing these solutions.

Western Christian nations interfering militarily in Muslim Arab conflicts cannot bring peace. Quite apart from our inability to understand the undercurrents of the conflict, a sure way of creating a temporary unity among the warring Arab parties is to give them a common enemy of a Christian soldier to fight. I would go further. If the Christian soldiers are replaced by Muslim soldiers that would be little better unless they are Arab Muslims.

I am not a Muslim but, as I have said, I have studied the religion for as long as I have been involved in Islamic finance and economics. Islam is a great, peaceful religion, quite as devoted to the values of human life, co-operation and love which many of us hold dear in Christianity and other Abrahamic religions. Many Muslims see no conflict between their religion and modern western life. However, other devout Muslims are torn between the modern world and the teachings of the Koran as interpreted by fundamentalist scholars. It would be a mistake to think that this is confined to the extreme fringes such as Daesh/ISIL. Many devout, kindly, deeply religious Arabs are at best ambivalent about their reaction to the acts of terrorism on western nations. Until we grapple with this and change these attitudes we will not be able to help in pacifying the Middle East.

Possibly, hope lies in that there are many Islamic scholars who wrestle with this challenge on a daily basis, seeking to provide guidance to the faithful in reconciling modern life with the teachings of the Koran and the Hadith. While non-Muslims cannot advise followers of Islam how to come terms with the modern world—or perhaps, more specifically, the western world—and the place of their great religion within it, we can encourage those who seek to do so.

We have a large Muslim population in the United Kingdom. We do a lot to support the study of the Koran and the Hadith in our universities and we have many distinguished Muslims in public life. However, we could do more. It is in helping an understanding of Islam, and by materially assisting those religious leaders who seek to find solutions to this problem, that lies our best hope of helping the forces of peace to prevail in the Middle East. Sending in the troops is never the solution.

7.20 pm

Lord Soley (Lab): It is appropriate that we are having this debate today when a book of remembrance has been opened in the cloisters of the House of Commons in memory of more than 8,000 Muslim boys and men who were slaughtered at Srebrenica. If people go and sign that book, as I hope to do and I hope others will do, we should think of two things. The first is that not intervening costs lives too. That point has been made by other noble Lords today. Secondly, and very importantly, it was at that time that some of the Muslim community began to fight because they believed that Christian Europeans would not intervene to defend Muslims. It may be forgotten now but we had to take military action not only against the Serbs but against some of those groups. The idea that the terrorism of today has evolved just in recent years is wrong. It has a much longer history.

I think that the report is very good and I have a lot of time for it. Some of the people who think that Tony Blair has not taken the criticism ought to read again in full his statement in relation to the report, and some of the newspapers criticising him might feel a bit guilty given what they were saying at the time. There are terrible double standards. One thing was always clear to me: Tony Blair was not lying. He believed it very strongly. One of the absurdities of the argument about him lying is why on earth would any Prime Minister

[Lord Soley]
take a country to war on a lie that they knew would be found out to be a lie within a matter of weeks or months after the end of the war? It was always just a political gesture to say he was a liar. Sadly, one of the responses to this report, particularly in some aspects of the media, has been vindictive and to simply look at him as a scapegoat. I was at a party in Inverness this weekend just gone and seven people came up to me separately and without me asking for it—I was not speaking on the issue or anything—and said that they thought that the response to Tony Blair was vindictive and one person said it was just trying to have him as a scapegoat for all the problems. There are a lot of lessons in this report. Tony Blair quite rightly has to take responsibility and we all have to learn from it.

The noble Lord, Lord Butler, said that he had never liked sofa government and I have no doubt that every time he thinks about that he puts his head in his hands. However, government is at times dysfunctional—if you look at the run-up to Brexit and immediately after the Brexit vote, by God it was dysfunctional. The dysfunctionality on the Iraq issue was that of the US Government. Tony Blair did have a lot of influence with George Bush but two people had far more influence than he did. One was Donald Rumsfeld and the other was Vice-President Cheney. Every time Tony Blair tried to get movement, Cheney and Rumsfeld went in and said, "Don't bother with the UN. Don't bother with it with any of these other matters".

Again, we have to be honest. My noble friend Lord Judd is a great supporter of the United Nations. So am I, but let us recognise that the Security Council is also dysfunctional. It will not normally support intervention because Russia and China do not believe in regime change. So we all have to support these despotic dictators being kept in power. That is what is happening now with Syria. Assad is still in power because Russia wants to keep him in power. We have to recognise that this report needs to be taken in context and not rush out and condemn Tony Blair or anybody else such as the security services or the military team. We have to learn the lessons but not kid ourselves that somehow or other we can just make this right by using them as scapegoats or by being vindictive like some people. The painful reality is—and it has troubled me for years—that we do not know how to intervene successfully and maintain the peace afterwards. We did it well after the Second World War: we policed Japanese and German areas with German and Japanese troops supervised by British NCOs and officers.

My heart sank after Colin Powell was removed because he knew that we would have to keep large numbers of troops in Iraq to police it. He was manoeuvred out by Cheney and Rumsfeld. Rumsfeld really did believe in the most naive way possible that if you got rid of Saddam Hussein the people of Iraq would embrace democracy. It was a lovely idea but not true. Some people have said that there was no attempt at a post-conflict effort at all. There was, actually. There were talks at Wilton Park which this Government and previous Governments know about. They were not very successful, not least because when Colin Powell went the whole lot was brought virtually to an end.

When I was the MP for both Hammersmith and Ealing I had a lot of Arab constituents. The noble Lord, Lord Carrington, is right that among those were Iranians, who are not Arabs, and also of course the Kurds. The Kurds were absolutely in favour of intervention. They would come to me and say, "Please do not back down this time as you did in the last Gulf War". The Iranians—or the Shia, if you like—were more in favour than against, but they were much more wobbly. The Sunnis and others, particularly the Palestinians, were strongly against. The whole of that region was divided about intervention. The horrors that the Kurds, in particular, had suffered from both chemical weapon attacks and conventional attacks were awful. As my noble friend Lord Judd said, we have to remember that real people get hurt.

Time and again in my advice surgery I saw people from all these brutal dictatorships, starting with the Iranian one in 1979, and I was shown their injuries, and I said there was nothing we could do. Actually the world could do something but because of the dysfunctionality of the United Nations, we do not and we cannot. That is the major message, and it is not new. In the 19th century, after we made the slave trade unlawful, we used the Royal Navy to intervene and stop it. All the correspondence in the newspapers at the time was for or against intervention. It is fascinating that those against were using the same arguments as they use now, such as that it will make matters worse and, "Oh, look, the slaves are being thrown overboard because the British ships are chasing them". We persevered with that intervention.

One of the things that troubles me most—and I will finish on this—is that as a result of the way things went wrong because of our failure to do the post-conflict bit well in Iraq, there is a danger that we will not intervene again. We will lose confidence in ourselves. If the West loses confidence in the idea of the rule of law and the idea of democracy and is not prepared to fight for them, and if it is not prepared to make sure that other people have the opportunity of enjoying the peace that those bring, then, frankly, the wider world is in trouble.

We need to get our confidence back and start to understand that everything that is happening in the Middle East now is not our fault, but nor is it all down to Iraq. There was a peaceful period when people in the area had a choice and could have chosen ways that did not lead to the present problems. The Arab spring—perhaps misnamed now but nevertheless very important—was another trigger in all of this and it was not caused by us. Finally, remember that in Libya Gaddafi gave up his nuclear process and his chemical weapons because of what we did in Iraq. It went wrong after that, not because of Iraq but because of what happened in Tunisia. Please let us make this a debate much more about the problems of how and when we intervene and what resources we put into it. That is the message for the future and we had better get it right.

7.29 pm

Lord Birt (CB): My Lords, it is a privilege to follow the noble Lord, Lord Soley, who spoke, as so often, abundant good sense. The Chilcot report is entirely persuasive about the failure to plan adequately for the

aftermath of invasion, as so many of your Lordships have said. Neither the US, the UN nor the UK rose to the challenge. We shall never know what would have happened if we had—or, incidentally, if there had been no invasion at all. We do know that the outcome of invasion was utterly tragic for the people of Iraq, for our and our allies' brave soldiers who lost their lives or suffered grave injuries, and for the families who stood behind them.

Iraq, Afghanistan, Syria and Libya have all given us terrible lessons in the limitations and unpredictability of intervening in complex societies. Nor can we be proud of what the inquiry uncovered about the UK's ability to match our security ambition to our military means and to equip our armed forces appropriately. All these lapses merit the censure they have attracted. I am far less persuaded, however, by the inquiry's assessment of the circumstances surrounding the decision to go to war, where I fear it takes the wisdom of hindsight a little too far. Saddam Hussein is one of history's greatest villains: he invaded one neighbour and waged a prolonged and costly war on another. He was cruel and despotic, he had used weapons of mass destruction on his own people and conspired to acquire a nuclear capability. 9/11 demonstrated the ambition, imagination and ruthlessness of modern terrorism and had traumatised our oldest ally. It was not only reasonable but right that the US and the UK should consider the risk—not the likelihood, but the risk—of horrendous weapons falling into terrorist hands.

It was truly salutary to learn that Saddam had indeed eliminated WMDs, but I think it was unfair to condemn those who, given Saddam's villainous record, had every reason to suspect that he had maintained a WMD capability and who believed intelligence that confirmed that suspicion, false though that turned out to be. Nor do I think the inquiry provides a rich enough context to Prime Minister Blair's handling of relations with President Bush. Let us recall another intervention to overturn a truly wicked despot. If the US had not intervened in World War II, the consequences would have been incalculable. If the Germans had won on the Eastern front, they would surely have later invaded the UK, and we might now be living in a Nazi Europe. Alternatively, if the Soviets had won, the House of Lords might now be a Praesidium. Our debt to the US is incalculable. America lost lives and paid an enormous economic cost to save us and others from Hitler, so Tony Blair was entirely right to offer strong moral support to the US after 9/11—that was what was meant by, "whatever".

I am the first to welcome the process reforms in the intelligence agencies prompted by the noble Lord, Lord Butler, and the reforms in the Cabinet Office machinery introduced by David Cameron. I accept, without demur, the inquiry's findings about the evaluation of intelligence. But due process should not remove the need for Prime Ministers to manage our key relationships and to make judgments about our long-term national interest in the round, weighing every factor. I do not doubt for one moment that Tony Blair made those judgments in good faith. I worked in No. 10 for six years as Prime Minister Blair's strategy adviser—albeit only on domestic policy, so I was not involved at all in the matters before us. When you work closely with someone over time, you learn their true character. The label "sofa government" is a caricature, as the noble Lord, Lord Blunkett, and the noble Baronesses, Lady Morgan and Lady Armstrong, all made abundantly clear earlier in the debate. For my part, over and again I found Prime Minister Blair addressing issues seriously and diligently, trying to bottom out any problem of substance that confronted him.

The noble Lord, Lord Bew, who is not in his place, reminded us earlier of the impact of those abilities on Northern Ireland. Tony Blair was gifted and hard-working. He encouraged, and listened keenly to, a wide range of views, in my direct experience. In all his dealings I found him open, honest and straightforward—not qualities I always experienced elsewhere in government. The disastrous outcome in Iraq will weigh heavily on a good man, but no one can fairly suggest that he did not set out with the best of intentions towards both our allies and the people of Iraq, and towards safeguarding what he saw as the UK's national interest.

7.36 pm

Lord Hunt of Wirral (Con): My Lords, it is always a pleasure to follow the noble Lord, Lord Birt, but I part company with him when he says that the Chilcot report "takes the wisdom of hindsight a little too far". I agree with him that it is an impressive report but what I find particularly striking from Sir John Chilcot's statement on 6 July was his consistent stress on the importance of his main objective of identifying lessons for the future, so if the noble Lord will forgive me, I want now to concentrate on one of those recommendations:

> "The need to ensure that both the civilian and military arms of Government are properly equipped for their tasks".

There is much-needed emphasis on the wisdom of foresight. I am reminded of a famous phrase from when I was a student, in 1962, which everyone knows off by heart. I declare my interests as recorded in the register, including being a student at the time. I heard the former US Secretary of State, Dean Acheson, say, on 5 December 1962, and he caused a considerable furore with this comment:

> "Great Britain has lost an empire and has not yet found a role".

We are still struggling to identify that role, and that very struggle lies at the heart of today's debate and of so many other debates going on at the present time. It is also a struggle that has generated an existential crisis within our armed services.

In the Clinton-Blair years, the concept was born of the United States, the one great superpower, reinventing itself as a world policeman, supported, if one could be conjured up, by a "coalition of the willing". Compared with the supine failure of the United Nations in Srebrenica in the summer of 1995, of which the noble Lord, Lord Soley, has just reminded us, that decisive, US-led NATO intervention in the Kosovo war seemed to mark an entirely new development. No longer was narrow, national self-interest alone the decisive factor in going to war. Sometimes, all that was required was a humanitarian impulse to curb the suffering of civilians, even in,

> "a quarrel in a faraway country between people of whom we know nothing".

[Lord Hunt of Wirral]

This world policeman role has continued to this day, but I agree with noble Lords that by far the most foolish and counterproductive instance of it has now been seen to be the decision to support a military intervention in Iraq. The effect on Iraq itself is now well known, and our hearts go out to the victims of the continuing terror campaign that afflicts the people of that land. What also concerns me, however, is the effect of this new philosophy on our Armed Forces.

Our armed services are indeed our pride and joy, but they are trained—brilliantly trained—for combat, not for police duties. During that early phase of the occupation of Iraq, before the Sunni uprising began, we heard reports of how our troops were winning the hearts and the respect of areas of Iraq where they were in charge, and we felt proud. Were we not, perhaps, using our troops as policemen, not soldiers? But they were playing the part of "nice cop" to perfection. Our troops wore caps; the Americans wore helmets. But it did not last long.

I have had the privilege of attending so-called war Cabinets in the past. Particularly memorable was being in the margins of the meetings that Margaret Thatcher convened during the Falklands conflict. I remember clearly how the Chiefs of Staff would come and give their military advice, then there would be a debate among Ministers, and then a political decision would be taken. It was a clear and logical process. So long as the information is openly and honestly shared, it is a good process. When information is deliberately withheld—the existence of the Sèvres protocol in 1956, for instance—it comes to grief. But otherwise, the separation of the question of what is militarily feasible from the question of what is politically desirable is a very good one.

Unfortunately, as Sir John Chilcot's report reveals, in the case of the Iraq war that straightforward honest logical process was smudged by the meddling of press secretaries and diplomats of a worryingly political hue, and by the spin, spin, spin of the Whitehall machine. That is not a recipe for good decision-making. The armed services—the poor bloody infantry, to coin a phrase—then got caught in the crossfire, literally as well as figuratively. Our armed services are rightly regarded as the best in the world. Not only should we allow them to do their job, but we should respect their expertise before, during and after any debate and decision about whether to go to war. This clearly did not happen in 2003, and the disastrous consequences speak all too eloquently for themselves.

7.42 pm

Lord Anderson of Swansea (Lab): My Lords, at last—at long, long last—Chilcot has reported, and it makes bleak reading. I had a ringside seat at the events described, but was never in the position of taking decisions. I am comforted by the fact that neither were members of the inquiry. Although I accept that their conclusions are broadly justified, their judgments are not infallible, and need rigorous questioning.

From 1997 to 2005 I chaired the Foreign Affairs Committee. Once or twice a year over that period we visited Washington and New York, where we met many of the key players in the White House, the State Department, the Department of Defense and the CIA, and, of course, our excellent then ambassador in New York, Sir Jeremy Greenstock. In London, after I had argued for containment, the Prime Minister invited me to meet him one to one at No. 10, and thereafter arranged for me to meet Sir John Scarlett, who had briefed him, in both September 2002 and February 2003.

I shall now make some reflections, matching my own experiences with the conclusions of the report. Yes, in 2003 I voted for the war. Would I have done so now, in the light of current knowledge? No. Would I have voted yes, knowing only what I did in 2003? Yes. Why? Hindsight is a wonderful thing. It gives 20:20 vision. Of course, Chilcot had access to contemporaneous documents, but the memories of participants have been coloured by the consequences, and the confident tone of many of the report's conclusions was matched only by the vaulting confidence of the Prime Minister and his senior advisers, cheered on by the *Daily Mail*, the *Sun* and the *Daily Express*.

We now know that the consequences were overwhelmingly negative. But what would have happened if we had not intervened? Almost certainly Saddam Hussein, or one of his nasty sons, would be ruling Iraq and threatening the region. As the ISG reported in the following year, he might have had to be tackled later, as he would have had the intent and then the capability of acquiring WMD. Increased oil resources would have allowed him to buy kit from AQ Khan, or from North Korea, the arch-proliferator.

Questions remain. Is there sufficient contextual analysis in the report? Did its authors seek to put themselves in the shoes of policymakers at the time? Remember that there was enormous frustration at the dissembling and obstruction by Saddam Hussein. Remember, too, that there was a realisation that sanctions were fraying fast and containment increasingly less credible. Remember also the post-9/11 atmosphere of the terrorist threat.

The Prime Minister made a strategic judgment to stand alongside the US to influence it—a judgment that was only partially realised, but which was at least honest. When briefed by the Prime Minister, I was surprised by an almost starry-eyed admiration for President Bush. When I was briefed by Sir John Scarlett he told me, essentially, what was relayed in the much-criticised dossier of September 2002, drafted by the JIC.

Thus the Prime Minister accepted the advice of our intelligence chiefs. They were wrong, but he honestly conveyed their advice—intelligence that was also accepted by France and Germany, and by our own military. I believe—if my memory is correct—that our soldiers were offered anti-CW kit at the time. Even Saddam Hussein may have believed that he still had WMD. It is difficult for politicians to disregard the advice of intelligence experts, but there should have been more rigorous and sceptical questioning. The establishment of the new security adviser to the Prime Minister should help.

There was a lack of HUMINT, and our sources—such as the Iraqi exile in the US, Chalabi, other exiles, and the BW fraudster—were certainly very suspect and had their own agendas. The report might have covered the position in Washington more thoroughly. I met

Richard Perle, the grey eminence of the neocons, on several occasions. He spoke enthusiastically of the likely welcome of liberating forces in Baghdad and the promised democratic renaissance in the Middle East—unaware of the sort of complexities that the noble Lord, Lord Carrington, has mentioned. Colin Powell was angered by the briefing behind his speech to the UN. Richard Armitage, his No. 2, spoke to us of the military expertise at the top of the State Department compared with the comparative weakness at the top of the DOD, led by the management experts Rumsfeld and Wolfowitz.

The inquiry concluded that the post-conflict plan was "wholly insufficient", but probably failed adequately to reflect the fact that it was not us but the Department of Defense that was in the driving seat—overriding the advice and the plans of the State Department. In retrospect, perhaps, the failure of the Prime Minister was not to make his support more conditional. In Baghdad, visiting the CPA, I saw that the operatives under Bremer were overwhelmingly American. I also visited our rather isolated outpost in Basra. We had little or no influence over the twin disastrous decisions on de-Baathification and the disbandment of the army. Colin Powell—perhaps after visiting a supermarket—said, "If you break it, you own it", and liberation soon morphed into occupation and intolerant Shia domination under al-Maliki.

My conclusion is this. I confess I have changed my mind following the publication of the report. I had assumed that the delay, and the likely pulling of punches in the report, would lead to great anger among the families of the victims and that, 13 years after the events described, it was likely to be viewed as a historical document, mainly of interest to academic researchers into the processes of British government. It is not holy writ; its own judgments need to be questioned, yet overall it is a massive contribution to our understanding of the events leading to the Iraq war and, of course, the processes of government, and a salutary highlighting of what went wrong and the lessons to be learned. If interventions are contemplated, they should take place only according to just war principles and if the objectives are clear, and after thorough preparation, risk analysis and the provision of sufficient resources. All were lacking in the case of Iraq. Perhaps the Prime Minister—any Prime Minister—should not have on his desk the phrase, "The buck stops here", but rather the Cromwellian words, "Think, ye may be mistaken".

7.50 pm

Lord Wright of Richmond (CB): My Lords, having looked again at my interventions in the House on 24 September 2002 and 18 March 2003, warning, as many noble Lords did, against the military invasion of Iraq, I shall resist the temptation to claim the obvious. Sadly, there is no sign in the Chilcot report that any of the powerful interventions in this House—many of them spoken with much greater authority than mine, and some of which have been mentioned by the noble Lord, Lord Morgan—were ever brought to the attention of the Prime Minister at that time.

Two of the conclusions of the Chilcot inquiry were, first, the failure to use the machinery of the Defence and Overseas Policy Committee to consider the case for going to war—a criticism already emphasised in the Franks report on the Falklands War some 22 years earlier. The second concerns the conflict between the Government's decision to remove Saddam Hussein—if only as a means of disarming Iraq—and the repeated assurance which I and others received, in reply to our questions in this House, that regime change was no part of the Government's policy. Indeed, the Foreign Secretary was specifically on record as saying that we should not be in the business of changing other people's Governments.

The noble Lord, Lord Hunt of Wirral, referred to lessons for the future. I would like to ask a few questions about lessons for the present. In the light of the inquiry's criticisms, I ask the Minister two questions. First, how often has our policy towards Syria been discussed in the Defence and Overseas Policy Committee, or is it now the National Security Council? Secondly, what is now the Government's stated policy towards regime change?

In the light of the likely consequences of changing the Syrian regime, can the Minister assure the House that we are no longer giving active support, let alone supplying weapons—most of which fall into the hands of Jabhat al-Nusra or Daesh—to the so-called moderate rebels who are trying to remove President Assad from power? It appears that President Obama is still under strong pressure in Washington, receiving an appeal from 51 so-called "Syrian experts" to launch a full-scale military attack against the Syrian regime, but has so far withstood the pressure. There are also voices in the press here that the House of Commons was wrong to refuse an attack to punish Assad for his use of chemical weapons, a refusal echoed in what was virtually a 10:1 view in this House on 29 August three years ago.

Can the Minister confirm that Her Majesty's Government are no longer actively trying to remove President Assad and his regime? Have they listened to the repeated warnings in this House of the likely alternative? And if President Obama should be persuaded to change his view, can the Minister assure us that the Government have learned at least one of the lessons of Chilcot—namely, that in following United States policies, we need to examine very closely not only its motives, but also the likely consequences of its policies?

Finally, the report reminds us that Mr Blair concluded the Cabinet meeting on 7 March 2002 by saying that it was,

"critically important to reinvigorate the Middle East Peace Process".

Here we are, more than 14 years later, with the combined efforts of Secretary Kerry and his predecessors, and of Mr Blair himself, as the quartet's representative, having achieved absolutely nothing in persuading the Israeli Government under Mr Netanyahu either to enter into meaningful discussions with the Palestinian leadership, or to reverse his illegal settlement policies on the West Bank and in east Jerusalem.

7.55 pm

Lord Jopling (Con): My Lords, speaking towards the end of this debate, and finding myself squeezed between two of the most highly regarded and admired Mandarins of the Foreign Office, I feel rather like orange juice, if I can put it that way.

[Lord Jopling]

The noble Baroness, Lady Hilton, referred to the fact that during the second Iraq war I was chairman of Sub-Committee C of the European Union Committee, which dealt with defence and foreign affairs. A few weeks before the war, we were in Washington. As a consequence of what we saw and heard, I returned and spoke in the same debate on 18 March 2003 to which the noble Lord, Lord Wright, has just referred. In that speech I dissociated myself from the Labour Government, my own Front Bench and from the United States's plans for war. We had no vote but, if we had had one, I would have voted against the war. Looking back on it, then and now, I had, among many reservations, particular reservations about WMDs, the intelligence, the legality and the United States's new arrogance which I noticed at that time, although I had no reason then to doubt the intelligence that we were getting. Like most people, there was no reason to do that.

However, tonight I want to concentrate especially on what I regard as the wicked lack of preparation for the post-military phase. It is a separate chapter, reflecting an astonishing lack of planning by all concerned, together with what seems to me an apparent lack of interest in preparing for that phase. It reflects a period of political leadership which I think marks the lowest point in competence in both the United States and the United Kingdom that I have ever lived through. In the United States, George W Bush, who I believe one can argue is the worst United States president in my lifetime, left two unwinnable wars and a major financial crisis behind him. In the United Kingdom, we had a Government led by a Prime Minister who allowed himself to be led by the United States into supporting its policies like a pet sheep, and who, having agreed to go to war, consistently failed to plan for the post-military phase. I may say that my own party at that time had the most unconvincing leadership I have ever known in my lifetime.

I draw attention to a few of the facts which come out of the Chilcot report which demonstrate that crucial lack of planning for the post-military phase, which, of course, has led to the current chaos. I give a few examples from either the main report or the summary.

As early as 9 September 2002, Mr Hoon went to meet Secretary Rumsfeld in Washington, armed with a departmental briefing on the post-conflict phase. Chilcot tells us there is "no indication" that he raised it at all.

A little later, on 17 January, Mr Straw sent a paper to the Prime Minister about the aftermath of the military phase. Chilcot says:

"Mr Straw did not give due consideration to what might constitute a satisfactory plan for the UK and whether UK participation in military action should be conditional on such a plan".

Following that report—it is all connected—Sir David Manning is quoted as saying to the Prime Minister:

"I don't think they affect your decision in principle",

to which the Prime Minister replied, "Agreed".

Moving into 2003, I was again struck to read the quote from the memoirs of the noble Lord, Lord Mandelson. He says that in January 2003, he asked Mr Blair,

"'What happens after you've won? … You can go in there, you can take out Saddam but what do you do with Iraq? You're going to have a country on your hands. I don't know what your plan is. I don't know how you are going to do it. Who is going to run the place?' Tony replied: 'That's the Americans' responsibility. It's down to the Americans'".

Moving on to 19 February, Chilcot says:

"There is no indication that, when Mr Blair discussed Iraq with President Bush on 19 February, he raised either post-conflict planning or the post-conflict role of the UN".

These are damning comments on the preparation for that war, and are, if I may say so, exactly the things that bothered me so much and which caused me to dissociate myself from the mood at that time.

Moving on to 6 March, Chilcot says:

"On 6 March, Mr Blair chaired the first"—

mind that, the first—

"Ministerial meeting convened solely to address humanitarian and other post-conflict issues".

He goes on, in Paragraph 781, to say, "No decision was taken".

In the same Cabinet meeting, on 6 March, it says in the Chilcot report:

"For the first time, Mr Blair requested a consolidated UK plan for post-conflict Iraq, including the key decisions for Ministers to take".

That is on 6 March, days before the war began. On 21 March, shortly after the debate in this House, Chilcot says:

"The Inquiry has seen no evidence that a cross-government humanitarian plan for Iraq was ever produced".

Moving on to 12 March, the report says:

"The draft objectives and guiding principles for post-conflict Iraq were resubmitted to Mr Blair for approval on 12 March. No decision was taken and there is no indication that Mr Blair discussed the objectives and principles with Ministers. In the absence of a decision from Mr Blair, post-conflict planners remained without clear Ministerial guidance on the nature and extent of the UK's post-conflict commitment".

These are, quite honestly, dreadful indictments of what happened at that time. You may say, "This was all the British side of things", but, to be truthful, the Americans were no better. In the report, on 18 March, when Major General Cross came through to London on his way to the region, he is quoted in Paragraph 1075 as saying:

"I was as honest about the position as I could be, essentially briefing that I did not believe post-war planning was anywhere near ready. I told him that there was no clarity on what was going to be needed after the military phase of the operation, nor who would provide it. Although I was confident that we would secure a military victory I offered my view that we should not begin that campaign until we had a … more coherent post-war plan".

The Americans are equally culpable on this. In the speech—I am sorry I am taking so long—that I made on 18 March, I made the point when I said:

"When we were in Washington",

with that committee,

"several people admitted that too little thought has been given, and too late, to what will happen afterwards".—[*Official Report,* 18/3/03; col. 171.]

On 23 February, there had been an article in the *New York Times* regarding the Bush Administration's new office of post-war planning, which held a secret session,

"to assess the government's plans for securing and rebuilding Iraq if Saddam is overthrown".

This last paragraph is, I think, crucial. I reminded the House at that time that the,

"office will be directed by",

General Garner. That was only a few weeks before the conflict started. The post had already been refused by Dr David Kay,

"a former chief nuclear weapons inspector in Iraq, who had considered taking it. He was quoted as complaining that promoting democracy had too little priority in the new office and that the mission itself was under-financed and poorly staffed".—[*Official Report*, 18/3/03; col. 171.]

The American approach to the post-military phase is lamentable.

It is a sorry and outrageous story of political leaders ignoring advice and pressing ahead with foolish and ill-prepared military adventures. They were consistently warned, on both sides of the Atlantic. Now we are harvesting the whirlwind. Is Iraq a better place? I have to say to my noble friend who opened the debate that a number of us in this corner of the Chamber rather raised our eyebrows when we heard him say that it is a better place. There is chaos in Iraq and in the region, and terrorism is rampant. What should our lessons be? Our lesson is a simple one—political leaders should not take on these sorts of adventures purely on their own. They must do so in an infinitely more democratic way in the future.

8.08 pm

Lord Jay of Ewelme (CB): My Lords, it is always a challenge to follow the trenchant words of the noble Lord, Lord Jopling.

I strongly supported the setting up of the inquiry into Iraq, as I thought it important to learn the lessons for British involvement in future conflicts. I said in the past in your Lordships' House that I regretted that the report had not been published much earlier. Having now read it—or much of it—and seen the responses to it, I think it was right for the inquiry to take the time needed for a full and proper investigation.

I want to focus on three issues. First, the inquiry is critical of the Government and, among others, of the Foreign Office, for the degree of preparation for the aftermath of conflict. As Permanent Secretary to the Foreign Office at the time, I accept that criticism. As I said when I gave evidence to the inquiry, we could and should have carried out a more thorough assessment ourselves of the possible consequences of the invasion than we did. We should not have relied as heavily as we did on our ability to persuade the Americans, as leaders of the coalition, to do the preparation themselves.

But we must be realistic about this. The Chilcot report itself says that,

"better planning and preparation for a post-Saddam Hussein Iraq would not necessarily have prevented the events that unfolded in Iraq between 2003 and 2009".

As the Prime Minister said in the Commons last week:

"We should not be naive to think that just because we have the best prepared plans, in the real world things cannot go wrong".—[*Official Report*, Commons, 6/7/16; col. 888.]

In the real world, things do go wrong—as they did in Iraq and as they did in Libya.

That leads on to my second point. Many have said in this debate that it would be wrong to conclude from the conflict in Iraq that Britain should never again get involved in conflicts abroad. Of course this is right. We can all think of successful British involvement in conflicts—in Sierra Leone and in Kosovo. There are conflicts in which we should have intervened but did not, such as Rwanda or Bosnia. But there are also conflicts in which, with hindsight, British intervention looks either wrong, such as Iraq, or at least questionable, such as Libya and, perhaps, Afghanistan.

The difficult question is: when is intervention justified? In my view, there needs to be, first, agreement that all diplomatic avenues are effectively closed—although, as the noble and right reverend Lord, Lord Harries, said, that may be a matter of judgment. Secondly, there needs to be a convincing argument that intervention will leave things better than if there is no intervention: that intervention will succeed—which, as I said, was not the case in Iraq nor, as I argued at the time, when the Government sought authority for a bombing campaign in Syria in 2013. Thirdly, there needs to be unambiguous UN Security Council authority: or, if that is impossible—I accept what the noble Lord, Lord Soley, said about the difficulties of getting it—there needs to be a powerful humanitarian justification, as in Kosovo. Finally, Britain needs to be acting as part of a strong international coalition, such as a NATO intervention—again, as in Kosovo.

Decisions to intervene are never easy, but I believe that criteria such as these can provide a necessary and coherent justification for intervention and avoid the easy but naive conclusion that intervention that succeeds is always right and intervention that fails is always wrong.

My last point is in some ways the most important, at least for me. Much has rightly been said about the bravery of our soldiers in Iraq. Less has been said about the courage and professionalism of the many members of the civil and diplomatic services, men and women from many departments, who volunteered for service in Iraq out of a commitment to help rebuild the country. In early 2004, I visited them in Basra and Baghdad, where many British civil servants lived in containers on the ground floor of a concrete multi-storey car park. I witnessed the good humour, professionalism and bravery with which they worked every day in the most difficult and often dangerous circumstances. They, too, deserve our gratitude.

8.13 pm

Baroness Northover (LD): My Lords, it is a great privilege to wind up for these Benches after such an extraordinary and wide-ranging debate. The invasion of Iraq, what preceded it and what has followed has had a seismic effect on global politics, not just British politics. Our first thoughts must be for those who lost their lives or were wounded as a result of this conflict, whether from the United Kingdom or in Iraq. Their loss must be compounded by the question mark over the legality and effectiveness of this war.

Like other noble Lords, I pay tribute to Sir John Chilcot and other members of his group, including the noble Baroness, Lady Prashar, who spent so many years of their lives analysing this material—a forensic critique, as the noble Lord, Lord Williams, rightly described it. I know that people got impatient, but Chilcot and his colleagues have not pulled their punches, even if few of their conclusions come as a surprise.

[Baroness Northover]

Andrew Rawnsley, writing in the *Observer* on Sunday and seeking to understand why all the main political parties, the vast range of experts and others were not heeded on Brexit, points to the effect of the Iraq invasion as underpinning the lack of trust in politics today. The noble Lord, Lord Morgan, in his coruscating critique, took the same view.

As I went back to my documents of the time, I found that no one could say the Government were not warned again and again. I read the letters from my noble friend Lord Campbell of Pittenweem, whose outstanding speech today laid out the lessons from Chilcot, and those from Lady Williams of Crosby. There are the reports, the legal advice and the academic and policy analysis. I recall the wise advice of my much missed friend and noble Lord, Air Marshal Tim Garden, with his deep experience both of the military and of global strategy as former director of Chatham House, warning against invading Iraq. It owed much to him that we Lib Dems were the only party to stand against the invasion of Iraq. My party had much opprobrium heaped on it, I point out to the noble Lord, Lord Touhig. I thank the noble Lords, Lord Morgan and Lord Owen, for their wonderful tributes to my late colleague Charles Kennedy for his courage and integrity.

Chilcot points to the failings of the intelligence community, a point to which my noble friend and other noble Lords referred, and to the failure in legal advice, as outlined by my noble friend Lord Thomas of Gresford and other noble Lords. The Chilcot report makes clear the failure to secure an authorising resolution from the UN and,

"the lack of adequate preparation for the post-conflict period and the consequent struggle to cope with the deteriorating security situation in Iraq after the invasion".

The war left a vacuum—as we have heard, particularly in the powerful speech from the noble Lord, Lord Williams of Baglan—but there has also been the chilling effect of the very involvement in international matters, to which the noble Lord, Lord Jay, has just referred: the reluctance to assist and the reluctance to stay the course, which have their effects now across the Middle East and far wider, as noble Lords have made plain. There is—or should be—a difference between intervening in humanitarian disasters, such as the genocide in Rwanda, or Kosovo, and the regime change sought by the Americans.

One striking thing is that the warnings at the time were loud and clear. I had the privilege of being in this House when these matters were debated, and I vividly recall the speeches of the noble Lord, Lord Wright, with all his wisdom, and so many other noble Lords here. On my computer is my own speech on the lack of planning for reconstruction. It is difficult, therefore, to have patience with those who say that they did not know. I see a major parallel here with our Brexit situation. The warnings about Brexit were and are loud and clear. Must we be taken down this road because of distrust in politics and experts, and then make more mistakes with our eyes wide open?

The Chilcot report concludes that the influence of the UK and the Prime Minister, Tony Blair, on the US was grossly overestimated. The Bush Administration sought regime change. We, theoretically, were seeking to disarm Saddam of his weapons of mass destruction. The Americans dictated the timetable, regardless of the pleas all around that the weapons inspectors should be given more time, and that the UN should resolve to take action if need be. My noble friend Lord Tyler made very clear the result of concealing the ultimate purpose here, and hence the inadequate military preparation, in the terrible effects on his constituent and others.

It is also abundantly clear how challenging nation building is. What comes across from the Chilcot report is the failure to plan or prepare even for known risks. It concludes that what was required was to restore infrastructure, to be able to administer a state and provide security. The noble Lord, Lord Williams, gave a devastating critique of the descent of Iraq as a nation state into a non-functioning country. Daesh, it points out, is stronger there than anywhere else. Chilcot says:

"Despite being aware of the shortcomings of the US plan, strong US resistance to a leading role for the UN, indications that the UN did not want the administration of Iraq".

It goes on to say:

"At no stage do the UK Government consider other policy options, including the possibility of participation in military action conditional on a satisfactory plan for the post-conflict period".

Chilcot notes that the FCO was not equipped for nation building, and DfID's focus on poverty reduction instilled a reluctance to engage in anything other than immediate humanitarian response to conflict. We hear of looting, security vacuums and the impact on Afghanistan in terms of resources and attention, which noble Lords here warned of at the time, not least my noble friend Lady Tonge—hence the conclusion of "strategic failure". Chilcot speaks of the development of widespread sectarian conflict, the victory of terrorist groups, the collapse of the democratic process, the division of Iraq and the damage to the UK's political and military reputation. Looking at the situation now, like the right reverend Prelate the Bishop of London I point to the—at least—10 million people in need of humanitarian assistance. Iraq itself is hosting 250,000 refugees from Syria.

This has been a deeply troubling debate about a deeply troubling period in our history, which has not yet fully played out and where we cannot see the lines of future resolutions. Some of the contributions here do not perhaps yet heed what Chilcot has said. I note what the noble Lord, Lord Owen, said about his deep regret about his own support for the war, pointing to what others should also recognise. I am very glad that Sir John Chilcot and his team have undertaken this extraordinary analysis. It is surely vitally important that we all learn the lessons that they rightly draw out.

8.23 pm

Lord Collins of Highbury (Lab): My Lords, like all noble Lords in this debate, I pay tribute to Britain's Armed Forces, and also to those who serve in a civilian capacity. We can all be very proud of the work that they do and the high standards that they maintain. As my noble friend Lord Touhig said at the beginning

of this debate, what must be uppermost in our minds is the 179 servicemen and 23 civilians who lost their lives in the war, and our thoughts are with them and their families. Nor must we forget those who suffered physical and mental injuries as a result of their duty. We will not forget either the thousands of Iraqi civilians who have lost their lives in the conflict and since.

However, as the noble Baroness, Lady Neville-Jones, said, for a lot of people the report of Sir John Chilcot will not have changed their view on the rights and wrongs of the Iraq war—apart perhaps from my noble friend Lord Anderson. The biggest demonstration that the country had seen for a century reflected the strength of feeling at the time. It divided political parties and families, as we heard from the noble Lord, Lord Owen, and many friends. I suspect that, if anything, views have hardened since then. Although Sir John did not say so in so many words, it was clear from his presentation after the report's publication that he believed that the Iraq war was a big mistake. He set out many reasons why he believed so. He has made strong criticisms about process and procedure in analysis and decision-making, planning and preparation, and, of course, as many noble Lords have said, our relationship with the United States. After seven years, 2.5 million words and more than 150 witnesses, the report neither made the case for non-interventionist policy in the future nor concluded that anyone acted in bad faith. Sir John accepts that, ultimately, leaders have to make decisions—especially the tough ones, as my noble friend Lord Blunkett so eloquently said.

The questions for the inquiry were whether it was right and necessary to invade Iraq in March 2003 and whether the UK could and should have been better prepared for what followed. Sir John and his panel concluded that the UK chose to join the invasion of Iraq before the peaceful options for disarmament had been fully exhausted. Military action at that time was not a last resort. On that first question, one area of criticism relates to the process surrounding the Attorney-General's advice and the role of the United Nations. I am an incredibly strong supporter of the United Nations and its vital role in bringing all communities together, but our tendency is to see the UN as a quasi-judicial forum, able to adjudicate on difficult and complex issues. In reality, it is a collection of all the countries of the world, with all their competing visions and interests. As we have experienced with events in Syria, Putin's Russia, as one of the five permanent members of the Security Council, ensures that it is rarely a body within which full international agreement can be reached.

We have also heard in this debate the expression of concern, which the noble Lord, Lord Butler, referred to, that the Cabinet Ministers did not grill the Attorney-General directly on his advice when they had the chance. Despite what I read in the *Daily Mirror*, I also read the evidence of the noble Lord, Lord Prescott, to Chilcot. In July 2010 he said:

> "Look, this was not as if somehow he just comes out and gives a view. There was a great public debate with all the academics in the world giving different views as to whether it was legal or not … We as politicians read that and understand there is a difficulty".

It is not as if people understand things in isolation; that is particularly true of politicians.

There has been much focus on the three words in the report "far from satisfactory". Although I was not in this House, and certainly not participating in Parliament, I have had the opportunity to speak to my noble friends and in particular to my noble and learned friend Lord Goldsmith, the former Attorney-General. Those words, "far from satisfactory", are not about the legal advice itself but about,

> "the circumstances in which it was decided that there was a legal basis for UK military action".

There is no finding that the legal advice was wrong, and no court has said that it was in the 13 years since the conflict. My noble and learned friend Lord Goldsmith has said publicly that he believed then, and still believes, that the legal advice that he gave was right. As my noble friend Lord Lea reminded us, there is no finding that the legal controversy was hidden from the Cabinet.

What we have heard throughout today's debate, and certainly in reading the summary report, is that the main criticism is about the process in government—a theme running through the report—and about Tony Blair's method of running government. This is a criticism that Tony Blair himself has said he is responsible for. His public statement reads:

> "However, I accept that the report makes serious criticisms of the way decisions were taken. Again I accept full responsibility for those points of criticism including where I do not agree fully with them".

One point raised in the report is that my noble and learned friend said—as he, as former Attorney-General, responded to me—that he did not change his opinion but his opinion was developed. I understand that point. He is a man of integrity and, certainly, Sir John Chilcot did not challenge that. Despite examining every scrap of paper in the Attorney-General's office and in No. 10 Downing Street, including all the diaries and meetings, and despite all the accusations flying around, they found nothing: no finding of any fixing of the legal advice and no email chain from No. 10 suggesting changes to that advice.

I turn to the fundamental point that this debate is about: learning the lessons. On the question of how decision-making across government can be improved, I, too, welcome the Prime Minister's statement and the establishment of the National Security Council, which can regularly inform not only Members, politicians and Ministers, but cross-security agencies, which these days is vital. Tomorrow night, however, we will have a new Government. Despite what the current Prime Minister has said, I would appreciate hearing from the Minister what the new Government's plans are for assessing the full implications of Sir John Chilcot's report as a whole, whether they will be setting out the general improvement in decision-making, and when this might be achieved by.

In his opening statement, my noble friend referred to the suggestion made by my noble friend Lady Smith of Basildon that an ad hoc Cabinet committee be established in these circumstances. I, too, would appreciate the Minister's saying whether he thinks that is worth consideration.

Sir John also concluded that, despite explicit warnings, the consequences of the invasion were underestimated; the planning and preparations for Iraq after Saddam Hussein were wholly inadequate.

[Lord Collins of Highbury]

I, too, would like to refer to the contribution of the noble Lord, Lord Williams. The response was absolutely shocking—one could say minimal—but, in the light of the noble Lord's contribution, it was worse than minimal, and in some respects completely counterproductive. It was, in a way, asserting a macho power of America—to be seen to be in control—which ultimately led to anarchy. Of course, our contribution was no better—and I accept the points noble Lords have made in this debate—but that is the key lesson for us to learn. Our response cannot be simply humanitarian; it also has to look to our alliances, including NATO. My noble friend referred to NATO's possibly undertaking joint exercises so that all nations in the alliance are better prepared for post-conflict planning. I certainly look forward to hearing the Minister's response on this.

I also welcome what the noble Earl, Lord Howe, said in his opening remarks about cross-departmental work. As shadow spokesperson for foreign affairs and international development, my view is that, wherever we are involved in conflict resolution, it is fundamental that we are also involved in building sustainable states and ensuring development, which is key to avoiding future conflict.

While we contemplate where we went wrong and learn the lessons for the future, we must not ignore the present, as the right reverend Prelate said. The protection of civilians and respect for their rights in accordance with international law must be maintained by all actors in the conflict and by all agencies. Will the Minister say what diplomatic processes the Government are engaged in to support the Iraqi Government in building an inclusive state? For me, human rights are fundamental, and an attack on human rights is a justification for intervention. We are seeing attacks on not only the rights of women and children but on religious freedom and on other minorities. I am incredibly proud to be a supporter of the Iraqi lesbian and gay movement, which is in a very fragile position but is at least being supported by this Government, which I very much welcome. We need to ensure that the Government continue to provide financial support not just on the basis of need or status, and not linked to political objectives. We need to focus on that humanitarian response. As the right reverend Prelate said, we need to encourage others to give as well. We must lead by example.

This has been an incredibly important and moving debate. I have no doubt that the work of Sir John Chilcot, which I, too, praise, will continue to play a part in the continuing debate and in the lessons we learn. Even though the debate has been lengthy, it has not covered all the issues. One thing we have learned is that there were no lies or deceit and no secret deal with Bush. There was a messy process surrounding the legal advice and the role of the United Nations, and mistakes were made in intelligence, but there was no improper interference. There was bad planning for the aftermath and many mistakes and shortcomings, alongside some successes.

I conclude by echoing what the noble Lord, Lord Dobbs, said: if we are to make progress, it cannot be about recriminations. It has to be about reconciliation.

8.38 pm

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): My Lords, this has been an excellent, if sobering, debate and I thank all those who have spoken. Once again the House has shown its wealth of experience and expertise. I fear I will struggle to do justice to many of the eloquent speeches we have heard, but I will try.

I start, as so many noble Lords started, by expressing my condolences and sympathy to those who lost loved ones in Iraq and to those who still bear the scars of the conflict today. Whatever our views on the conflict, we can surely all agree on one thing: the bravery and courage of British service men and women in Iraq was exemplary. They did their duty and, as my noble friend Lord Howe said, their record is not the slightest bit stained by the issues that the report highlights. We all owe it to those who served, died or were wounded in Iraq, be they servicemen or civilians, British, Iraqi or any other nationality—as the noble Lord, Lord Judd, said—to learn the lessons from this conflict.

In response to the point that the noble Lord, Lord Collins, just made, I can say that the National Security Adviser is undertaking a process to learn lessons. The new Prime Minister will want to decide if she wants a formal response and what form that response would take. At this point, I cannot go beyond that.

It has taken years for the inquiry to complete its work. We need to learn the lessons from that process itself, including on its remit, the process of Maxwellisation and the machinery that supported it, which was mentioned by my noble friend Lord King and the noble and learned Lord, Lord Morris of Aberavon. There can be little doubt that the report is forensic, it is balanced and, above all, it has avoided any sense of a whitewash. For that, we should all be thankful to Sir John and the other members of the inquiry including the late Sir Martin Gilbert.

The inquiry concluded that mistakes and failings were made that could have been avoided at the time, for which hindsight is no defence. Some of these mistakes could, possibly, be seen as matters of judgment. Those in office at the time will need to account for their actions. I am not going to comment on any of the criticisms directed at individuals in the report. However, as the noble Lord, Lord Touhig, reminded us and as said by the noble and right reverend Lord, Lord Harries, we must temper our criticism by bearing in mind that Ministers were seeking to serve the national interest and were not driven by ignoble motives. However, as a number of your Lordships have said, many other mistakes were clearly failings of the machinery of government, or a breakdown in the ethos of government, where due process was not observed or did not exist and where decisions were made without the opportunity to debate, formally and privately, the evidence to support a course of action or the evidence on which an approach was based.

My brief experience of government has taught me that while the processes and ethos of government—the committees, minutes, impartial advice, collective responsibility, all these things—may not set the pulse racing, they are the rock on which good governance rests, a point made by the noble Lord, Lord Butler.

These processes are more important than ever in our 24/7 world, to which the right reverend Prelate the Bishop of London referred. Politicians, whatever their party, must maintain this critical hidden wiring of our constitution. As the late, great Sir Michael Quinlan put it:

"Governing parties are more than just tenants of the constitutional structure; they have a right … to modify it … but they remain less than owners; they are more like trustees, with an obligation to maintain the structure and hand it on to successors in good working order".

We shall never perfect the system of government. I am certainly not claiming that it has been perfected by the Conservatives. However, this report is a salutary tale of what happens when some of the basic concepts and processes that underpin collective responsibility are ignored and when not enough opportunity is given to challenge and to debate a policy or approach.

Lurking beneath so much of what has been said in the last few hours is a simple, big question to which the noble Lord, Lord Owen, so eloquently alluded. It is this: what has been done to learn the lessons from Iraq, to ensure that we do not repeat the same mistakes? I do not quite share the pessimism of the noble Baroness, Lady Tonge, that we never learn the lessons of our mistakes. We must surely try to learn, and we are trying to do so.

Before I talk about specific changes that we have made to the machinery of government, I have a word to say about culture. We all know that the machinery of an organisation might be perfect on paper, but if the culture—that is, how people behave, the people to whom the noble Lord, Lord Judd, referred—is wrong, the machinery and all the those pretty organigrams with which one is presented are not worth a jot, a point well made by my noble friend Lady Neville-Jones. As the noble Baroness, Lady Morgan, said, good processes do not guarantee good decisions. Nor do they guarantee good behaviour. We need a culture of government where politicians and, crucially, civil servants and service personnel can challenge consensus. In the old adage, Ministers and advisers need to be able to speak the truth unto power and have the confidence and ability to challenge those above them without any qualm.

While preparing for the debate today, I came across something my grandfather said when he was head of the Civil Service back in the 1940s. I hope noble Lords will forgive me for quoting this; I do so merely because he put it much better than I ever could. He said:

"The whole training you have in the Civil Service leads you, when you tackle a problem, first of all to direct yourself to getting the facts: you are given a statement and you say, 'Is this really so, why is it so, and what evidence does it rest upon?'; and you check it and counter-check it and you say, 'I wonder whether this is really true, let us ask somebody who has got a different angle of approach to it'; and then you look to see what the different consequences of it are; and finally you are in a position to put something up to your Minister which is really pretty hard boiled as far as the facts and probable consequences are concerned".

I would argue, although of course I am biased on this point, that that is the culture we want. We need advisers to present Ministers with hard-boiled facts and arguments, however unpalatable they might be. And it is not enough simply for us politicians to utter such words; it falls to politicians to create an environment in which such a culture can thrive, in which those politicians welcome challenge and provoke it themselves. That requires a framework that encourages debate and deliberation.

That brings me back to the machinery of government. At the core of the Government's response is of course the National Security Council, a Cabinet sub-committee chaired by the Prime Minister. As my noble friend Lord Howe said, it is a formal, dedicated structure for collective strategic leadership on national security and crisis situations, providing an opportunity not simply to share and assess information but to challenge policy and ideas. A number of your Lordships have referred to the NSC, and I would make one big point, which was referred to by the noble Lord, Lord Hunt, about process. There are regular meetings of all key departments and agencies; experts who are empowered to give their advice; minuted conclusions; and a National Security Adviser, with a strong team, who is responsible for ensuring that decisions are implemented and relevant departments are briefed. Those simple but critical aspects help to address many of the basic failings that the inquiry identified in the machinery of government and, specifically, address many of the failings identified by the report regarding the assessment of the legality of any proposed action, the intelligence on which decisions are made and the Government's preparedness for action. Entrenching these processes is one—admittedly, just one—way of avoiding the mistakes set out in the report.

I shall say a brief word about each of them. First, on legal advice, as the report says, the Government of the day decided that there was a legal basis for UK participation in the war. The inquiry did not take a view on whether the war was unlawful and I am not going to revisit that issue. However, as has been remarked, the report stated that the legal process was "far from satisfactory", a point mentioned by the noble Lords, Lord Campbell, Lord Morgan and Lord Thomas of Gresford. Again, the NSC has helped us to rectify that. Since its creation, between 2010 and 2015 the Attorney-General was invited to attend NSC meetings when decisions on conflict intervention were under consideration. From 2016 the Attorney-General has become an NSC member in his own right and is therefore privy to all NSC discussions relating to conflict as well as other national security issues.

Next I shall consider the assessment of intelligence. As the noble Lord, Lord Butler, who speaks with great experience on these issues, said, despite the criticisms of the intelligence services in the report it is always important to remember that intelligence, if used properly, is a vital tool. We see examples throughout history, such as the use of Ultra to break the German Enigma codes in World War II or, more recently, in the field of counterterrorism both in Northern Ireland and against Islamist extremism. The UK faces constantly evolving threats, and the work of the intelligence and security services remains critical to our national security.

That said, when assessing intelligence we must not succumb to groupthink, to which my noble friend Lady Neville-Jones and the noble Lord, Lord Beith, referred, and the noble Lord, Lord Blunkett, spoke very eloquently about this. The review in 2004 by the

[Lord Bridges of Headley]
noble Lord, Lord Butler, led to a systematic overhaul of the UK's intelligence machinery. Today, although we are not complacent, there are more robust measures in place to ensure that intelligence is used appropriately and is challenged in the right way. There is now strong, independent oversight of the intelligence community. For example, the post of professional head of intelligence analysis was established to advise on gaps and duplication in analyst training and on the development of analytical methodology across the intelligence community. Crucially, the JIC chairman is appointed in accordance with the criteria of the noble Lord, Lord Butler, that the chair should be,

"someone with experience of dealing with Ministers in a very senior role, and who is demonstrably beyond influence".

On top of this, the Secret Intelligence Service has appointed a senior officer to validate and oversee the quality of human intelligence sources. Furthermore, at the beginning of every NSC meeting, the JIC chairman provides JIC assessments so that the NSC knows the basis of the intelligence we have at our disposal. Clearly, we will reflect on the Chilcot recommendations very carefully and identify areas where we can go even further. Some new proposals are already under way—for example the Investigatory Powers Bill, which will introduce an even more robust safeguards regime for the intelligence community.

However, critical to assessing options for action and responding to challenges is the preparedness of our Armed Forces. The noble and gallant Lord, Lord Craig of Radley, brought out well the way in which technical advances and the constant demands of the news cycle make the responsibilities of the commander ever more complex. Today more than ever, our Armed Forces and those commanders need to be properly funded, and to have a robust means of planning and the right equipment.

First, on funding, it is worth noting, as my noble friend Lord Attlee said, that the report found the Government's decision to take part in military action against Iraq was not affected by consideration of the potential financial costs to the UK—either of the invasion, or the post-conflict period—and that the arrangements for funding urgent operational requirements and other military costs worked as intended and did not constrain the UK's military ability to conduct operations in Iraq. However, as my noble friend Lord Howe said, the coalition Government addressed the £38 billion funding shortfall in 2010 and this Government have committed to meeting the NATO pledge to spend 2% of GDP on defence every year this decade.

Next, I turn to the subject of equipment, which the noble Lord, Lord Tyler, and my noble friend Lord Attlee also spoke about. While I do not wish to sound complacent on this point either, progress has been made to address some of the failings that have been recognised. Since 2010, the MoD has implemented fundamental reforms to its structure and management, thanks in large part to my noble friend Lord Levene's defence reform review. It is now a simpler and more cost-effective organisation but, crucially, one where the focus is now unremittingly on military capability. The MoD has strengthened the urgent operational requirements process to better meet specific operational needs. Where commanders on the ground identify an issue, it can address any equipment issue quickly and effectively.

I turn now to stabilisation and post-conflict work. As my right honourable friend the Prime Minister said last week, fighting a war can sometimes be easier than building peace. Again, there are important lessons to be learned about what went wrong in Iraq, as the noble and learned Lord, Lord Morris of Aberavon, and my noble friend Lord Jopling said. The report highlighted the need not simply for better and timely planning across government, but for a means to assess progress and adapt plans in the face of unexpected challenges.

With that in mind, we have now brought the stabilisation unit under the National Security Council. It produces joint assessments of conflict and security to inform NSC strategies as well as departmental and cross-government programmes, so we are better equipped to plan for post-conflict situations. Part of that, as my noble friend Lord Carrington of Fulham said, is understanding the complexity of other cultures, especially across the Middle East. On top of that, last year we created a dedicated Conflict, Stability and Security Fund. With £1 billion a year, it can support the national security strategy and individual departments' needs. Furthermore, civilians in the military now routinely train, plan and work together. DfID officials now attend MoD training courses for senior military personnel and its advisers participate in military planning exercises.

The noble Lord, Lord Touhig, made an interesting point about how we might conduct post-conflict planning with other nations and bodies—a point I am sure my noble friend will mull over. As for our support in Iraq today, the right reverend Prelate the Bishop of London asked about support for charities on the ground. The UK is funding local Iraqi NGOs via the Iraq Humanitarian Pooled Fund to support those in need, including refugees from Fallujah. Through the CSSF we are contributing £6 million to help the Iraqi Government to stabilise areas liberated from Daesh. In response to the question from the noble Lord, Lord Williams, Daesh is now on the back foot, having lost about 45% of the Iraqi territory it once held. On top of the support that I have mentioned, the Government are making a significant contribution to the $3.6 billion economic support package announced at the G7 summit in Japan.

I should like to write to the noble Lord, Lord Wright, on the questions that he raised about Syria. However, I can say that the transition to a more inclusive political system has remained the UK's primary objective. The UK has supported civilian operational government structures in liberated areas of Syria, providing real alternatives to Assad and helping the conditions for political transition.

I am very conscious that one cannot do justice to a report of this size, nor the contributions made in today's debate, in a few short minutes. Although we have made progress in addressing some of the failings identified by Sir John, that process must not stop. There is always more that we can do to improve how decisions are made and implemented. Complacency is the enemy of good government.

More than that, we owe it to those who put themselves in harm's way in order to protect us and stand up for the values we cherish never to stop asking: how can we do things better? Change we have and change we must, but we should desist at all costs from drawing the wrong conclusions from what the inquiry found. As many of your Lordships have said, the decision to go to war in Iraq shook people's trust in politicians to its core. The bloodshed and chaos that followed led people to question our nation's role in the world.

We should not forget that those who serve as politicians and civil servants and in our Armed Forces are, in all but a minority of cases, motivated by a simple desire to serve our country and help to improve the lot of others. Today more than ever, if we are to improve our lot, we must continue to play our part in world affairs. As a number of your Lordships, such as the noble Lords, Lord Soley and Lord Jay, said, not intervening can have serious and disastrous consequences. Learning the lessons from Iraq does not mean pulling up the drawbridge—quite the reverse. We must engage, make our voice heard and continue to do our bit.

Motion agreed.

House adjourned at 8.57 pm.

Grand Committee

Tuesday 12 July 2016

3.30 pm

The Deputy Chairman of Committees (Lord Geddes) (Con): My Lords, it is now 3.30 pm and the Grand Committee is in session.

Telecommunications Restriction Orders (Custodial Institutions) (England and Wales) Regulations 2016

Considered in Grand Committee

3.31 pm

Moved by ***Lord Keen of Elie***

That the Grand Committee do consider the Telecommunications Restriction Orders (Custodial Institutions) (England and Wales) Regulations 2016.

Relevant document: 4th Report from the Joint Committee on Statutory Instruments, 3rd Report from the Secondary Legislation Scrutiny Committee

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, the draft telecommunications restriction order regulations provide that the National Offender Management Service—NOMS—and other specified law enforcement bodies may apply to the civil court for an order requiring mobile network operators to prevent or restrict the use of communications devices, including mobile phones, by persons detained in custodial institutions.

The use of mobile phones by prisoners is on the increase. In 2013, NOMS recovered an astonishing 7,451 mobile phone handsets and SIM cards from its estate. In 2014, it seized a record 9,745 devices. That is an average of over 26 handsets and SIM cards seized per day, every day. If these numbers alone are food for thought, then the range of serious crimes committed by prisoners, all enabled by their use of mobile phones, is truly sobering. Prisoners have been convicted of an array of serious organised crimes, all underpinned and enabled by their access to and use of mobile phones. These include: arranging murder; importing automatic firearms into the UK from Europe; smuggling huge shipments of class A drugs from South America; orchestrating the supply of recommissioned firearms across London; controlling the supply and distribution of class A drugs across the UK; two separate and truly audacious prison escape plots—the list goes on. The use of mobile phones by prisoners does not just help them continue their offending in prison but threatens prison security as well. Unauthorised mobile phones are strongly associated with drug supply, violence and bullying inside custodial institutions.

NOMS uses a range of effective passive and active security measures to stop mobile phones getting into prisons and to prevent their use when they do, but the fact remains that it is seizing more mobile phones than ever. The problem is growing and, I say, will continue to grow unless we add to and strengthen the powers that prevent unauthorised mobile phone use. It is a criminal offence for prisoners to possess or use a mobile phone, but because of the relatively small size of handsets and SIM cards and the way prisoners can hide and move these around the prison estate, it is not always possible to take possession of these devices. There is a clear need for new, cost-effective measures to prevent the use of mobile phones which do not rely on first taking possession of the device—powers which allow mobile phones and SIM cards to be put beyond normal use remotely and effectively. These draft regulations achieve those aims.

NOMS or other law enforcement bodies will apply to the county court for a telecommunications restriction order. If the court is satisfied that those devices specified in the application are in use inside a prison, it will order the mobile network operators—MNOs—to take whatever action the order specifies to prevent or restrict the use of those devices by prisoners. I note in passing that each mobile phone has a unique identifier and, therefore, irrespective of the SIM that has been employed, once an order is obtained in respect of the mobile device, it will not be useable inside the prison estate. In practice, the order will involve the MNOs blacklisting the handsets—which prevents the handset from connecting to the mobile network—and disconnecting the SIM cards from their mobile networks. A disconnected SIM card will not work in any handset. These actions will be completed within a maximum of five working days. This quickly puts the mobile phone beyond normal use, without the need to take possession of the handset or SIM.

It may be useful if I summarise the main provisions in the draft regulations. These draft regulations confer on the civil courts powers to compel mobile network operators to disconnect mobile phones and SIM cards that are found by a judge to be in use inside custodial institutions without authorisation. There is no requirement to take possession of the mobile phone first. They provide the National Offender Management Service and other law enforcement bodies with a flexible, cost-effective measure which will add to and strengthen measures deployed to tackle unauthorised mobile phone use in prisons. They will provide that only a judge can order the blacklisting of handsets and the disconnection of SIM cards found to be operating inside prisons. They will protect law enforcement's capability to disrupt and prevent offending in prisons using covert techniques by providing for court hearings to be held in private, and for non-disclosure of evidence beyond parties to the proceedings. In some circumstances—and only if the court is satisfied that it is not in the public interest—some sensitive evidence may not be disclosed to parties to the proceedings.

The regulations will enable the applicant for a telecommunications restriction order to inform the mobile network operator to remove the terms of a court order if an error is made and a handset or SIM card is incorrectly blacklisted or disconnected, without the need to return to court to vary the order. This safeguard will make sure that any mistakes are quickly put right and that anyone affected by an error can be reconnected as soon as possible in a matter of days, minimising as far as possible the impact of an error on anyone wrongly affected by a TRO. As an additional

[Lord Keen of Elie]
safeguard, and to make sure that there is independent and transparent scrutiny of these provisions, the use of the draft telecommunications restriction order regulations will be overseen by the proposed Investigatory Powers Commissioner when the draft Investigatory Powers Bill receives Royal Assent. I commend this order to the Committee and beg to move.

Lord Kennedy of Southwark (Lab): My Lords, as we have heard from the noble and learned Lord, Lord Keen, the order before us today gives an additional power to disrupt the use of illegally held mobile phones in the prison estate by way of a telecommunications restriction order, which requires the telecommunication provider to prevent or restrict the use of communication devices by persons detained in custodial institutions.

I very much agree with the comments from the noble Lord, Lord Ramsbotham, contained in Appendix 1 of the report from the Secondary Legislation Scrutiny Committee. The option to block mobile phone signals seems to me a far simpler and more effective option available, and it seems odd that that was dismissed out of hand largely, it appears, on the grounds of cost. Clearly, there is a serious problem and action needs to be taken. What is proposed here is better than where we are at present, but it is cumbersome—new phones or SIM cards risk being smuggled in, and a constant battle may take place to identify a new device or number so that another application can be made for a telecommunications restriction order. It does not completely solve the problem. As I said, it is cumbersome. It will require multiple applications to court on a regular basis and the more effective option has been ruled out.

As we have heard and read in the papers, mobile phones held illegally in prisons have enabled serious crimes to be committed by prisoners, including the importation of automatic firearms, the distribution of drugs, the sale of firearms, planned escapes and the harassment and intimidation of witnesses. With a list like that, I think the case for a blanket ban, through the use of blocking devices, is compelling. Can the noble and learned Lord tell us what review processes are going to be in place to evaluate this scheme and whether the blocking devices are off the table for good, or is it something the Home Office will reconsider at some point in the future? Although I prefer the blocking option, I fully support the order before us today.

Lord Rowlands (Lab): My Lords, I have had three privileges in my life. I have had the privilege of serving in every Parliament for the last 50 years. I have also had the additional privilege—the most recent one—of being a member of the Joint Committee on Statutory Instruments, and it is in that context that I rise to speak. I refer in particular to that part of the report in which our committee reported on the use of the statutory instrument.

Over the years that I have been in both Houses, these were all too familiar words:

"Regulations … may … make incidental, consequential, supplementary or transitional provision".

Both Houses have warned Ministers and departments over the years not to use these generalised and imprecise words to promote regulations of importance and significance. Our own committee made that very point in the eighth report of 2008, yet here we are in 2016 with Regulation 8 being promoted through these imprecise and general words.

I remind the Committee what Regulation 8 seeks to establish. It will give the courts the power to order that some or all documents can be withheld and prevent a party to the proceedings from having access to such information. Who would deny that that type of restriction is both important and significant? Who would claim that this is just a consequential, incidental, supplementary or transitional matter? If the Government intend to promote Regulation 8 on that basis, which of those applies? Is it incidental? It cannot be, surely. An instrument which will restrict access to information for parties in a hearing is certainly not incidental. Is it consequential? No, how can it be consequential? Is it supplementary? Is the Minister going to rest his case on the basis that this is just a mere supplement? An instrument of this kind, leading to the possible restriction of parties' access to evidence in the proceedings? That cannot be supplementary. On what possible basis can the Government promote Regulation 8 as regulation that is incidental, consequential, supplementary or transitional?

The Government's case is even more feeble and flimsy when one goes back and looks at the parent Act. The Act stipulates, in considerable detail, in Sections 80(3) and (4), the matters that should be subject to regulations. Section 80(3) lists some seven matters that must be considered in regulations, while Section 80(4) lists six that may be. Some 13 matters are specified in the two subsections, but what is not in them is the issue of the power to give the courts the right to withhold evidence. Why is that not there? This is an important issue. The 2015 Act specifically listed the kinds of issues that should be dealt with and addressed in regulations, but the important one that is now being brought forward, of withholding evidence, was missing.

Why was it not included in the list in the parent Act? There must have been some debate in the department about it, or among Ministers about such a big issue. Why was it left out? Why was it excluded and why is it now being brought in? Was it an oversight? Did they forget that this was going to be a big issue? If so, they are now trying to remedy an omission or an oversight. I want to find out from the Minister why and how an important issue such as this was left out of the parent Act and is now being brought forward and promoted under this raw, general and imprecise regulation. We deserve answers on this mysterious issue.

3.45 pm

I am not arguing the case against the issue of withholding evidence; it is about the process by which the Ministers, the Government and the department are trying to achieve it. If we are to use this regulation now, why should we not have done so in the first place? Why should a loose, imprecise regulation, which should always been used for minor, not major, issues, be promoted in the way it has? The Joint Committee sought to address that in its report, in which it said:

"The Committee draws the special attention of both Houses to these draft Regulations on the grounds that in one respect there is a doubt as to whether, if made, they would be *intra vires*".

Does the Minister agree with the important conclusion of our committee? This is not a nit-picking issue but rather fundamental.

Lord Keen of Elie: I am obliged to noble Lords.

I will first address the matters raised by the noble Lord, Lord Rowland. I am aware of the report from the Joint Committee. The points made by the committee in its report were not raised with the department before the report was published. However, the Home Office has given careful consideration to this question and its position remains that Regulation 8 is intra vires. Section 80 of the Serious Crime Act 2015 gives power to the courts to make a TRO, and matters such as disclosure, costs, appeals and so on are all supplementary to that process—they do not have to be specified. I acknowledge that the words "supplementary" and "incidental" are broad, but they are broad for that reason, so that they can embrace these issues. In these circumstances, it is the view of the Home Office that the provisions made in Regulation 8 are supplementary to the primary or principal business of Section 80 of the Serious Crime Act 2015, and that remains our position.

Lord Rowlands: But surely, when one reads the list in Section 80, a regulation which allows a court to withhold evidence from a party to proceedings is more significant and important than even those in Section 80. Why was it not at least included in the original Act in those sections? I suggest to the Minister and the Committee that it is quite serious. If this precedent goes through, government departments will be able to use this loose, imprecise regulation to introduce the most wide-reaching changes by regulation, which were not included in the original Act. A quite fundamental point is at stake here.

Lord Keen of Elie: I note what the noble Lord says, but it is the view of the Home Office that these provisions are simply supplementary to the principal purposes of Section 80. The 13 examples that are listed are not conclusive or exclusive in that regard. However, I will undertake to write to the noble Lord further to explain our position with regard to Section 80 if he wishes me to do so.

Lord Rowlands: The Minister could reply to the Committee.

Lord Keen of Elie: I turn to the points raised by the noble Lord, Lord Kennedy, with regard to the observations made by the noble Lord, Lord Ramsbotham, at an earlier stage, and in particular the stated preference for blocking technology to be fitted in prisons, as opposed to the use of the sort of technology that is contemplated under the present proposed regulations. NOMS makes use of blocking technology in its estate and is committed to investing more in this area. However, while the technology is effective, it is extremely expensive as an option; it is estimated that the cost of employing it over the entire prison estate would be in the region of £300 million, which is massively in excess of the costs anticipated with regard to the provision of TROs—therefore, there is a real cost issue there. It remains the position that blocking technology is used within the estate and NOMS has committed to invest more in this area, but it will take time. On the employment of blocking technology, it is not just the cost of installation, but the cost of maintaining it in each wing of every prison is also considerable and has to be taken into account. That is why NOMS has adopted the position that these regulations should be employed and believes that TROs are the way forward for the immediate future.

Once commenced, the new powers will add to and strengthen the ability to prevent and disrupt offending behind prison walls. That is a key pledge in our serious and organised crime strategy and part of the Government's overall commitment to tackling serious crime. We are working towards a commencement date for the regulations in England and Wales of July 2016. I therefore hope that this Committee will see fit to approve the draft regulations.

Motion agreed.

Criminal Justice Act 1988 (Offensive Weapons) (Amendment) Order 2016

Considered in Grand Committee

3.51 pm

Moved by ***Lord Keen of Elie***

That the Grand Committee do consider the Criminal Justice Act 1988 (Offensive Weapons) (Amendment) Order 2016.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, the order before us today adds zombie knives, zombie killer knives and zombie slayer knives to the list of offensive weapons by amending the Criminal Justice Act 1988 (Offensive Weapons) Order 1988.

The purpose of the order is to maintain public safety. Restricting the supply of weapons which can be used in violent crime or to create a fear of violence is a matter of public concern, which is why the Government are taking this action. Before setting out further details about the order and what action the Government are taking, I will briefly explain why it is necessary to tackle zombie knives.

We are concerned about the availability of these weapons, which can be purchased for as little as £10, have an aesthetic appeal to young men and have no practical use. In 2015, Stefan Appleton, a young man of 17, was murdered with a zombie knife marketed as a "renegade zombie killer machete/head decapitator".

The Government believe that although the number of sales is relatively low, these weapons have a disproportionate effect because their appearance both creates a fear of violence in law-abiding members of the public and glamorises violence for those to whom these types of knives appeal. The police advise that

[Lord Keen of Elie]
they are often used as status symbols by gangs in videos inciting violence, and have asked that they are banned.

Unlike other types of knife, zombie knives have no legitimate purpose. They are designed for the purpose of violence and creating a fear of violence, and the way they are marketed, using names such as "headsplitter", "decapitator", "skullsplitter", "chopper" or "executioner", clearly demonstrates the purposes for which they are intended. Many of the knives are also painted in a way that suggests blood on the handle or blade. These knives pose a danger to the young men themselves and to wider society.

With that background in mind, I turn to the details of the order. Under Section 141 of the Criminal Justice Act 1988, it is an offence to manufacture, sell, hire, offer for sale or hire, or expose or possess for the purposes of sale or hire, a weapon specified in an order made under that section. The importation of any such weapon is also prohibited. The offence carries a maximum penalty of six months' imprisonment.

The order does not provide for the possession of these weapons to be a criminal offence, but the possession of an article with a blade or point in a public place or school premises without good reason or lawful excuse is a criminal offence under Sections 139 and 139A of the Criminal Justice Act 1988, as is the possession of an offensive weapon in a public place by virtue of Section 1 of the Prevention of Crime Act 1953.

The Government want to add zombie knives to those weapons that are prohibited by order. This will be achieved by using the order-making powers in Section 141(2) of the Criminal Justice Act 1988 to add these knives to the list of offensive weapons to which the section applies. These weapons are defined as:

"the weapon sometimes known as a 'zombie knife', 'zombie killer knife' or 'zombie slayer knife', being a blade with … a cutting edge … a serrated edge; and … images or words (whether on the blade or handle) that suggest that it is to be used for the purpose of violence".

I hope noble Lords will agree that this order should proceed. It will prevent these weapons being used in violent crime or to instil a fear of violence. I therefore commend the order to the Committee and I beg to move.

Lord Kennedy of Southwark (Lab): My Lords, I had never heard of these weapons before I looked at this order a couple of days ago. The descriptions in the Explanatory Notes and impact assessment are truly dreadful, and I am grateful to the Minister for showing me a picture of one of these knives a few minutes ago. I am very happy to support a complete ban on the manufacture, import, sale, hire, and offer for sale or hire of these weapons. The names—zombie knives, zombie killer knives and zombie slayer knives—are just dreadful.

The impact assessment makes it very clear that the benefits outweigh the costs, even in simple monetary terms, but what we are talking about here is not just money but serious injury to human beings and the killing of human beings with these awful weapons. There is no monetary figure you can put on that. If one life is saved or one serious injury prevented by introducing this ban, it will be a step well worth taking, and I am very happy to support the order.

Lord Keen of Elie: I am most obliged to the noble Lord. As he indicated, these weapons have no legitimate purpose and yet they have an appeal to vulnerable young people. Therefore, it is important that they should be added to the list of banned weapons.

Motion agreed.

Misuse of Drugs Act 1971 (Temporary Class Drug) Order 2016

Considered in Grand Committee

3.57 pm

Moved by ***Lord Keen of Elie***

That the Grand Committee do consider the Misuse of Drugs Act 1971 (Temporary Class Drug) Order 2016.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I thank the Advisory Council on the Misuse of Drugs for its expert advice, which informed the order we are considering today, which was laid in Parliament on 15 June.

If the order is made, seven methylphenidate-based compounds, as well as their simple derivatives, will be subject to temporary control under Section 2A of the Misuse of Drugs Act 1971 for a further 12 months, thereby maintaining the offences concerning their production and distribution. These compounds were controlled for 12 months under a previous temporary class drug order, which expired on 26 June 2016. The new TCDO came into effect on 27 June and will remain in effect for 12 months, subject to Parliament's approval.

We are seeking to extend the temporary control following a request from the ACMD for additional time to strengthen its evidence base. This will give it the opportunity to consider the most recent data, including data from festivals, drug-related deaths and information from the drugs early warning system. The additional 12 months will allow the ACMD to consider whether these drugs should be made subject to full control under the Misuse of Drugs Act 1971. The ACMD notes that the initial TCDO has had a positive effect. Police Scotland has reported that in Edinburgh, where there had been reported injecting practices and an outbreak of infections involving some of these substances, there has been a reduction in harms.

These seven compounds are thought to be highly potent stimulants, similar to methylphenidate, a class B drug. One of these substances, ethylphenidate, had previously been marketed online as an alternative to cocaine. Their harms are reported to include anxiety, paranoia, visual disturbance, chest pain and a strong urge to re-dose. Other reported harms include anti-social and violent behaviour, loss of fine motor control, a high risk of bacterial infection and local tissue damage from injecting.

The order enables UK law enforcement to continue action against traffickers and suppliers of temporary class drugs while the ACMD gathers evidence. The order also sends out a clear message to the public,

especially to young people, that these drugs and the brand names associated with them carry serious health risks. We know that the change in the law cannot on its own deter all those inclined to use or experiment with these drugs. However, we expect the TCDO to continue to have a notable impact on their availability, and in turn on demand for them, as we have seen with other substances controlled under a TCDO.

We know that legislation alone is not enough and continue to take action across education, prevention, treatment and recovery in order to reduce harmful drug use. We will continue to update our public health messages to inform the public of the harms caused by these substances, using the latest evidence gathered from early warning systems. In these circumstances, I commend the order to your Lordships.

Lord Kennedy of Southwark (Lab): My Lords, as we have heard, the order seeks to renew a temporary control order on the substances listed in the paper for another year, while further work is undertaken and a decision is made on what should happen in the long term. I have no issue with the order whatever. All I would say is that I hope that in granting this temporary ban for another year, we are able within that time to gather the information that the council has asked for, so that it can come back to us to recommend a permanent ban. Clearly, these drugs are harmful to health, and it is important, as the noble and learned Lord said, that education, treatment and advice are made available to young people so that they understand the harm that they can do to themselves and to others by taking them. I am happy to support the order and hope that sooner rather than later we will be able to deal with this issue permanently.

Lord Keen of Elie: I am obliged to the noble Lord. I should explain that generally speaking the council has to be helped to make a recommendation about six months before the expiry of a TCDO in order for there to be time to transpose the prohibition into the Act itself. It was therefore thought necessary in the present case that there should be an extension. I do not believe that it is anticipated that a further extension will be required, because further evidence of harm has become available and is now being analysed.

Motion agreed.

Petroleum (Transfer of Functions) Regulations 2016

Considered in Grand Committee

4.02 pm

Moved by ***Lord Bourne of Aberystwyth***

That the Grand Committee do consider the Petroleum (Transfer of Functions) Regulations 2016.

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, these regulations transfer certain functions relating to the licensing and taxation of oil and gas from the Secretary of State for Energy and Climate Change to the Oil and Gas Authority. With the recent debates on the Energy Bill—now the Energy Act 2016—no doubt still fresh in our minds, I am sure that most noble Lords will be familiar with the background to the establishment of the Oil and Gas Authority and Sir Ian Wood's review of maximising the economic recovery of petroleum from the United Kingdom continental shelf. However, for the sake of clarity I will outline briefly where we have got to.

The benefit our oil and gas industry has brought to the United Kingdom is not in doubt, with around 43 billion barrels of oil extracted, over £330 billion of taxes paid and many thousands of jobs supported. However, as one of the most mature regions in this global industry, it is now facing new challenges, with remaining reserves increasingly dispersed and more difficult and expensive to exploit. Notwithstanding this and the additional pressures resulting from low prices, there is still great value to be extracted from the North Sea and the continental shelf. The Wood review recommended that delivering on this required a new approach, and the focused attention of a new independent regulator and asset steward.

In response to this, the Government legislated to establish the principle of maximising economic recovery —MER UK—and has set out a strategy to deliver this. Industry and the Oil and Gas Authority are now required to act in accordance with this strategy when going about their business. The authority has also been established as an executive agency of the Department of Energy and Climate Change, and has made great progress. The successful passage of the Energy Bill—now Act—enables it to be set up as a government company and empowered with a broader range of tools to meet the challenge of MER UK, as envisaged by the Wood review.

A central part of the establishment of the Oil and Gas Authority is the transfer to it of essential functions currently exercised by the Secretary of State. Noble Lords may recall that Schedule 1 to the Energy Act provides for the transfer of the majority of these functions, including some relating to offshore oil and gas infrastructure, as well as the licensing of carbon dioxide and gas storage. However, it was decided that certain core functions in relation to petroleum licensing and taxation would not be transferred in that Act, due to the interdependencies with the new devolution settlements for Scotland and Wales, as outlined in the Scotland Act and the Wales Bill currently passing through another place.

Specifically, both those settlements include provision to devolve these functions in the onshore area. This all requires amending the same part of the Petroleum Act 1998. Due to the complexities caused by the sequencing of these pieces of legislation, it was decided that we would transfer these specific functions via regulation under the Energy Act to allow greater flexibility. The regulations before the Committee seek to give effect to this. The rationale for transferring these functions to the Oil and Gas Authority remains the same as for those transferred in the Energy Act; namely, the effective establishment and operation of the Oil and Gas Authority as a regulator and asset steward of the United Kingdom

[Lord Bourne of Aberystwyth]
continental shelf. The only difference in this case is the legislative vehicle by which these functions are formally transferred.

It is worth noting that, as with the functions transferred in the Energy Act, these functions are all currently being exercised by the Oil and Gas Authority in its capacity as an executive agency of the Department of Energy and Climate Change. However, once the authority is established as a government company, it will be legally distinct from the department and, in order to continue to carry out its functions, they will need to be formally transferred to it.

In conclusion, these regulations make relatively minor amendments to legislation governing petroleum licensing and taxation, to enable the Oil and Gas Authority to continue the important work it is doing to regulate the oil and gas sector, and to ensure a smooth transfer of functions to Scottish and Welsh Ministers in due course. I beg to move.

Baroness Jones of Whitchurch (Lab): My Lords, I thank the Minister for his introduction of the order before the Committee today. As he reminded us, this follows the Wood review into maximising the recovery of oil and gas from the UK continental shelf. The Oil and Gas Authority is already established under the Companies Act 2006; its functions have now been extended under the Energy Act 2016, subject to the provision introduced under the Scotland Act 2016 to devolve onshore oil and gas licensing in Scotland. As the Minister reminded us, debate on extending the powers to the OGA was extensively undertaken during the passage of the Energy Bill. At that time, we fully supported the creation of the OGA, with powers to co-ordinate the industry and secure the best outcomes for the next phases of North Sea development. I am sure the noble Lord will also recall the debates on our amendments to the Bill to extend its environmental functions and to give the OGA powers on strategic decommissioning of infrastructure, particularly in relation to the development of carbon capture and storage.

We are happy to agree the order but we would have liked the powers to have gone further. Therefore, I have just one aspect to follow up with the Minister. At the time, all sides of the House appreciated the advantages that would result from the development of carbon capture and storage. However, this technology is largely untested. So does the Minister agree that the OGA's planned licensing role could include research into CCS to develop the technology in the field so that we could benefit from it in the future? Is there a role for the OGA in that capacity?

Lord Bourne of Aberystwyth: My Lords, I thank the noble Baroness for her contribution. She correctly described the structure of the OGA and the fact that it is incorporated under the Companies Act 2006. She is right that the Official Opposition fully supported this aspect of the Bill. She is also right about the importance of carbon capture and storage. We did accept some amendments on CCS, some of which are now in the Energy Act.

The noble Baroness will recall that I suggested the establishment of an advisory committee chaired by the noble Lord, Lord Oxburgh. That is just about at the end of its work. I am seeing the noble Lord, Lord Oxburgh, next week to discuss its findings, of which I have had sight of some of the most important. We will be looking very closely at that advice. We accept the importance of CCS. Indeed, I have been discussing with colleagues in other countries the possibility of collaboration because many countries are further forward than we are on carbon capture and storage; for example, Canada has a very successful CCS plant run on a commercial basis at Boundary Dam, which I believe is in Alberta. Other states are happy to collaborate as well, at least on research and data. I assure the noble Baroness that we see the importance of CCS and are keen to take it forward.

I am very happy to update the House on developments as and when they happen but the important point to watch for is the publication of the advisory committee's report, which I think will be forthcoming, certainly within the next two weeks. I am sure that that will be widely circulated. I thank the noble Baroness for her support.

Motion agreed.

Nuclear Industries Security (Amendment) Regulations 2016

Considered in Grand Committee

4.13 pm

Moved by ***Lord Bourne of Aberystwyth***

That the Grand Committee do consider the Nuclear Industries Security (Amendment) Regulations 2016.

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, I will give some background and explain why we are seeking to make these amendments, which will be an important addition to the nuclear security framework, both while we remain a member of the EU and as our relationship with Europe changes and evolves.

The United Kingdom is highly regarded by the International Atomic Energy Agency and other key international partners in civil nuclear security, and we take our international role in this field very seriously, including with regard to regulation. The draft regulations before the Committee would update the Nuclear Industries Security Regulations 2003. Specifically, they would remove sub-paragraph (i) from the definition of transport in Regulation 2(1), and add references to air transport to Regulation 3(5)(b).

The effect of these amendments is to bring the transport of civil nuclear material by air within the same stringent regulatory framework for security that applies to the transport of such material by land or sea. This means that the independent Office for Nuclear Regulation will have the same oversight and approval function in relation to the security of civil nuclear material transported by air as it has in relation to the transport of such material by land or sea.

There are two main reasons to make this amendment to the regulations. The first is that the United Kingdom is a party to an international treaty, the Convention on

the Physical Protection of Nuclear Material, which was signed in 1980, came into force in 1991 and was subsequently amended in 2005. The convention requires signatories to have in place a legislative and regulatory regime to ensure the security of civil nuclear materials stored or transported in that state. The Nuclear Industries Security Regulations 2003 are the primary means by which the United Kingdom has implemented this obligation under the convention.

When these regulations were first written, the transportation of nuclear material by air was not considered to be an option and so air transport was excluded from the scope of the regulations. As our work on decommissioning has gathered pace, we have revisited our legislative and regulatory regime for ensuring the security of civil nuclear materials and determined that the regime should apply to all potential forms of transport. Making these amendments to the regulations to extend the regulatory regime which exists in the 2003 regulations to cover the transport of nuclear materials by air will help to ensure that the United Kingdom gives full effect to the convention.

This brings me to the second reason for making these changes: our domestic considerations. Amending these regulations will allow us to consider all credible options when planning moves of nuclear material to ensure that we make the right operational decision with regard to both safety and security. Nuclear material can be safely and securely transported by air, and it is right that our regulatory framework facilitates this. Air transport of nuclear material is already an established method of transport internationally; these amendments simply mean that civil nuclear material transported by air from or within the United Kingdom will now be subject to the same regulatory regime with regard to security as transports of such material by land or sea within the United Kingdom.

These regulations will ensure that the independent Office for Nuclear Regulation will be involved with and would oversee the security arrangements for any air movements that take place. As such, they will make the transportation of civil nuclear materials more secure. In practice, this means that the Office for Nuclear Regulation will be responsible for approving transport security statements and transport security plans for all carriers of civil nuclear material by air, as they do for carriers involved in the movement of civil nuclear material by road, rail or sea, which currently take place. In drafting these regulations we have consulted the Office for Nuclear Regulation, which is content with these changes.

On a practical level, these regulations will allow us to better address the challenges we currently face. In late 2015, we began a programme of moves to remove nuclear material from the Dounreay nuclear site in northern Scotland. This programme is of great importance and will help to ensure the long-term safe and secure management and treatment of this nuclear material by storing it in the most appropriate place.

As part of this programme, the Prime Minister announced earlier this year that the United Kingdom Government had reached a landmark agreement with the United States and the European Union on a multilateral swap of nuclear material. Under the terms of this agreement, the United Kingdom will transfer almost 700 kilograms of excess highly enriched uranium from Dounreay to the United States, and in return the United States will send nuclear material to the European Atomic Energy Community, which will be used in the production of essential medical isotopes for use in Britain and European countries. This agreement is ground-breaking and will see nuclear material that we no longer need being exchanged for material that could potentially save many lives.

While we will have to work through the potential implications of Brexit in due course, the importance of nuclear security, as embodied by these amendments, will not be affected. In order to complete this operation in the safest and most secure way, we need to be able to consider all transport options seriously. Without an appropriate regulatory regime, air transport would not be a legitimate option. While we cannot disclose timings or methods of transport that will be used in any future moves of civil nuclear material, the amendments made by these regulations will allow us to consider all potential options.

I sincerely hope that these regulations will be approved, as they will help to ensure that any movement of nuclear material by air is regulated appropriately and carried out securely, and will facilitate the delivery to us of medical isotopes. I therefore commend the regulations to the Committee and beg to move.

Baroness Jones of Whitchurch (Lab): I thank the Minister for his explanation of the order before the Committee. As he has said, the 2003 regulations are to be amended under the powers of the Energy Act 2013 in relation to the security of transporting nuclear material being subject to the oversight and approval of the Office for Nuclear Regulation. This amends the regulations to include transport by air.

Although I am content to approve the order, I have a few questions for the Minister. First, the security of civil nuclear material in transit is a UK obligation under the Convention on the Physical Protection of Nuclear Material. However, as I understand it, the amendments which now apply to nuclear material transportation came into effect on 8 May. If this is the case, it appears that we have been in breach of the regulations for the last two months. Will the Minister clarify whether this is the case?

Secondly, it appears from the Explanatory Memorandum that the transport of civil nuclear material by air is uncommon elsewhere, and the memorandum says that the department is unaware of any private sector or civilian transport providers interested in or capable of securely transporting civil nuclear material by air. It is right that the ONR have proper oversight. I was going to ask if I am right in thinking that such occurrences would continue to be rare, but from what the Minister is saying, that is far from the case. Because of the multilateral agreement which he has outlined, there is potentially going to be quite a considerable amount of air transportation of nuclear material. I understand that he cannot give all the details, but perhaps he could at least give a sense of the scale and proportionality of the potential involvement of air transport.

[Baroness Jones of Whitchurch]

I ask this question because if there are any concerns, they come about from a risk management perspective. In the quadrant of probability and impact, risks from transport by air would be placed in the low probability, high impact quadrant. As noble Lords will know, any air incident is newsworthy; air disruption and atrocities are the favoured target for terrorist groups and nuclear accidents are a major concern for the public. So, addressing the level of the risk, can the Minister say whether the transport of civil nuclear material by air takes place elsewhere in the world? Can he give the Committee any details? If transport by air is being regulated elsewhere, what regulations are applied and how do they compare with the regime here?

If there was an incident, any nuclear fallout from the air would clearly cover a far wider area than would be the case with other forms of transport. Is the Minister satisfied that any contingencies which would have to be implemented have been practised by the relevant authorities and organisations in advance of these changes? While I am on the subject of risk, the noble Lord will know that the issue of normal pension age has been raised by the Civil Nuclear Police Federation, which has argued that the physical and training demands made of its staff should lead to a normal retirement age of 60. I understand that this matter is subject to discussion at the moment and I would be grateful if the Minister could give some information about progress.

Thirdly, can the Minister say whether the transportation of nuclear material by air will be limited to low-grade material only? Will the planes be specifically marked or identifiable such that attention could be drawn to them? Fourthly, what requirements will be placed on the Office for Nuclear Regulation to report to the department on the risks and mitigations that are being taken? Will these regulations be kept under review?

Finally, the Minister will know that the Secondary Legislation Scrutiny Committee, in its 2nd Report of Session 2016-17, asked the department a few questions on the regulations which the committee felt had not been adequately answered. When asked for what purpose air transport would take place, the department merely said that the regulations,

"will allow air transportation to be considered as a credible option".

This perhaps amounts to the answer, "Because we can". Can the Minister shed more light on why and for what purpose air transportation is now being considered?

I hope that the department will talk to the ONR about the very limited circumstances in which this form of transport should take place, given the risks involved. I hope also that the Minister shares my concern about the need for a proper risk assessment.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Baroness for her contribution and for her support, qualified as it was by some quite legitimate questions.

Although the Civil Nuclear Constabulary pensions issue is perhaps a little off-piste in relation to these regulations, I am happy to say a bit about that situation. As the noble Baroness will know, we have sought to set the pensions arrangements for the Civil Nuclear Constabulary in the light of the Public Service Pensions Act 2013, which if I am not mistaken was based on the recommendations in the report of the noble Lord, Lord Hutton, who was formerly a distinguished Labour Cabinet Minister. I am unable to say much more than that because she is probably aware of the fact that the matter is currently sub judice while the unions are challenging the matter in the courts. As I understand it, that is the position.

On the regulations, first I can reassure the noble Baroness that the prime concern for the United Kingdom in these matters is, as always, security and safety. Our reputation for nuclear safety and security both in relation to nuclear plants and in relation to the transport of nuclear materials is, I think, unsurpassed. I can also reassure the noble Baroness—I hope that I did not give a contrary impression, but the trouble in bringing forward such regulations for a specific purpose is that the feeling develops that this must be happening an awful lot, whereas that is not the case at all—this will remain the rarest form of transfer of nuclear materials. Transportation by air will be rare and will certainly be rarer than other forms of transport. However, as she indicated, the regulations probably require us to do this. Therefore, it is anticipated that air transportation does occur. The noble Baroness asked whether other states fly nuclear material. The US certainly does and has appropriate regulations in place.

Whether we have been in breach of the convention is perhaps an open point. The convention is perhaps not totally clear on whether we have to cover air, but certainly as we are envisaging that we might want to transport material by air, obviously we would need to. That is the full consideration behind these regulations: it is to ensure that we have the same very strong security regime for the transportation of civil nuclear material by air as we currently have for transportation by land and by sea. Other states do this, as I have indicated. Are there risks? I suppose the honest answer is yes, but the security and safety regime seeks to minimise those. That is why these regulations are important. Obviously, we study very carefully what the Office for Nuclear Regulation advises us.

The noble Baroness asked for specific examples. I think that I have already given some rather specific examples. She will understand that I do not want to give too many, but I mentioned that we are exchanging nuclear material with the US, which will in return provide us with material for medical isotopes, which are, as the noble Baroness knows, quite vital for life and medical research. I am sure that she welcomed that. I would not want to give too many specific examples, but that is certainly one.

I am not sure whether the planes are readily identifiable. I can only imagine that they are not; I am being reassured that that is the case. She will understand, and indeed she indicated as much, that I cannot go into the operational details of precisely how this is all organised. However, just to reassure her, as under successive Governments, nuclear safety and security both at the plants and in the transfer of materials is very much foremost in our minds. I beg to move the regulations.

Motion agreed.

Pubs Code etc. Regulations 2016

Considered in Grand Committee

4.31 pm

Moved by ***Baroness Neville-Rolfe***

That the Grand Committee do consider the Pubs Code etc. Regulations 2016.

Relevant document: 4th Report from the Joint Committee on Statutory Instruments

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, I shall speak to the Pubs Code etc. Regulations 2016 and the Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016. These orders form part of the implementation of the Small Business, Enterprise and Employment Act 2015. They will come into force on the day after they are made.

Pubs continue to play an important part in the life of this country. They are the hub of local communities in both rural and urban areas, and for many there are few pleasures in life that can compare to a pint, some other drink or, increasingly, a delicious meal with friends in a British pub.

It may be helpful for me to remind your Lordships why we are introducing a statutory pubs code. Tied tenants have for many years argued that their relationship with pub-owning businesses can be unfair. For example, the lack of transparency in reaching decisions on rent can put tenants at a significant disadvantage in challenging increases or negotiating a better rent. Examples are also cited of pub companies failing to meet deadlines or to comply with the contractual processes for the termination of tenancies. After more than 10 years of BIS Select Committee inquiries, Part 4 of the Small Business, Enterprise and Employment Act 2015, which I had the pleasure to take through the House, was brought in to address these concerns. During the passage of the Bill, as some will remember, it became clear in November 2014 that Parliament wished to add the market rent only option to the Bill. That is the option to occupy the pub premises free of tie at market rent. The Government accepted that intent in January 2015. At that stage there was no settled policy on the details of how the MRO process would work. These have ended up accounting for more than half the regulations now before your Lordships—a weighty bundle.

Unfortunately, the tight timetable set down by Parliament contributed to some technical drafting errors in the SIs as originally laid. These have now been corrected and the opportunity has also been taken to add some clarifications to the regulations and to improve the mechanism for assessing what constitutes a significant increase in price for the purposes of triggering the right to request a market rate only option. The Government are very keen to ensure that the code now comes into force as soon as possible. Clearly we regret that it was not possible to meet the May deadline for making the regulations and I am afraid that it will not be possible under the Act for them to have retrospective effect.

The SBEE Act requires us to ensure that the Pubs Code is consistent with the principle that tied tenants of the largest pub-owning businesses are no worse off than free-of-tie tenants and that there is fair and lawful dealing between the largest pub-owning businesses and their tied tenants. At the same time, we have sought to ensure that this takes place without placing undue burdens on businesses. I believe that after many discussions, these regulations now successfully achieve the right balance.

Perhaps I may look first at the processes for the market rent only option and the functions conferred on the Pubs Code Adjudicator to deal with disputes about it. Noble Lords will be aware that this has been an area where, as the Secondary Legislation Scrutiny Committee recognised, the Government have had to reach decisions in the light of often widely varying views expressed through the consultation process. We have sought to balance protections for tenants and obligations on pub-owning businesses. Let me give three examples of how I believe that we have achieved this.

First, the draft regulations provide that the right to an MRO option at rent assessment is not dependent on a proposed rent increase from the pub company to the tenant. This reflects constructive feedback both from your Lordships and from the industry itself that the earlier proposal would have had the unintended consequence of preventing significant numbers of tied tenants from receiving an MRO offer. Secondly, we have also listened carefully to both tenants and pub-owning businesses in finalising the drafting of the significant increase in price provisions. We have, for example, guarded against MRO being triggered simply by a tenant changing their product selection. This has been ensured by stipulating that products must be compared only where they are like-for-like products sold in the same units and based on the same amount sold. Thirdly, we have delivered our commitment in the final March package last year for an investment exception, which at that stage was called the investment waiver. This is important because it is vital for the future of pubs and their tenants that pub owners want to invest in them. In doing so we have taken account of the concerns that were raised during the passage of the SBEE Act that this could become an MRO loophole. Therefore the MRO exception is limited to a maximum of seven years and a minimum investment of twice the pub's annual rent.

The code addresses many other important aspects of the relationship between tied tenants and pub-owning businesses which I would like to draw to the attention of noble Lords. These include the requirement for tenants to receive a parallel tied rent offer to consider alongside the MRO offer and protections for tied tenants whose pub is sold to a non-code pub-owning business. Transparency is essential for tenants and pub owners. Both parties must be fully aware of what is involved and what they are committing to. But transparency must be backed by the enforcement of fair dealing. A tenant who believes that the pub-owning business has breached the code therefore has the right to refer that alleged breach to the independent Pubs Code Adjudicator, who is appointed to enforce code obligations and empowered to award redress. Of course,

[Baroness Neville-Rolfe]
we have already ensured in the primary legislation that the pub company receives sufficient notice—21 days—to put things right before a tenant may go ahead with the referral; and we are deterring frivolous or vexatious referrals by requiring a £200 fee for each case.

I turn now to the Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016 which are modelled on those for the Groceries Code Adjudicator, which noble Lords will remember. The fees and costs provisions largely mirror the arbitration or mediation arrangements in the existing industry voluntary code. Financial penalties are not an aspect of that voluntary code and may be imposed by the adjudicator after an investigation. This is distinct from the arbitration arrangements where the only financial awards are for redress and costs. The regulations specify a maximum penalty of 1% of a pub-owning business's annual UK turnover in respect of investigations.

The adjudicator has complete discretion as to whether he imposes a financial penalty and in what amount, up to the maximum stipulated. The nature and effect of the breaches will inform the exercise of that discretion. Accordingly, I expect the maximum to be applied only in extreme cases for very serious breaches of the code. The adjudicator must consult on the criteria that he intends to adopt in deciding the amount of any penalty he may choose to impose.

I make no bones about the fact that the code is 52 pages long and covers a lot of issues. As anyone who has followed its birth and early years must know, tied pub relationships are multifaceted and not always straightforward. The Pubs Code before you, despite its length, is proportionate and balanced in its approach and will lead to greater prosperity for those who work in our great British pubs industry. I commend these draft orders to the Committee.

Lord Lexden (Con): My Lords, I want to draw attention to some concerns expressed about the Pubs Code etc. Regulations 2016 by the Joint Committee on Statutory Instruments, of which I am a member. The concerns are set out in full in the fourth report of the current Session and I shall touch on the most important of them.

As my noble friend said, the regulations would alter the obligations on pub-owning businesses towards the tenants of their tied pubs. Under Section 43 of the Small Business, Enterprise and Employment Act 2015, the regulations must include provision for a tenant to be offered a market rent-only option. Section 43(6)(c) requires the regulations to provide that option to be offered where there is a significant increase in the price at which a product or service subject to the tie is supplied to the tied pub tenant and where that increase was not reasonably foreseeable when the tenancy was granted.

Regulation 24 among those before us today requires that the market rent-only option be offered where there is a significant increase of that kind irrespective of whether the increase was reasonably foreseeable. Moreover, Regulations 3 to 6 provide that the test of whether an increase in price is significant is to be determined by reference not to the amount by which the particular product or service has increased in price but to the level of increase in price of a category of products or services.

The Joint Committee on Statutory Instruments concluded—the salient paragraphs in the report are 4.9 to 4.17—that the regulations do not comply with the requirements of Section 43 of the 2015 Act in two respects: they do not include the condition of reasonable foreseeability and the test of significant increase is inconsistent with what Section 43 requires. The department has not provided a satisfactory explanation of either of these two divergences from Section 43 and, therefore, the Joint Committee on Statutory Instruments considers that if the regulations are made there is a doubt whether Regulations 3 to 6 and 8 are intra vires. I would be grateful for my noble friend's comments.

Lord Mendelsohn (Lab): My Lords, getting up feels almost like it does at the bell before last orders—I confess that I am insufficiently capable of such a witticism and have to acknowledge my noble friend Lord Beecham for that observation. We welcome the introduction of the Pubs Code etc. Regulations and the Pubs Code (Fees, Costs and Financial Penalties) Regulations.

This has been a very long and drawn-out process, and in fact as I was listening to the Minister I realised that I could mouth half the words of the introduction to her speech because we have been at this for some time. However, I am grateful for all the work that has been done by officials in making sure that we get to this particular place. It has not happened within the timetable that everyone wanted, but it is more important to get the code right than to serve an arbitrary timetable. I will turn to the issues around the timetable in due course.

4.45 pm

One of the most important features of this is that tied tenants have had a particularly difficult time with the pub-owning businesses and the relationship has been fractured for quite some time. This was made considerably worse by the adoption of some rather reckless business models by the pub-owning companies and that has led to the establishment of provisions covering the Pubs Code Adjudicator, so this was done within the context of a worsening situation. As the Minister has said, the construction of the code itself, which comes from the legislation, tries to strike a balance. I want to say at the beginning that while I have a few questions about the statutory instrument, fundamentally our concerns turn on where the balance is struck in relation to the code. The reason for that is the desire not to place undue burdens on businesses while not suggesting that the concerns of tenants are not legitimate.

There are ways in which many businesses are transformed in their method of operation, their businesses processes and even their innovations by regulatory changes. In fact it could even be argued that in many industries, regulatory change has been a much better indicator of productivity than other forms of business reinvention. In this, striking a balance suggests that a

business is static, but as I will come on to later, it is not. As it is established at this moment in time, it is important that the balance is properly struck.

I understand where the Government got to in designing the code and that as far as tenants are concerned, fine-tuning the code is now considered to be more effective with the experience of its operation. So the Government have given a commitment that there will be a review two years after commencement, and I would be grateful if the Minister could give us some idea of what the initial consideration is of what this will cover and how and who conducts it, as well as what reports will be made to and how engagement will take place with Parliament. In addition, I hope that the Minister can confirm that the interpretation issues are now ready to be considered by the Pubs Code Adjudicator and his office. Perhaps she can give some indication of the scope and direction of where they can go and how much they can do in the matter of interpretation as well as whether she and her officials will continue to engage in these issues. If the code proves to be an impediment to how they are interpreted, is there a case for an early amendment to it? The Government have the option to bring forward amendments, so it would be useful to know in what circumstances they might be introduced—and certainly if doing so would address our more general considerations about the problems of companies gaming the system. Although I feel that this is less of a concern, it would still be useful to have some idea about it.

We would also be interested to hear the Minister's observations about the concerns expressed by the Joint Committee, but as I say, they are less relevant. However, if they call into question the veracity of the code, they will be materially important. Indeed, we also have some concerns about the formula for a significant increase in price, but as that has gone through consultation, no one is feeling particularly happy. It seems rather ill-judged for us to suggest that that presents a problem.

On the issue of the size of the penalties, the Minister made a case saying that penalties for the most egregious examples would attract the highest amount likely to be imposed. Perhaps I may suggest that when she is suggesting that, it is important that we have some indication that because this is down to the discretion of the adjudicator, they could also impose the highest-possible penalty for something less important and egregious. It is only in those circumstances that the necessary message can be sent to companies to encourage them to change their ways and to make the potential impact of a material impairment of their financial results possible. You have to be willing to use a bit more stick rather than offer some sort of carrot. I have had a look at LTIP arrangements of the particular companies concerned and I do not think that unless the penalty is materially significant, it will even affect them. Many of these could continue to be conducted, so if the penalty was imposed only on its level of seriousness—there is a variety of ways in which that might be measured—that certainly would not have the impact that penalties probably should.

Could the Minister be very clear on the timings from now and from implementation? This instrument is certainly somewhat unusual in that it does not have the usual delay, but it is very important that we get this moving as quickly as possible. We have always been concerned about the interregnum and what might happen, and it is very important that we ensure that the statutory instrument is enforceable on approval and that we get the strongest indication when that will be.

I will just return to the original point about the construction of the code striking a balance. I have looked at the interim results of two of the largest pub-owning companies over the last period, and it is very clear that the companies have decided to transform their businesses and been quite successful at it. Not only have they done that in relation to their overhanging debt—all have been able to deleverage their positions—but they have looked at different ways of operating their business and servicing their tenants, and all can report significant EBITDA improvements. The total number is slightly lower as a result of disposals, but it is certainly much improved, and they both have growing commercial letting operations. They now have commercial properties and report on the average rental that they are able to accrue on their estates: for Enterprise Inns the figure is £59,000, and for Punch Taverns it is £72,000.

Both companies devote some paragraphs in their most recent interim results to looking at regulatory changes. Both are able to stress that the changes they have made to their models, service contracts, pricing and to other aspects of their business are now highly advanced. Enterprise Inns says:

> "We are confident that our strategic plan provides us with sufficient flexibility to accommodate this legislation and represents the appropriate response to its likely impact".

Punch says:

> "While the take-up of the MRO option will only become clear over time … our current expectations are that the majority of the estate will continue to operate under, and enjoy the benefits of the tied-drinks model".

Their strategic response has made them ready. The industry has not just changed its models and operations but spent its time preparing for these sorts of changes.

That makes the case for two things: first, for a very speedy implementation, because there is not much time; and secondly, for the Government to keep a keen eye on this. Although a balance has been struck at this stage with what were quite rigid models, over the last period, the pub companies have responded not just to the regulatory changes but to the increased competition that they face from a variety of different forms of leisure activity on the high street and to the continuing problem for them of alcohol pricing in supermarkets. They have made sensible and decent responses which could, in their own words, assist them with reducing the potential impact of the MRO by providing much better options for tenants. In those circumstances, will the Government keep a keen eye on the code and make sure that the balance is not just enshrined today but considered over the coming two years on the basis of an ever-strengthening model of pub ownership?

Baroness Neville-Rolfe: I thank noble Lords for their contributions to this surprisingly brief debate—the briefest ever, I think, on the subject of pubs. I thank the noble Lord, Lord Beecham, for the joke that he passed to his colleague about the bell for last orders.

[Baroness Neville-Rolfe]
I just hope that this is not my last order in the business brief, given the momentous events of the last few days. I will be very glad to put pubs to bed in this stage of regulation.

I very much concur with the wish of the noble Lord, Lord Mendelsohn, to see speedy implementation, which is why we are planning to introduce the regulations the day after they are made if noble Lords are happy here; there are debates in the Commons tomorrow and on Monday. Subject to parliamentary approval, we will be making the regulations ahead of the Summer Recess and in a minute I will talk about our plans for the adjudicator.

In passing, I thank the noble Lord, Lord Mendelsohn, for always looking at this from an economic, industry point of view. I actually rather miss my noble friend Lord Hodgson, who usually engages in debate and ensures that we are thinking about the economic side. It is very important that pubs flourish. They are changing and obviously they will have to face a post-Brexit situation. The consumer climate is very important to them. So it is good news for pubs that we now have the certainty of a new Prime Minister, rather than uncertainty dragging on for several weeks.

The noble Lord asked about the review provisions. We will, as I have said already, keep a close eye on the operation of the code to make sure that it is delivering its objectives. There is, as he suggested, a statutory review of the code, which has to take place by March 2019 and every three years thereafter. That is rather more frequent than some of the regulations that we discuss in this House and we will be keeping an eye on the code to ensure it continues to deliver fairness and the other objectives that I set out in my opening remarks. Obviously, the department and, I am sure, the Minister of the day would be involved in any such review.

Turning to the Pubs Code Adjudicator and his role in interpretation, I saw him last week to make sure that plans were in place and that he was getting ahead. I was glad to see that he was because obviously he needs to be ready for day one. He is planning to consult and publish guidance in line with his statutory duties as outlined in Section 61(1) of the SBEE Act in relation to the conduct of investigations and any resulting financial penalties. He will do that by 2 November this year and over time he will consider whether other guidance or interpretive support may be required. Obviously, he intends to work with stakeholders to help determine this.

In relation to the penalties, as I said in my opening remarks, there is flexibility for the adjudicator. It is a high maximum penalty but it is entirely at his discretion. He will consult on his criteria so that stakeholders can inform his thinking.

It was an honour to hear from my noble friend Lord Lexden and I never cease to marvel at the skill and detail that the JCSI lends to this kind of thing—it keeps us honest. If you get one of the reports through the post, you know that it is really well worth a read, including this one. I will try to answer my noble friend's concerns and if for any reason he is not happy I hope we can discuss the matter further. The reference in the SBEE Act as to whether the increase was reasonably foreseeable does not limit the power the Government have to define the MRO trigger. This was recognised in the JCSI report and parliamentary counsel confirmed this for us. Following consultation in 2015 and 2016, the Government have ensured that the regulations provide for increases that were not reasonably foreseeable, and other significant price increases.

My noble friend's second point was about the significant increase in the price of a single product category. The regulation provides that the test for the SIIP trigger is an increase in at least one product or service. It is the Government's view that the test of whether or not an increase is significant should be assessed through a comparison of price changes across a range of relevant products, not just the one.

I believe that the Pubs Code is bringing fairness and transparency to an industry that has been troubled by poor relationships between too many tied tenants and their pub-owning businesses for too many years. It brings statutory rights, protections and responsibilities where the voluntary approach has sadly failed to make sufficient headway. Above all, it brings hope and confidence to a sector very much in need of it.

I thank the noble Lord, Lord Mendelsohn, for his appreciation of the staff who have been involved in the arduous work on this important reform of pub law. Assuming that Parliament approves our orders, we will be drinking to the pub order next week. I commend these draft orders to the Committee.

Motion agreed.

Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016

Considered in Grand Committee

5.02 pm

Moved by ***Baroness Neville-Rolfe***

That the Grand Committee do consider the Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016.

Motion agreed.

5.02 pm

Sitting suspended.

Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority (Election of Mayor) Order 2016

Considered in Grand Committee

5.09 pm

Moved by ***Baroness Williams of Trafford***

That the Grand Committee do consider the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority (Election of Mayor) Order 2016.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, this draft order was laid before this House on 8 June 2016. If approved, it will create the position of mayor for the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority—also known as the Liverpool City Region Combined Authority—with the first election to be held in May 2017, and set the first mayoral term for a duration of three years, with the next election in May 2020, with subsequent four-year terms.

The Conservative Party committed in its manifesto to,

"devolve far-reaching powers over economic development, transport and social care to large cities which choose to have elected mayors".

To give effect to this commitment, the Government passed the Cities and Local Government Devolution Act earlier this year. As I set out to the House during the passage of that enabling legislation, the Government have introduced clauses to allow directly elected mayors for combined authorities because devolution of the ambition and scale set out in the manifesto requires strong and clear accountability and leadership. It is therefore considered necessary that where major powers and budgets are being devolved, local people know who is responsible for decisions. Mayoral governance offers a proven model for effective local leadership, which has worked around the world.

Turning to the Liverpool city region, this order is a milestone in the implementation of the two devolution deals agreed between the Government and local leaders. It follows the establishment of the combined authority on 1 April 2014, from which time it has been serving the Liverpool city region, bringing together across the area the closely interconnected issues of transport, economic development and regeneration.

On 17 November 2015 the Government and the combined authority announced a devolution agreement which provided an offer of powers and budgets from the Government on the basis that the area will deliver certain reforms and measures, including adopting a directly elected mayor covering the whole combined authority area. This agreement included that the mayor for the Liverpool city region would individually exercise some functions in relation to transport and strategic planning.

The combined authority has taken on responsibility for: devolved funding—£30 million a year over 30 years for the Liverpool city region; control of the devolved 19-plus adult skills funding by 2018-19; joint responsibility with the Government to co-design employment support for harder-to-help claimants; and a devolved approach to business support from 2017, to be developed in partnership with the Government. On 16 March this year, the combined authority and the Government additionally agreed: early adoption of the government pilot for 100% business rate retention in the combined authority's area, starting in 2017-18; additional new powers over transport; and further commitments for the area and the Government to work together on children's services, health, housing and justice.

In delivering the full range of commitments in the devolution deal, the Secretary of State intends, subject to statutory requirements and parliamentary approval, to make further orders to implement the deal. Subsequent orders will include the transfer of budgets and powers in planning, transport, education and skills.

On 24 June 2016, the Liverpool City Region Combined Authority published a governance review and scheme, which sets out the constitutional changes to the combined authority and the functions of the mayor as the area assumes control of additional budgets and powers from the Government. The combined authority is currently consulting local citizens and stakeholders on the contents of these documents and will issue a report on its findings to the Secretary of State later this year.

The draft order establishes a mayor for the Liverpool city region and sets the dates of elections and the first and subsequent term lengths. It is laid before Parliament following the statutory process specified in the 2009 Act, as amended by the Cities and Local Government Devolution Act. As required, all the constituent councils have consented to this order being made and the Government have laid the draft order, having had consideration of the statutory requirements. As required, we are now seeking Parliament's approval before making the order.

The order is about delivering devolution and empowering local authorities to set their own policy agendas. The order provides enhanced local leadership in the form of a directly elected mayor with a strong democratic mandate and independence from the combined authority. The mayor will work closely with local leaders, who will sit on the combined authority board, and together they will drive forward the economic opportunities presented by devolution, with the mayor acting as chairman of the combined authority and providing a single voice for the area that can be both prominent nationally and help drive the devolution agenda.

As noble Lords may recall, during the passage of the enabling legislation there was debate on the necessity of mayors in devolving powers to local areas. The Government have made clear their stance on the necessity of mayors. However, they are not alone in this belief. Research commissioned by the Centre for Cities in May 2016 found that members of the public across five devolution deal areas supported the notion that directly elected mayors should have greater powers than council leaders.

5.15 pm

With that said, it is important to note that no one area has been required to adopt the mayoral model. The Government's position is that if an area is to have a mayor, it will be because that area, through its democratically elected representatives, has chosen to have one. However, the Government view devolution as two-way, and it is our clear intention that the accountability offered by a mayor is desirable and therefore forms part of the devolution deal that has been agreed between government and local leaders.

The Government have made excellent progress in implementing their devolution agenda. An order establishing the position of mayor in Greater Manchester was made on 28 March 2016. Orders have now been laid to establish the position of mayor for the Tees

[Baroness Williams of Trafford]
Valley, North East, Sheffield City Region and West Midlands combined authorities. All of these are scheduled to hold their first mayoral elections on 4 May 2017.

The Tees Valley mayoral order was laid before the House on 13 June. If approved, it will create the position of mayor for the Tees Valley Combined Authority, with the first election to be held in May 2017, and it sets the first mayoral term for three years, with the next election in May 2020 and with subsequent four-year terms.

As I have just set out, the Government are committed to devolving powers to places that have chosen to have directly elected mayors. I reaffirm the Government's view over the necessity of mayors where powers and budgets are being devolved, as they provide this clear accountability and leadership.

As with the Liverpool city region, this order is a milestone in the implementation of the Tees Valley devolution deal that was agreed between the Government and local leaders on 23 October 2015. The first step in implementing the deal was made on 1 April 2016, when the combined authority was established, with functions over transport, economic development and regeneration. The deal provided an offer of powers and budgets from the Government on the basis that the Tees Valley would deliver certain measures and reforms, which included a directly elected mayor covering the whole of the combined authority area. The deal included that the mayor would hold responsibility for a consolidated transport budget and a multi-year settlement from government, as well as being able to exercise the function of creating mayoral development corporations.

The combined authority would take on responsibility for: creating a Tees Valley investment fund, bringing together funding for devolved powers and delivering a 30-year programme of transformational investment in the region; it would take control of a new £15 million-a-year funding allocation over 30 years, to be included in the Tees Valley investment fund and invested to boost growth; it would also take on the leadership of a comprehensive review and redesign of the education, skills and employment support system in Tees Valley; and it would take responsibility for a devolved approach to business support from 2017, to be developed in partnership with government.

The draft order uses the same enabling legislation as the previous draft order concerning the Liverpool city region. It establishes a mayor for the Tees Valley and sets the dates of elections and the first and subsequent term lengths. It has received the consents of all constituent councils; we are now seeking Parliament's approval before making the order.

My previous introduction to the situation in Liverpool set out the role of the mayor and the opportunities that can be driven forward through a partnership of the mayor and local leaders. I repeat that the Government view devolution as a two-way process and that the Tees Valley leaders have chosen to adopt this model in order to agree a substantial devolution deal with government. As with Liverpool, the mayor will be the chairman of the Tees Valley Combined Authority, and as such will provide an important voice for the Tees Valley at a national level.

As I stated previously, further draft orders will follow to establish the position of mayor for other combined authorities and I look forward to bringing them before the House. It will be a major milestone for the Tees Valley and for the devolution process there. I commend both draft orders to the Committee.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): It may benefit the Committee if I make the point that the Minister is asking the Committee to consider the Tees Valley order at the same time as the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral order. If the Committee agrees, I will put the question on the second order formally after we have completed the first debate.

Lord Shipley (LD): My Lords, I thank the Minister for introducing this order. As she rightly pointed out, this is one of the stages in the establishment of mayoral combined authorities.

First, will the Minister confirm that, once this order is agreed by Parliament, there will be a mayoral election on 4 May 2017? I ask because, as the Minister herself said, paragraph 7.8 of the Explanatory Memorandum states that:

> "The Government will seek Parliament's approval later in 2016 to further secondary legislation necessary to devolve the powers and budgets to the Combined Authority, as agreed in devolution deal".

Can she confirm that there will be a mayoral election even if there is no agreement on the content of the devolution deal? It presupposes, first, that later this year the authorities making up the combined authority will finally agree with the Government and that there will be no changes by the establishment of a new Government, and, secondly, that Parliament itself will agree to the orders. I would like clarification on that.

The Minister will recall that, in our debates during the passage of the Cities and Local Government Devolution Bill, a great deal was said about the scrutiny and audit arrangements. Those grew in importance between Committee and Report and between Report and Third Reading. It was generally agreed that the arrangements initially proposed in the Bill were inadequate and some improvements were made. I draw the Minister's attention to the report of the Public Accounts Committee of the House of Commons, *Cities and Local Growth*, published on 1 July, just a few days ago. In the summary, on page 3, it states that:

> "There has been insufficient consideration by central government of local scrutiny arrangements of accountability to the taxpayer and of the capacity and capability needs of local and central government as a result of devolution".

I also subscribe to that view. Is it possible for the Government to set out the reply they will make to the Public Accounts Committee alongside the next stage of parliamentary approval of the detailed arrangements of powers and resources for both mayoral combined authorities? Recommendation 8 of the Public Accounts Committee says, very specifically, that:

> "Government should set out by November 2016 its plans for how it will ensure that local scrutiny of devolved functions and funding will be both robust and well supported".

I would like to think that, when we get to the next stage of considering the arrangements for these combined authorities, we will have a response to this very specific point which the committee raised.

The Minister will recall that, during the passage of the Bill, I and my colleagues made a number of comments about the scale of responsibilities for an elected mayor within a mayoral combined authority. It is a big geographical area and it is a wide set of responsibilities. We queried the capacity of an individual person to do so much across all the areas that the Minister has described; in this case, it is transport, strategic planning, adult skills, employment support, business support, a business rate retention pilot, joint working with Her Majesty's Government on children's services, health, housing and justice. That is a very wide range of tasks for one person to be formally responsible for, even though the combined authority as a whole will have some shared responsibilities. Is the Minister confident about the structure being set up, not least because of the concerns of the Public Accounts Committee? It has identified a range of issues that in most cases we considered during the passage of the Bill some months ago, and the problems and the questions have not gone away.

I welcome the Tees Valley Combined Authority (Election of Mayor) Order and I congratulate Tees Valley on getting on with the process of devolving power to its mayoral combined authority, and in particular for overtaking the North East Combined Authority, which seems to have suspended discussions with the Government pending the election of the new Prime Minister. That is now going to be sooner than perhaps the authority had anticipated. I noted in the Minister's introduction, unless I misheard her, that a number of further orders for areas such as South Yorkshire and the West Midlands are said to be forthcoming, but I do not recall any mention of the North East Combined Authority in that list. Assuming that I heard her correctly, can she clarify what the position is given that the order has been placed before Parliament for consideration? Is it delayed, over what timescale is it delayed, and is there still any potential, given the legal requirements, to hold a mayoral election in May if it is delayed much longer?

I have raised a number of issues for the Minister to respond to. Devolution is a positive thing, but she will understand that throughout this process we have expressed a whole range of doubts about the structures which are being established and the democratic accountability that lies within the process.

Lord Beecham (Lab): I would like to inform the noble Lord, and possibly the Minister, about the situation with regard to the North East Combined Authority. It was originally thought that we would be taking that either this week or next week, but now it will be taken in September. It is not quite ready, as it happens, so next week would be difficult. My understanding is that it will be taken in September during the two weeks that we are back.

Lord Shipley: I thank the noble Lord for that clarification. I hope that we will have a chance to consider the plans for the North East Combined Authority in the House of Lords.

Lord Alton of Liverpool (CB): My Lords, like the noble Lord, Lord Shipley, I think that devolution is a positive thing. I like the constituent boroughs that are designated in the order—Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral—and I support the Motion before the Grand Committee today.

For 18 years I served in another place as a Member of Parliament for a Liverpool constituency, but before that, from 1972 I served as a member of Liverpool City Council, and from 1973 as a member of the now defunct Merseyside County Council. I have always strongly supported subsidiarity and decentralisation along with the devolution of powers. I believe that robust decision-making done at the closest possible level serves democracy well. Moreover, it helps to address the disconnect that we see between our elected representatives and the communities they are supposed to serve. Noble Lords would expect someone who cut his teeth as a community politician to say that, but the municipalism of Joseph Chamberlain and Disraeli's dictum that centralisation is the death of democracy illustrate that there is a distinguished and long tradition of men and women who have served and believe in local government, and some of them are present in the Committee today.

5.30 pm

In 1997, having stood down from the House of Commons, I helped establish the Liverpool Democracy Commission, and served with a small cross-party group as the commission examined the state of local democracy on Merseyside and what might be done to revitalise it. Your Lordships will recall that in 1981 the city had experienced riots—during which 1,000 police officers were treated in hospital—followed by control by the Militant tendency, which led to the city being used as a battering ram against central government, and then the disqualification of city councillors and the real danger of a commissioner being appointed to run the city. Out of these ashes, I am glad to say that not only did the city recover but regeneration initiatives and stable local government breathed new life into the heart of the conurbation. Along with the noble Lord, Lord Storey, I was happy to have played my part in that.

It was against that backdrop that in the late 1990s our commission examined the structures of local government and its inability to guarantee quality in the delivery of services. We concluded that the traditional idea of the local authority as simply the monopoly provider of local services was no longer viable or adequate, and that councils must be willing to be more flexible in their approach to service delivery and the expectations of citizens. We argued that local government needed to become more outward-looking and willing to work with partners if it was to deal more effectively with complex, cross-cutting issues. We said that this would mean embracing profound cultural change, with the council defining its role and its relationship with the people of Liverpool.

We made a number of recommendations about how local government in Liverpool could get closer to the community that it serves, and redefine and add value to the role that councillors play in governance,

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improving local leadership and re-engaging citizens. Among other things, we called for the introduction of US-style open primaries to select council candidates and a directly elected mayor—both of which had impressed me during an assessment I made of how those things worked in the United States.

At the time, I suggested that just as the boroughs surrounding Manchester saw every benefit in describing themselves as Greater Manchester, we needed to convince the four neighbouring boroughs that constitute Merseyside that seeing themselves as "Greater Liverpool" would help them and the city sub-region. Perhaps because of the experiences of the preceding 20 years, the neighbouring boroughs wanted to keep as much distance between themselves and Liverpool as possible, but this was a tragic missed opportunity. No body can function without its heart, and all of a body's organs need to function together.

For 40 years or more I have argued that only by breathing new life into Merseyside's heart can there be long-term prosperity for all. If these orders are to achieve that objective—perhaps learning the lesson of Brexit about the disconnect between the political class and the people—it is vital that the boroughs and their leaders take real ownership of this initiative. They need to enthusiastically explain it to the people resident within their areas. Just down the road, Manchester has stolen a march on Merseyside, and if this challenge is not embraced with enthusiasm, our city region will fall behind competitor cities and its economy will suffer.

In this context, I particularly welcome last week's launch, at the Finding True North conference in Salford, of ResPublica's *A Manifesto for the North*, its vision for the region's future, which envisages harnessing further devolved powers to enable the region to become culturally vibrant, with the benefits of economic growth accruing to all. At the launch, the right honourable Greg Clark MP, Secretary of State for Communities and Local Government, said:

"This is an important and thought-provoking Manifesto … The Government will work closely with partners across the North to devolve more power to people".

Surely that is to be welcomed, and is the point of these orders today. ResPublica argues:

"There have been too many platitudes written about the North, and too many partial and piecemeal policies that have done little to reverse the decades of decline. For years, a combination of indifference and fatalism has left local leaders with a monopoly on power content to administer decline, and thus they must share some of the blame".

It says, and I agree, that the city region devolution deals should be seen as an opening, not a final offer from central government—with the decentralisation of investment decisions greatly expanded in scope and scale.

When she replies, perhaps the noble Baroness, Lady Williams of Trafford, who has done so much to press the case for the north in Motions and orders such as these, will say whether she will support the following key recommendations in the ResPublica report, which are all matters in which city regions like the one proposed in this order will have a stake. How will the Government devolve Transport for London-style powers to elected city mayors? Will they allow regions to control housing development, giving northern cities and localities the right to control regeneration? How would they respond to, for instance, the introduction of a northern teaching premium to attract and retain the best teachers in the area, helping with their housing and student debts, or the creation of a northern wealth fund from any money generated, for instance, by shale gas exploration in the region? If the city regions call for the establishment of a northern digital service, how will the Government respond to that? The planned northern digital service would provide a shared platform for automating council services that all cities and councils could use—an entirely sensible and, I would have thought, eminently doable proposition.

Will the Government respond positively to proposals to devolve cultural assets and funds to the cities? Perhaps the Minister will say a little more about the £30 million that she mentioned in her opening remarks and how the Government believe that should be accessed and used in areas where council leaders complain all the time about the reduction of local funding and the implications for the running of existing local services. Much greater decision-making on public policy and the funding of cultural assets and infrastructure should be made within city regions such as the one proposed here. I have personally argued that instead of HS2 we should first connect the northern cities from Liverpool to Hull via a trans-north rail line. Is this something the Minister will be talking to the northern city regions about?

I support the order, with an open mind, so long as it has some real powers and real teeth. I will conclude by entering one simple caveat, which echoes something that the noble Lord, Lord Shipley, said a few minutes ago. The most obvious difference between arrangements for the new city region mayors and London is that nothing resembling the London Assembly is proposed. At the minimum surely there should be something like a mayoral senate. As things stand, the accountability and scrutiny arrangements are virtually non-existent. I would like to hear the Minister's assessment of that significant deficiency.

Lord Storey (LD): My Lords, I was interested that at the beginning we were talking about Tees Valley, but for the Liverpool city region we talk about the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority. I cast my mind back to the coalition Government, when the noble Lord, Lord Alton, and I argued for the Liverpool city region to have that title, as it wanted. The then Secretary of State was adamant that this was not going to be the case. The then Minister said, "What's in a name? If you want to call yourself the Liverpool city region, feel free to do so, but the official title will be the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority". Perhaps we could revisit that at some stage.

Baroness Williams of Trafford: Oh no!

Lord Storey: Names are important to localities. Names are places.

I want to pick up on the point made by my noble friend Lord Shipley. I am sure the Minister is familiar with the Public Accounts Committee's *Cities and Local Growth* report. As the noble Lord, Lord Alton, rightly said, it is really important that we get accountability and scrutiny right. To reiterate the points that have been made, because I think they need underlining, the report says about the current arrangements with the combined authorities:

"We are not confident that existing arrangements for the scrutiny at local level of devolved functions are either robust enough or well supported. Robust and independent scrutiny of the value for money of devolved activities is essential".

The report also says, on local scrutiny:

"Where powers, responsibilities and funding are devolved from the centre, it is vital that there is adequate local scrutiny of these devolved activities".

I know that there will be independent scrutiny of the metro mayor, but I cast my mind back to when Liverpool decided to go for an elected mayor. Does the Minister know that the Mayor of Liverpool decided to abolish scrutiny and that, at a stroke, scrutiny was abolished? Before that, scrutiny was carried out by a councillor from a minority party who was on the payroll. Presumably, that member might have been looking over their shoulder and thinking, "Well, I'm on the payroll. If my scrutiny offends, will I still be on it?".

It is vital that any scrutiny is completely separate and independent: it should not be the preserve or appointment of the metro mayor, and the person doing it should be independently appointed according to the Nolan principles so that they have the freedom to act and to scrutinise. I hope that the Minister will confirm that scrutiny arrangements will be robust. Indeed, this important report says the very same thing about the support needed for scrutiny.

The Minister referred to consultation with residents. Can she tell us how the city region is carrying out such consultation? I am a Liverpool resident and have not at any stage been consulted. I have not seen a website, a leaflet or an advertisement in the local newspapers. I would be interested to know how consultation is taking place.

My party and I have always been in favour of elected mayors, not for districts but for conurbations. The name is not important—what is in a name? It is not about whether it is a leader or a mayor. As the noble Lord, Lord Alton, rightly said, it is about the responsibilities that such a person has; it is about their functions; and it is about the finance and the funding that are made available. I hope that we might also look back at the situation we are now left with on Merseyside. In Liverpool, we could have a Lord Mayor of Liverpool, a Mayor of Liverpool and a metro mayor of the city region, which is a bit confusing. Would it not be a good idea to have leaders for all the districts and a metro mayor in their own right?

Lord Watts (Lab): My Lords, it might surprise some people in the Room that I agree with what the noble Lord, Lord Alton, said. I was in local government for 25 years and a council leader before I arrived as an MP in the other place. I am in favour of decentralisation and devolution, but I have three main concerns.

The first is on democracy. It is quite strange that we are imposing a mayoral system on the people of Merseyside without even asking them whether they want one. I would have thought that with the Government's commitment to localism the very least they should have done is give the people of Merseyside the opportunity to say whether they wanted a mayoral system. Quite frankly, we have gone past that, but I remind the Committee that the proposal does not have consent and people are suspicious about how it will work out. It would have been much better had we sought the agreement of the people of Merseyside before we entered into this arrangement.

The second concern is about accountability. The lessons from Liverpool are that great thought needs to be given to accountability within the new mayoral system. I find it strange that in Liverpool the mayor, who obviously has the powers of the mayor, is also leader of the council and the person who decides who goes on what committee, and I understand that to a great extent he is selecting councillors. That is appalling, quite frankly. To put that level of power in one individual is unacceptable, and I hope that the Government will look at the situation in Liverpool. When they are building a system for mayors in Merseyside and Manchester, they should make sure that proper scrutiny and accountability are built into the system.

I listened carefully to the Mayor of London when he made his last speech in that capacity and said that he believed that the system was open to corruption. He had obviously identified gaps in the system and wanted it to be strengthened. I hope that the Minister can say something about that today but that she will also go away and think about the sorts of powers that individuals will be given. If there is not adequate scrutiny, we will have a corruption problem in time. I hope we will address that.

My final concern is about funding. I think that people are expecting—and the Mayor of Liverpool has made great play of this—extra resources to come to the region if we have a mayoral system. We know that some of the biggest cuts that have taken place in public expenditure have been in Merseyside and Manchester. If the Government want to succeed in regenerating the north-west, and to use the mayoral system in Merseyside and Manchester to achieve that, they will have to provide some extra resources, because quite frankly they will be doomed to fail unless they have adequate resources to deal with the problems of the north/south divide and the infrastructure that needs to go in.

I share the view of the noble Lord, Lord Alton, about High Speed 2. I said in the other place when it was announced that I would be more likely to travel in the TARDIS from Manchester than on High Speed 2, because I do not believe it will ever get to Manchester. A lot of credibility needs to be built up by the Government. I hope that they will provide the extra resources that will be needed to make sure that the mayoral system is successful in Manchester and Merseyside. I wish it well and I hope we can address some of the issues I have raised.

5.45 pm

Lord Beecham: My Lords, we are in the slightly unusual position of having no fewer than seven former council leaders gathered together here, including the

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noble Baroness the Minister. I do not know what the collective noun for such a group would be. Perhaps I may suggest a redundancy of council leaders, because—let us face it—most of us, or most of our successors, are finding their position extremely limited these days.

We are engaged in something of an experiment. It is an interesting experiment, as most of us have acknowledged, with considerable potential but with certain concerns which have already been voiced both in this debate and on previous occasions. The issues are very broad, but they cannot be addressed simply by the imposition of a mayoral system. Many of us feel that there should have been a local decision to adopt that system. The noble Lord, Lord Shipley, and I were on opposite sides of a referendum in Newcastle for having an elected mayor for the city. His successor was the Liberal Group Leader on Newcastle City Council who I formed an unlikely coalition with and which turned out to be successful in securing a no vote. But we now have a situation where Newcastle, if the North East Combined Authority goes ahead, will have an elected mayor imposed and in the Tees Valley area we already have an elected mayor in Middlesbrough. However, we have an authority which, having had an elected mayor, then decided to get rid of him and the position in Hartlepool, and yet they are going to be faced with that requirement. It is interesting that the Secondary Legislation Scrutiny Committee asked the Government what consultation had been carried out about these proposals and the Government replied that Ministers had indicated that the:

> "Passage of legislation, is founded on the longstanding tradition of representative democracy in this country. The matters covered in these Orders have been consented to by the democratically elected representatives of the people of Liverpool City Region, and of the Tees Valley".

Accordingly they said:

> "Those giving consent will have done so in the knowledge that they are democratically accountable through the ballot box to the people of Liverpool City Region and of Tees Valley, and we can be confident that they will have engaged with their constituents in such ways as they consider appropriate".

That is a very high-sounding affirmation of the belief in local democracy. Oddly enough, the principle does not seem to extend to the decisions which councils can take about the services they deliver. They are being constantly eroded. We are now seeing further moves to distance local authorities from the provision of education and we have seen similar moves elsewhere. More particularly, of course, we have the financial position of local authorities, which are rigorously and vigorously constrained in the exercise of their functions. For example, the vaunted democracy about which the Government boast did not extend to allowing councils to increase council tax by more than 2% without a referendum. That was not a decision they were deemed competent to make. We have of course seen similar erosions of responsibility in other areas.

On the financial side in particular there is significant loss of resources to authorities involved in the devolution process. The National Audit Office report sets this out very clearly. We hear much about the additional funding, which in the case of a number of areas will amount to £30 million a year over 30 years, or £900 million, which sounds like a great deal of money. That sum will be paid into the Liverpool City region. A smaller amount, because it is a smaller area, of £15 million a year and therefore £450 million will go into the Tees Valley area. It sounds impressive, but then we must look at what is currently being spent. Total capital spending—this is what the money will be for—in the Liverpool City region now is £312 million a year. In addition, £44 million under the annual local growth fund is payable to the LEP, which is obviously also concerned with that infrastructure. Therefore the total amount in the Liverpool area is something over £350 million, so £30 million distributed between all those authorities amounts to something like 8% of what is currently being spent on capital programmes. The position is similar in Tees Valley where the total capital spend of local authorities and the LEP is just under £190 million. It will get £15 million, which obviously is something like 7.5% of what is currently being spent. The financial investment that is being made and boasted about in connection with this project is minimal.

On business rates, I think the Government are still consulting on what needs to happen with them. It is all very well to say that local authorities will be able to keep business rates, but in both Merseyside and Tees Valley areas—I suspect particularly in those areas—the business rate income will be pretty minimal relative to the population and in comparison with other authorities. Presumably there has to be some kind of mechanism for redistribution. I do not know whether the Minister will be able to indicate how far the talks have progressed, and she may not wish to tell us or not be able to tell us what the outcome will be. However, where are we as regards the timetable for coming out with a clear position on how the business rates will be redistributed, if there is a need for, as surely there has to be, an element of redistribution? As it happens, it appears that in some areas we will go into this new system and committing to it without even knowing what the timetable is for when the business rate agenda will be addressed. Surely that is extremely unsatisfactory.

The issue raised by the noble Lord, Lord Shipley, about scrutiny is valid. There has to be local scrutiny and it ought to be built into local arrangements. We provided according to my suggestion for an audit committee under the legislation which would give some measure of independent scrutiny, and those who have been calling both today and hitherto for an effective scrutiny process are obviously right to do so.

But of course there is then the question, given that business rates will be the only locally raised revenue, of what happens to the services not merely of the combined authority but also of the constituent local authorities since revenue support grant will no longer be paid. Surely the two things have to be aligned if local services and the devolved functions are to be delivered adequately. I refer again without making any apologies for doing so to the regret that I and others have voiced about the abolition in the early days of the coalition Government of regional offices of government, never mind the regional development agencies. As the noble Baroness will recall, the abolition of regional government offices changed a system which had worked well in providing a close working relationship between Government departments and local authorities. In each region virtually all the Government departments

were represented, engaging with local authorities and operating as a conduit between Whitehall and those areas. Now that we are creating these potentially powerful mayoral authorities, it seems to be even more important that there should be a local dialogue which can facilitate a closer working relationship between central and local government.

I have a final question to raise about the position of police and crime commissioners. The understanding is that it will be possible—indeed, Manchester has already opted for this—to have the police and crime commissioner position combined with that of the elected mayor. The next Prime Minister in her current position, which will last for another 24 hours or thereabouts, was keen to promote the notion that fire authorities should go down the same route as police and crime commissioners. Does the noble Baroness have any thoughts or information about how that process might develop and whether the Government are currently working on proposals which would add fire authorities to the police service? Perhaps we will have to wait to hear what the new Prime Minister says, but is it the Government's expectation, and possibly their political direction, that the new mayors will have as a matter of course that combined power or even just the police and crime commissioner power? That raises in my mind and I suspect in those of others both here and elsewhere some really strong concerns about the concentration of power in such sensitive areas in what will be effectively a single pair of hands, something that many would consider to be undesirable.

Clearly we want to see the new system being given a chance to work and we want local decision-making to be effective at addressing the different situations that face each group of local authorities, but that cannot happen in my submission without adequate financial resources and without the Government preparing not simply to offload these responsibilities, but actually engaging with what will in effect be two levels of local government to secure the improvements that they talk about wanting to see and which are desperately needed in so many parts of the country.

Baroness Williams of Trafford: My Lords, I thank all noble Lords who have made a variety of points on the order. Perhaps I may apologise to noble Lords for being late. I was happily having a cup of tea with the noble Baroness, Lady Hollis, and I did not hear my phone ringing to say that our business had started. I apologise to noble Lords for being a little late.

I shall start with the question from the noble Lord, Lord Shipley. He asked if I could confirm the election of a mayor in 2017. Once the order is made, a mayoral election will be held on 4 May 2017 and if further orders are not agreed, the mayor will be elected and he or she will chair the combined authority, but will have no powers to exercise individually. The combined authority will have only its existing functions; that will be the situation if further orders are not agreed from now on in.

6 pm

The noble Lord also asked me whether the Government will respond to the PAC comments on a review of scrutiny when we debate the next combined authority orders. Yes, we will be happy to set out any response that we have made. He talked reasonably about the scale of responsibilities of an elected mayor in relation to the PAC comments. We are very confident about the capacity of a mayoral form of governance to undertake the functions being given to mayors. The success of the London mayor and the use of elected mayoral governance across the world's cities lend support to this. Elected mayors provide a strong and accountable form of governance—a single point of accountability which is needed to support the wider range of powers that is now being devolved.

The noble Lord thought I might not have mentioned the north-east. I did mention it, but the noble Lord, Lord Beecham, provided some details on it. A draft of the order creating an elected mayor has been laid before Parliament. The noble Lord, Lord Beecham, gave the date as early in September and I understand that is absolutely correct.

The noble Lord, Lord Storey, talked about the name. I have a hazy memory of the Liverpool city region and the name. I do not know if this is right, but I seem to recollect that there could not be agreement on the naming of the region and there was a lot of toing and froing before the name was decided upon, which included the name of every single local authority in the city region, just to keep everyone happy. It is amazing how people can get hung up on a name and I agree that a simpler name might have been a better idea. However, the name cannot be formalised unless everybody agrees. Hence we have quite a lengthy name for this combined authority.

The noble Lord, Lord Alton, talked about the bad old days—I do not disagree that Liverpool was a particular example—and selling the benefits of the mayor. I recall that when the idea of a London mayor was first mooted, people were terribly sceptical about it and were not sure it would take off. In fact, successive London mayors have been very good leaders and there is great competition for the post. It is, therefore, important that it is both valued and sustained going forward. I agree with selling the benefits, which I hope we will be able to do across the country in due course. He talked about the fatalism of local areas and leaders. I hope that, with the election of mayors and mayoral combined authorities, people's minds will suddenly grasp the job of being a local authority councillor or a mayor for a combined authority and see what can be achieved at local level. This is often far greater than what can sometimes be achieved in government.

The noble Lord asked about transport arrangements. I will go through a list of all of it, and I am sorry if I go on a bit. The combined authority will take on responsibility for some functions in relation to transport and strategic planning; the devolved funding of £30 million a year over 30 years; the control of 19-plus adult skills; the devolved approach to business support from 2017 and the early adoption of the subsequent agreement; the agreed early adoption of the government pilot for 100% business rates retention; additional new powers over transport and further commitments for the area and Government to work together on children's services, health, housing and justice.

The noble Lord also made a point about HS3 versus HS2. I am such an advocate for both: the noble Lord will probably have got this from some of the

[Baroness Williams of Trafford]
things I say in the Chamber, but I do not think it is an either/or. We have to have both. The east/west links are just as important as the north/south ones.

Lord Alton of Liverpool: More so.

Baroness Williams of Trafford: Yes. We can argue about more so, but I do not think it is one or the other. We must have both. Practically all noble Lords made the point about overview and scrutiny arrangements. The noble Lord, Lord Storey, asked whether the mayor could possibly abolish them. All combined authorities, including mayoral combined authorities, must have one or more overview and scrutiny committees and an audit committee to hold both the mayor and the authority to account. We will be bringing forward an order for Parliament to consider regarding overview and scrutiny arrangements for combined authorities.

I will outline what the obligations are under the combined authorities. They must establish at least one overview and scrutiny committee. This will be chaired by an independent person or a member of a constituent council who is not of the political party of the constituent councils. Their role will be to review and scrutinise decisions made and action taken by the mayor and the combined authority. An overview and scrutiny committee may require the mayor, the members and officers of the authority to attend and answer questions before it. This requirement must be complied with. They can call in decisions and recommend that they are reconsidered or reviewed, during which time a decision cannot be implemented. Further provisions to strengthen the role of overview and scrutiny committees will be made through secondary legislation and the orders giving effect to devolution deals.

I turn to the audit committee: we have spent quite a lot of time discussing both types of committee during the passage of the Bill. The combined authorities must also establish an audit committee, which must include at least one independent member. It can make reports and recommendations to the combined authority on financial affairs, risk management, internal control, corporate governance arrangements, and the economy, efficiency and effectiveness of the use of resources. Further provisions to strengthen the roles of audit committees will be made by order.

Lord Storey: Who will appoint the independent chair from the minor party or parties?

Baroness Williams of Trafford: It says that the chair could be an independent person or a member of a constituent council who is not of the political party of the mayor.

Lord Storey: But who will appoint that person?

Baroness Williams of Trafford: I am making the assumption that they will be appointed in the usual way that public appointments are made in local authorities, in accordance with Nolan principles.

Lord Storey: Could the Minister write to me about that, and the funding issue?

Baroness Williams of Trafford: I certainly will. We discussed it at length.

Lord Shipley: It is a very important issue, because there is a danger that the majority party will, in reality, be responsible for the appointment of the independent chair. We are seeking reassurance that, if the Nolan procedures are to be followed, they require an open procedure, not simply a council or the leaders in a combined authority making a decision on which member of the minority parties is to be appointed as independent chair.

Baroness Williams of Trafford: We did discuss this and agreed that that should be the case. It would make a mockery of the process if there was any appearance or evidence of bias of that kind. If it would be helpful, I will write to noble Lords from the Committee to outline the process and will place a copy in the Library.

The noble Lord, Lord Storey, asked me how Liverpool is conducting its consultation. It is on the regional combined authority website and is being promoted locally. It started on 24 June this year and the closing date is 5 August, so the noble Lord has time to respond.

The noble Lord, Lord Beecham, asked for examples of resources being made available, in this case to Tees Valley. I understand that Tees Valley Combined Authority's single pot provides an assurance framework for £226 million of flexible Section 31 grant funding with a confirmed five-year profile. He made the point—as he often does—about local authorities having to make ever more efficiency savings and asked how they would have enough capacity to deliver some of the things being devolved down. It is envisaged that local growth will in many ways—particularly if you look at things like the devolution of health and social care—be a big saving to the public purse and ultimately help in local authorities' budgets. However, these are all things that are being devolved down that local authorities would not have had previously. So I am very confident that local authorities will see themselves in a better, not a worse, position. He also asked about business rates and he is right: we are currently consulting on the future of business rates and we have made it clear that there will continue to be some form of top-up and tariff. However, I think that a date for decision is yet to be determined, but I shall let him know when it is. I am assuming that it will be by the end of this year.

The noble Lord, Lord Watts, asked what the Government are doing to ensure that the mayoral system is not open to corruption, which I think is a very good question in the context of some of the things that we have seen previously in local authorities. Not only will there be rigorous scrutiny arrangements—which never existed in the 1980s—as provided by the Cities and Local Government Devolution Act, but there will be requirements for transparency; that is, meetings in public, which again did not exist back in the 1980s and were not introduced in local authorities until relatively recently. Moreover, conduct requirements,

which we did not have back in the day—things like declarations of interest—will apply to combined authorities. I hope that gives the noble Lord some comfort.

The noble Lord, Lord Beecham, asked about the PCC and fire functions. It is for local areas to propose where they think it would be efficient and effective for the mayor to take on PCC and fire functions. In terms of the new Prime Minister and her previous keenness for fire functions, I really do not know. I have been asked a lot about what the new Prime Minister thinks and I really do not know. I am sure all will be revealed in the next few days.

Motion agreed.

Tees Valley Combined Authority (Election of Mayor) Order 2016

Considered in Grand Committee

6.13 pm

Moved by ***Baroness Williams of Trafford***

That the Grand Committee do consider the Tees Valley Combined Authority (Election of Mayor) Order 2016.

Motion agreed.

Committee adjourned at 6.13 pm.