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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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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

Monday 13 March 2017

2.30 pm

Prayers—read by the Lord Bishop of Chester.

Women: Domestic and Sexual Violence Services

Question

2.37 pm

Asked by ***Baroness Donaghy***

To ask Her Majesty's Government what assessment they have made of the need for women's domestic violence and sexual violence services in the United Kingdom.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Government's violence against women and girls strategy sets out our assessment of the need for women's domestic and sexual violence services. It pledges increased funding of £80 million over this spending review period to support refuges, rape support centres and FGM and forced marriage units, helping local areas to ensure that no woman is turned away from the support that she needs.

Baroness Donaghy (Lab): I thank the Minister for her Answer. She will know that on a typical day 155 women and 103 children are turned away from refuges because of a lack of suitable space. How will the Government guarantee the special status and address the desperate need for refuges and for sustainable funding in the light of the proposed new funding model for supported housing?

Baroness Williams of Trafford: My Lords, the noble Baroness makes a valid point about the demand for services. That is why the Government have taken a whole-picture look at the services for domestic violence—in other words, freeing up spaces within refuges by moving on accommodation, preventive services and of course some of the services within the woman's own home, such as the domestic violence prevention orders, to try to keep the perpetrators of violence away from the home.

Baroness Manzoor (Con): My Lords, I recently met a young lawyer who told me she was aware of 36 cases in Pakistan where women had been abandoned by men who were UK residents. What is being done to eradicate this appalling state of affairs?

Baroness Williams of Trafford: My noble friend highlights a truly terrible state of affairs—in fact one step worse than for some of those women who actually make it to this country, because women in other countries who have no leave to remain and have no rights in that country really are the most vulnerable women in the world. Of course the women who come here and experience domestic violence may also have no leave to remain here and may have their passports taken away from them. This is something that the Government are not just mindful of but doing something about.

Baroness Burt of Solihull (LD): My Lords, Women's Aid's most recent annual survey found that more than a third of women's abuse organisations were running a service with no dedicated funding. Will some of the £20 million announced in the Budget last week to tackle domestic abuse be used to support those organisations and, if so, how will it be allocated? If the Minister is unable to give precise details in her answer today, please will she write to me?

Baroness Williams of Trafford: The noble Baroness will know that the funding of £20 million she refers to has only just been announced and it is for victims of domestic violence. The tampon tax fund for 2017-18 of £15 million will most definitely focus on improving the lives of disadvantaged women and girls, including the organisations supporting women and girls affected by violence and abuse.

Baroness Uddin (Non-Afl): Although I very much welcome the Government's announcement of the money that the Minister just mentioned, which I assume is in addition to the £20 million in the Budget to which she also referred, how will their commitment transpire in local government politics and priorities? Many local authorities are not choosing to prioritise domestic violence in the same way as the Government. For example, Tower Hamlets Council has just closed some of the longest-serving women's organisations, which supported vulnerable women, just as she described. What will she do to ensure that local authorities make that as much of a priority as the Government seem to?

Baroness Williams of Trafford: The noble Baroness will know that the Government set out a national statement of expectations, which placed an expectation on all local authorities to provide the services that those women—they are mostly women—need. Local authorities can bid into the VAWG transformation fund. The whole point of doing things the way we are now is that one concern previously was that women were dealt with only in the local authority from which they came. If you are a victim of domestic violence, you are not usually going to stay in that local authority, so the whole strategy of expectations and the whole new model of providing services recognises that.

Lord Laming (CB): I am sure the Minister will agree that violence is always dreadful but particularly when it happens in the home and when there are children in the home. Will she use her good offices to ensure that when the police are called to incidents of domestic violence, they do not simply treat the needs of the adults but do whatever they can to protect the well-being of the children caught up in these dreadful situations?

Baroness Williams of Trafford: The noble Lord is absolutely right. He will know all too well the effects that domestic violence has on children. He talks about how the police deal with these situations. They have had an awful lot more training in what to do when they encounter such situations. A child involved in

[Baroness Williams of Trafford]
even one domestic violence incident will carry that episode with them and it may affect them in future. As I explained to the noble Baroness earlier, domestic violence prevention orders keep the perpetrator from the home for 28 days. Also, perpetrator services are now being developed to give men some insight to change their behaviour.

Lord Smith of Hindhead (Con): My Lords, can my noble friend update the House on her assessment of UK services which educate and support women and girls who have suffered abuse such as FGM and breast ironing, or other gender-based violent crimes carried out in the name of religion or cultural tradition, but which are nothing short of the abuse of young British women and girls?

Baroness Williams of Trafford: I thank my noble friend for that question. We now have FGM prevention orders. FGM has always been a crime, but we are dealing with it. Any of those things is a crime against women and girls. Last week, we talked about how multiagency work can help to tackle some of these problems. If a doctor notices symptoms of violence or abuse—breast ironing or FGM, as my noble friend mentioned—the whole model of multiagency working is now set up to allow information sharing so that perpetrators can be brought to justice.

Brexit: Commonwealth, Trade and Migration

Question

2.45 pm

Asked by ***Baroness Berridge***

To ask Her Majesty's Government what is their assessment of future trade and migration from and to Commonwealth countries after the United Kingdom leaves the European Union.

The Minister of State, Department for International Trade (Lord Price) (Con): Our links with the Commonwealth are extremely important. We enjoy excellent trading relationships with Commonwealth partners and are committed to strengthening these further. As we leave the EU, openness to international talent will remain one of this country's most distinctive assets. The process will be managed properly so that our immigration system serves the national interest. The precise arrangements are yet to be determined.

Lord Mendelsohn (Lab): My Lords—

Baroness Berridge (Con): I thank my noble friend the Minister for his Answer. Within the trade that was outlined, there are many British citizens of Commonwealth heritage who run businesses that trade incredibly effectively with those countries of heritage. Many want to see renewed opportunities for migration between the United Kingdom and those Commonwealth countries as free movement within the EU comes to an end. Can my noble friend confirm that there is or will be a strategic plan for engagement with the Commonwealth diaspora in the Foreign Office?

Lord Price: My noble friend asks an excellent Question and clearly one that many in the House want to rise quickly to ask further questions on. I am delighted to say that trade with the Commonwealth has grown sharply over recent years, in fact by about 10% a year since 1995. Trade with the Commonwealth stood at almost $700 billion last year and is projected to hit $1 trillion by 2020. Last week I am delighted to say that we had the inaugural meeting of Commonwealth Trade Ministers here in London, co-hosted between the UK and Malta. One thing that we talked about was the need to continue to have the very best movement of the brightest between Commonwealth countries to continue to build that trade. It is a point that the Secretary-General and the Commonwealth Secretariat will take away to work on with all 52 members of the Commonwealth.

Lord Mendelsohn: My Lords, I apologise for my enthusiasm earlier for this topic. I am sure that the whole House recognises and congratulates the noble Lord, Lord Marland, on his excellent work to organise the Commonwealth Trade Ministers' meeting. When will the Government reply to his letter with an apology for claiming credit for organising it, as was outlined in the White Paper, when it was the Commonwealth that did so? Furthermore, do the Government understand that our chances of success in trade with the Commonwealth will be enhanced if we treat it as the modern free association of nations that it is, rather than as a British possession, as the incorrect claim seems to suggest to other Commonwealth nations?

Lord Price: I am delighted to put on record our thanks to the noble Lord, Lord Marland, for organising the first day of the two-day conference. I think the White Paper said that the conference was going to be held in the UK rather than it being organised by the UK. If it did not make that clear, my apologies once again. My noble friend did a wonderful job in bringing together 37 Trade Ministers from across the Commonwealth and we had very fruitful meetings.

On the noble Lord's second point, the meeting drew out the fact that there are a wide range of economic opportunities and challenges across those 52 countries. Some are subject at the moment to GSP schemes from the EU, others have economic partnership arrangements, and a number have free trade agreements. All need to be treated differently so that we can achieve the best outcome for all 52 countries.

Viscount Waverley (CB): My Lords, does the Minister agree that there is certainly a role for government, not least to create the environment to allow the private sector to thrive? However, UK industry and multipliers should be looking to partnership with their peers across the Commonwealth for corporate opportunities.

Lord Price: I very much agree with the noble Viscount that this is best handled on a business-to-business level. However, the Government have a role to ensure that we have the very best framework to allow businesses to prosper by trading with each other.

Lord Purvis of Tweed (LD): My Lords, the United Kingdom currently enjoys free trade agreements with 32 out of the 52 Commonwealth countries by virtue of

our membership of the European Union customs union. The Commonwealth Secretariat has said that if we leave that union and revert to World Trade Organization rules, such positive trading relations with those countries cannot be guaranteed, and not only that; the secretariat has also calculated that, on 2015 figures, the least developed Commonwealth countries would have faced $800 million of increased tariff payments to export to the United Kingdom if we were on WTO rules. Which part of that does the Minister agree would be, to quote the Foreign Secretary, "perfectly OK"?

Lord Price: The main point of our meeting last week with Trade Ministers from around the Commonwealth was to agree a smooth transition, whether there will be an association agreement, a GSP scheme, an EPA or even an FTA. As the noble Lord pointed out, there are a number of countries in the Commonwealth with which we currently do not have FTAs, or any agreement other than WTO. At the moment, we are on WTO terms with Australia, New Zealand, Canada, India and many others. We believe that in the new world all those can be improved to the benefit of the UK and the Commonwealth as a whole.

Lord Anderson of Swansea (Lab): My Lords—

Lord Pearson of Rannoch (UKIP): My Lords—

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, we will hear from the UKIP representative.

Lord Pearson of Rannoch: My Lords, do the Government agree that the EU single market will continue in long-term and irreversible decline, whereas the Commonwealth contains many of the markets of the future?

Lord Price: I thank the noble Lord for his question. I am not able to predict the future of any part of the world, but I can say that the UK's trade outside the EU has grown more quickly in recent years. Over the last five years or so it has grown by 6% inside the EU but by more than 14% outside it. We therefore feel very optimistic that in a new world of trading more powerfully individually outside the EU we can boost UK exports.

Lord Anderson of Swansea: My Lords, New Zealand, for example, is currently negotiating a comprehensive free trade agreement with the European Union. If, after Brexit, which will be at least two years hence, we also seek to have a separate free trade agreement with New Zealand, in what way will we benefit more than if we had remained a member of the European Union?

Lord Price: It is incredibly difficult to answer that question, because we do not know the shape of the EU agreement with New Zealand and what it will agree nor whether in fact it can do it within two years or whether it will take much longer. Equally, I cannot say today what the deal will be with New Zealand. The Prime Minister has announced a working group, which will begin in due time. I am confident that the UK will be in a position to strike comprehensive and beneficial trade deals for the United Kingdom.

Council Housing

Question

2.53 pm

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what is their assessment of the role of council housing in addressing the issues raised in the White Paper *Fixing our broken housing market* (Cm 9352).

Lord Kennedy of Southwark (Lab): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. I refer the House to my interests; I am an elected councillor and vice-president of the Local Government Association.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, the Government recognise the key role that local authorities play in the provision of housing and we welcome their views on the development of the Government's policy. The recent housing White Paper makes it clear that we are keen to hear about innovative options and ideas from the sector.

Lord Kennedy of Southwark: My Lords, with their renewed focus on the provision of sheltered housing, the Government will be able to provide well-designed housing suitable for the needs of older people while releasing much-needed council homes for families. Why are the Government not doing more in this area? Does the Minister agree that the ridiculous plans to force councils to sell off their most expensive family homes will, if implemented, be a barrier to this aim and should be scrapped?

Lord Bourne of Aberystwyth: My Lords, in answer to the first point, we are open to looking at bespoke deals. Several local authorities—Sheffield and Stoke-on-Trent are examples—are already engaged with us to discuss that, in terms of the housing White Paper, which is recognised by many for its boldness in looking at these issues. In relation to the higher-value assets, the noble Lord will be aware that we will shortly be announcing a pilot in relation to that.

Lord Naseby (Con): Is my noble friend aware that back in 1979 I wrote a pamphlet entitled *The Disaster of Direct Labour*? Will he confirm that, while every encouragement will be given to local authorities to commission building, they will not be allowed to build any homes themselves? In addition, will he confirm that the sheltered housing dimension to which the noble Lord opposite referred is a vitally important area? I hope that Her Majesty's Government will look very seriously at that element of council housing.

Lord Bourne of Aberystwyth: My Lords, as my noble friend says, sheltered housing is absolutely vital. I am very pleased to say that. I do not think there is any suggestion of bringing back direct labour. I am told that he was a byword in relation to direct labour

[Lord Bourne of Aberystwyth]
in the 1970s. However, we recognise the importance of council housing. He will know that in the last five years we have built more council housing than was built in the previous 13 years, from 1997 to 2010.

Lord Shipley (LD): My Lords, in reminding the House that I, too, am a vice-president of the Local Government Association, may I ask the Minister whether he is aware that 10 days ago the Chartered Institute of Housing said:

"The government's ambition to solve the housing crisis will not be possible if an imbalance in housing funding continues … as new figures reveal just £8 billion of the £51 billion earmarked for housing up to 2021 will directly fund affordable homes".?

Does the Minister agree that we need many more homes for social rent?

Lord Bourne of Aberystwyth: My Lords, the noble Lord will be aware that the Housing White Paper talks about boldness and the fact that we are looking at a mix of housing. That is very welcome and has certainly been welcomed by many people across political parties—for example, the London mayor. It is absolutely right that we should do that, and, of course, social housing is an important part of that. I was unaware of the quote that the noble Lord mentioned. However, he will know that a range of people across many parties and professional organisations have welcomed the Housing White Paper as initiating a very valuable debate on housing right across the board.

Baroness Greengross (CB): My Lords, as the White Paper consultation specifically excludes Chapter 4, will the Minister confirm that DCLG would nevertheless welcome informed commentary around its wider implications as it relates to housing, particularly for older people, as that is the only type of housing with care which will release pressures on both the health service and social care?

Lord Bourne of Aberystwyth: My Lords, I am very pleased to acknowledge the role that the noble Baroness has played in relation to that sector, which is, of course, vital. Given that she has pushed hard on this, and correctly so, she will know that we have made provision for this type of housing for older people, particularly in the Neighbourhood Planning Bill. I am happy to acknowledge how important this area is.

Lord Watts (Lab): My Lords, how many government initiatives on this issue have failed in the past?

Lord Bourne of Aberystwyth: My Lords, I am not sure to what issue the noble Lord refers but I am very happy to agree that since the war housing has been a challenge for all political parties. We are simply not building enough. However, there is no reason to give up. If we gave up because past initiatives had failed or had not totally succeeded, that would not be valuable to anybody. The Housing White Paper and this Government's determination are clear. I welcome the noble Lord doing his best to ensure that he holds our feet to the fire in delivering.

Baroness Farrington of Ribbleton (Lab): My Lords, when does the Minister expect to get back from the 2015-16 figure of fewer than 1,000 new starter homes in the social sector to the 40,000 started in 2009-10? I declare my interest in that I got into local government in the 1970s in Preston, when we had people coming across from Northern Ireland to escape the violence. In those days, we had housing available to help people when they arrived. Now, given the dreadful government figures, local authorities will not be able to help such people.

Lord Bourne of Aberystwyth: My Lords, I acknowledge the role that the noble Baroness had in relation to the dreadful position in Northern Ireland and I hope that we never go back to that sort of awful situation. In relation to the general point that she made, I have already acknowledged to the noble Lord, Lord Shipley, the importance of the social sector. As the noble Baroness knows, we have a target of building 400,000 affordable homes up to 2020. Obviously it is important that we get to the sort of figure that is required to meet the housing needs of the country across a whole range of sectors, certainly including the social sector.

Illegal Imports: Dangerous Materials

Question

2.59 pm

Asked by ***Lord Harris of Haringey***

To ask Her Majesty's Government what plans they have to increase the physical and human resources available to Border Force, Her Majesty's Coastguard, the National Crime Agency and police forces in 2017–18 to combat illegal import of firearms, drugs and other dangerous materials into the United Kingdom.

Lord Harris of Haringey (Lab): My Lords, I draw attention to my interests as recorded in the register and beg leave to ask the Question standing in my name on the Order Paper.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, securing the UK is about active law enforcement, using and sharing intelligence to ensure that resources are effectively utilised in line with threats and pressures. Law enforcement partners work to prevent dangerous items ever reaching our shores, and at the border a combination of law enforcement officers and officials, targeting and technology is used to make our already secure borders even stronger.

Lord Harris of Haringey: My Lords, I am grateful to the Minister for that Answer, which I interpret as meaning that there is no plan to increase the resources available to protect our borders. In September last year, the outgoing Commissioner of the Metropolitan Police said that the rapid increase in gun crime was a result of more illegal arms coming into the country. Last month, dog walkers on the Suffolk and Norfolk coasts stumbled across packages containing cocaine with a street value of more than £50 million. I am told that the weight of this was 360 kilograms. To put that in context, it is about three times my body weight, so

we are not talking about a small amount here. Can the noble Baroness tell us whether the Government are being complacent about the arrival of drugs and guns in this country or whether they will increase the resources to patrol our borders and make them effective?

Baroness Williams of Trafford: My Lords, the Government take the issue of guns and drugs arriving in this country very seriously. The noble Lord and the House will have heard me talking previously about Operation Dragon Root last October, in which 800 potentially lethal weapons were seized and 282 suspects were arrested. In addition, 80 kilograms of illegal drugs were seized. I do not know how that compares with the noble Lord's weight, but that is a lot of drugs.

Lord Paddick (LD): My Lords, currently at UK airports EU citizens use automatic gates, which check only that the person seeking entry is the passport holder. Once we leave the European Union, EU citizens will have to be questioned about the purpose of their visit, as there will be no automatic right of entry. How will the Border Force cope without a massive increase in resources, particularly when it is already failing to meet its own targets in terms of delays?

Baroness Williams of Trafford: The noble Lord has asked me a bit of a hypothetical question in terms of numbers. However, he asked about e-gates, which have provided a very efficient way of handling people at passport control. Not only are they very efficient but, in terms of the facial recognition service that they provide, they are very accurate. Just to give the noble Lord an example, one officer can deal with five e-gates.

Lord Sterling of Plaistow (Con): My Lords, there are, as we speak, naval reservists from HMS "President" serving on board border patrol vessels but, unfortunately, they do not have the resources. Last year, I suggested that it would be very good for the reservists if we had about a dozen boats equivalent to the old-style MTB fast torpedo boat grade, with marine reservists on board, stationed at various small ports up and down the coast. The advantages would be that the populace would see that they were being protected and it would provide a role for the reservists. I am sure that the subject will come up in a major debate next week led by my noble friend Lord Howe, but does the Minister feel that this is worth pursuing?

Baroness Williams of Trafford: I can tell my noble friend that we take a very robust approach to maritime security. Border Force and partner agencies use a combination of cutters, radar, onshore assets and area surveillance to detect and stop small craft. We also work closely with domestic and international enforcement colleagues on an intelligence-led approach, allowing us to tackle the criminals involved before they leave for the UK. We have more cutters on order.

Lord West of Spithead (Lab): My Lords, 260 years ago tomorrow, Admiral Byng was shot for upsetting the Government. At the risk of falling into the same danger, the co-ordination of the very limited assets around our inshore waters—seven craft for the Border Force—is a complete and utter dog's dinner. Does the Minister not agree that that there is a crying need to establish a command and control centre to co-ordinate action that the National Maritime Intelligence Centre provides, so that we can actually protect our inshore waters, because at the moment we are absolutely not doing that?

Baroness Williams of Trafford: I can assure the noble Lord that I am not going to shoot him. The NMIC brings together 14 maritime security stakeholders to provide the UK with a unified picture of maritime threat around the UK and globally. As I think I pointed out in previous Questions, a multi-agency, multi-effort approach to intelligence and security and control of our borders is the way forward.

Baroness Jones of Moulsecoomb (GP): I am sure that the Minister is aware that wildlife crime is another international illegal activity that feeds into all sorts of crimes here in the UK. The wildlife crime unit is always under pressure. Interpol takes it incredibly seriously: it has 30 officers. Are the British Government going to take it seriously as well, and not cut its budget?

Baroness Williams of Trafford: The British Government do take it very seriously; in fact, I was watching last night, as I am sure that the noble Baroness was, the programme that is on at teatime on Sunday, which I think is called "Countryfile". It was about the death of wildlife and some of the wildlife crime that goes on. Yes, the Government do take it very seriously indeed.

Lord Rosser (Lab): During Oral Questions just over a month ago, I suggested that figures on the number of firearms illegally imported into the United Kingdom that are seized each year were not very meaningful without an estimate of the percentage of firearms illegally imported into the UK that are seized each year. I also asked whether we were seizing most firearms that are illegally imported, or only a very small percentage. On behalf of the Government, the Minister has since written to me to say that the information that I was seeking was,

"operationally sensitive and not suitable for release".

Why is it operationally sensitive? I hope that it is not operationally sensitive because of the low percentage of firearms illegally imported into the UK that are seized each year. Certainly, withholding information is very helpful to the Government, since it means that they cannot easily be held to account for their failures, which were identified by the Metropolitan Police Commissioner last September, and to which my noble friend Lord Harris of Haringey has already made reference. Will the Minister look again at the figures and information that the Government can provide on this issue? Governments should be able to be held to account.

Baroness Williams of Trafford: I agree with the noble Lord that Governments should be held to account, but I cannot give him the figures. I hope that he will understand that I simply cannot give him the figures.

[Baroness Williams of Trafford]
I was going to suggest that we meet, at some point, the noble Lord, Lord Harris, given his sustained interest in this subject. Perhaps we could talk through some of the issues that he is concerned about.

Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2017

Tax Credits and Guardian's Allowance Up-rating etc. Regulations 2017

Legislative Reform (Private Fund Limited Partnerships) Order 2017

Motions to Approve

3.08 pm

Moved by ***Lord Young of Cookham***

That the draft regulations and order laid before the House on 16 January and 6 February be approved.

Considered in Grand Committee on 9 March.

Motions agreed.

Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2017

Motion to Approve

3.08 pm

Moved by ***Lord Henley***

That the draft order laid before the House on 2 February be approved.

Considered in Grand Committee on 9 March.

Motion agreed.

Higher Education and Research Bill

Report (3rd Day)

Relevant documents: 10th and 19th Reports from the Delegated Powers Committee

3.09 pm

Amendment 144

Moved by ***Lord Sharkey***

144: After Clause 82, insert the following new Clause—

"Sharia-compliant student finance: progress reports

(1) The Secretary of State must publish on the Department for Education's website, and must bring to the attention of schools in England and Wales as appropriate, a report which—

(a) sets out progress towards the introduction of a scheme of Sharia-compliant student finance; and

(b) provides an estimate of when such a scheme will be available for students entering tertiary education.

(2) A report under subsection (1) must be published within one month of this section coming into force and must be updated quarterly thereafter.

(3) Where any update provided under subsection (2) varies an estimate of when a scheme will be available, the Secretary of State must provide an explanation."

Lord Sharkey (LD): My Lords, Islamic law forbids interest-bearing loans and that prohibition can be a barrier to Muslim students going on to attend our universities. I first became aware of this when I visited the Preston Muslim Girls High School as part of the Lord Speaker's outreach programme. I talked about the work of the House and I tried to answer the girls' questions. There was one question that I could not answer: why was there no sharia-compliant system of student finance? Many of the girls came from very religious backgrounds and some would not be able to accept interest-bearing loans. This meant that they could not go to university. They were certainly qualified to go—Ofsted rates their school as outstanding on every measure. The headmaster explained to me that when tuition fees were low, many Muslim students were able to attend university, financed by family and friends. However, since 2012, this has become much more difficult given the current level of fees and the real rate of interest now payable on student loans. As the excellent impact assessment to the Bill notes, the situation worsened in 2016-17 when maintenance grants were replaced by interest-bearing loans. The Muslim community is disadvantaged by all this. The impact assessment says that:

"The unmet demand for student finance consistent with the principles of Islamic finance might mean that some would-be students may be prevented from participating in higher education on the basis of their religious beliefs".

The coalition Government took this problem seriously. In 2014, a BIS consultation had an astounding 20,000 responses. In their response to the consultation, the Government's conclusion was clear, saying that,

"the Government supports the introduction of a Sharia-compliant Takaful Alternative Finance product available to everyone".

However, they added that:

"Given the complexity of these issues and the time needed to resolve them, it is unlikely that any Alternative Finance product could be available before academic year 2016/17".

That was in September 2014. We are already into academic year 2016-17, and too far into it for any scheme to be available for academic year 2017-18. Worse, I have been told privately that the scheme will not be ready until academic year 2019-20. That is seven years after the problem was recognised, five years after a solution was agreed and two academic years from now. Muslim communities have been disadvantaged for five years and face the prospect of another two years of it.

In Committee, I tried to persuade the Government to accept a deadline of 2018-19 for the introduction of a sharia-compliant system. I chose that date because Islamic finance experts assured me that a Takaful system could be put in place from a standing start within eight to 12 months. Some of these experts had advised the Government on the introduction of a Takaful system and knew what it would take to get it up and running. The Government rejected the idea of a deadline without even hinting at what they thought might be an introductory date. However, the Minister was kind enough to meet me to discuss the situation. He and his officials made it clear that the Government

were not prepared to accept any kind of deadline, nor did they give an estimate of when a sharia-compliant system might arrive. I repeated that I had been told that the problems with the Student Loans Company and HMRC were causing the delay and uncertainty, and that they had not assigned the scheme sufficient priority or sufficient resource. I explained again that prominent Islamic finance experts believe it should take no longer than eight to 12 months to put a system in place. These experts also point out that establishing the sharia-compliant help-to-buy guarantee scheme took only five or six months to develop and launch.

I also asked whether the department had told schools, and through them Muslim families, about the work going on around the Takaful system. The answer was no. The reason given was the desire to avoid raising expectations. I thought this was precisely the wrong answer. If the department had been in better touch with the Muslim community, it would have known that expectations had already been raised by David Cameron as long ago as 2013 when he spoke to the World Islamic Economic Forum in London and announced the arrangement of student finance on a sharia-compliant basis. That was four years ago. I thought that Muslim students, their families and communities had a right to know what progress was being made and when to expect a solution. That is why my amendment would require the Secretary of State to tell all relevant schools about the progress being made and to give an estimate of the likely date of availability.

3.15 pm

There is a frustrating irony in all this. The Government are to be congratulated on bringing forward enabling primary legislation, but it is surely wrong to have such a long delay and such continued uncertainty over the date of the scheme's introduction. It is surely wrong not to understand the worries and concerns that this delay and uncertainty cause in the Muslim community. To refuse to report progress and to refuse to estimate a likely delivery date is to avoid responsibility. It does not treat the Muslim community as adults. The impact assessment, which talked about the implications for the Muslim community of the move from maintenance grants to interest-bearing loans and the introduction of the Takaful system, referred to the Government's public sector equality duty. That has force. So does simply being honest, open and transparent with the Muslim community about progress and a likely availability date for Takaful financing. It is their children's futures we are talking about.

In their 2014 consultation response the Government said:

> "There is demand for the proposed Alternative Finance product and responses to the consultation indicate that this would enable many of those who have been or will be prevented from undertaking both FE and HE, to attend by removing the conflict between faith and funding".

My amendment simply asks the Government to say when this conflict between faith and funding will be resolved. I beg to move.

Lord Sheikh (Con): My Lords, I am in favour of the amendments tabled by the noble Lord, Lord Sharkey. I declare my interest as co-chair of the All-Party Parliamentary Group on Islamic Finance. The APPG has recently reformed and is now an active body. I am also a volunteer patron of the Islamic Finance Council. I have long-standing experience of financial services and a strong connection with the City of London. I have promoted Islamic finance and attended numerous conferences in this country and abroad. I also used to be a visiting lecturer at various colleges and thus have a deep interest in the education and well-being of students.

Sharia-compliant student finance is one of many issues that fall within the scope of Islamic finance. The United Kingdom has the largest Islamic finance market outside the Muslim world. Its assets now exceed $20 billion. Worldwide, the Islamic finance sector is now valued at more than $2 trillion, with an annual growth rate of over 15%. We have in this country very competent accountants, solicitors, consultants and other professionals who can help foreign countries develop their Islamic financial structures. I have made this point twice in your Lordships' House recently, including in the debate tabled by the noble Viscount, Lord Waverley, on the subject only last week. It is, however, incumbent on the UK to look at its own structures and address deficiencies wherever they may arise. Otherwise we will not be seen as a model for others to follow.

This brings me to the matter at hand. In 2013, the UK hosted the ninth World Islamic Economic Forum. It was the first time that the forum had been held outside the Islamic world, for which the UK drew great praise and admiration. The former Prime Minister, David Cameron, spoke at the forum and stated that he would like London to be a great capital of Islamic finance in the western world. He made the further point that London proudly possesses the virtues of openness and innovation. Indeed, we need to be innovative to be a market leader in Islamic finance.

At the conference, Mr Cameron made three commitments on behalf of the Government: to issue a sovereign sukuk for around £200 million, to provide a sharia-compliant student loan scheme, and to arrange start-up loans for new businesses based on sharia principles. In the light of the first commitment, a sukuk for £200 million was issued. It was very successful and was oversubscribed by 10 times. It is important that we now deliver the second commitment: the arrangement of a sharia-compliant student loan.

It is four years since the commitment was made, so it is most overdue. David Cameron said:

> "Never again should a Muslim in Britain feel unable to go to university because they cannot get a Student Loan—simply because of their religion".

The Government continued to illustrate their commitment to this. In 2014, the Department for Business, Innovation and Skills held a consultation on sharia-compliant student financing. In their response, the Government stated that they acknowledged its importance and supported the introduction of such a scheme. It is important that we now push ahead and make it available to students as soon as possible.

Increasingly, I find that many young Muslims wish to reconnect with their Islamic principles. With there being more than 300,000 full-time Muslim students

[LORD SHEIKH]
today, it seems clear that this wish remains unfulfilled for some students without a sharia-compliant student finance scheme. The diversity of modern Britain must be reflected in all spheres of life in order to integrate the next generation of Muslims and other minorities with the rest of the population.

For the past four years, I have been asked by the high commissioner for Bangladesh to present awards to British Bangladeshi school leavers. The performance of these children has improved dramatically in recent years and this community is now performing exceptionally well at school. More of these children now wish to move on to higher education, thus increasing the number of Muslim students at our universities.

Today, funding a degree in the UK requires significant expenditure. Tuition fees combined with living expenses mean costs of at least £22,000 a year for the average student. Of course, studying in London will undoubtedly cost more. A student loan is therefore the only route to education for many people.

Let us be frank: a bright, young potential Muslim student may be forced to make an unfair choice—forgo their principles or opt out of going to university altogether. The lack of sharia-compliant loans therefore has a direct impact on the potentially life-changing decision for parents and potential students whether to continue into higher education. They simply do not want to get involved in interest-based loans that go against their faith-based principles. This can have wider implications. For example, as someone who has been involved in combating radicalisation, it is clear to me that education is a key tool to better integrate our communities and further enhance social cohesion.

I welcome the Government's commitment to ensure our world-class higher education sector remains financially sustainable, with an ability to invest in the excellent teaching that students expect. However, we must also give all young people, irrespective of their religious belief or racial origins, the opportunities to succeed and to study. By doing so we will encourage all communities to take an effective role in the advancement and well-being of our country. We want religious minority groups to be given the same chances as others so that they become valuable members of our society.

I add that sharia-compliant financing appeals beyond the Muslim community to those who simply desire a more ethical form of financing. In my experience, a number of non-Muslims have opted to take up Islamic financial products as a matter of principle. I have received letters and emails from leading Muslim organisations and community leaders who would like the Government to introduce sharia-compliant student finance arrangements. These letters have been received from the Muslim Council of Britain, the Muslim Association of Britain, the East London Mosque & London Muslim Centre, the London Central Mosque Trust Ltd & the Islamic Cultural Centre, Muslim Engagement and Development, and from the honourable Jaffer Kapasi OBE. I have passed copies of this correspondence to my noble friend the Minister.

Additionally, I have received a letter from Mr Mohammed Amin MBE, who is currently the chairman of the Conservative Muslim Forum. He is a chartered accountant specialising in Islamic finance. Until his retirement, he was a partner and head of UK Islamic finance at PricewaterhouseCoopers. He is firmly of the view that it is possible for sharia-compliant arrangements for students to be introduced by autumn 2018. I also forwarded a copy of this letter to my noble friend the Minister.

While I fully support the development of a publicly available and regularly updated progress report as outlined in the amendments, I would prefer to get a commitment that a sharia-compliant student loan scheme will be available in the UK by autumn 2018. I very much appreciate that the Department for Education has opened a tender for consultants to bid to assist in the development of a sharia-compliant scheme for students. This tender was opened on 21 February and the closing date was 7 March 2017. While we welcome this step, we ask for a commitment that the scheme will be operational by autumn 2018. I and others are of the opinion that this is possible if there is a will to prioritise the project. On our side, we are very happy to provide any help and support that may be needed.

Baroness Cohen of Pimlico (Lab): My Lords, I support the amendment and the powerful speeches made by the noble Lords, Lord Sharkey and Lord Sheikh. I am staggered to be reminded how long this has been going on for and the difficulty with which Government seem to be approaching this issue. Nothing should stand between the young and their education. I fear that the lack of a sharia-compliant scheme may bear particularly hard on young women. It is not unknown in communities such as my own Scots family for the men to get first crack at the money and the women to follow. It would not surprise me, I fear, were the same still the case.

The real point is that we can do sharia-compliant finance. Twenty years ago, when I was in the City, we did sharia-compliant finance and made money out of it. It strikes me as staggeringly ungracious of us not to have made the student loans scheme work when we have profited from similar schemes as a country. I support the amendment.

3.30 pm

Lord Hussain (LD): My Lords, I also support the amendment. In doing so, I declare an interest as vice-chairman of the recently set up APPG on Islamic Finance. As we all know from the 2011 census, it is recognised that more than 2 million Muslims live in this country and many of them would like sharia-compliant finances. Many of us must make compromises when such finances are not available and take interest-based finances. Particularly with student finances, where a scheme has in many ways already been agreed to go ahead, it is beyond my understanding why it has taken so long for the Government to complete the legislative process for it to be introduced.

The case for the amendment was made very well by my noble friend Lord Sharkey, the noble Lord, Lord Sheikh, and the noble Baroness, Lady Cohen. I add only that when this sharia-supported Takaful scheme is introduced we need to make sure that it is available easily and to all Muslim and non-Muslim students who want to benefit from it. I am mindful of one other

thing and ask the Government to bear it in mind: that the scheme does not become more expensive to students in any way. I have seen in some countries zero-interest-based finances which, in the small print, have built in various administration and handling charges and fees. At the end of the day, they become more or just as expensive as the interest-based schemes. I hope that the Government will at least make sure that this scheme does not become more expensive to students. With that, I urge the Government to complete the legislative process as quickly as possible to make the scheme available to students by the beginning of the next academic year, in 2018.

Baroness Thomas of Winchester (LD): My Lords, I was speaking to a Muslim friend this morning who has six young children. She and her husband take education extremely seriously; the children go to extra tuition. Families such as that will find it very difficult if a scheme is not put in place soon as far as choices are concerned for the children's education. She was very excited to see such an amendment on the Marshalled List today. I hope it will be supported this afternoon.

Lord Newby (LD): My Lords, briefly, I support this amendment. I declare my interest as a vice-chair of the All-Party Parliamentary Group on Islamic Finance. I want simply to ask the Minister to reflect on what his colleague, the noble Baroness, Lady Goldie, said in Committee as to why the Government could not give a timescale for this. She said:

> "This careful, sensitive and important work cannot be rushed towards a deadline that is simply chosen and written into legislation. Our timeframes must be grounded in the realities of the work necessary to deliver a workable system".—[*Official Report*, 25/1/17; col. 171.]

What are these realities which mean that not only is there inordinate delay but we do not even know how long the delay is likely to be? As we have heard, this is a relatively modest proposal. There is a lot of expertise which would enable it to take place. Can the Minister assure us that the real reason for the delay is not simply that there is such a shortage of staff in the relevant departments and so many other priorities, not least with Brexit, that the Government are not prepared to put Civil Service resources into getting this scheme off the ground?

If you were in a Muslim community it would be very easy to believe that the Government were not taking their commitments seriously in this respect because there is so little action to show. If the Minister is not prepared today to give a firm date for when the Government expect the scheme to be introduced, will he at least give his support to my noble friend Lord Sharkey's amendment, which would bring some degree of limited certainty into the process?

Lord Gordon of Strathblane (Lab): My Lords, I too will speak very briefly in favour of the amendment. It seems that there is no ideological objection to the proposal from the Government. What has happened is that it has lost priority. That loss of priority may be for perfectly innocent reasons but surely everyone recognises that it is capable of being misinterpreted adversely from the point of view of good relations in the United Kingdom. I simply urge the Government to restore it to the priority it had when it was first announced.

Lord Carrington of Fulham (Con): My Lords, I had not intended to speak in this debate but I have been encouraged to do so. First, I remind your Lordships of my interests as declared in the register: I am chairman of a sharia-compliant bank in London and therefore have some knowledge of the problems, but I have also spent my professional lifetime in sharia banking.

I encourage the Government to move ahead as rapidly as possible in providing these loans. Clearly, there are no real problems in doing so from a sharia point of view. All those problems are well understood and are easily addressed by conventional techniques in sharia banking. There are problems, however, in the way that the Bank of England treats those types of loans and in the way that the Treasury looks at them. I suggest that the Government really need to move ahead to resolve those issues as quickly as possible because the benefit to the Muslim community of providing these types of loans outweighs any difficulties I can see that the Government could face.

Lord Stevenson of Balmacara (Lab): My Lords, with all the voices in accord around the Chamber it seems almost otiose for me to join in and add my support. I had a conversation with the noble Lord, Lord Sharkey, just after he had tabled his amendment; I suggested that it was a rather weak amendment and he ought to sharpen it up because I thought there would be a lot of interest around the House. I have been proved right in that, to the point where a vote would perhaps be sensible. I am sure his intention in speaking today is not to force a Division on the House because the arguments are so all-encompassing and completely unanswerable.

I hope the Minister will be able to make a firm commitment, as previously suggested: first, that he supports the intention of introducing this measure as quickly as possible; and, secondly, that he will not allow the apparent problems with the supply line to hold up the provision of sharia-compliant loans. After all, a touch of competition from those experts in the field who might be able to step in might be a way for the Government to get themselves out of the hole. But it is a very sorry tale. The idea that students who could benefit from these loans cannot because of a conflict between faith and their ability to operate within the system that is currently available seems so utterly shocking that it just needs the Government to say that it will change.

Lord Young of Cookham (Con): My Lords, the noble Lord, Lord Sharkey, is to be commended for his continued work to emphasise the importance of the Government's plans to put in place a viable system of alternative student finance. I know that he has had a useful discussion with the Minister, my honourable friend Jo Johnson, and my noble friend Lord Younger.

I am grateful to my noble friend Lord Sheikh, who reminded us of the history of this commitment and the objectives of further opening access to higher education to more people who might be unable to

[Lord Young of Cookham]
access it at the moment. His points on the importance of Islamic finance in this country, particularly on the potential benefits of alternative student finance, are well made. We will consider carefully the correspondence that he has sent on to us. I am also grateful to the noble Baroness, Lady Cohen, for reminding us of the adverse impact of the current regime on women, and to other noble Lords who came in on this debate.

In response to the noble Lord, Lord Hussain, who is worried that this might be more expensive, I have looked quickly at page 53. Clause 82(7) would insert new subsection (11), which says that,

"the person making the regulations concerned, achieves a similar effect to a loan under this section",

so the idea is that it should be neither more nor less expensive than the equivalent finance under a conventional student loan.

During debate in Committee, my noble friend sought to assure noble Lords that the Government are fully committed to delivering alternative student finance. We are the first Government to legislate to make such alternative finance possible, and have legislated at the first opportunity. As the noble Lord, Lord Stevenson, has just reminded us there is no disagreement at all about the policy and the objective. Introducing alternative student finance is one of our priorities for the student finance system. We are working to expedite its delivery. We want this new alternative system to be available to students as soon as practicable. In response to the questions posed by the noble Lord, Lord Sharkey, and other noble Lords, I can inform the House that subject to parliamentary processes, we are currently working towards it being open to applications from the first students within this Parliament.

I can see that there is interest in more information on our progress but I am afraid that a quarterly report, as required in the amendment, would be an unusual and unwarranted step. It would be onerous and, I suspect, of limited value to the people we are trying to support. The Bill is not the place to set out administrative processes around policy development; it is about the legislative framework needed to bring in alternative student finance. I am very happy to give an update on our progress here today, in the light of the clear interest shown. I have detected a note of impatience in the speeches we have heard this afternoon. Noble Lords will of course have an opportunity to hold the Government to account through the usual processes, whether by tabling questions or scrutinising the regulations that we intend to bring forward using the powers within the Bill.

Officials in the department are co-operating closely with counterparts in delivery partner organisations. Together, they are working through the requirements for the new alternative student finance system. We have started the process to engage dedicated experts in Islamic finance to work for the Government and support the detailed implementation of alternative student finance. We are also commissioning research that will explore the views of Muslim prospective students, and their non-Muslim peers, to help ensure that alternative student finance will meet their needs. I also assure noble Lords that we are actively considering how best to bring alternative student finance to the attention of prospective students in England in the run-up to its launch. We will want to ensure that we reach prospective students studying in a variety of settings, or indeed not currently studying at all.

It is only by working hard to develop and deliver complex and detailed plans that we will be able to meet our policy objective—a shared policy objective—of supporting participation in education. This careful, sensitive and important work has to be done properly first time. It takes time but I reassure all noble Lords who have spoken that it is one of our top priorities.

As a final point of reassurance, I note that in Amendment 208 the noble Lord, Lord Sharkey, has sought to ensure that his proposed new clause in Amendment 144 would be commenced on Royal Assent. I assure noble Lords that although the Government's clauses enabling alternative student finance are to be commenced by regulations and not directly on Royal Assent, this is consistent with the rest of the Bill and should not in any way be considered as an impediment to the Government's commitment to making alternative student finance available as soon as practical.

In light of the progress that I have set out here, and of the commitment that we have given about the timing of the introduction of this important new initiative, I hope that noble Lords will feel that a reporting clause in this legislation is not required. I therefore ask respectfully whether the noble Lord might withdraw his amendment.

3.45 pm

Lord Sharkey: My Lords, I thank all noble Lords who have spoken in this brief debate. I am astonished by some of the Government's response. The Minister said that this scheme will be open for applications before the end of the Parliament, but this Parliament ends in 2020. On the whole, the Government's response takes insufficient account of the worries caused in the Muslim community by the uncertainty about the date of availability and of the perfectly understandable desire of the Muslim community to know what progress is being made. It gives no substantive explanation for the very long delay to date or the inability to get this work done in a reasonable time. The Government have offered no rebuttal of the Islamic finance experts' view that with political will and proper resource we could have sharia-compliant student finance available for students going up to university in April 2018.

This is all extremely disappointing. We should do better. My amendment will at least let the Muslim community know what progress is being made and when to expect a solution to a problem that continues to disadvantage them and their children. I wish to test the opinion of the House.

3.46 pm

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3.59 pm

Amendment 145

Moved by ***Lord Watson of Invergowrie***

145: After Clause 84, insert the following new Clause—

"Financial support: loans

(1) In section 22 of the Teaching and Higher Education Act 1998, after subsection (5) insert—

"(5A) No provision may be made relating to the repayment of a loan that has been made available under this section which would change the repayment conditions of that loan once the first payment has been made to the borrower or directly to the institution to whom the borrower is liable to make payments.

(5B) No provision may be made relating to the repayment of a loan that has been made available under this section, and under which any payments have been made prior to the commencement of section (financial support: loans) of the Higher Education and Research Act 2017, which would make any further changes to the repayment conditions of that loan after the commencement of that section."

(2) In section 8 of the Sale of Student Loans Act 2008 (consumer credit), for subsection (1) substitute—

"(1) Loans made in accordance with regulations under section 22 of the Teaching and Higher Education Act 1998 are to be regulated by the Consumer Credit Act 1974.""

Lord Watson of Invergowrie (Lab): My Lords, Amendment 145 is in my name and that of my noble friend Lord Stevenson. Students beginning their university courses after 2012 were told that if they took out a student loan, they would be required to repay it at the rate of 9% of future earnings above £21,000 a year. The Government repeatedly promised that the £21,000 would be uprated each year from April 2017 in line with average earnings. Indeed, that was confirmed in a letter to parents by the then Minister for Universities and Science, who is now the noble Lord, Lord Willetts. That letter contained no caveats, so students and their families knew where they stood on repayment of their loans—at least, they thought they did until the 2015 Autumn Statement, when the then Chancellor announced that the repayment threshold for student loans was to be frozen at £21,000 from April 2017, instead of being uprated in line with average earnings.

This is fundamentally a question of broken faith: of trusting what the Government say proving ill founded. Quite apart from the substantive issue in the amendment, that question of trust is, we believe, far from insignificant.

This issue is being revisited following debate in Committee, when the noble Lord, Lord Willetts, used his ministerial experience to explain that when the decision was taken in 2011 to freeze the repayment threshold, the figure was based on 75% of projected average earnings in 2017. Earnings in the intervening period having risen by less than anticipated, the noble Lord told us that,

"as a result … the repayment threshold has become significantly more generous relative to earnings than we expected when we set it".—[*Official Report*, 25/1/17; col. 729.]

Unfortunately, that possibility was not mentioned in his aforementioned letter to parents.

By the logic of that argument, had earnings risen more than anticipated, students would be facing an increased threshold next month. Noble Lords will forgive me if I cast some doubt on that being allowed to occur. Nor should it, because an agreement is an agreement and should be respected as such by both sides. The Government's action amounts to breach of a contract, with one party unilaterally changing the terms of the student loan. In any other context, it would be open to legal action to have the contract enforced and that action would succeed.

When the Bill was considered in the other place, the Minister for Universities and Science, Mr Johnson, called on universities to redouble their efforts to boost social mobility. He was right in his exhortation, although wrong to suggest it was solely the responsibility of institutions. When Labour left office in 2010, 71% of state educated pupils went to university. By 2014, that figure had fallen to 62%. This change will have a disproportionate impact on graduates on modest incomes and will act as a disincentive to young people from less well-off backgrounds to take up a place at university, because they will know that a previous cohort of students were misled by the Government over the repayment term of their loans. The parents of that cohort were also misled, and some of the financial impact may well follow them.

Amendment 145 would prevent any changes to the repayment of a student loan, irrespective of whether that benefited students, after the terms and conditions of repayment had been agreed. This would apply to existing loans after the commencement of the Act and ensure that such a situation would not recur by bringing loans under the regulation of the Consumer Credit Act 1974—which, many people were surprised to learn, does not apply at the moment.

Some regulation of the student loan market is needed to provide the protection that students need. In replying for the Government in Committee, the noble Baroness, Lady Goldie, told noble Lords:

"On the matter of student loan terms and conditions, I share your Lordships' desire to ensure that students are protected ... However, it is important that … the Government retain the power to adjust terms and conditions".—[*Official Report*, 25/1/17; col. 732.]

How are those two statements capable of reconciliation? They are not, because only the Government are protected, not students—the very people that the Minister has consistently said throughout our deliberations are at the heart of this legislation. The unilateral reneging on loan agreements demonstrates that in fact, students' interests can be dispensed with whenever the Government deem it necessary. That is unacceptable and is one more reason why the amendment should be adopted as a new clause. I beg to move.

Lord Willetts (Con): I shall very briefly comment, as I have had my arguments referred to by the noble Lord opposite. The graduate repayment scheme is neither conventional public spending, nor is it a commercial loan. All three parties, when faced with the question of how you finance higher education, have concluded that the best way forward is through such an arrangement. If it is public spending, it will be a low priority, and the funding of universities will suffer. If it is a commercial loan, which now appears to be what the Labour Opposition are calling for, and if we really were to have it regulated under the terms of the convention on private loans, one of the first requirements would be the requirement to know your customer—to make an assessment of an individual recipient to see whether they have the capacity to repay a student loan. The agencies would have to decide whether to lend to any one individual or not, and disadvantaged students would certainly lose out from such an assessment. That is why this scheme is a midway house between two unpalatable alternatives, and why all three parties have backed it.

As part of that arrangement, it seems legitimate that Governments should be able to decide—I have always thought every five years, in an explicit public review—the balance between repayments by graduates and the remaining burden being borne by the generality of taxpayers, as the loans are paid off. That seems a sensible arrangement, bringing necessary flexibility into the system, and it is why it has always been made clear to students that Governments have the right to change the repayment terms as they wish. That seems a sensible feature—and if we go down the route of treating it like a private contract and repayment, it will have consequences which all of us in this House, particularly the party opposite, will come to regret.

Lord Young of Cookham: My Lords, I share the concern of the noble Lord, Lord Watson, that students should be entitled to protection when they take out student loans. Protections are already available in law and take account of the particular nature of these loans. Student loans are not like the commercial loans of the sort regulated under the Consumer Credit Act; they are not for profit and are universally accessible. Repayments depend on the borrower's income, not on the amount borrowed, and the interest rate is limited by legislation. I am grateful to my noble friend Lord Willetts for summarising the excellent speech that he made on this subject in Committee, and putting forward powerful reasons for not treating these as commercial loans.

I turn first to the issue of the threshold freeze. To put higher education funding on to a more sustainable footing, we had to ask those who benefit from university to meet more of the costs of their studies. This enabled us to remove the cap on student numbers, enabling more people to get the benefit of a university education. When the current system was first introduced, the threshold of £21,000 would have been around 75% of the projected average earnings in 2016. Since then, updated calculations, based on ONS figures for earnings, show that figure is now 83%, reflecting weaker than expected earnings growth since 2012. Uprating the repayment threshold in line with average earnings would cost around £5 billion in total by April 2021 compared with the current system. The total cost of uprating by CPI would be around £4 billion over the same period. The proportion of borrowers liable to repay when the £21,000 threshold took effect in April is therefore significantly lower than could have been envisaged when the policy was originally introduced. The threshold would now be set at around £19,000 if it

[Lord Young of Cookham]
were to reflect the same ratio of average earnings. The current £21,000 threshold remains higher than the £17,495 threshold that applies to loans taken out under the system left behind by Labour in 2010. Low earners remain protected. Borrowers who earn less than £21,000 a year repay nothing, while borrowers earning more than this repay 9% of their earnings above the threshold, irrespective of how much they borrowed. Any outstanding balance on the loans is written off after 30 years with no detriment to the borrower and no effect on their credit rating. This Bill makes no changes to any of these arrangements.

It is important that, subject to parliamentary scrutiny, the Government retain the power to adjust the terms and conditions of student loans. As I said a moment ago, I fully share the noble Lord's desire to ensure that students are protected and that is why the loan terms are set out in legislation.

Lord Watson of Invergowrie: If the situation had been reversed, and earnings had risen by more than had been anticipated, would the Government's ability to vary the loans have been carried out in a manner which benefited students, rather than as has happened on this occasion?

Lord Young of Cookham: Perversely, the noble Lord's amendment would prevent the Government making any changes to the loan agreement that would favour the borrower. In other words, one of the effects of the amendment would be that we would not be able to alter the terms to the advantage of the borrower if the situation changed.

Lord Watson of Invergowrie: As I said earlier, that is what the amendment is designed to do. The point is, when you reach an agreement you stick by it; you do not vary it either way. I am certainly not advocating that it should be varied the other way. My question was whether the noble Lord and his Government would be prepared to vary it the other way, had earnings risen by more than had been anticipated.

Lord Young of Cookham: My response was that we would not be allowed to under the terms of the amendment. We have flexibility, which the noble Lord would deny us. The amendment would mean that future cohorts of students and taxpayers would have to bear the risks of the scheme, because it would insulate current students from any change. Perhaps that is why the Labour Party did not legislate to prohibit changes to the terms and conditions of existing loans when they introduced the system of income-contingent loans in the late 1990s. As I said, his amendment would prevent the Government making any change to the loan agreement that would favour the borrower, were this ever to be necessary.

It is also important that the Government should continue to be able to make necessary administrative amendments to the terms and conditions to ensure that the loans can continue to be collected efficiently. An example of this was the repayment regulations having to be amended in 2012 to accommodate HMRC moving to an electronic system to collect PAYE income tax through employers. Not being able to make this type of technical change to the regulations would eventually affect our ability to collect repayments through the tax system.

Having reflected on the question that the noble Lord asked me twice, the best answer is that I am reluctant to comment on a hypothetical question.

I turn to the regulation of student loans. The current student loan system is heavily subsidised by the taxpayer, and is universally accessible to all eligible students regardless of their financial circumstances. As my noble friend has just reminded us, taking out a student loan is in no way the same as taking out a commercial loan, and it should not be regulated as if it was. This fact was recognised by Labour when it legislated to confirm this exemption in 2008.

The key terms and conditions are set out in legislation and are subject to the scrutiny and oversight of Parliament. Extending a system of regulation designed to regulate a competitive market in personal finance to a system of subsidised loans whose terms are set by Parliament would be impractical, expensive and fundamentally ill conceived. The additional costs of the regulation would need to borne by borrowers and taxpayers and would not be in their interests.

I return to the point that this is a heavily subsidised government loan scheme, and it remains right that Parliament should continue to have the final say on the loan terms and conditions, as it is best placed to balance the interests of taxpayers, borrowers and students. We are committed to a sustainable and fair student funding system. Our system allows the Government, through these subsidised loans, to make a conscious investment in the skills of our citizens. We are seeing more young people going to university than ever before, and record numbers of 18 year-olds from disadvantaged backgrounds. Our funding system has enabled us to lift the cap on student numbers and, with it, the cap on aspiration.

I hope that this addresses the concerns raised by the noble Lord, and I therefore ask him to withdraw Amendment 145.

Lord Watson of Invergowrie: My Lords, I thank the Minister for that reply. Some of his comments about the Government's commitment to student loans would have carried more weight had they extended as far as sharia-compliant loans; we know from the previous debate that that is not the case. Although I take on board the points made by the noble Lord, Lord Willetts, he did not address the major point of this amendment: challenging the fact that the Government have changed the rules of the game after the game has begun, leaving a huge number of students worse off financially as a result of their actions. That is not acceptable. I have heard nothing from the Minister that suggests that the Government regret the move that they have made. In fact, they have said quite clearly that it was done for financial reasons. Those financial reasons are impacting on students. We believe that is unacceptable, and I wish to test the opinion of the House.

4.15 pm

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Strathclyde, L.
Stroud, B.
Sugg, B.
Suri, L.
Swinfen, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Thomas of Swynnerton, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Turnbull, L.
Ullswater, V.
Vere of Norbiton, B.
Verma, B.
Wakeham, L.
Walker of Aldringham, L.
Wasserman, L.
Watkins of Tavistock, B.
Wei, L.
Wellington, D.
Wheatcroft, B.
Whitby, L.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Young of Graffham, L.
Younger of Leckie, V.

4.30 pm

Amendment 146

Moved by ***Baroness O'Neill of Bengarve***

146: After Clause 84, insert the following new Clause—

"Unincorporated higher education providers: financial support

Students enrolled on a course provided by a higher education provider that is not incorporated under the law of the United Kingdom do not qualify for publicly funded student support."

Baroness O'Neill of Bengarve (CB): My Lords, the purpose of this amendment is to try to help to ensure that higher education providers, including new ones, have adequate standards of governance, and in particular standards that support the integrity of the student loans scheme. The intention of the Bill is to permit a wider range of higher education providers to offer university education in England.

The novel term "English higher education provider" has a capricious definition: it is simply an organisation that offers higher education in England. It could be a public body, a charitable body, a company limited by guarantee or a for-profit company. It could also be an organisation with a single proprietor. In our debates so far, we have tended to speak of such providers as having governing bodies. This can sound reassuring and familiar, but there is nothing yet in the Bill that requires an English higher education provider to have a governing body that meets specified standards, let alone UK standards. The term "English higher education provider" is therefore somewhat misleading. We would not, I think, speak of a Chinese textile company that sells cotton t-shirts and socks here as an English cotton clothing provider. However, the English higher education providers that the Bill envisages are to count as English merely if this is a market for which they provide something.

We all hope the new entrants that the Bill when enacted may attract will offer high-quality university

courses—ideally, courses that are not sufficiently available in the current spectrum of UK university offerings. For example, we might hope that some new providers would offer the quality of undergraduate education that the best American liberal arts colleges or the best technical universities in Germany or Switzerland offer. However, I think that that is very unlikely. The cost base for these institutions is extremely high. The US liberal arts colleges—I have in my time taught on five well-known undergraduate programmes of that type—require a four-year degree and charge extremely high fees. These institutions are typically part-supported by endowment funding and could not function without it. The cost of STEM provision, such as that offered by technical universities in Germany or Switzerland, is evidently also high, as it is for their counterparts here. Such institutions are not likely to see a ready market for their standard offering here, particularly as there would be very high competition from the best existing UK institutions.

At most, such institutions might offer a restricted, downmarket set of courses only in subjects that are cheap to teach but whose graduates are assumed to be well paid—typically law, business, accountancy or subfields of these. That approach to their franchised overseas provision has been taken in other jurisdictions by some prestigious US institutions. However, I am not going to name names, because I think that that would be unfair.

The major risk is that institutions of quite other sorts would seek to enter the market to provide higher education in England, lured by the prospect that their students might have access to publicly funded tuition loans. At present, somewhat surprisingly, there is nothing to ensure that those who seek to provide higher education will have even adequate, let alone high, standards of governance. We have talked rather cosily about the governing bodies of higher education providers, but that need not be the situation. Noble Lords who followed the story of the collapse of Trump University and the compensation settlement that was reached a few months ago will recognise the sort of risk that I am talking about. Noble Lords who have not yet had the enjoyment of following the gory story might start with Wikipedia. It is not an edifying tale.

The amendment seeks to address this problem by requiring incorporation under UK law for any English higher education provider whose students may gain access to publicly funded tuition loans. This requirement would allow the Office for Students to discover something about the governance, and therefore the finances, of any would-be English higher education provider that hopes to franchise its offerings in the UK. The OfS might even be minded to set a fit-and-proper person standard for members of such governing bodies and university leaders. We do this for banks; should we do less for universities? I beg to move.

Lord Stevenson of Balmacara: My Lords, this is a golden thread in our debate that has been pursued with considerable vigour by the noble Baroness, who has on every occasion, I think, asked difficult questions. In fact, she has been quite free with her favours, asking questions of me and of other noble Lords around the whole Chamber when we have failed to measure up to her high standards of accuracy and precision when mentioning the words "English", "higher" and "education" in sequence.

Here we are at the crunch point. The noble Baroness has put down a very specific amendment that would have quite strong repercussions for any body attempting to recruit English higher education students, because along with students comes public money. The main argument as I take it—and we look forward to hearing about it from the Minister—is that we are risking public money on bodies when we have no certain knowledge about where and how they are incorporated and what rights and responsibilities they have to the students. She could have mentioned several other areas and it is important to get them on the record. Under the Consumer Rights Act, students are owed a duty of care by the providers of their course. Specific issues must be supplied by the institutions and remedies for students lie in legal protections, which would be exercised in court. If the bodies are not incorporated in the UK, how are they going to manage that? I think the Minister should respond to that in a positive way.

We are also concerned with insolvency issues. It is quite interesting and instructive that most of the Technical and Further Education Bill—which is accompanying this Bill through Parliament—is taken up with measures that apply if a college of further education goes into insolvency or is wound up. There is a special education administration regime with particular powers for the insolvency practitioner appointed to ensure that students rank above all other creditors and that their courses will continue, if possible, or be transferred to a similar institution if not. Creditors, who in insolvency law—as I am sure your Lordships' House is well aware—are normally given primacy, are relegated to second place. We have no such system for higher education institutions in the UK. There is therefore no provision for what happens when a private company, in particular, decides it no longer wishes to teach its students. Where will the students seek redress? The cases mentioned by the noble Baroness are relevant in this jurisdiction as well as abroad. It will be very interesting to see how students will recover their loans and their opportunities if there is no incorporation which allows them to do so.

We are discussing this when there has been a change of ownership of a very distinguished private provider, BPP. That situation is not nearly so dire as the one I have been discussing but nevertheless reflects a very major arrangement. The ownership has changed. The senior management have decided to not continue and there is still uncertainty about how the overall firm will be run. This is a real situation involving large numbers of students, lots of money and very difficult legal and jurisprudential positions.

The Government are taking this seriously. I had a letter delivered to my hand as I walked into the Chamber. It deals in four pages with some of the issues that the noble Baroness raised. I am not in any sense wanting to make slight of the letter because it is useful to have it on the record, but the Government seem to be broadly of the view that the existing arrangements under which the Office for Students—surely we will be shortly be calling it the Office for Higher Education, as we prefer—will have responsibilities under the registration and degree-awarding powers will make

[LORD STEVENSON OF BALMACARA]
sure that nothing untoward happens. That is not sufficient. We need greater certainty about what institutions are responsible for our students, how they are responsible, in what way they are incorporated and what the legal position is.

I look forward to hearing the Minister's response, but I do not think that he will be able to measure up to some of the very strong critiques that have been made so far.

Baroness Wolf of Dulwich (CB): My Lords, as the noble Lord, Lord Stevenson, has pointed out, we are in the strange position where one has far greater protection if one is studying for a higher education qualification in a further education college than if one is in a university, because there are very clear requirements, now going through this House, for what should happen if that institution becomes insolvent.

This issue has been raised on a number of occasions in this Chamber, where it has been argued that, although the Government have committed to a protection regime for students in higher education, it is not very clear or demanding, as far as we can tell. The amendment goes a step further, because it draws attention, as have my noble friend Lady O'Neill and the noble Lord, Lord Stevenson, to a situation in which, over and above issues relating to the institution delivering the education, there is an issue of ownership. It may mean that, in extreme situations, it is unclear where students would seek redress, never mind how.

The Government are aware of the new issues that have come about as a result of creating a sector in which providers can be bought and sold. In 2015, they asked HEFCE to look at this issue and, as a result, there are now some new regulations about the treatment of degree-awarding powers in the event of a change of ownership or legal status. In that situation, HEFCE must discuss the potential implications for degree-awarding powers, including continued eligibility to hold them, and must be assured that the original institution that was awarded the powers is in substance the same institution in spite of the change of ownership. That is what is happening with BPP at the moment and there is no reason to suppose that the institution will not continue to be a distinguished provider of higher education.

I think that everybody in the sector who is providing good-quality education, whether they are private or not for profit, would agree with that. However, what the regulations do not get to the heart of is how, if an institution is owned by a company or body overseas—it may be somebody who has taken the entire institution into private ownership—the OfS will be confident that it can make sure that the institution complies with the conditions of registration. An institution may change hands regularly—I give the example of the University of Law, which in the three years after it moved from being not for profit to being a for-profit company changed hands twice. How in that situation will we operate if we find that students are in effect left without not only the institution in which they enrolled but any clearly identifiable body to which they can have recourse and which the OfS can—bluntly—bring to court and demand that it do what it should do?

This is a major issue. The amendment would make sure that there was a body to which students and the Government could address themselves if a catastrophic event, which I am sure would be extremely rare, occurred. Setting up a subsidiary company in this country is generally not a very complicated or time-consuming affair. It cannot be beyond the power of the Government and it would not distort the underlying objective of the Bill to ensure that any institution offering higher education to students receiving loans subsidised by the taxpayer is clearly identifiable in the case of students being left without an education and creditors being left without obvious recourse.

4.45 pm

Baroness Cohen of Pimlico: My Lords, I support the amendment. That may come as a faint surprise as I am chancellor of BPP University, the ownership of which is sort of changing—our old owners have become our new owners. We do not expect it to lead to instability. Our vice-chancellor will be replaced by a new vice-chancellor who has been there for a very long time. I am staying as chancellor and the chairman of the academic council is also staying. Above all, this is why I support the amendment with perfect confidence: we are a regulated university. We are a for-profit university, but what we may do with our profits is strictly limited.

We are limited as to what fees we can charge and we expect it to stay that way. We may charge only £5,000 a year for an undergraduate degree, unless it is a two-year degree, in which case we are allowed to charge £6,000. None of that is expected to change, nor could we change it unilaterally. This is because the present regime for those of us registered in England is extremely secure. I support any amendment that would keep the regime as secure as it currently is. This amendment is right—we fall into it and will continue to fall into it.

Lord Mackay of Clashfern (Con): My Lords, I wonder to what extent this amendment focuses on the general questions that have been raised. As I understand it, the amendment focuses on whether students at a particular institution should be eligible for loans. If an American university, or some other foreign university, set up a campus here, would the amendment provide that students at such a campus will not be eligible for student loans? I am not certain whether they would be.

Viscount Younger of Leckie (Con): My Lords, the Government want to provide students with options and choice, and to enable them to pursue the path through higher education that is best for them. We want a globally competitive market that supports diversity, where providers that demonstrate that they have the potential to offer excellent teaching and can clear our high quality bar can compete on a level playing field. To deliver that competitive market, we are introducing through the Bill a single, simple regulatory system appropriate for all providers, with a single route to entry and, for the first time, a risk-based approach to regulation.

It is through imposing conditions of registration that are directly linked to risks that we are able to improve and strengthen regulation of the sector. The Bill will enable us to go further than ever before and

protect against the very issues that I know noble Lords are concerned about, in that, for the first time, we can focus attention where it is needed, rather than having the current one-size-fits-all approach. This means we do not have to take such a blanket approach as proposed by the amendment, which would automatically exclude potentially excellent providers.

Let me be absolutely clear: we are talking about providers which are carrying out their activities principally in England, so inevitably there will be a presence of some kind in England. Although each case will depend on its own facts, in determining where a provider carries out its activities, questions such as where the provider's management activities take place, where its courses are designed, where course material is prepared, and where supervision, marking or other evaluation takes place, will need to be considered. It is not simply a matter of where students are studying.

Clauses 4 and 79 are clear that only those providers which carry on, or intend to carry on, their activities wholly or principally in England can successfully apply for registration. Only registered higher education providers can benefit from their students having access to student support. While there is no requirement in the Bill that providers must be incorporated in the United Kingdom, this does not mean that the Bill has inadequate safeguards in respect of foreign-established registered providers. If, following its assessment of risk, the OfS considers that particular risks arising from the fact that a provider is incorporated outside the United Kingdom need to be addressed, these will be mitigated through the imposition of specific registration conditions.

I can commit today that the Government will give clear guidance to the OfS about carrying out its risk assessment in the case of providers that are not incorporated in the UK, and outlining factors for the OfS to consider and address when it decides what registration conditions to apply to these providers. As an example, the OfS will need a clear understanding of how it can effectively regulate this sort of provider, backed up through registration conditions where appropriate. This will include understanding how the necessary verifications on matters such as quality and financial sustainability can take place before a provider can be granted entry to the register, as well as how effective enforcement action can be brought by the OfS and how students' complaints can be dealt with.

To provide some specifics, it will be open to the OfS to seek financial guarantees from parent or holding companies so that it may have sufficient confidence that the provider can deliver ongoing high-quality provision. As happens now, we would expect the designated quality body to have in place arrangements with overseas quality assurance bodies to share information about higher education providers operating in their respective jurisdictions. It is also open to the OfS, through Clause 15, to impose a public interest governance condition on registered higher education providers that requires the provider's governing documents to be consistent with public interest principles listed by the OfS. The list must include, but is not limited to, the principle that all academic staff have the freedom within the law to question and test received wisdom, and put forward new ideas and controversial or unpopular opinions without placing themselves at risk of losing their jobs or privileges.

Furthermore, it is clear that in respect of a registered higher education provider's activities in England and Wales, the applicable law will be that in the Higher Education and Research Bill, and other relevant English and Welsh law. For example, its activities in England will be subject to the relevant applicable law as it applies in England, such as tax and equalities legislation. It is not necessary for a provider to be incorporated under the law of the United Kingdom for English courts to have jurisdiction. It is worth noting that English higher education providers operating overseas are not subject to restrictions that relate to where they are incorporated. The noble Lord, Lord Stevenson, hinted at this in his speech. If we were to unilaterally impose such restrictions this could be seen as a barrier to free trade and consequently there is a real risk that other countries might retaliate. This risks damaging a valuable export industry for the UK.

We must also be mindful that until we exit the EU we should not legislate in a way that conflicts with EU law. A requirement that a provider is incorporated in the UK may breach EU law on freedom of establishment and freedom to provide services. As such, we do not believe that there is any benefit to be gained from insisting on a requirement that registered higher education providers are incorporated in England and Wales or another part of the United Kingdom.

I hope the House will bear with me while I speak briefly about a slightly different issue before I ask for the amendment to be withdrawn. We have been looking again at Clause 114, on the pre-commencement consultation. Noble Lords will recall that this enables the Office for Students to rely on consultations carried out by the Secretary of State, the Director of Fair Access or HEFCE before the OfS has the power or duty to do so. Where the power or duty would, once it exists, require the OfS to consult registered higher education providers, we want it to be as clear as possible that the Secretary of State, the Director of Fair Access or HEFCE may satisfy this requirement by consulting an appropriate range of English higher education providers before any such providers have been registered. To this end, the Government undertake to bring forward at Third Reading a minor and technical amendment to provide that clarity. I hope that Amendment 146 will therefore be withdrawn.

Baroness O'Neill of Bengarve: My Lords, I thank noble Lords who have spoken in this short debate, and I thank the Minister for taking the time to give a detailed and, I think, useful reply. The issue may not be just incorporation. However, some franchise operations will leave the student in the other jurisdiction with remarkably slender forms of redress. That is the fundamental issue.

I will withdraw the amendment at this stage but I hope to bring back an improved amendment at Third Reading and, if possible, to have conversations with the Minister before then. This is a problem that I am sure we would all wish to get right and it is not clear to me that the elastic definition of "English higher education

[Baroness O'Neill of Bengarve]
provider" plus great faith in the regulatory competence of the OfS are sufficient. We have all known the happy thought that a free market provided with a capacious regulator will deliver everything that is desired. The experience of the past 30 years has not borne that out so we need to take due care. With that, I beg leave to withdraw the amendment.

Amendment 146 withdrawn.

Amendment 147

Moved by ***Lord Dubs***

147: After Clause 84, insert the following new Clause—

"Access to support for students recognised as needing protection

(1) Within six months from the day on which this Act comes into force, the Secretary of State must, by regulations, make provision for financial support for higher education courses to be offered to students with certain immigration statuses.

(2) The regulations specified in subsection (1) must include, but need not be restricted to, provision for—

(a) persons granted humanitarian protection and their family members; and

(b) persons who have been brought to the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme, or any equivalent scheme, and their family members to be eligible for the support set out in subsection (3).

(3) The support set out in this subsection is—

(a) home fees for a higher education course, if they have been ordinarily resident in the United Kingdom since being granted leave, and

(b) student loans for a higher education course, if they have been ordinarily resident in the United Kingdom since being granted leave, and are ordinarily resident in the United Kingdom on the first day of the first academic term of that course.

(4) In this section—

"home fees" means fees for a higher education course charged to persons considered as "qualifying persons" under regulations made under the Higher Education Act 2004;

"student loans" means loans made to students in connection with their undertaking of a higher education course under the Teaching and Higher Education Act 1998."

Lord Dubs (Lab): My Lords, an amendment on this topic was put before the House in Committee. I have now had it reworded to take account of the Minister's objections on that occasion. Essentially, the amendment concerns access to student support for higher education for people who are either refugees or have humanitarian status.

In fact, people with refugee status are eligible for this support and they do not have to wait three years to receive it. The anomaly concerns people who have come here under what is called humanitarian protection—mainly, but not all, Syrians who have come under the vulnerable persons scheme—and if they wish to get student support for access to higher education they have to wait three years. That is a pretty long time for people whose education may already have been harmed by what happened in their lives before they got to this country.

In every other respect, those with humanitarian protection have the same rights as those who have refugee status. Refugee status comes under the 1951 UN Convention on Refugees, whereas, as I understand it, humanitarian protection comes under domestic and EU law. But it is only in not having to wait three years if you have refugee status that there is a difference between the two. That is surely an anomaly. To make things even worse, the position in Scotland is better than it is here. I am not sure that this is a day when I should refer to Scotland in glowing terms, but certainly they do better there.

I hope the Government will look at this. I think it requires a statutory instrument to put this right. I am concerned both about people who are already here and are waiting to get access to higher education and about people who will come here in the future. In the year to September 2016, there were nearly 2,000 decisions about Syrian nationals but only three grants of humanitarian protection; virtually all the rest got refugee status. So we are talking about people who are suffering from a couple of anomalies. One is that if they come with humanitarian protection they have difficulty getting access to higher education. If they can only get refugee status, that will all be sorted out.

I am optimistic that the Government will move. I had a meeting with the Home Secretary, at her request, earlier this afternoon. I was left with a feeling of hope and optimism. I did check that it was all right for me to mention the meeting. I hope I am not excessively optimistic about this, but if the Government speak with one voice I hope to hear that voice reflected in what the Minister says in response to the amendment. I beg to move.

Lord Judd (Lab): My Lords, I just want to say how much I appreciate the fact that my noble friend has moved this amendment. He referred to the anomaly. In view of what he says about his meeting with the Home Secretary, I hesitate to make this point, but I disagree with him—I say that it is unworthy rather than an anomaly. He says he hopes the Government will look at it. It seems the Government are looking at it, and I congratulate my noble friend on having got it this far.

5 pm

Baroness Lister of Burtersett (Lab): My Lords, I support the amendment. I will not repeat what I said in Committee other than to emphasise the importance of the amendment for promoting the integration of young people who have been granted humanitarian protection.

In Committee, the Minister, the noble Viscount, Lord Younger, responded that this issue,

"is already addressed within the student support regulations"—[*Official Report*, 25/1/17; col. 725]

in that, as we have heard, this group is eligible to obtain student support and have home fee status after three years' residence. But he then acknowledged that those with refugee status are allowed to access student support immediately, and the implication seemed to be that three years is really not that long to wait. Three years may not be very long for us older people, but for a young person it is a lifetime. As my noble friend Lord Dubs said, to a young person in this situation three years is absolutely crucial.

The Minister also said that people with humanitarian protection under the Syrian resettlement scheme,

"are not precluded from applying for refugee status if they consider they meet the criteria",—[*Official Report*, 25/1/17; col. 725.]

as if this was a straightforward thing for a young person to do. Neither the noble Viscount nor the Minister in the Commons would provide us with a satisfactory explanation for denying this group of young people access to higher education without a three-year wait, which, as I said, could feel like a lifetime.

I am encouraged by what my noble friend Lord Dubs said about what the Home Secretary has said. I would like once more to press the Government, through the Minister, to look again at the issue more generally, and I hope that part of the conversation with the Home Secretary was about this. There are one or two other ways in which humanitarian protection does not provide the same rights as refugee status. I know that this is being looked at in government, as I have been having a go at it in a number of ways. In answer to an Oral Question of mine a while ago, the noble Lord, Lord Bates, pointed out that the reason for humanitarian protection for the Syrian resettlement scheme is to enable them to move very quickly. I can understand that but, once they are here, surely it would be possible to review the situation and see whether full refugee status can be granted once the paperwork and everything can be looked at.

I hope that the Government will look at this. They say that they are looking at it, but nothing ever seems to happen. In the meantime, this amendment is the very least we can do to help this vulnerable group of young people to fulfil their potential and build a future in our country.

Baroness Hamwee (LD): My Lords, having checked with my noble friend Lady Garden, I can say from these Benches that we support this amendment. The Minister referred at the last stage to keeping the issue under active review. I was going to ask what that meant and whether there had been any activation since.

The noble Lord, Lord Dubs, has to be optimistic. We all do, because it would be very depressing if one could not be optimistic on this subject; one would so rapidly go downhill on it. He referred to the situation as an anomaly. Indeed it is, as well as being intrinsically important. Only very small numbers of people must be affected by this, given the numbers who have humanitarian protection and those who might seek university education. I am quite puzzled as to what three years' residence proves and what relevance it should have to an entitlement to that education or the ability to profit from a course.

As so often when we talk about higher education, the Bill has been a basis for our referring to the soft power of international links through higher education and so on, and to the contribution to the UK's economy as a result of people benefiting from higher education. This cohort of people would contribute to the UK in just the same way as a result of it, and be one of those further links in good international relations. I am very glad that the noble Lord, Lord Dubs, has brought the matter back, and I look forward to some good news.

Lord Stevenson of Balmacara: My Lords, I think that we are all very grateful to my noble friend Lord Dubs for bringing back this amendment in an amended form. We should also credit the Minister for arranging a meeting with his counterpart in the Home Office, the noble Baroness, Lady Williams, which was extremely helpful in identifying two things that allowed us to make progress. One was that the original drafting seemed to imply a much larger number and a much larger problem than could have been resolved within the scope of the clause as originally proposed and amended. After a very good discussion, we were able to get that down to a very narrow point. It seemed to be a point of considerable unfairness in relation to the people whom my noble friend mentioned. I also thank the Home Secretary, to whom reference has been made, for taking the trouble to see my noble friend Lord Dubs today to make sure that he understood the context within which the decision, which we hope to hear shortly, has been made.

Lord Young of Cookham: My Lords, I begin by thanking the noble Lord, Lord Dubs, for bringing forward this amendment and, with others, I commend him for his tireless campaign on behalf of a group of vulnerable people. This is an important issue and our short debate today, coupled with our debate in Committee, have demonstrated wide support and compassion for those who seek our protection. The UK has a long and proud history of offering sanctuary to those who genuinely need it. The Government take our responsibility in asylum cases very seriously.

Those who come to this country and obtain international protection are able to access student support and home fee status. Uniquely, those who have been granted refugee status and their family members are allowed access to immediate and full support. This includes access to tuition fee loans, living costs support and home fee status at higher education institutions. This is a privilege not extended to others, including UK nationals who have lived overseas for a few years or EEA nationals, all of whom need to have lawfully resided within the EEA for at least three years prior to commencing study.

The requirement for three years' lawful residence was put before the Supreme Court only two years ago, in the case of Tigere. The Supreme Court upheld as fully justified the Government's policy of requiring three years' ordinary residence in the UK prior to starting a course. The Supreme Court also upheld the Government's case that it was legitimate to target substantial taxpayer subsidy of student loans on those who are likely to remain in this country indefinitely so that the general public benefits of their tertiary education will benefit the country.

Noble Lords have expressed sympathy and compassion for people who have entered the UK under the Syrian vulnerable persons resettlement scheme and the vulnerable children's resettlement scheme who are currently granted humanitarian protection. The Government share that sympathy and have taken a number of actions to support those on the scheme. The Government are not persuaded of the need to treat persons given humanitarian protection more favourably than UK nationals for the purpose of

[LORD YOUNG OF COOKHAM]
student support. The noble Baroness, Lady Lister, raised some wider issues, and I confirm that we are looking at them in the round.

UK nationals arriving from overseas must wait three years before accessing student support, regardless of their personal circumstances, and so must nationals of British Overseas Territories. That is not a lack of compassion but a fair, objective and non-discriminatory rule to demonstrate the lasting connection to the UK upheld by the Supreme Court in the Tigere case.

Turning to the specific group whose cause the noble Lord, Lord Dubs, has championed, I know that the Home Secretary has met him to discuss how we can progress the issue of access to higher education and that she shares my sympathy for the matters presented by the noble Lord. The Government understand the importance of accessing higher education as soon as possible for those on the Syrian vulnerable persons resettlement scheme and the vulnerable children's resettlement scheme and are looking very carefully at this issue. I hope that the noble Lord will understand that I cannot say more than that today. I know that he will continue to engage with the Home Office on this issue over the coming weeks to resolve some of the complexities in the determination of refugee status to safeguard the UK's proud history of offering sanctuary to those who genuinely need it.

I was not at the meeting which the noble Lord attended earlier today, but if he came away from that meeting with a spirit of hope and optimism, it is no purpose of mine to do anything to take away from that. In the light of the ongoing discussions that are under way with the Home Office, and against a background of the spirit of hope and optimism mentioned by noble Lords, I hope that the noble Lord might feel that this is not an amendment that should be pressed to a Division at this stage.

Lord Dubs: My Lords, I hope I have not gone over the top in my sense of optimism. It is not something I normally do in relation to this Government, and I have had experience to the contrary on other, related issues. However, I take a little bit of comfort from what the Minister said. I took more comfort in my earlier meeting today, but that is not on the record for our debate now. However, the Government speak with one voice, both privately and publicly, and I am hopeful that they will be able to deal before too long with what is an acknowledged anomaly.

It is unfair that if people who have missed out on education and had enormous difficulties in their life want to make some sense of their life, they have to wait three years to access higher education. It is an appallingly long time. What are they supposed to do in those three years—sit at home and watch television? It is a real indictment when these people want to move forward. I accept that other groups are also penalised in this way—they should be looked at in the same way—but if people are going to make a positive contribution to this country, it is right that we should not withhold higher education from them. That way, they can make a much bigger and more positive contribution to this country. I beg leave to withdraw the amendment—but on the understanding that, at intervals, the Government will let us know how they are getting on with looking at this.

Amendment 147 withdrawn.

Clause 85: Qualifying institutions for purposes of student complaints scheme

Amendments 148 and 149

Moved by ***Viscount Younger of Leckie***

148: Clause 85, page 57, line 17, leave out from "insert" to end of line 18 and insert "", and includes an institution which is treated as continuing to be a qualifying institution for the purposes of Part 2 of that Act (see section 20A(2) of that Act)"."

149: Clause 85, page 57, line 22, leave out "paragraph (da)" and insert "paragraphs (da) and (ea)"

Amendments 148 and 149 agreed.

Amendment 150

Moved by ***Lord Hannay of Chiswick (CB)***

150: After Clause 85, insert the following new Clause—

"Students and academic staff at higher education providers

(1) The Secretary of State has a duty to encourage international students to attend higher education providers covered by this Act, and UKRI must take every possible opportunity to encourage and facilitate the maximum co-operation between British higher education and research establishments and those based outside the UK, in particular with projects and programmes funded by the European Union.

(2) The Secretary of State shall ensure that no student, either undergraduate or postgraduate, who has received an offer to study at such a higher education provider, be treated for public policy purposes as a long term migrant to the UK, for the duration of their studies at such an establishment.

(3) Persons, who are not British citizens, who receive an offer to study as an undergraduate or postgraduate, or who receive an offer of employment as a member of academic staff at a higher education provider, shall not, in respect of that course of study, or that employment, be subject to more restrictive immigration controls or conditions than were in force for a person in their position on the day on which this Act was passed."

Lord Hannay of Chiswick (CB): My Lords, Amendment 150 is in my name and those of the noble Baronesses, Lady Royall of Blaisdon and Lady Garden of Frognal, and of the noble Lord, Lord Patten of Barnes, whose absence from the Chamber today, due to a health problem, both he and I deeply regret. When we debated these issues relating to overseas students, academic staff and global research co-operation in Committee, there were four amendments in my name. It has now been possible to telescope them into one, Amendment 150, which we are discussing now.

In summary, the amendment, first, places a duty on the Secretary of State to encourage overseas students to come here for their higher education. Secondly, it urges UKRI, the new organisation co-ordinating research, to encourage and facilitate the maximum international research co-operation, in particular with EU projects and programmes, which may be less easy to do after Brexit than it has been as a full member—which we still are. Thirdly, it seeks to put an end to the policy of

treating students for public policy purposes as long-term economic migrants. This subject has been debated many times in the House without anyone, except the lonely person on the ministerial Bench, expressing a contrary view. Fourthly, it seeks to ensure that no further restrictive immigration rules, beyond those that currently exist, are placed on undergraduate and postgraduate students with the offer of a place to study here, or on academic staff with an offer of employment. I underline the word "offer" because it is not intended that they should have free movement rights to come here and look for these things; they would need to have the offer.

5.15 pm

I shall try to answer two questions that seem pretty salient. First, does it matter, and, secondly, why should we be worried if we do not do anything about it? On the first question, I argue that it certainly does matter. In 2014-15 overseas students made up 19% of all students. The study just done by Oxford Economics on behalf of Universities UK has demonstrated that overseas students bring £25.8 billion of income and economic activity to this country, which provides for or helps to support roughly 206,000 jobs. Among postgraduates the figures are much higher: 25% of all postgraduates are from overseas. In some cases, such as business studies, they make up 55%; for maths the figure is 45%, and for computer science it is 42%. The figures for academic staff are also are very high: 28% overall, and 31% in the STEM subjects. These figures show how essential overseas students and academic staff are to the Government's own industrial strategy, which will rely hugely on these students and this input.

The second question is: should we be worried if we do nothing? Frankly, we should be. The global market is growing rapidly, and all the available forecasts state that it will certainly do so for the next decade or so, and perhaps longer. The UK is second only to the US as a provider of higher education to overseas students, which is a tremendous achievement and a massive national asset, both economically and in terms of soft power. However, the figures also show a serious loss of market share to our main competitors—the US, Canada and Australia, to mention the three most important, none of which treats students as economic migrants for public policy purposes. That is the nub of the matter.

The 2015 figures tell the story: for the USA the numbers are up 10%; for Canada, up 10%; for Australia, up 9%; and for the UK, up by less than 1%. By far the most startling numbers are those for Indian students coming to the UK, which since 2010 are down 53%. India is surely a country we all believe and hope we will have a much closer relationship with when we negotiate trade relations following Brexit. We are becoming heavily overdependent on one source of overseas students: China, which now provides four times as many overseas students as any other foreign country. I would have thought this was a source of some vulnerability in an uncertain future.

The case for the shift in policy set out in the amendment is pretty unanswerable. To their credit, the Government have dealt with probably the biggest problem in this area—that caused by dodgy language schools—and I hope they will agree the amendment. I beg to move.

Baroness Royall of Blaisdon (Lab): My Lords, I am pleased to have added my name to the hugely important amendment moved by the noble Lord, Lord Hannay. I, too, regret that the noble Lord, Lord Patten, cannot be here due to ill-health, and we of course wish him well.

The noble Lord, Lord Hannay, gave a powerful and comprehensive introduction to the amendment, the content of which we have discussed many times in your Lordships' House with agreement from all parts of the Chamber. The Bill presents us with a great opportunity to address the concerns expressed in debate and in various Select Committees of both Houses. For example, in recent years, six parliamentary committees have recommended the removal of students from the net migration target.

Apart from the Government, I have spoken to no one who is against the measures in the amendment: quite the contrary, there is strong support. I have spoken to overseas and UK students, academics, administrative staff of higher education institutions, people working for the bodies responsible for standards and quality, and many of our citizens from all backgrounds in different parts of the country. They understand, as my noble friend Lord Darzi said at Second Reading, that we must secure and sustain our ability to excite, attract and retain the world's greatest minds. This is fundamental to the excellence of the UK university system.

Like the polling undertaken by UUK, my conversations provide clear evidence that even those people who are anxious about immigration welcome foreign students and do not think they should be included in the migration figures. They do not want immigration rules that are any more restrictive than the current ones placed on undergraduate and postgraduate students and academics: not now nor in future, when our immigration policy is revised to deal with Brexit. To use somewhat unparliamentary language, it is a no-brainer.

As the noble Lord, Lord Hannay, said, the case for the shift in policy set out in the amendment is unanswerable. The problem of bogus students studying at institutions has, thanks to government action, been dealt with. We still await the results of the consultation on the study immigration route and a firm rebuttal of the destabilising statement made by the Home Secretary at the Conservative Party conference, but the statistics on overstaying students are, to say the least, questionable, and new data demonstrate that the number of overstayers is negligible.

Undergraduate and postgraduate students are visitors, not economic migrants. Their contribution to our higher education institutions is enormous: not just the fee income, which enables universities to thrive and innovate, but their economic impact on the wider community; the culture they bring, which enriches the experience of our students; the soft power that lasts a lifetime; and the huge addition to and influence on the invaluable research being undertaken in our universities, which affects the economic and social well-being of our country, our capacity to deliver industrial policy and so much more.

It is absolutely clear that we should and, indeed, must welcome overseas students, especially as we begin life in a brave new global Britain, where collaboration

[Baroness Royall of Blaisdon]
and soft power assume a greater importance. The Minister can say until he is blue in the face that overseas students are welcome, that there is no cap on the figures and that our offer compares favourably with our competitors. The fact is that even if all those things were true, the perception is very different. We can all cite numerous examples of potential students now choosing to study elsewhere. The statistics given by the noble Lord, Lord Hannay, are clear evidence of this.

If the Government agree to the amendment, this perception will be changed immediately and the flow of Indian students and others now choosing to study elsewhere will be stemmed. I hope the Minister will not rely on the argument about best practice in migration calculations, which requires us to follow the stipulations of the UN. This has always been a weak argument, but post-referendum, when the Government proudly assert their determination to take back control, it is risible—likewise, the Minister's statement that it would be inappropriate for the Government to seek to influence how statistics are compiled. What are the Government for?

The amendment would provide a strong signal in the increasingly important and competitive higher education market that this country really welcomes international students.

Baroness Garden of Frognal (LD): My Lords, I have added my name to the amendment, as I did in Committee. I add my regrets that the noble Lord, Lord Patten, is not here and wish him well. My support comes for all the important reasons set out so persuasively by the noble Lord, Lord Hannay—and it was evidence-based persuasion, which is always the very best sort.

Our higher education sector has derived immense benefit from collaboration with European research establishments—not just financial, but benefit in research, scholarship and international understanding and good relations. In this new, uncertain world, those relationships are ever more important.

We have discussed international students at length; they are valued and valuable and should in no way be deterred by any undue immigration categorisations or controls. In the light of the overwhelming view not just of this House but of people around the country in all the messages we have heard, I hope the Minister can assure us that the amendment will be accepted.

Lord Lucas (Con): The purpose of my Amendment 151 is, by collecting data and publishing it, to drive improvement and collaboration. That has been urged on me by several universities. They feel that there is another way—that we do not need to proceed by confrontation if the universities and the Home Office will agree to work together. That is something that we should insist on. Particularly given what we are going to spend the rest of today doing, this is not a time for argument, however hallowed by time that argument is; it is a time for pulling together for the good of the United Kingdom. This is not a one-sided thing; it means that the great universities really have to join in the great campaign that the Government run to support the whole of British education abroad. At the moment, it is really supported only by those who do not have sufficient of a reputation to justify marketing on their own. For this to succeed and for the good of the nation, we need the great universities to join in. There are a few which have and a few more on the periphery, but it has been a shameful show, by and large.

We need universities to recognise that, in their alumni, they have an enormous ability to help us to trade internationally. This is not something that they should seek to keep to themselves for their own commercial interests, although, obviously, that is important. This is a time when they should actively look for ways in which to make this available to the nation. However, as was seen in Committee, this is not the case, and universities really need to recognise that they have a role to play in helping the nation over the next few years.

Universities also have a role to play in supporting the immigration system. It is not there, like some tax-avoiding man in the pub, to be gamed to see how much money you can make out of it by taking the money from overseas students and not shouldering the burdens. I know that universities are better at this than they used to be, but they are by no means perfect. They are at the focus of a lot of people coming into this country. As a House, we are offering Amendment 150, which I shall support wholeheartedly—but there needs to be reciprocation from universities; they need to recognise that cheating on immigration is the same as cheating in examinations. They need, for the good of the country and of themselves, to get wholeheartedly behind supporting that concept.

The Home Office, as we all know, is not set on collaboration. I asked the Home Secretary a question a month ago in a meeting as to whether the Home Office would collaborate with universities, and she said that it would. I wrote her a follow-up letter to which she has not replied. I think that that is pretty typical of the attitude at the moment. It seems to think that it is in a little box and that all it has is its responsibility to keep people out of this country, but it is not true. At this moment, everything is all our responsibility; we must all help the Home Office to do what it has to do, and it must help us to do what we have to do to make a success of leaving the European Union.

The Home Office is, to a substantial extent, at the front sales desk for universities. It talks directly to the customers who universities wish to attract, but it runs an antagonistic website; it has impenetrable documentation and treacle-filled systems in which it can take six months for an appeal to be heard. It refuses visas on the basis of unanswerable questions such as, "What modules do you expect to take?". Nobody knows that until they have had a bit of experience of the university and the modules may not even be set. There are even some cases where students have been told that they are being refused a visa because the equivalent courses are cheaper in their home country and they ought to be following them. This is not collaboration in any sense of the word.

I hope that we will achieve a notable victory on Amendment 150, but when it comes back to this House we should be looking not for victory at the end

but for reconciliation. We need the Home Office and universities to be working together for the good of us and for each other.

5.30 pm

Lord Broers (CB): I will speak on behalf not only of the universities but of our industry. The amendment is extremely important to capture research students where we need them. I cite the nuclear industry: Dame Sue Ion, who chaired the Nuclear Innovation and Research Advisory Board, recently pointed out that over 20% of PhD students working in that industry, which is moving forward very fast, were from overseas. There is a much higher percentage of the post-doctoral research fellows, who are PhD students in the next stage of life. That is not covered by the amendment but we must address it. The Americans do this all the time. You get very bright overseas students to do PhDs, then you make it easy for them to stay on. They are the life-blood of high-technology industry. If we do not resolve this problem—and the best starting point is this amendment—our industry is going to be in trouble, not just our university research.

Lord Bradley (Lab): I strongly support Amendment 150, in the name of the noble Lord, Lord Hannay, and others. The noble Lord rightly posed the question, "Why should we bother?". As a former associate vice-president of the University of Manchester and now an honorary special adviser to that university, I am well aware of the huge benefit of international students to it and to the city of Manchester and of why they should not be treated as long-term economic migrants to the UK. As we have heard, there are currently 437,000 international students studying in the United Kingdom, including 125,000 from the EU. There are currently nearly 11,000 international students studying at the University of Manchester and a further 2,500 EU students. As we have heard, the Government's international education strategy, published in 2013, estimated that international students brought £13.6 billion into the economy in 2011. For Manchester, direct income from international students—for fees alone—will be £200 million in 2016-17. Furthermore, Universities UK estimates that international students lead to the creation of over 170,000 jobs across the United Kingdom. Independent analysis undertaken by Viewforth Consulting found that the University of Manchester's international students created over 1,100 jobs in the local Manchester economy.

International students allow UK students to appreciate diversity and develop a global perspective. They also act as great ambassadors for Manchester and the United Kingdom when they return to their home countries. Manchester has contact with over 400,000 alumni, of whom 25% are based outside the UK, including many in leading positions in business, government and universities. I have been proud to visit Manchester alumni in Hong Kong, China, South Korea and many other parts of the world. A recent poll before the last general election indicated that 91% of the British public think that international students should be able to stay and work for a period after their graduation. We should do nothing to further undermine the attractiveness of British universities for such international students. As we have heard from the noble Lord, Lord Hannay, and others, the arguments are unanswerable. Please will the Government at last recognise the value of such students to Britain and accept Amendment 150?

Lord Cormack (Con): My Lords, I support the amendment moved so ably by the noble Lord, Lord Hannay. I was not able to speak to his amendment in Committee, but I supported a similar one moved by my noble friend Lord Lucas. We have an ideal amendment before the House tonight. I declare an interest as a senior associate member for over 20 years of St Anthony's College, Oxford. It is a wonderful example of an international postgraduate college, bringing in people from all over the world, many of whom go back to their native countries to occupy positions of influence and leadership. We must do nothing to deter that.

If we want evidence of the fragile state of feeling in our universities and academic circles, we need do no more than pick up this morning's *Times* in which there is a letter signed by the vice-chancellor of Oxford University and the heads of 35 colleges. You may say—and you may be right—that some of their fears are exaggerated and misplaced. I sincerely hope they are, but they are nevertheless real. Anything that we can do, at this difficult stage, to reinforce confidence in academic circles must be helpful.

I do not doubt for a moment what my noble friend Lord Younger has often said. I have a high regard for him: he is a man of utter probity and integrity. However, it is not good enough repeatedly to say that there is no bar on students—that they can come as often and in as many numbers as they like—but then say, as other Ministers do, "But of course we have to look at immigration figures". Those coming to this country as students conflate those two statements and believe that there is a risk. This evening, we can, to coin a phrase, prove at a stroke that there is not a risk by saying that they will be separately counted and not part of the overall figures. We should do no less. I very much hope that we will pass the amendment tonight and indicate to those in another place that we would like them to examine it. I am sure that the noble Lord, Lord Hannay, does not claim any exclusive rights to the wording of his amendment but we want to see something, in one form or another, that echoes it to be incorporated in the Bill before it becomes an Act of Parliament.

Lord Smith of Finsbury (Non-Afl): My Lords, I support Amendment 150. At Pembroke College, Cambridge, where I have the honour of being Master, some 10% of our undergraduates and 30% of our postgraduates are international students from beyond the EU. They add enormously to the well-being and distinction of the college. The noble Lord, Lord Hannay, made the financial case very clearly; the noble Baroness, Lady Royall, made the soft power case very clearly; the noble Lord, Lord Broers, made the industrial case very clearly. I would add that there is a very strong educational case as well.

Having international students among the mix of students at our university adds enormously to the quality of the students' educational experience. They

[LORD SMITH OF FINSBURY]
share with each other, learn from each other, associate with each other and hear from people of different backgrounds with different experiences and from different parts of the world. The education that comes from the ability to do that and from that richness could not be replicated by the best teaching. It comes only from being among, and sharing with, students from very different national backgrounds. That is an enormously important part of the value of our higher education in this country. Let us make sure that we keep that. This amendment is one way of doing it.

Lord Judd (Lab): My Lords, I feel compelled to respond to the comments of the noble Lord, Lord Smith. I am a long-standing governor at the LSE, where I am now an emeritus governor. Recently, we have been rated second in the world as the most prestigious centre of higher education learning in the social sciences, and as the highest rated such place within the United Kingdom. I do not go much on league tables myself but I cannot help being proud of that statistic. The evidence speaks for itself. A very high proportion of our student community comes from overseas. Of course, it is a case not just of the atmosphere of a centre but of the quality of the education which benefits from the input of people with different insights from different parts of the world.

I fervently believe that a centre of higher education worthy of its name should be part of the international community and should recognise that Britain is inseparable from the rest of the world and cannot operate in higher learning without an international community and, indeed, international staff. They are a very important part of the LSE as well. What worries me is that it does not take very long for an impression to grow. We are hearing too much anecdotal evidence that people elsewhere in the world are beginning to wonder whether the UK is the place they want to come and pursue their studies. Indeed, one hears of academics who question whether they want to go on developing their careers in the United Kingdom because they are not certain that it is the sort of place in which they want to live and bring up their families. We have a huge challenge here and we have a great opportunity this evening to put it right.

Lord Holmes of Richmond (Con): My Lords, I rise to support Amendment 150 in the name of the noble Lord, Lord Hannay, and, in doing so, declare my interest as set out in the register. When, many years ago, I went from a Midlands comprehensive school to Cambridge University, in many ways I felt that I was a foreign student. That aside, there is no social, economic, political, moral or legal reason not to support this amendment.

I wish to add the following comments to those made by noble Lords, with which I wholeheartedly agree. "You want our trade, you don't want our children", said the Prime Minister of India, Mr Modi. If that is the impression being received in India and other nations around the world, how can we possibly expect to attract the brightest and the best to come to study in the United Kingdom? That is what we need and want. Our doors and our arms should be wide open to the brightest and the best to come to study here because there is no downside to that. International students come, pay and study. If they stay, they work and contribute. If they go home, they are the best advocates for soft power. The GREAT campaign is indeed, as its name suggests, great, but it is as nothing compared with the advocacy of international students who have had that experience in the UK. British higher education is the most gleaming jewel in our soft power crown.

There is absolutely no reason not to support Amendment 150. I urge every noble Lord to do so because it is in the interest of international students and of the United Kingdom. We would want this at the best of times, but given what is ahead of us, we should not just want this, we absolutely need it. We should absolutely pass this amendment this evening.

5.45 pm

Lord Bilimoria (CB): My Lords, I declare my interest as a former international student and the third generation of my family in India to be educated in this country. I am chair of the advisory board of the Cambridge Judge Business School, which has just been ranked No. 5 in the *FT* global MBA rankings. As the noble Lord, Lord Holmes, said, our universities are the best in the world along with those of the United States of America.

I wholeheartedly support the amendment in the name of the noble Lord, Lord Hannay. I am sorry that the noble Lord, Lord Patten, is not with us. The amendment refers to more than international students and talks about competition from other countries in terms of collaboration as well. That point should not be missed. I have made the point many times that at the University of Birmingham, where I am proud to be chancellor, when we carry out collaborative research with a university such as Harvard—I am proud to be an alumnus of the Harvard Business School—it has three times the impact of our individual research. Therefore, it is essential that we do that, particularly given the European Union referendum and the potential of Brexit coming up.

There are accusations that international students overstay. Can the Minister confirm that a Home Office report has shown that only 1% to 1.5% of international students overstay? If he will not answer that question, will he say why the Government continually refuse to put in visible exit checks at our borders? If we scanned the passport—EU and non-EU—of every person coming into this country, and the passport of every person—EU and non-EU—going out of this country, we would know who was coming in and who was going out, particularly with regard to international students. I urge the Minister to say why the Government are not doing this.

As the noble Lord, Lord Hannay, said, the global environment is one in which the international student demand from countries such as India is increasing by 8% year on year. We have no target to increase the number of international students. This amendment very clearly says that the Government need to make that a priority. I go further and say that there should be a target. Countries such as France, for example, have a specific target to double the number of students from India by 2020. As the noble Lord, Lord Hannay,

said, the number of Indian students went up to nearly 40,000 around 2010. It has now dropped by over 50%. Canada, the United States and Australia all have programmes to increase the number of international students. In fact, Australia has a Minister for international students. Last year in India, the Australian high commissioner said to me, "Thank you for your immigration policy on international students. You're sending them to us instead". That is ridiculous.

We now face competition from European Union countries. Non-English speaking countries such as Germany, Sweden and the Netherlands—I have already mentioned France—are incentivising international students. Why cannot we accept this amendment once and for all to make international students a priority? Given the backdrop of Brexit, that is even more important. A survey last year said that 82% of EU students and 35% of non-EU students reported that they would find the UK less attractive as a result of Brexit. This means that some 50,000 EU students and 63,000 non-EU students could be at risk. The proof of the pudding comes from the latest indication that fewer EU students have applied to start university courses in the UK. According to UCAS, there was a 9% fall in the number who had applied for courses. At Cambridge, we know that the figure has dropped by 14%.

I am also president of UKCISA, the UK Council for International Student Affairs, which represents the 450,000 international students in this country, of whom 130,000 are from the EU. UKCISA's response to the EU referendum result was very clear. It said that it sends,

"worrying signals to thousands of EU (and indeed British students hoping to participate in EU mobility programmes) but given the government's relentless pressure to cut net migration (including curbs on international students) it is … not surprising that this has been the result".

I am co-chair, along with Paul Blomfield in the House of Commons, of the All-Party Parliamentary Group on International Students. Our purpose is to recognise the global prominence of UK education, to promote the value of international students, to promote, as the noble Lord, Lord Holmes, said, the soft power of international students, to raise awareness of issues that affect international students and, in reference to the amendment of my noble friend Lord Hannay, to provide a platform for collaboration.

Before I conclude, perhaps I may give a specific example. Following the Committee stage, last week at the University of Birmingham I chaired the annual meeting of our annual court, at which we highlighted that not only one-third of our academics, of whom 18% are from the EU, but a quarter of our students, including from the EU, are international. We have just released an independently prepared impact report on our university. It highlights that:

"Eight additional international undergraduate students would add £1m to the economy".

That is what we are talking about. It is economic illiteracy not to promote international students and to send out signals that they are not welcome here. At Birmingham, according to this impact report, our international students contribute £160 million to the economy, and they are advocates and ambassadors for Birmingham. They are also ambassadors for the UK around the world, as the noble Lord, Lord Holmes, said.

Just last week—again, since Committee—UUK released a report on international students. It said:

"International students are vital for a successful post-Brexit, industrial strategy fit for a global Britain".

It also spoke about the element of soft power. At any one time there are 30 world leaders who have been educated at British universities. The report also—this point has not been made so far—spoke about a ComRes public opinion poll for Universities UK which suggests that the public do not view students as immigrants. It said:

"Only 23% of Remain voters and 25% of Leave voters view international students as immigrants. Of those that expressed a view, 75% say they would like to see the same number, or more, of international students in the UK. Of those who expressed a view, 71% would support a policy to help boost growth by increasing overseas students. This polling suggests that current visa policy is not addressing public concerns".

I would go one step further: this poll suggests that the Government are entirely out of line with public opinion when it comes to international students. I need only mention the current, and first Indian, president of the Royal Society, Sir Venki Ramakrishnan—Nobel laureate and fellow of Trinity College, Cambridge.

Universities UK does not argue that students in the UK should not be counted. I do not think that anyone here is saying that; we are saying that they should not be included in a net migration target. Our direct competitors categorise international students as temporary citizens. In the United States they are classified as non-immigrants alongside tourists, business visitors and those in cultural exchange programmes. In Australia they are classified as temporary migrants alongside tourists and visitors, and in Canada they are classified as temporary residents. These are our direct competitors. If they can do it, why cannot we?

Every time this issue has been brought up in this House, there has been unanimous cross-party support for taking international students out of the net migration figures, but the Government are not listening, the Prime Minister is not listening and the Home Office is not listening. So what option do we have? The only option is legislation and I urge noble Lords to support this amendment. Net migration figures create a perception that has unfortunately become reality in putting off international students. They must be a priority for our universities, for our economy, for our position in the world, for our domestic students and, more importantly with this uncertain future, for our whole country.

The Earl of Dundee (Con): My Lords, as has been said, Amendment 150 would serve to redress a number of unsatisfactory outcomes. These already threaten to undermine our economic competitiveness, skills, trade, exports; then soft power deriving around the world from our usual reputation for welcome and fair-mindedness. However, adjusting, through this amendment, is perhaps all the more fitting, remaining as we do within the Council of Europe of 47 states, within which affiliation, through good practice such as this amendment promotes, we can therefore continue to assist balance, democracy and common sense.

Lord Watson of Richmond (LD): My Lords, I am very glad to follow the remarks of the noble Lord, Lord Bilimoria, on one specific thing. Given Brexit, we are all very alert to what Britain's competitive position will be after we leave the European Union. The noble Lord referred to competition from continental European universities—in particular, those in France, where there is a government-backed and very energetic programme to try to attract foreign students. Our advantage is the English language. We share that, of course—although some may dispute it—with the United States, Australia and even Canada, but we do not share it with France, Germany or some of our continental friends. We now really have to bear that in mind: it is an important competitive edge for the United Kingdom.

Finally, we have heard the case for the educational benefit of these students being here, as well as the moral, economic and academic cases. I think there is also an argument for saying that this is the moment to send a signal. It is a moment for the Government to grasp that, instead of so often appearing in some ways negative about our position in the world—certainly our position in Europe—this is a positive outward gesture and we should make it today.

Lord Cameron of Dillington (CB): My Lords, there are a lot of reasons to support this amendment, quite apart from the general support that it receives in public opinion polls. There is the vital economic argument about the value added to our country and our universities, as numerous speakers have said. There is also the fact that our main competitors, as the noble Lord, Lord Bilimoria, has just emphasised—the United States, Canada and Australia—do not treat their visiting students as part of their net migration figures. Our Prime Minister has outlined a vision of a post-Brexit Britain as being truly global, and 75% of domestic students, as the noble Lord, Lord Smith, touched on, say that studying alongside international students is useful preparation for working in a global environment, which they will have to do. We need them to remain world focused and world class, and we must stop sending out the wrong signals to international students. We must become a truly global Britain and we need a change of emphasis.

However, the main reason I believe we need these students is the long-term effect they will have on the international reputation and prospects of the UK for the length of their lifetime, as the noble Lord, Lord Holmes, mentioned. Students—undergraduates and graduates—who come to this country are inevitably the future leaders of their countries. They are the future business leaders, scientists, top civil servants, diplomats, politicians, Cabinet Ministers and even Presidents of their countries. A 2015 report by ComRes indicated that 55 current world leaders had studied in the UK.

In sub-Saharan Africa, which I visit regularly, I have met businessmen, leading scientists, ambassadors, MPs, Ministers and deputy Presidents—I am afraid that I do not quite move in presidential circles—all of whom have studied here, and their understanding and respect for the UK exudes from their every pore. This Anglophilia is worth billions to the UK, quite apart from the money that is brought in. Certainly, the whole of the British Council's budget could be lost and the cost of many of our overseas embassies could be counted as a contra. Maybe even this respect for Britain could be counted as a contra against our overseas aid budget and, in certain future instances, our defence budget.

What is more, they have paid for it themselves. In the process of absorbing their Anglophilia, these students have contributed millions to our economy. Therefore, for the present viability of post-Brexit Britain and, above all, for our long-term reputation and respect as a truly global Britain—to which Theresa May aspires—we must do all we can to encourage international students, academics and researchers to come here. We must stop beaming out the negative signals that are currently driving the future leaders of the world to go elsewhere for their academic experience. Every part of government, from the Department for Education to the FCO, should be beating down the doors of the Home Office to persuade it to accept the principles of Amendment 150. It would be a very short-sighted Government who resisted it.

6 pm

Baroness Young of Old Scone (Lab): My Lords, I declare an interest as chancellor of Cranfield University, a truly global university in science and technology, with almost two-thirds of its students coming from outside of the UK. In looking at the Government's Green Paper on industrial strategy, it is clear that what we want to try to forge for a post-Brexit UK is a vibrant industrial sector that is truly multinational in its businesses. That depends on being truly global in our approach to research and in recruiting the best and brightest students from across the world.

I know that we are in a particularly overheated moment in terms of immigration, and the Government are quite understandably nervous as a kitten in that respect. However, the reality is that we cannot regard international students as people who are coming here as supplicants to us. We are going as supplicants to them, because they have many choices. What international students want is to go somewhere where they will be able to study as an undergraduate, and then potentially as a postgraduate, at the cutting edge of whatever their discipline is, where they feel that their families are welcome to come and stay with them because they might be here for many years, and where they have the opportunity of moving seamlessly into employment with a company or organisation that they might have had contact with during their university years. That is what they want, and that is what we are preventing from happening if we are not careful.

The signal has gone out that Britain is not open for business for international students, whether or not that is true. The time has come, after all of these reports from other committees saying that we should change this very important signal, for the Government to ponder on that. The reality is that we are not going to see any diminution in the heat and steam around immigration in the next few years: we are going to see it getting worse and worse as we exit from Europe. The time has now come to make sure that the by-product of that heat and steam is not that we failed

to deliver for our high standards of education, our high standards of research or our place in the global business community.

Lord Krebs (CB): My Lords, in supporting Amendment 150 I declare an interest as having, for many years in the past, led a large research group at Oxford University that was heavily dependent on international students, not just from the European Union but from all over the world, from Argentina to the far eastern corner of what was then the Soviet Union.

I want in particular to refer back to one of the many Select Committee reports. The noble Baroness, Lady Royall, referred to the fact that this whole question of overseas students has been examined in recent years by many Select Committees. One such committee was the Science and Technology Select Committee when I was the chair; in 2014 we produced a report on STEM students—science, technology, engineering and mathematics students—in relation to international students and immigration rules. In the summary of our report, we concluded:

"Above all, we are concerned that Government policy is contradictory. The Government are simultaneously committed to reducing net migration and attracting increasing numbers of international students".

Echoing what my noble friend Lord Bilimoria said, certainly in 2014, the Government had a target of increasing international students by 15% to 20% over the next five years. We went on to say, as other noble Lords have said during this debate:

"This contradiction could be resolved if the Government removed students from the net migration figures".

Will the Minister, in his reply, tell us whether he recognises this target that the Government certainly had two or three years ago? Does it still exist and, if so, does he recognise that government policy is currently contradictory?

Lord Green of Deddington (CB): My Lords, I will speak briefly to oppose Amendment 150. I am sure that noble Lords will listen very carefully to the arguments that have not yet been made. I should make it clear that I speak as someone who is firmly in favour of foreign students. I agree with much of what my noble friend Lord Hannay had to say, and it is hard to disagree with most of the contributions that we have heard this afternoon from people who run universities and colleges, who know students and who are absolutely clear about the benefits of foreign students. I agree with that.

However, that is not the issue. The issue is whether there is a problem here in relation to immigration—a massive issue for the public—and, if so, what should be done about it? Is it sensible, viable or feasible to make immigration policy by legislation? I rather doubt that, and if your Lordships look a little more carefully at this amendment, you will see that there are matters in it that do not square up with the reality of how the immigration system works and really go beyond legal matters in terms of trying to suggest what policies should be.

The first, most incredibly obvious, point to make—and it has not been made yet—is that any student who comes here, does his course, maybe works for a while and then goes home, does not contribute to net migration. They are counted in and they are counted out: they do not make any difference to net migration. What is more, all of our competitor countries mentioned today—Canada, the United States, and Australia—include, by the way in which they calculate their immigration figures, their students who stay on. There is no question about that. Therefore, the issue for public policy is, surely, how many do stay on illegally, not how many stay on legally. As my noble friend Lord Bilimoria mentioned, that is a matter, at the moment, of intense scrutiny by the ONS and the Home Office, and rightly so. That issue needs to be resolved. If there is a serious degree of overstaying, that has to be dealt with. If the statistics are weak, then we need to change our tune and perhaps change our policy.

It is not clear to me what, in practice, this amendment is intended to achieve; in the real world, the ONS will continue to use the international passenger survey in order to assess the flow of students in both directions—exactly the same definitions used by all of our competitors. If the amendment is intended to mean that students should be ignored, both on their arrival and on their departure, there is simply no measure whatever of whether they contribute to net migration or not. As international students from outside the EU now contribute 46,000 a year to net migration, it is a significant number. We do not know whether that is accurate, but it is a significant part of the case and needs to be considered.

Therefore, this proposed new clause will not clarify matters: it will only add to confusion over the numbers. If its only purpose is, as some noble Lords have suggested, to require the Government, when all the numbers are put together, to put into a separate paragraph those who are students, that is fine, but that is a political decision, not a matter for legislation. Whoever takes that decision is going to have to say, "Now wait a minute: what happens if we actually do that?". I can think of one or two newspapers that might add them straight back in and then accuse the Government of fiddling the figures. That needs to be borne in mind.

Lastly, subsection (3) of the proposed new clause seeks to legislate to prevent any tightening of conditions for foreign students. Surely that is a matter for policy and not law. The House will be aware, I hope, that there are very strong pressures on our immigration system and, in particular, that there has been widespread abuse at the college level. The National Audit Office estimated that in one year, to 2010, about 50,000 students from the Indian subcontinent came here to work rather than to study. That largely explains the drop in students from India, which has been referred to once or twice. The House certainly knows that 900 bogus colleges have lost their licence to bring in foreign students. That is a massive number. This has been a scandal that has gone on for years and I very much regret that from the academic lobby, which should be powerful, accurate and on the case, hardly a word have we heard. I sometimes wonder whether some of the stuff put out by Universities UK gives a negative impression of our universities. These are the people who have been complaining and complaining for six years—of course foreign students are going to think that something is up and they are not terribly welcome.

[Lord Green of Deddington]

I turn now to the university level, which I think is what most noble Lords have been talking about. We cannot preclude the possibility that there will, in future, be scams that apply to universities. Noble Lords will remember, I hope, that in 2011-12 the highly trusted sponsor licences were suspended from Glasgow Caledonian University, Teesside University and London Metropolitan University. Why? Because they had been on the fiddle. What will happen in the future if this amendment is passed and a raft of smaller, less distinguished universities than those mentioned by my noble friends start fiddling the system, one way or another? The Government's hands will be bound by law. That cannot possibly make any sense.

In my view, these amendments do not amount to scrutiny nor to holding the Government to account. Rather, they are an attempt to make policy by legislation. I suggest to the House—and I am not in a majority tonight—that that is wrong both in practice and in principle.

Lord Blunkett (Lab): My Lords, I shall be very brief. I did not intend to speak but when I hear the noble Lord, Lord Green, I understand that what he believes to be fact, others perceive to be opinion. It seems to me that we need to get this straight. We are not talking about bogus colleges in this amendment at all. The noble Lord has drawn attention to the example of 2012. I do not normally go out of my way to defend a Conservative-led Government, but that example actually demonstrated that the toughening-up of the system in higher education was working, albeit there were questions at the edges in relation to the 10% threshold. However, it also demonstrated that the system of inquiry and review was secure.

What we are talking about tonight has to be good for Britain, by common sense, morality and economy. It has to be good for Britain for a psychological reason, which I probably need to try to explain to the noble Lord, Lord Green. It is true that students who come in and go out eventually contribute to the net migration calculation. But if we have a drive to bring people to the United Kingdom, which I think virtually everyone in this House wants, then when those increased numbers come in they show up in the immigration figures as a net increase, but it is down the line that they show up as a net decrease. By driving to bring people here, you negatively affect the psychology of the way in which people perceive net migration. If higher education students are taken out of the figures, it would immediately reduce the perceived totals—the headlines to which the noble Lord referred in the tabloid newspapers for which he has written and for which, from time to time, I have written myself.

It is all about the way people perceive that the Government are failing in their net migration targets because things are included that should not be, specifically higher education students. People see the headline figure and they react to it—understandably so, because they do not have the arguments put in the way that we are debating them tonight. I am sorry to delay your Lordships' House but when the noble Lord, Lord Green, speaks, my hackles rise and my intellect demands that I at least try to counteract his lifelong drive to reduce the number of people coming to the United Kingdom.

6.15 pm

Lord O'Donnell (CB): My Lords, I will be very brief. I declare an interest as a visiting professor at LSE and UCL, and my first job was as a lecturer in economics at the University of Glasgow, where I saw at first hand the joys of teaching a diverse group of students. I take all the points that have been made about education and the economy. However, I want to speak as a former Permanent Secretary to the Treasury. Far too rarely in this House do we pass amendments that have the effect of helping the Chancellor and reducing the deficit. Undoubtedly, this will do that, so could the Minister pass on that message to the Chancellor? It is a very good reason for accepting the amendment of the noble Lord, Lord Hannay, which I support.

Lord Stevenson of Balmacara: Follow that. My Lords, this has been a terrific debate. We have rightly taken our time over it, taking perhaps a little longer than we should have done, but it has been worth it. We have explored the issues that the noble Lord, Lord Hannay, wished us to and come to a resounding conclusion on all sides of the House—apart from the noble Lord, Lord Green. He stated in parentheses that he was not in a majority on this occasion. My noble friend Lord Blunkett put the case rather well, and I have to say that the noble Lord, Lord Green, is never in a majority on this issue. However, I am glad that the arguments have been made so that we can knock them down.

At the heart of this debate are relatively straightforward issues to do with counting, reporting and transparency. The point was made rather well by the noble Lord, Lord Broers—by the noble Lord, Lord Krebs, rather. I apologise to the noble Lord, Lord Broers, who also made a very good speech; I am in no sense comparing the two, but it is the point made by the noble Lord, Lord Krebs, that I want to pick up. The Government are in a quandary over this. When introducing his amendment in the previous group, my noble friend Lord Dubs said that he was trusting a single government voice. Perhaps more in hope than experience, he has agreed to go with the Government and trust them on that. This amendment, however, is one on which the Government are speaking with many voices. We are going to get the Government's view tonight, but I am afraid that it is not going to be the view that many in the Government would like to see. The fact that we got as much support from the Conservative Benches as we did from elsewhere in the House suggests that this is not an argument that the Government can win.

I urge the Government to agree that we have before us a straightforward set of amendments that would solve the problem of students coming here to study being treated as economic migrants when they are not, help with the staffing issues that are going to be so important for our industrial strategy and our future post Brexit, and provide a common sense, no-brainer solution, as so many speakers have said. We have covered the economic, industrial, cultural,

educational and local perspectives on why having overseas students here is good for us in every respect. We have been told how much money is involved. However, at the end of the day, as many have said, it is about perception.

The noble Lord, Lord Holmes of Richmond, quoted the Prime Minister of India, who said: you want our trade but you do not want our students. It is about the perceptions that have built up. I am sure that when he comes to respond the Minister will say that there is no cap and that every overseas student who is qualified to do so can come. However, as the noble Lord, Lord Cormack, said, the signal being sent out to the world, and which the world believes, is that we do not want students to come here. We have to take a stand and make our case absolutely clear to the world. The fight back can start now. This is a flag that we should all be waving. We must join together, around the House and across the country, to say that this is something that we want to happen. I leave it to the Minister to say that he agrees.

Viscount Younger of Leckie: My Lords, for the second time I am grateful to the noble Lord, Lord Hannay, and to my noble friend Lord Lucas for providing your Lordships with an opportunity to discuss the issue of international students. I also send my best wishes to my noble friend Lord Patten, who cannot be with us today. I say at the outset I am left in no doubt about the passions expressed in this debate by noble Lords around the Chamber. As I have previously indicated—and as the noble Baroness, Lady Royall, indicated—we have indeed said this before. But I will say it again so that the House is in no doubt. The Government very much welcome the contribution that international students and academics make to the United Kingdom's higher education and research sectors and we have sought to nurture and encourage that.

I will deal first with the amendment from my noble friend Lord Lucas. I entirely share its goal of ensuring maximum transparency. I am pleased to say that there is already a wealth of information in the public domain about the contribution of international students. Provisions in the Bill will add to this. As I have previously indicated, the Bill already includes provisions requiring the Office for Students to monitor and report on the financial health of higher education providers. This can be done only if the OfS understands the types of students and the income they bring to the sector. Clause 9(1)(b) requires all registered providers to give the OfS such information as it needs to perform its functions. This will ensure that the OfS has the power to gather the information it considers it requires on international student numbers.

Furthermore, the Higher Education Statistics Agency already publishes detailed information about international student numbers, along with a breakdown of the countries they are travelling from. We envisage that these arrangements will continue. This amendment would also require information about the proportions of visas granted when set against the total number of applications submitted by each institution. The Home Office already publishes a breakdown of tier 4 visa applications, including the number granted and the number refused.

As I explained in Committee, I do not support providing this information broken down by institution. If there is an institution which, for any reason, has seen its visa refusal rate rise, that does not necessarily make it a failing institution. Provided that it passes the Home Office's basic compliance assessment, and there are no other compliance issues, no action will be taken against it by the Home Office. But I am sure that the institution concerned would want to make any changes to its system that it deemed appropriate out of the public spotlight. I dare say that any institution that finds itself in that position would support the Government's position on this.

My noble friend and I both support transparency and the publication of as much information as possible. Much of the information that he seeks is already available and published, and the Bill will strengthen those arrangements. There are small elements of his amendment where, for the reasons of practicality or commercial confidentiality that I have given, I would not favour publication of the data in question. However, those cases are very much the exception, and I can assure my noble friend that the information in which he is interested will be collected and published for all to see.

I turn now to the amendment from the noble Lord, Lord Hannay. These topics, as the House will know, were covered at some length in Committee and I do not propose to repeat all that I said then. However, it is important that I put on record again that there is no limit on the number of genuine international students whom educational institutions in the UK can recruit. I make no apology for repeating that. Equally importantly, the Government have no plans to limit any institution's ability to recruit international students. Likewise, as recently emphasised by the Prime Minister, the Government are committed to ensuring that the UK continues to be one of the best places in the world for science and innovation.

I previously pointed out that the United Kingdom has a very competitive offer when compared to other major recruiters of international students, whether you look at speed of visa processing, proportion of successful applications, work rights during study or post study opportunities. While, of course, there is no room for complacency, the United Kingdom continues to be the world's second most popular destination for international students and we have welcomed more than 170,000 international students to the UK for the sixth year running.

The noble Lord, Lord Hannay, spoke eloquently, backed up by statistics, about the importance of overseas students to the UK. We continue to look for ways to promote the UK as an attractive place to come to study and we have a very generous offer for international academics who want to come to work in UK universities. The Chancellor's recent Budget acknowledged that the continued strength of UK research and innovation depends on access to world-class skills, ideas and talent. It set out how the UK is investing in our industries of the future and that the Government have committed to invest more than £100 million over the next four years to attract the brightest minds to the UK. This will help maintain the UK's position as a

[Viscount Younger of Leckie]
world leader in science and research. It includes £50 million ring-fenced for fellowship programmes to attract global talent and more than £50 million from existing international funds to support fellowships that attract researchers to the UK from emerging research powerhouses such as India, China, Brazil and Mexico.

In the tier 4 visa pilot, four universities are involved in a trial which involves less paperwork surrounding applications and a longer period of post-study leave. The noble Lord, Lord Bradley, mentioned a similar issue. This is an excellent example of taking sensible steps to try to ensure that the UK is as welcoming as possible for international students. It covers exactly the ground in the first limb of the amendment from the noble Lord, Lord Hannay. I do not believe that a general statutory duty, which would be impossible to measure and bound to give rise to litigation, is the way forward here. The noble Lord, Lord Green, stated that these were not matters appropriate for legislation.

I turn now to the second part of the amendment from the noble Lord, Lord Hannay, which seeks to stop students being treated as long-term migrants. Incidentally, I have noticed that the noble Lord has moved from the description of "economic migrant" in his amendment in Committee to "long term migrant" now. However, I fear that, whatever the terminology, the difficulties with what he proposes remain the same.

Lord Hannay of Chiswick: I am sorry to disappoint the noble Viscount, but the reason I changed the wording was because he asked me to in Committee. I think a word of thanks might be in order.

Viscount Younger of Leckie: I do not believe that was made clear in the noble Lord's speech, but of course I thank him for that.

A "long term migrant" is defined by the United Nations and the OECD as someone who moves to another country for a period of more than a year. That is the definition that the Office for National Statistics, the UK's independent statistical authority, chooses to follow. As such, virtually all of those who come to the UK on work visas are long-term migrants. These are people who, like students, come for a time-limited period and intend to return home at the end of their visa.

I remind your Lordships of the key features of our work visa regime. People are issued with time-limited visas, which specify the terms on which they can come, including their right to work and whether they can bring dependants. On the expiry of their visa, they are expected to return home. All of these are equally important features of the visa regime for international students. As a result of this amendment, we could potentially be unable to apply basic visa checks, such as pre-issue security checks, or impose conditions, such as the right to work or a time limit, on a student visa. I am sure your Lordships will see why this is not a sensible approach.

The final part of the amendment from the noble Lord, Lord Hannay, would prevent any more restrictive conditions being applied to international students and academics than currently exist. I pointed out in Committee the difficulty that could be created if there were changes to Immigration Rules that everybody agreed were desirable but could be seen as more restrictive. The noble Lord's suggestion was that, in such circumstances, there should be further primary legislation, but I remind your Lordships that Immigration Rules are already laid before Parliament and can be debated, if appropriate. That seems to me the best way to accommodate those minor changes to our immigration system that are, from time to time, required and a more proportionate way of dealing with them than fresh primary legislation.

The effect of this part of the amendment would also mean that no future changes could be made to the rules as they relate to citizens of the European Union and therefore set in stone in perpetuity free movement rights for EU students and academics. As your Lordships know, we have indicated that future arrangements for students and academics will be subject to negotiation with the EU and need to be considered in the round, rather than that a particular approach be written into legislation now.

International students consume services while they are here, so it is right that, in line with international norms, they feature in net migration statistics. I reassure your Lordships that, as I have explained, that has not led, and will not lead, to the Government seeking to cap numbers or restrict institutions' ability to continue to attract students from around the world. The Government want our world-class institutions to thrive and prosper. International students and academics will always be welcome in the UK. However, I do not believe that we can pass an amendment which would be likely to make operation of the visa system impossible.

Before I invite the noble Lord to withdraw his amendment, I want to respond to a point made by the noble Lord, Lord Bilimoria, who said that a report is held by the Home Office showing that only 1% of students overstay. I am afraid that we do not recognise that 1% figure, which was cited in the media. Over time, the data obtained through exit checks will contribute to the statistical picture and the ONS data on net migration figures, but it is too early to draw conclusions. I ask the noble Lord, Lord Hannay, to withdraw his amendment.

6.30 pm

Lord Hannay of Chiswick: My Lords, this has been a most interesting debate, and I would like to thank all those who participated in it with splendid brevity—I think that we have beaten some of the records for having brisk, clear interventions. I find enormously heartening the support from all quarters of the House for this amendment. It really is a great place to be when one can get a confluence around the House such as we have had today when discussing legislation. That is splendid.

There is of course one exception: the noble Lord, Lord Green, who has to be thanked for being the grit in the oyster which I hope will shortly produce a pearl. I will not bother to take on his arguments, because the noble Lord, Lord Blunkett, did it far better than I can, except to say that if he really believes that there is a clear separation between policy and legislation, he has

led a very sheltered life. I do not know what we have been doing for the past five weeks if we have not been trying to make policy. I think that it is the Government's intention to make policy, so here is another bit of policy. The time has come now to test the opinion of the House.

6.32 pm

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6.47 pm

Amendment 151 not moved.

Amendment 152

Moved by ***Baroness Deech***

152: After Clause 86, insert the following new Clause—

"Higher education providers: freedom of speech and preventing unlawful speech

(1) All English higher education providers must ensure that their students, staff and invited speakers are able to practise freedom of speech within the law in the provider's premises, forums and events and must put in place measures to prevent unlawful speech.

(2) Subsection (1) extends to the premises, forums and events of the provider's student unions."

Baroness Deech (CB): My Lords, this amendment goes to the heart of what the Bill is all about. Let us set aside for a moment the questions of fees, numbers, quangos and validations. The Bill is ostensibly about teaching excellence and academic freedom. We take it as implicit—the league tables confirm it—that our universities are among the very best in the world. Some of them are consistently found in the top 10, alongside American universities. We are united in wanting to preserve our excellence, as the vote of a few moments ago showed. We want to preserve it for its own sake and because it is a valuable, international attraction, embedding our intellectual values in cohort after cohort of future world leaders who come here to study. But you cannot have academic freedom, as now included in the Bill, or teaching excellence without freedom of speech. That, as I have repeatedly warned in this Chamber over the last couple of years, is in danger. Sometimes it is farcical gagging of speech and other times it is very dangerous.

The Bill will rank universities' teaching skills as gold, silver, bronze and ineligible. There exists another ranking—that of freedom of speech—in our universities, which is, in my opinion, to be taken even more seriously as an indicator of excellence. The free speech university rankings 2017 examine all our universities according to the following criteria: bullying and harassment policies; equal opportunities policies; students unions' attitude to no-platform policies; safe space; student codes of conduct; bans on controversial speakers and newspapers; and even expulsion of students on the grounds of their controversial views or statements. The sampled universities are then ranked: "red" means a university that is hostile to free speech and free expression; "amber" means a university that chills free speech and free expression by issuing guidance with regards to appropriate speech; and "green" is for the other universities which place no restrictions on free speech and expression, other than where it is unlawful.

Sixty-one universities, or 63%, actively censor speech. The censoring is either by the university administrations or by the students themselves. The examples of censoriousness are well known, whether it is the silencing of a Muslim woman calling for reform of religious attitudes towards women, the playful adoption of foreign dress or cuisine, mentions of transgender, the likelihood of blasphemy, or even complaints about censorship itself. We all remember the suspension of Sir Tim Hunt and the LSE lecturer who was silenced when his views about welfare were found to be likely to be unacceptable. Violence met Israeli peace activists speaking at UCL and KCL.

At the other end of the scale, hate speech is being heard unchallenged. A recent review of people convicted of terrorism found that a significant number were in education at the time of the offence. Student Rights logged 27 speaker events in London in four recent months where speakers referred to homosexuality in the most derogatory and punitive terms, and defended convicted terrorists. That is unlawful speech and universities are not always stopping it. My amendment, if accepted, would incidentally clarify, limit and strengthen the Prevent policy, which is likely to be reviewed because it would single out unlawful speech as a target of prohibition rather than the more woolly "extremism". In sum, there is no point pursuing teaching excellence and academic freedom, in ranking universities gold, silver and bronze, if at the same time their real freedom and intellectual excellence comes out red or amber. These rankings are known internationally.

The Government maintain that my amendment is unnecessary because the required laws are already in place. I submit that not only are they ineffectual but there is a gap in the Minister's summing-up letter which relates to enforcement. Students union premises are included in the premises on which a university must afford freedom of speech, but in practice some university authorities claim that union-organised activities taking place on university premises are not covered and the authorities back off, claiming the union is autonomous. Nor do they put a stop to safe-space controls. Or the universities tell students who have been discriminated against by their union that complaints are handled exclusively by the students union, which is wrong in law.

The Universities UK 2016 task force on violence against women, harassment and hate crime set out guidance for a disciplinary code for universities to adopt. The task force found that the evidence also suggested,

"that despite some positive activity, university responses are not as comprehensive, systematic and joined up as they could be. A commitment to addressing these issues is required within every university, from senior leadership down".

Yet the report's guidance does not seem to have been widely accepted. Some colleges—for example, SOAS—reject the new definition of anti-Semitism helpfully disseminated by the Government. I say "helpfully" because it distinguishes between lawful, political criticism of a state, which is fine, and race hatred which is not.

I turn now to the other points made in the letter sent to all Peers by the Government. It is stated in that letter that legal proceedings should be brought against universities if the freedom of speech duty is not complied with. That is too slow and the action needs to be against the disruptors in the first place rather than the university. There have been complaints to the Charity Commission about some unions but that, too, is slow and difficult. I respectfully suggest that the basis on which the Government now state that they are confident that students unions are sufficiently controlled by existing law is because I provided them with advice from a QC. Most universities do not know the law and dispute the conclusions. The Office for Students could require freedom-of-speech principles to be included in the public interest governance conditions but there is no requirement at the moment. It ought to be included in the Bill.

As we heard a few moments ago, many of our future leaders, both British and international, are being educated here in our university system. Since the referendum last year, there has been a spotlight on hate incidents, a rising number of unacceptable actions

[Baroness Deech]
and speech. We are all disgusted by it. Some of us know that this has gone on for years and we are relieved that, finally, the occurrence of hate and intolerance in higher education, the media and society generally is getting the attention and disapprobation necessary. We will be letting down our future leaders if we allow them to receive their education on campuses where censorship is accepted and where hate speech and actions are overlooked. We will be storing up even more trouble for the future.

Accepting my amendment would not only show genuine commitment to excellence and academic freedom but clarify and control the Prevent guidance. It would provide for enforcement and support the UUK task force on hate and harassment. It would help students who have suffered from silencing and worse. To reject the amendment will send yet another message round the world—I am not exaggerating—that the Government and the university system remain passive in the face of a great threat to the future of our young. Our students must not graduate in the belief that there is no real freedom of speech, or that hate is mainstreamed. They must not leave university believing that it is routine to settle debates by silence or violence. For their good, I seek to have this amendment accepted. I beg to move.

Baroness Garden of Frognal: My Lords, I added my name to this amendment and spoke to it in previous stages of the Bill. I will be brief; in any event, the noble Baroness, Lady Deech, set out a comprehensive argument as to why this is so important. Who would have thought that it was important in this country to champion freedom of speech? Sadly, obviously that has become necessary. We are living in strange times. We have heard tales of students closing down free speech, and universities have taken remarkably little action over some issues when freedom of speech should have been protected.

It is difficult. There are obviously grey areas between what is lawful and what is not. As the noble Baroness said, we must not in any way encourage hate speech or incitement to violence but university students should be subject to ideas they find uncomfortable and be in a safe place where they can address them without those ideas immediately being shut down. This amendment also includes students unions, so it should help activities and events organised by students to make quite sure that they too encourage freedom of speech. It is a precious and valued part of our national life, and it is currently under threat. This amendment would add powers to ensure that we preserve it.

Lord Stevenson of Balmacara: My Lords, this is a very important debate. We are grateful to the noble Baroness, Lady Deech, for raising again with such powerful arguments the point she has been making consistently throughout Second Reading and Committee about the need to focus on this and get it right in the legislation. This issue is at the heart of what we really think about universities and higher education providers more generally. As the noble Baroness, Lady Garden, said, it is almost shocking to think that the understanding we have of what constitutes a university does not read across to what actually happens on the ground. The stories are legion and very unpleasant, and in many cases almost too awful to talk about in these circumstances.

7 pm

It may be true, as the Government assert in their amendment, that there are powers in legislation already and that all those necessary powers will be sufficient to achieve what the noble Baroness is asking for. But the tests she has laid out are: first, we have to be sure that it is not just the promotion of free speech but the outlawing of unlawful speech; and, secondly, that this happens right across the university estate and off the estate when university personnel are involved. We have to be certain, as she said, that these things are joined up and approached systematically, which, I am afraid, they seem not to be at the moment.

It would be relatively easy just to say, "Well, we have to pass Amendment 152", but there are the makings of a joint approach here, which I put to the Minister as something worth doing. His amendment is, in many senses, where we want to be. If we are building on the past, that is a good thing, but we need to be sure that the points made by the noble Baroness about outlawing unlawful speech and absolute certainty about the premises concerned are included in the legislation—plus swift and direct action where these laws have been shown to be broken.

Perhaps the Minister can address these points and satisfy us. If not, I urge him to look carefully at Amendment 152 to see whether a joint approach can be brought back at Third Reading which will solve this problem once and for all.

Viscount Younger of Leckie: My Lords, I thank the noble Baroness, Lady Deech, and noble Lords for this valuable opportunity to discuss freedom of speech further. As the noble Lord, Lord Stevenson, and the noble Baroness, Lady Garden, said, we all recognise that it is a crucial principle at the heart of higher education. I am particularly grateful for the meetings and discussions I have had with the noble Baroness, Lady Deech, my noble friend Lord Polak and Sir Eric Pickles, who have encouraged us to consider even more closely the responsibilities that universities must have, including in relation to their students' unions.

In response, the Minister for Universities and Science will be writing to the higher education sector shortly, highlighting the importance of the freedom of speech duty and reminding universities of their responsibilities in this respect. The letter will focus particularly on students' unions—and all students—and will reiterate how freedom of speech codes of practice should be enforced. It will also emphasise the importance and expectation of rapid resolution of any freedom of speech issues. I hope that that reassures the noble Baroness, Lady Deech, that speed is of the essence, as she made clear in the meetings we had.

The existing freedom of speech duty requires all those concerned in the government of certain higher education establishments to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students, employees and visiting speakers. This includes an express duty to ensure, so far as reasonably practicable, that the use of

any of the provider's premises are not denied to anyone on the grounds of their beliefs, views, policy or objectives. In order to help staff, students and visitors understand their obligations, providers within scope must also have in place an active code of practice. This must explain how they should approach events on any of their premises, and the conduct expected of them.

I stress that students' unions also have a role to play in this. The same duty requires that student members of a students' union be subject to the code of practice issued by their higher education establishment. Students' unions established at higher education institutions are typically charities, and the Charity Commission has a statutory function to identify and investigate mismanagement and misconduct in the management and administration of charities. In addition, the freedom of speech duty clearly applies to premises that are occupied by students' unions, whether or not they are premises of the higher education establishment. I hope that provides clarity on another point the noble Baroness raised.

I completely agree with noble Lords that legal duties and codes of practice take us only so far. We fully expect providers not only to have robust codes of practice in place but to take reasonably practicable steps to ensure that they are adhered to. This includes taking disciplinary action where appropriate. In the occasional case where the duty is not complied with, legal proceedings have been brought against providers. In a recent case, the judge found that freedom of expression was alive and well in the university involved.

As part of its monitoring of the Prevent duty, HEFCE found that higher education providers showed a strong understanding of their responsibilities concerning freedom of speech and 93% had already put in place strong policies for assessing and managing the risks associated with any speaker event. We want to ensure that all relevant providers now do this. Therefore, for those that have not yet met this standard, action plans are in place for outstanding issues to be resolved by spring of this year. More generally, HEFCE regularly engages with higher education institutions, both informally and formally, in relation to balancing free speech with Prevent. While I understand the reasons for the noble Baroness's amendment, unfortunately it is not clear how this additional duty would interact with the existing duty. We believe there is a genuine danger that in practice it would introduce ambiguity in relation to both duties.

However, I fear that to ensure that something happens without reasonable caveats unreasonably and unnecessarily imposes a burden on providers. It may well require them to address matters that are realistically out of their control. For example, it could result in an institution that faced concerns about violence at an event therefore being mandated to spend unreasonably large amounts of money on a significant security presence. Forcing such an event to unreasonably go ahead, or creating a situation where the duty to ensure freedom of speech may override concerns about the security of attendees, cannot be the desired effect. We need to allow institutions to make their own decisions, balancing the requirements of the duty against other responsibilities and enabling them to assess each individual case according to the situation.

We must also not overlook the fact that students, on the whole, do not think there is a problem with free speech. A 2016 survey by the Higher Education Policy Institute of over 1,000 full-time undergraduates at UK higher education institutions found that 83% of students felt free to express their opinions and political views openly at university. Noble Lords will also be reassured that Clause 15 enables the OfS to impose a public interest governance condition on registered providers. Such a condition would require applicable providers to ensure that their governing documents are consistent with a set of public interest principles relating to governance. The OfS will determine the list of principles following consultation. While we cannot prejudge that consultation, a principle underscoring the importance of free speech could be included in the list if the OfS considered it appropriate in light of the consultation.

In Committee I assured noble Lords that we would consider how to make sure that higher education providers continue to be subject to the existing freedom of speech duty under the new definitions created by the Bill. We have now considered this and we propose to extend the vital freedom of speech duty to all registered higher education providers under the Bill. This extends the duty beyond its current application of providers that broadly are eligible to receive HEFCE funding. It means that all providers on the OfS register will need to take reasonably practicable steps to ensure that freedom of speech is secured, to issue a freedom of speech code of conduct, and to ensure that it is complied with. We consider that this duty is comprehensive and strikes the right balance between ensuring that the higher education sector remains a vital place for debate and discussion and ensuring that providers are not burdened by a disproportionate and ambiguous requirement. The duty is just as relevant today as it was at its inception more than 30 years ago.

Freedom of speech is vital but must always be within the law. We all stand against illegal hate speech, discrimination, intimidation or harassment against anyone, including on the basis of their race, religion, gender, sexuality or disability. I am sure we all agree that there is no place for anyone who is trying to incite violence or support terrorism. In addition to legislation, there are effective mechanisms for reporting hate speech and other incidents; for example, through university internal complaints procedures, to the Office of the Independent Adjudicator, directly to the police, or to organisations including the Community Security Trust, Tell MAMA and the Equality and Human Rights Commission. Most providers already have clear policies on discrimination, harassment and hate incidents. Providers subject to the Prevent duty are also required to have due regard to the need to prevent people being drawn into terrorism, and as part of this to consider the impact of extremist speakers on campus.

Despite the good intentions of this amendment, its introduction adds little to existing legislation and risks confusion in relation to freedom of speech. It is not clear what measures would be required to prevent speech in advance of it happening. Unfortunately, this could lead to providers being too risk averse, with the unacceptable consequence that lawful free speech could be stifled. We believe that government Amendment 204, extending the existing freedom of speech duty to all

[Viscount Younger of Leckie]
registered higher education providers, strikes the right balance by requiring providers to do all they can to protect free speech. For unlawful speech, the answer is to continue to work with the sector to implement existing laws instead of creating new legislation. I hope that, with that explanation, the noble Baroness will see fit to withdraw her amendment.

Baroness Deech: My Lords, I greatly appreciate the Government's involvement in this topic. I support Amendment 204 and am very pleased to see that the Government wish to extend the width of the freedom of speech duty. I appreciate the fact that the Minister has listened, as has his counterpart in the other place. They have taken this topic seriously—indeed, no Government could possibly reject the notion of freedom of speech while passing a higher education Bill.

What I would hope to see in correspondence between the Government and the universities in the next few days or weeks before we come to Third Reading is a clear explanation that students, individually and in their unions, are covered wherever they may speak or block speech, both on university premises and off them. I would hope to see provisions for prompt enforcement. We are all well aware of how brief the university year is: if you are a student, you can commit an offence in April and by June you are history and the university no longer has any control over you and you may well get away with it. I also hope that the letter would support the matter that the Minister mentioned: what could be more simple than to include a freedom of speech condition in the governance conditions to be set down by the OfS? It would be excellent if those conditions were set out and sent to universities.

I have some slight caveats. First, a recent letter from the Minister in the other place disseminating the definition of antisemitism, which I believe was also signed by the noble Viscount, Lord Younger, has been ignored and rejected by one of the places that most needed to hear it—namely, the School of Oriental and African Studies. Secondly, we have had provisions about freedom of speech on our statute book for 30 years, yet some universities have still not implemented them or do not know how to. I know for sure that one of them had never heard of them until 2011. Thirdly, it would be a pity if violence is still allowed to close down free speech. I would not wish to see, as I am sure noble Lords would not wish to see, a situation whereby the threat of violence prevents lawful speech and the university says that it simply cannot afford to police it. An atmosphere has to be created in universities and, I am afraid, security put in place so that violence does not close down free speech—whether that is in the university or anywhere else in society. If those conditions are met, as I hope they will be before Third Reading, then I will be content to withdraw the amendment now while reserving my right to revert to this topic.

Amendment 152 withdrawn.

Amendment 153

Moved by ***Lord Storey***

153: After Clause 86, insert the following new Clause—

"Offence to provide or advertise cheating services

(1) A person commits an offence if the person provides any service specified in subsection (4) with the intention of giving a student enrolled at an English or Welsh higher education provider an unfair advantage over other such students.

(2) A person commits an offence if the person advertises any services specified in subsection (4) knowing that the service has or would have the effect of giving such a student an unfair advantage over other such students.

(3) A person commits an offence who, without reasonable excuse, publishes an advertisement for any service specified in subsection (4).

(4) The services referred to in subsections (1) to (3) are—

(a) completing an assignment or any other work that a student enrolled at an English or Welsh higher education provider is required to complete as part of a higher education course in their stead without authorisation from those making the requirement;

(b) providing or arranging the provision of an assignment that a student enrolled at an English or Welsh higher education provider is required to complete as part of a higher education course in their stead without authorisation from those making the requirement;

(c) providing or arranging the provision of answers for an examination that a student enrolled at an English or Welsh higher education provider is required to complete as part of a higher education course before they complete it and without authorisation from those setting the examination;

(d) sitting an examination that a student enrolled at an English or Welsh higher education provider is required to sit as part of a higher education course in their stead or providing another person to sit the exam in place of the student, without authorisation from those setting the examination.

(5) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale."

Lord Storey (LD): My Lords, during the course of debates in Committee, and now on Report, we have heard about how our universities are the best in the world and how it is important to preserve their reputation and the reputation of higher education. Yet at the same time, we see the practice of plagiarism and cheating growing and growing. One has only to look at the 18 or so websites which offer not only to do essays but to employ a tutor to write your whole thesis for you.

Interestingly, the QAA has said that at present it has,

"no legal or regulatory powers to take action … against students guilty of plagiarism",

essay mills or ghost writers. Why are we sitting back and allowing this to happen and the reputation of our universities to be besmirched? How would your Lordships feel if, as a student, you had worked really hard to get your degree or complete an assignment only to find that other students are paying for somebody to write it for them?

7.15 pm

How serious is this problem? Is it just a minor thing? No, it is a serious problem. According to the QAA, about 17,000 students get caught cheating each year, but those are only the ones who were caught. What about the number who are not caught? Another

study commissioned—interestingly, in Saudi Arabia—found in 2014 that 22% of students reported having paid someone to complete their assignment.

This type of cheating is referred to as contract cheating—a specific type of plagiarism where a student commissions a work produced by a third party for a fee. Recently, these companies have started to advertise in public places, whether that be on university campuses or even on the London Underground.

It has been noted that some students do not plagiarise intentionally, and a disproportionate amount of students who get caught cheating are, sadly, foreign students. We have debated the importance of overseas students but, interestingly, an investigation by the *Times* newspaper in 2016 suggested that foreign students are four times more likely to cheat.

What are we going to do about this? That is why Amendment 153 has been tabled.

The Tutors' Association is very concerned about this issue as well, because of course the reputation of tutors supporting and helping students is undermined by the ability of people to write essays for students. I hope that the Government will take notice of this amendment and that we can deal with this in a fair and equitable way.

I would make one final point. Why do students cheat? Why are they forced into going down this path? It might sometimes be from the pressures they find themselves under. It might sometimes be from mental anxiety. As well as making the practice illegal and dealing with those despicable companies that provide this service and obviously want to make a profit, we need to support students as well. I beg to move.

Lord Watson of Invergowrie: My Lords, I support the amendment in the name of the noble Lord, Lord Storey, and I spoke in support of the same amendment in Committee. This is a problem of some seriousness and I think it is understated. We heard in the previous debate that the QAA was not taking it particularly seriously and had no legal or regulatory powers to take action against an individual student who was found to have cheated in whatever way. The noble Lord, Lord Storey, told us at that time that it was rather offhand about the fact that only 17,000 students had been caught cheating. The fact that that was the tip of the iceberg seemed not to be a major issue.

It is a major issue if there is such an amount of this going on that Professor Newton—to whom the noble Lord, Lord Storey, has referred in the past—has carried out a survey by interviewing students and those providing such services, which came up with a whole list of how long it took for an essay, a dissertation or whatever. If it is even worthy of academic study, it has to be a problem of some substance. The noble Lord quoted Professor Newton and said that he had been advised that if the word "intent" had been taken out of the amendment it would have strengthened it. I am not quite clear about how it would have strengthened it. I think the noble Lord said it would have given it more power, but that has not been done. Will the noble Lord explain why the amendment has been submitted in the same form?

The noble Baroness, Lady Goldie, is in her place. She was the Minister who responded to this debate in January. As we were together in the Scottish Parliament many years ago, I hoped that she might respond to this debate, but I see that—forgive me—silence is Goldie and the noble Lord, Lord Young, will respond. Will he pick up the point that the noble Baroness, Lady Goldie, made in her response in January that the Government were on the point of announcing a new initiative on this? The noble Baroness, Lady Goldie, said it would be with us,

"Within the next few weeks".—[*Official Report*, 25/1/17; col. 765.]

Seven weeks have ticked by since we last discussed this, so we must be very close to it now. Perhaps the Minister will tell us whether he has a date for the publication of this new initiative, which I think was to involve the QAA, the NUS, HEFCE and UUK—a whole lot of acronyms. It would helpful and would perhaps deal with this issue, at least in the interim, as I accept that we are short of a position where legislation is required.

Lord Young of Cookham: My Lords, I am grateful to the noble Lord, Lord Storey, for his extensive work on this issue. I am grateful for his contribution to the round-table discussions with the QAA and his continued engagement on this matter. He touched on the problem of foreign students. The evidence presented in the QAA's report on plagiarism indicates that cheating may be more prevalent among international students. However, we recognise that plagiarism is a wider issue, so our approach is to look at the sector as a whole. We will be working with the QAA and other sector bodies to develop a co-ordinated response across all students and providers.

As my noble friend Lady Goldie said in Committee, plagiarism in any form, including the use of custom essay-writing services, or essay mills, is not acceptable and the Government take this issue very seriously. Having said that, I am afraid that I am going to plagiarise much of the speech which my noble friend made in Committee when she dealt with this amendment. My noble friend announced that the Minister, my honourable friend Jo Johnson, would be launching a co-ordinated sector-led initiative to tackle this issue, working with the QAA, UUK, NUS and HEFCE. In response to the question just posed by the noble Lord, Lord Watson, this initiative has now been launched.

The Minister has asked sector bodies to develop guidance with tough new penalties as well as information for students to help combat the use of these websites as well as other forms of plagiarism. This new guidance for providers should ensure that a robust approach with tough penalties can be embedded across the sector. In developing the guidance, the Minister has asked sector bodies to bear in mind that, for any enforcement to be effective, the penalties imposed must relate to both the gravity of the offence and the likelihood of an offence being discovered. The new sector guidance and student information is expected to be in place for the beginning of the 2017-18 academic year.

As part of this initiative, the QAA has also been tasked with taking action against the online advertising of these services and to work with international agencies to deal with the problem. The QAA has already started to progress these actions, including making a formal

[LORD YOUNG OF COOKHAM]
complaint to the Advertising Standards Authority, asking it to investigate the essay mills sector on a project basis.

We believe this sector-led, non-legislative initiative is the best approach to tackling this issue in the first instance. We will, of course, monitor the effectiveness of this approach and we remain open to legislation in the future should the steps we are taking prove insufficient. If legislation does become necessary, it would be crucial that we get the wording of the offence right. In the amendment tabled, it is unclear who would be responsible for prosecuting and how they would demonstrate intent to give an unfair advantage. As currently written, there is also a risk that the offence could capture legitimate services, such as study guides, under the same umbrella as cheating services.

The effectiveness of a legislative offence operating as a deterrent will depend on our ability to execute successful prosecutions and we would need to take care to get it right. This was acknowledged by the noble Lord, Lord Storey, in Committee, who said that, "this should not be rushed and we should get it spot on".—[*Official Report*, 25/1/17; col. 766.]
We do not believe that legislative action is the best response at this time, and I have outlined the steps that are being taken. Against that background, I hope that the amendment will be withdrawn.

Lord Storey: My Lords, I am grateful for the Minister's reply and for the opportunity to talk over the issues with the Minister for Universities. The Minister is right to say that this should not be rushed. It is interesting that this issue started from a very small complaint and has become such an important matter that we now want to deal with. It shows that when we collectively share our thoughts and ideas we can get a result—I hope.

I was quite shocked to see in the QAA's briefing that a 3,000-word dissertation in law can be done for just £6,750. I am delighted that the Government take this seriously. There is a need for a co-ordinated response. The penalties will be important. It is important that students know what is happening, and I suppose that if students do not wish to have penalties levied against them, the companies will wither on the vine. I look forward to seeing how this develops over the next few years. I was pleased to hear the Minister say that if this joint co-ordinated initiative does not prove effective, the Government will be open to legislation. I beg leave to withdraw the amendment.

Amendment 153 withdrawn.

Amendment 154

Moved by ***Lord Dubs***

154: After Clause 86, insert the following new Clause—

"Independent review of the Prevent strategy in higher education institutions

(1) Before the end of the period of three months beginning on the day on which this Act is passed, the Secretary of State must appoint an independent reviewer to—

(a) conduct an independent review of the operation and effectiveness of the Prevent strategy in relevant higher education institutions; and

(b) submit a report to the Secretary of State on the findings of the review.

(2) The report must address, though may not be limited to, the following matters—

(a) the operation and effectiveness of the Prevent strategy in higher education institutions;

(b) the interaction of Prevent with—

(i) other legal duties on higher education institutions; and

(ii) the criminal law as it relates to higher education institutions;

(c) existing arrangements for the inspection and monitoring of higher education institutions' compliance with the Prevent duty; and

(d) the nature and extent of training provided to staff working in higher education institutions.

(3) The independent reviewer may invite evidence from civil society groups and others with expertise in, or experience of, Prevent.

(4) An individual must not be appointed to the role of independent reviewer if that individual—

(a) has a close association with Her Majesty's Government; or

(b) has concurrent obligations as a Government appointed reviewer.

(5) The reviewer must have access to security sensitive information on the same basis as the reviewer appointed under section 36 of the Terrorism Act 2006.

(6) In appointing the reviewer, the Secretary of State must have regard to the need to ensure the reviewer has the relevant qualifications, including legal qualifications, to carry out his functions.

(7) The Secretary of State, after consultation with the independent reviewer, must provide the reviewer with such staff as are sufficient to ensure that the reviewer is able properly to carry out his functions.

(8) The Secretary of State must pay to the reviewer—

(a) expenses incurred in carrying out his functions under this section; and

(b) such allowances as the Secretary of State determines.

(9) The Secretary of State must lay before each House of Parliament a copy of the report received under subsection (1)(b).

(10) In this section, "Prevent" means the Prevent strand of Her Majesty's Government's counter-terrorism strategy CONTEST, including the statutory Prevent structure; and "statutory Prevent structure" means the provisions set out at Part 5 of the Counter-Terrorism and Security Act 2015."

Lord Dubs: My Lords, this amendment requires the Secretary of State for Education to appoint an independent person to review the Prevent strategy in higher education institutions. Such a review would be intended to cover the operation and effectiveness of the strategy—for example, by looking at the training of staff who have to give effect to the strategy—and at the legal obligations of universities, including human rights protection under the Human Rights Act 1998. It is essential that the reviewer of the strategy who would be appointed under the amendment should be quite independent of government.

I appreciate that this is a controversial issue, certainly as regards higher education and our universities. Many eminent bodies—parliamentary bodies and others—have

criticised the strategy because of its implications. For example, the Joint Committee on Human Rights in 2014-15 concluded that,

"because of the importance of freedom of speech and academic freedom in the context of university education, the entire … framework which rests on the new 'prevent' duty is not appropriate for application to universities".

Government guidance requires higher education providers to entirely mitigate the risk of a speaker drawing an individual into terrorism. That is quite a complicated concept. It came out in a letter from a university in relation to a discussion with the organisers of an event that,

"there is a risk that given the topics to be discussed, it may attract attendees which hold extremist views".

These are quite far-reaching bits of advice for universities, and it is not totally clear whether they could easily be implemented.

In July 2016, the Home Affairs Select Committee concluded in its look at radicalisation:

"The concerns about Prevent amongst the communities most affected by it must be addressed. Otherwise it will continue to be viewed with suspicion by many, and by some as 'toxic'".

David Anderson QC, the former reviewer of terrorist legislation, thought that there should be an independent review, as did Rights Watch (UK), Liberty, the Open Society Justice Initiative and many Members of Parliament across the political spectrum.

It seems to me fairly clear that there is serious concern about how the strategy should operate. I am arguing not that it should be scrapped but that we should know more about it. It has had long enough now for a proper review to take place. The communities most affected are sensitive to this, and the universities are worried about how to implement the strategy. I would have thought that the request in the amendment that the Government should review the policy is a fairly modest and reasonable one and that the time to do it is pretty soon. I beg to move.

7.30 pm

Baroness Hamwee: My Lords, my name is on this amendment as well. As the noble Lord said, this is a modest amendment, seeking only a review as set out in the amendment—although of course, if the Government were to tell your Lordships that they are about to announce an independent reviewer of the whole of Prevent, as David Anderson and others have called for, I do not suppose the noble Lord would object to that.

The UN special rapporteur on the rights to freedom of peaceful assembly and of association is among those who has commented on the operation of Prevent in educational institutions. With other members of the Joint Committee on Human Rights, I met the special rapporteur. It is quite a facer to be in a meeting with someone in that position and be told that your own country is not behaving quite as it should and quite as the UN rapporteur thinks it should, given that we are so used to criticising other countries in human rights areas.

I do not want to repeat everything that has been said on this and other occasions; I appreciate we have other things to get through tonight. However, it seems to me that universities are precisely the places not just where views which are not illegal by definition should be challenged, but where there should be the opportunity for those who are confused, interested or whatever, to hear, to listen and to join in the debate. Prevent cannot work without confidence and trust in its reliability and its effectiveness. For these reasons, the proposal to review its operation is entirely sensible.

Baroness Lister of Burtersett: My Lords, I am pleased to support the amendment and to follow the noble Baroness, Lady Hamwee, who, as she noted in Committee, joined the Joint Committee on Human Rights just as I left it. In Committee, I reminded noble Lords of the concerns raised across the House during the Counter-Terrorism and Security Bill about the application of the Prevent duty to higher education institutions. As we have heard, the present amendment does no more than call for an independent, authoritative review of how the duty now operates in those HE institutions. This would respond to concerns raised more recently by a range of organisations, including, as my noble friend Lord Dubs said, the Home Affairs Select Committee. These concerns include: possibly discriminatory impact; the question of the adequacy or otherwise of the training given to academics; and the human rights implications, echoing earlier concerns of the JCHR.

In Committee, the noble Baroness, Lady Goldie, said that,

"we welcome discussion about how to implement Prevent effectively and proportionately, but … we consider blanket opposition to the duty unhelpful".—[*Official Report*, 25/1/17; col.762.]

As we have heard, the amendment no longer proposes blanket opposition. Surely, in order to have a well-informed discussion, as called for by the noble Baroness, it makes sense to have an independent review of how the policy is operating, as called for in the amendment, to inform that very discussion. I can understand why the Minister opposed the original amendment, even though I disagreed with her, but I can see no justification for opposing this much more modest, and I hope helpful, amendment as a basis for the discussion that she said the Government would like to see.

Lord Young of Cookham: My Lords, I am grateful to all noble Lords who have spoken to this amendment and for the measured way in which they have put forward the case. I hope we will all agree we cannot ignore the increasing threat to the UK from terrorism. This is currently assessed as severe, meaning an attack is highly likely. We cannot simply wait for attacks to happen. We cannot stand by and do nothing while vulnerable individuals are targeted for radicalisation and drawn into terrorism, so we must have a strong and robust strategy to prevent this.

Prevent was discussed in Committee, and I am particularly grateful for the input at that stage from the noble Baroness, Lady Deech, who recognised the importance of Prevent in higher education. The Prevent programme is designed to safeguard vulnerable individuals from all forms of radicalisation in a variety of institutions. It is an important safeguard for our domestic students but also for the thousands of international students who choose to study here each year. Setting off to university can be a big transition in the lives of many

[Lord Young of Cookham]
people, and it is vital that universities safeguard their students during what can sometimes be a very challenging time for vulnerable individuals. The coalition Government introduced a clear legal duty to ensure universities recognise and act on this responsibility.

Preventing people being drawn into terrorism is difficult and challenging work, but Prevent is working and making a positive difference. In 2015, more than 1,000 referrals of vulnerable individuals were made to Channel, which enabled them to access support to try to divert them away from radicalisation. The vast majority of the individuals who choose to participate in Channel leave with no further concerns about their vulnerability to being drawn into terrorism—so as I say, Prevent is working.

Of course, this amendment is aimed at reviewing the operation of Prevent in the higher education sector, but this is already happening. Following consultation with the sector, HEFCE, which I believe to be independent of government, launched its monitoring framework last year and has had 100% engagement. In its report published in January, HEFCE found that the vast majority of institutions are implementing the Prevent duty effectively.

HEFCE has seen higher education providers increasingly improve their awareness of the risks to vulnerable students, and there have been some highly encouraging examples across the sector of how they mitigate these risks in a sensible way. The HEFCE report highlights numerous cases of good practice in the sector, and the steps being taken by institutions, from our oldest institutions through to newer providers. To give just one example, HEFCE found that the University of the West of England hosted a joint consultation with its students' union on the implementation of the Prevent duty. This included open debate between students and Prevent partners with an opportunity for all students to view and comment on draft policies and procedures. This demonstrated a real understanding of the importance of engaging and collaborating with the student body to effectively implement the duty.

Finally, I know that noble Lords are concerned about the interplay between Prevent and freedom of speech, something the higher education sector rightly holds dear, and which we touched on in an earlier debate. Prevent does not stop lawful debate. In higher education, providers that are subject to the freedom of speech duty are required to have particular regard to this duty when carrying out their Prevent duty. This was explicitly written into the Prevent legislation to underline its importance as a central value of both our higher education system and indeed of our society. HEFCE's monitoring shows that higher education providers are balancing the need to protect their students and their obligations under Prevent while ensuring that freedom of speech on campus is not undermined.

I say to the noble Lord, Lord Dubs, and those who have taken part in this short debate that the Government are grateful for the opportunity to discuss this vital duty that stops vulnerable individuals being drawn into terrorism. Prevent is being implemented effectively and pragmatically in the higher education sector and we want to maintain this momentum. We know it is both effective and pragmatic from the monitoring that HEFCE does. Against that background, I hope the noble Lord might feel able to withdraw Amendment 154.

Lord Dubs: I am grateful to the Minister for his response and to those noble Lords who have spoken in this short debate. I am not quite sure that the HEFCE review the Minister spoke about goes as wide as I would have wished—certainly the amendment would have gone much beyond that—nor am I sufficiently aware of the details of the results to see whether they would meet the concerns that many people have expressed to me. Given that we got something, though, I think we will return to this before too long. I think in the end, the Government will have to do a full and totally independent review of the Prevent strategy in higher education; there is too much at stake, it is too contentious, it is not as easy a situation as the Minister suggested and the concerns are much more widespread. On that basis, I beg leave to withdraw the amendment.

Amendment 154 withdrawn.

Schedule 8: Higher education corporations in England

Amendment 155

Moved by ***Lord Young of Cookham***

155: Schedule 8, page 104, line 6, at end insert—

"23A (1) Section 78 (financial years of higher education corporations) is amended as follows.

(2) In the heading, at the end insert ": Wales".

(3) In subsection (1), after "higher education corporations" insert "in Wales".

(4) After subsection (2) insert—

"(3) In this section "higher education corporation in Wales" means a higher education corporation established to conduct an institution whose activities are carried on, or principally carried on, in Wales.""

Amendment 155 agreed.

Amendments 156 to 158 had been withdrawn from the Marshalled List.

7.41 pm

Consideration on Report adjourned.

Arrangement of Business

Announcement

7.42 pm

Baroness Goldie (Con): My Lords, as signalled on the annunciator, amendments to the European Union (Notification of Withdrawal) Bill can be tabled until 7.45 pm.

House adjourned during pleasure until 8.15 pm.

European Union (Notification of Withdrawal) Bill

Commons Reasons

8.15 pm

Motion A

Moved by ***Lord Bridges of Headley***

That this House do not insist on its Amendment 1, to which the Commons have disagreed for their Reason 1A.

Commons Reason

1A**:** Because it is not a matter that needs to be dealt with in the Bill.

The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con): My Lords, now we are past the 70th hour of parliamentary debate on these 170 words, I begin by saying this. The United Kingdom's withdrawal from the European Union is obviously one of the most momentous steps that our nation will take in our lifetimes. I believe that significant opportunities lie before us but, as someone who voted to remain, I am not deaf to people's concerns and I do not dismiss them as somehow portraying a lack of patriotism. However, that decision to leave the European Union has been made, and this very simple Bill delivers on that decision.

The debate has been one of conviction and passion, and displayed some of the very best qualities of your Lordships' House but, despite my best efforts to convince your Lordships otherwise, this little Bill was amended twice. We all agree that this House is perfectly entitled to ask the other place to think again. The other place has now done that and debated this again. Once again, it has decided to pass the Bill without amendment.

The issue at stake in the amendment is very simple. We all agree that we want to give certainty to those EU nationals who made the United Kingdom their home and to those UK nationals who live in the EU. The disagreement is over how we do that. The Government's position has been clear from June. We have always said that we want to secure the status of EU citizens here in the UK, as long as we get a similar guarantee for UK citizens in the EU. We believe that this approach is fair, and reflects the duty of care that we have as a Government to the 900,000 UK citizens in the EU.

We need an agreement on this issue quickly, and we have tried to get one. However, a number of EU member states are not willing to discuss it until we have begun formal negotiations. That is why my right honourable friend the Secretary of State confirmed over the weekend that we intend this issue to be one of the first that is dealt with. That is why we want to pass this Bill as soon as possible, so we can start negotiating and set about reaching that agreement.

Given that the other place has done as we asked and thought again, and decided to reject the amendment by a majority of 48, I argue with respect that this evening is not the time nor the place to return to the fray and insert terms and conditions to our negotiating position, still less to force the Government to make a unilateral move on the status of EU nationals in the UK.

The Bill has only one purpose: to implement the outcome of the referendum result in June and respect the judgment of the Supreme Court, nothing more, nothing less. I urge the House to pass the Bill unamended, and I beg to move.

Motion A1 (as an amendment to Motion A)

Moved by ***Lord Oates***

Leave out from "House" to end and insert "do insist on its Amendment 1".

Lord Oates (LD): My Lords, I move this Motion for the following reasons. First, despite the large majority that voted for the amendment to the Bill in this House, the Government have failed to make any concessions and not even attempted to address the many issues raised by noble Lords in Committee. Secondly, the profound nature of the issue at stake should make us think very carefully before we concede. This debate is not over some arcane technicality or some petty, partisan disagreement; it is about people's lives. It is about whether people will be allowed to live in the country that they have made their home with the people for whom they care, whether they can stay in a job or plan a career, and whether their children can remain in the school they know and study with the friends they have made. It is about their futures, their homes and their families, and it is about the fear and misery being caused by every further day of uncertainty.

Thirdly, we should weigh our decision very carefully, because this debate is also about the integrity of our country. It is about whether we will honour the unequivocal commitment made by the official Vote Leave campaign that, if the United Kingdom voted to leave the European Union, the rights of all EU citizens in the UK would be guaranteed. Unlike most other issues arising from the referendum, there is absolutely no dispute about what was promised to EU citizens. The Vote Leave campaign, which was supported by a number of noble Lords, made the following categorical statement:

> "There will be no change for EU citizens already lawfully resident in the UK. These EU citizens will automatically be granted indefinite leave to remain in the UK and will be treated no less favourably than they are at present".

There were no caveats; there was no issue of reciprocity or talk of negotiations—just a categorical commitment unilaterally given.

Finally, this debate is about the role of this House. Precedent indicates that, when the rights of individuals have been threatened, this House has always been robust in its defence of them. I hope that we will live up to that precedent today. The facts are clear: a firm and explicit commitment was made by the Vote Leave campaign that the rights of EU citizens in the UK would be protected. Parliamentary committees of both Houses agree that a unilateral guarantee should be provided now, and all the bodies representing British citizens in the EU who have contacted me and many other Members of this House have supported that position.

It is clear that, if we do not insist on our amendment, there is a real possibility that EU citizens in the UK and UK citizens in the EU may not have clarity as to

[LORD OATES]
their status for another two years. The House of Commons Exiting the EU Committee rightly described such a situation as unconscionable. I understand the nervousness of some noble Lords about challenging the elected House on this matter, but to those who argue that it is not the right time for us to insist on our amendment, that this Bill is the wrong place for us to insist or that precedent tells us that we should not insist, I respectfully argue the contrary. Your Lordships' EU Justice Sub-Committee and the House of Commons Exiting the EU Committee unanimously agreed that the UK should act unilaterally and that the time to act was now. This Bill is the only place to act if we are to end the debilitating uncertainty that is causing so much distress.

The Minister says that we have the right to amend the Bill; we also have a right to insist on our amendments, and precedent tells us that we should—that when issues of important principle or individual rights are at stake, your Lordships' House can and does insist on its position and, if necessary, repeatedly pushes the issue back to the Commons. It did so on the 2014 Criminal Justice and Courts Bill, and on the 2012 Legal Aid, Sentencing and Punishment of Offenders Bill. It did so no fewer than three times over the 2007 Corporate Manslaughter and Corporate Homicide Bill, no fewer than four times over the 2006 Identity Cards Bill and no fewer than five time over the 2005 Prevention of Terrorism Bill. It has regularly insisted on amendments to Bills when far less was at stake than today: on the powers of the Learning and Skills Council; or the means by which the chairman of the Legal Services Board is appointed; or even on the fitting of retro-reflective tape—whatever that is—on heavy goods vehicles.

How then, when the rights of millions of people are on the line, could this House give up at the first attempt? How, when clear and unequivocal commitments were made to EU citizens in our country, could this House fail to insist that they are upheld? How, when the integrity of our country is at stake, could this House fail to insist that it is upheld? Many people will be watching us tonight: we cannot please them all, but we can show them that no matter what the pressures from the media or the threats from the Government may be, we are prepared to do what we know to be the right thing. I have no doubt that the right thing is to insist on this amendment to protect the rights of EU citizens in the UK and, in doing so, to uphold the honour and integrity of this country. I beg to move.

Lord Davies of Stamford (Lab): My Lords, it is not in any way my intention to repeat the arguments I have used about Brexit in the various debates in this House over the last few weeks. But there is a question I must ask the Minister, the answer to which is very important to all of us. It goes to the heart of the earnest intention of the Government to be quite transparent with the House and the public as the Brexit negotiations, which will presumably start in a few days, continue—as they will for a long time.

I have not been very successful in getting answers to questions I have asked the Minister in previous debates. I console myself by thinking that that may be because I have touched on some rather delicate points that are potentially embarrassing for the Government. But it is not a great consolation: I would rather have full and frank answers and I hope that I will have one tonight—not at all in my interest but in the interest of the issues that I have just raised.

The Minister has just told the House, and the Prime Minister and Minister for Brexit have both said on many occasions, that it was their original hope and intention to negotiate a deal on the future residency rights of EU citizens here and of British citizens in the remaining part of the EU in advance even of giving notice under Article 50. That unfortunately proved impossible because some of the continentals were not willing to do it. The Government would now like to negotiate on that matter and resolve it in advance of negotiations on difficult economic and other subjects, so that those negotiations can start very quickly.

My question is: how can that possibly be? A negotiation on the future residency rights of British citizens in the EU or of EU citizens here is nothing whatever to do with the Commission. It is not a negotiation that can be pursued with Monsieur Barnier; it is not a matter for Mr Verhofstadt or Mr Juncker, either. Residency issues, requirements and regimes throughout the European Union concerning persons who are not citizens of a member state or another member state but citizens of a non-EU state are not a matter for the treaty: they are a matter for each individual member state. Every member state has its own different residency rules. What is more, the arguments and forces which will be brought to bear if there is any suggestion of changing those rules will be different in each country. So if you want to negotiate on that—as the Prime Minister says, and the Minister has said this evening—you will have to conduct separate, bilateral negotiations with 27 different countries.

Eventually, the result of that negotiation will have to be ratified by 27 different countries—28, actually, because it will have to be ratified here, I hope. That is not something that can be done in a few weeks, or even, I think, in a short number of months. If it had been attempted before notice was given under Article 50, it would have delayed by many months the issuing of a notice under Article 50, quite contrary to what the Prime Minister said her intention was. That is something which, if it is undertaken immediately we issue notice under Article 50, will itself delay the procedures for a very long time. How can the Government have thought that this was a way of accelerating progress on the Brexit negotiations? I think that is a question which nobody has asked. I tried to ask it the other day but I was not able to capture your Lordships' attention. I ask it now because it is absolutely essential if the House is to achieve a complete picture of what is going on in this very important area.

8.30 pm

Lord Campbell-Savours (Lab): My Lords, I shall speak on an issue tangential to that raised by my noble friend and ask a couple of simple questions. They are essentially the subject of an amendment that I tabled to the Bill last week and which I subsequently withdrew when it became clear that the amendment on these matters moved by my noble friends on the Front Bench was likely to be carried by the House.

First, under a mixed agreement negotiation, does a negotiated settlement in the Council remain valid as far as the rights of United Kingdom citizens living in Europe are concerned even if such an agreement was not supported in either the European Parliament or in the parliaments of the nation states? Does it stand alone? Secondly, in the event that we were to take this whole debate on EU and UK citizens' rights outside the Article 50 process, which is essentially what my noble friend appeared to be alluding to, whereby the hurdles of qualified majority voting, a European Parliament vote and approval by nation states were to be avoided, if they are required; and, if we hit problems, and in the event that a number of European states outside Article 50 were to indicate their support for upholding the indefinite rights of UK citizens living in the EU, would the Government in those circumstances be prepared to concede the rights of EU citizens from those same states living in the United Kingdom? That would mean that some states which did not agree would be excluded. If the Government were to do that, it would remove the hurdles of QMV, the European Parliament vote or votes in national parliaments, if they are needed. That approach would lead to a far earlier closure of the whole debate, which Members are concerned will be dragged out over years.

It is all right for the Prime Minister to say that UK citizens' rights will be top of the Euro agenda, but what worries some of us is that a victory—or a so-called victory—in the Council of Ministers may be pyrrhic and not provide the assurances that people want; and that, despite assurances given in private to David Davis, some countries may seek to carry their decisions on citizenship into arguments over the contribution that the United Kingdom must make to wind-up costs. At the end of the day, despite all these assurances, Governments and nation states in Europe may say, "We are going to turn this into an argument about the contributions the British make". In that light, I wonder whether the Minister might be prepared to give me a response this evening.

Lord Brown of Eaton-under-Heywood (CB): My Lords, I have no doubt whatever that Article 50 must be triggered, and triggered sooner rather than later, but equally I have no doubt about the merits of Motion A1. I supported it before, as did 358 Members of this House—a majority of 102.

Most of the decisions that we take in this House are nicely balanced. This one, I suggest, is perfectly clear and the arguments are compelling. No one doubts the need for the EU nationals who are already lawfully here to remain here for the sake of academia, the health services, the care services, the building industry—note what my noble friend Lord Kerslake said in Committee—and so forth, and no one doubts that those whom we most need to stay are starting to bleed away. We should remember what the noble Lord, Lord Winston, said in Committee about the medics, and read the letter in today's *Times* from the academics at Oxford.

The Government say that this assurance is unnecessary and that in fact there is no possibility of our ever wanting to deny these people their present rights, let alone deport them. Of course, logically that is indeed so but, as the haemorrhaging of this group shows, the perception among those affected is, perhaps unsurprisingly, different. Then it is said—it was said by the noble and learned Lord, Lord Mackay of Clashfern, in Committee—that fairness demands that all expatriate EU nationals are treated identically and that no assurance should be given to those here until reciprocal assurances are given to our citizens in the other member states. I would give three answers to that suggestion.

First, as the noble Lord, Lord Hannay, and others pointed out in Committee, those representing UK nationals in other EU states positively support our giving this assurance, and they believe—rightly, I suggest—that their case will be strengthened, not weakened, by our now taking this initiative. As the noble Lord, Lord Bowness, said in Committee,

"a generous gesture, freely given",—[*Official Report*, 1/3/17; col. 835.]

will assist in creating a good climate for the start of these negotiations with the other 27 nations, difficult though they will be, as the noble Lord, Lord Davies, has again emphasised today.

Secondly, the stronger the Government's argument that no assurance is necessary because EU nationals here are desperately needed for our economy and health service and so forth, and therefore they face no risk of losing these rights, the weaker the argument that there is an advantage in keeping the future of the EU nationals here in doubt for the purpose of negotiating our nationals' future abroad. In short, even if other member states chose not to allow our UK nationals to remain there—and we can understand that in some instances the case for that is rather less compelling than our need to keep EU nationals here—we would still want to keep their nationals here.

Thirdly, it is hardly surprising that the other states are refusing to discuss this issue until we trigger Article 50. However, it is the UK's decision to pursue Brexit—sensible or not, and there are obviously different views on that—that has precipitated this crisis and created the uncertainty and insecurity felt by this group. I suggest that we can and should allay their fears at the same time as we trigger Article 50. This clause would not delay it—

Lord Cormack (Con): The noble and learned Lord knows that I agree with much of what he is saying but that is not the issue tonight. The issue tonight is whether we recognise our constitutional limitations and whether we fly in the face of what the Commons, having been given the opportunity to reconsider, has now decided emphatically. As a great constitutionalist, which the noble and learned Lord is, I hope he will agree with that.

Lord Brown of Eaton-under-Heywood: In broad terms of course I agree. I have never previously voted against a Government on ping-pong. I do not know how often my noble friend plays ping-pong but is it really so very exceptional to keep a rally going beyond two strokes? I suggest not, and I suggest that we do it here.

Lord Wigley (PC): My Lords, I support Motion A1. The amendment that was carried in this House a few days ago was passed by a huge majority on a near-record turnout of noble Lords in that Division. It appears to me that very little attempt has been

[LORD WIGLEY]
made, if any, to meet the points that were made in this Chamber. It seems that the Government have relied totally on their power to get a whipped vote through and to steamroller this through.

The Government could have accepted that amendment or they could have come to meet us, but they have not done so. In view of what the Minister said about the Government seeking other countries in the European Union to agree the status of UK citizens first, what if they do not? Do we then kick out the European citizens who are here? Is that the logic of the argument? If it is, is that acceptable to this House?

The noble Lord, Lord Bridges, said that this was a debate of conviction and passion. Yes, it is a debate of conviction, and convictions do not change just because they have been beaten by a whipped vote in another place. They do not get kicked into touch. My convictions still stand, and whatever others will do tonight, mine will stand in the Division lobby.

Lord Bowness (Con): My Lords, I added my name to, spoke in favour of, and voted for the original amendment, and I believe that the arguments advanced in support of that amendment were correct and remain so today. The fact that the Government have chosen to force through the Bill in its unamended form does not change my view on that. It is perhaps worthy of noting, as it was noted by the noble and learned Lord, Lord Brown of Eaton-under-Heywood, that although one of the arguments put forward by the Government was concern about the status of UK citizens living in the rest of the European Union, much of the support for the amendment has come from those UK nationals living in the European Union who felt that it was in their interests.

I only speak now because I feel that I cannot keep silent tonight in view of all of the communications one has received from people asking one to insist on this amendment. I have to say openly and publicly that I cannot support continued insistence which, in different circumstances, I would have been tempted so to do. To do so is possibly to delay the process of invoking Article 50, which would not be in the interests of the European Union or the United Kingdom. If I accept—and, of course I accept—the advice from the Minister, it could delay the start of negotiations to safeguard the interests of EU citizens here and UK citizens in the European Union.

I will, however, make one further comment, which is applicable to the amendment to the second Motion that is to be moved tonight. I hope that the Government and those within it who favour a quick, hard Brexit, appreciate that the referendum, while expressing the will of the people, did not give the Government a blank cheque as to how to implement it. They should also accept that the answer to any question or criticism cannot be an allegation that the questioner is trying to thwart the will of the people and is somehow acting undemocratically. It is neither an answer to the question, nor is it true.

Many of us who, this time at least, will have to accept the inevitability of the referendum and Brexit, want to maintain the closest possible links to the European Union. There are many ways to exit the Palace of Westminster: all take you out into the street. It is perfectly possible to want to be nearer to Millbank or to Westminster Underground. There are valid reasons for choosing either, but there is not much wisdom in choosing to leap out of the nearest first-floor window. Those of us who believe that we were correct in passing this amendment and asking the other place to think again will not be pressured into acquiescence by continued allegations that our actions are undemocratic, ignore the people or are disloyal. From these Benches and from my point of view on the European Union, we do not need lessons in loyalty from some—not all, I accept—whose history on the issues of Europe makes them experts in disloyalty.

8.45 pm

Lord Hannay of Chiswick (CB): My Lords, like the noble Lord, Lord Bowness, I put my name to the amendment that has been rejected by the Commons and which we are now debating another amendment on. My position is identical to that of the noble Lord, Lord Bowness. I have not resiled in any way from my belief that a unilateral statement by the British Government would be best for the United Kingdom and our citizens in the rest of Europe. However, like the noble Lord, Lord Bowness, I am not sure that this is the moment to return the ball.

However, I say to the Minister, if I may, that I had many dealings over the years with the noble Baroness, Lady Thatcher, mainly on budgetary issues which were quite stressful. On one occasion when I persuaded her to follow a tactic that I suggested would be best and she was doubtful about, she looked up and said, "Okay, but you better be right". That is what I say to the Government. Their choice for a transactional approach could end in tears and then, we will be back here.

Viscount Hailsham (Con): My Lords, may I very briefly intervene? As your Lordships know, I voted for the amendments in Committee. However, for the reasons advanced by my noble friends Lord Bowness and Lord Cormack, and indeed by the noble Lord, Lord Hannay, I shall not be supporting this Motion. I think that the time has come to accept the view of the House of Commons.

Lord Cromwell (CB): My Lords, there has been a great deal of weeping and gnashing of gums on these issues in recent weeks and months. I do not like the government policy on this either. It appears to be: if we cannot help everyone, we will not help anyone. Nevertheless, we have asked the other place to think again. They have thought again and have not taken our advice, and our role now, I believe, is not to insist.

The Archbishop of York: My Lords, I have been listening to what people have said and do not want to repeat anything. However, some of us objected to the amendments not because we lacked sympathy, understanding or compassion. We did it simply because we thought there was a confusion of process with substance. The second reason some of us objected, in particular myself, is point 6.2 of the government paper, which says:

"While we are a member of the EU, the rights of EU nationals living in the UK and UK nationals living in the EU remain unchanged. As provided for in both the EU Free Movement Directive (Article 16 of 2004/38/EC) and in UK law, those who have lived continuously and lawfully in a country for at least five years automatically have a permanent right to reside".

If Brexit happens, and I am sure that it will, EU law will be incorporated into British law. It would be quite tough for the Government to then argue that those who have lived here for more than five years do not have a right to reside, and your Lordships' House and the other place would have to argue the case again.

I approach this issue with deep compassion. I came here while running away from Amin's torture. For almost 15 years, I was living and travelling on a UK travel document. As a student, I was prevented from working. I know the difficulties. But when I sit in your Lordships' House and hear Members say that the other side is not the only one that thinks it is right, I think that we should all find a language that talks about people as people. They are being used as a bargaining chip, which is very hurtful to me and others. That cannot be right because it casts aspersions on those who argue the other way.

The time has come for us to decide. If we want a quick resolution for the EU citizens who live in this country, I will find it difficult to continue further delaying the triggering of the article. It should be done as quickly as possible.

Baroness Hayter of Kentish Town (Lab): My Lords, I thank the Minister for his rather unfortunate task of having to bring us the regrettable decision of the Commons on the rights of EU nationals living here. Many of them, of course, are married to Brits and have British-born children but possibly will have no right to remain after Brexit day.

This House by a majority of 102 asked the Commons to do two very easy things. It asked for both pragmatic and ethical reasons. One thing was to make it clear that EU citizens, whether Brits abroad or Europeans here, should not be treated as bargaining chips to be traded against each other. The House felt strongly that these families, who had as a result of our forthcoming exit suddenly found their own lives on hold given the uncertainty over their future, should have their rights secured as soon as possible but without holding one group's interests hostage to those of another group.

Secondly, we called on the Prime Minister to act unilaterally in the one area under her control and to say to EEA nationals, "We will ensure you continue to have the rights you expected when you arrived, even after we withdraw from the EU". We did it because of the calls of those affected, and of their employers who fear the loss of valuable colleagues—some 25,000 workers in the health service alone are now thinking of leaving. The Government and the Commons have rejected our call. However, I absolve the Brexit committee, which unanimously felt that the Government should act unilaterally on this. The only reason for the rejection is that it is not a matter that needs to be dealt with in the Bill. Presumably the Government have no other rationale for saying to those here, "You must wait to know about your future until the 27 have agreed how they will treat UK nationals". That could take months, if not years.

We hear from Brussels that although citizens' rights will be high on the negotiators' agenda, it could take years for the final deal, as I believe Liam Fox and David Davis confirmed yesterday, reflecting on the normal practice of "nothing is agreed until everything is agreed". We regret this delay and lay the blame for this hiatus fairly and squarely at the door of No. 10. We will also campaign for an early resolution to the plight of those caught up in a legal Neverland not of their making. We will continue to press the Government to move on this and provide the certainty our amendment sought, albeit maybe by other—perhaps I should say imaginative—parliamentary routes, a number of which are already under consideration. The people concerned cannot wait until March 2019 to hear their fate.

I turn now to the Liberal Democrats' Motion. We do not think this is a responsible move. It is not one we could support. This House's view by a majority of 102 is clear. The Government should act unilaterally on the position of people already among us. As the mover of the original Motion, no one in this House will doubt my support for that. However, our view has been rejected in the elected House of Commons and it is clear that the Government are not for turning. On behalf of the Opposition I say to the people concerned, we are not giving up on you. We will pursue your interests in other ways.

Noble Lords: Oh!

Baroness Hayter of Kentish Town: I will take no lessons from the Liberal Democrats, who confessed to me outside the Chamber that this appeals to their core vote and they are piling on members because of it. So we are here to move a Motion to help them gain members. That may be suitable for them but it is not taking this House as a legislative body seriously. More than that, they are falsely raising people's hopes, when they know that this Government in the Commons, despite my best endeavours and wants, will not change their mind. They should think hard about what they are doing to those people whose expectations they are raising, which will not be fulfilled.

I worry that they are also making a bit of a mockery of the House if they think that we will vote on this, as we did last week, in the safe knowledge that others will vote the other way and it will not be carried. I also wonder what it does to the decision that we took. The Lords majority of 102 is bound to shrink. As we have heard already, we know that the House does not have the appetite to send this matter back given the majority in the Commons, which was higher than before. Instead of our being able to go out from this on the high level of saying, "By 102, we think that the Government are wrong", we would have either a lower vote or a lower vote an hour later if it ping-ponged. By the way, I say to the noble and learned Lord, Lord Brown, that the way I play ping-pong I never get it back even once. Instead of saying that we ended up with a majority of 102 on the side of those EU nationals here, we will have a lower vote either now or later on.

On behalf not so much of this side of the Chamber as of the 3 million people who are looking to us for some help, the Government's position is a matter or enormous regret to me. I do not think that it is correct; I do not think that it is moral or ethical; I do not even

[Baroness Hayter of Kentish Town]
think that it is clever negotiations. However, we accept the view of the elected House. We will not rest after tonight. We will be back, urging the Government to allay the fears of people caught in this limbo.

Lord Bridges of Headley: My Lords, I thank those who have contributed to this short debate. Once again, many of your Lordships have spoken with great passion. After so many hours of debate, I fear that there is very little that I can say without repeating myself and travelling over well-worn ground, so I will be quick and brief.

I reiterate the point that the Government's position on this issue is very clear: we want to secure the status of EU citizens in the UK, just so long as we can do so while guaranteeing the position of UK citizens to whom we have a responsibility across the European Union. We cannot and should not seek to do one without the other. All 4 million people matter.

As to assurances given to EU nationals here today, let me repeat what I said previously: nothing changes in their status until we have left the EU. Nothing can change without the approval of Parliament, and the Government will continue to respect their obligations under the ECHR. This position is held by the Government and now by the other place. I remind your Lordships of what our European partners are saying. Many of them have made it clear that they, too, want a speedy agreement, but once we have started the negotiations. Indeed, the Polish Prime Minister has said:

"Of course, these guarantees would need to be reciprocal. It is also important what guarantees the British citizens living and working in other member states of the European Union will have".

We need an agreement on this issue as soon as possible and I believe that we are in a good position to do just that. Just last Friday, Guy Verhofstadt, the lead negotiator for the European Parliament, told the BBC that the issue of EU citizens' rights post exit should be addressed, "before we talk about anything else".

On the matters raised by the noble Lords, Lord Davies and Lord Campbell-Savours, I want to highlight the words of my right honourable friend the Secretary of State, who said on this subject earlier today in the other place that the Government would aim to get all member states, the Commission and the Council in an exchange of letters to explain what the rights of EU citizens are and will be once the UK has left the EU and once an agreement has been reached in negotiations. As regards the process of ratification of such an agreement, this is a matter for negotiation, but it is the Government's intention to have this agreement concluded by the end of the two years.

Our commitment to seeking an agreement is clear, but the Government will not be able to set about securing this reciprocal guarantee until we have passed this Bill and triggered Article 50. I urge your Lordships to let this Bill go through unamended and not to prolong its passing, so that the Prime Minister can trigger Article 50 and seek the certainty that we all want to offer both European and UK citizens.

9 pm

Lord Oates: My Lords, I thank all noble Lords who have taken part in this debate. I pay tribute to the noble Lord, Lord Cormack, for his principled advocacy on this issue, but I must confess I cannot follow the constitutional argument that he and other noble Lords have made that somehow we cannot insist to the elected House. I could understand it if this House never insisted, or if the noble Lord, Lord Cormack, never voted to insist against the will of the elected House, but he knows that is not the case. I wonder why on this issue of such vital importance to so many people we should not.

Lord Cormack: Perhaps I can answer the noble Lord. Yes, we agree on the fundamentals of the issue, but this is a constitutional matter. What is the point of prolonging a time-sensitive Bill, on which the fortunes of so many ultimately depend, merely to have the satisfaction of being soundly beaten in the Lobbies?

Lord Oates: Whether we are soundly beaten in the Lobbies is a matter for noble Lords. It is not, with respect, a matter for the noble Lord, Lord Cormack. I seek to put my argument and I hope to convince people. None the less, I pay tribute to the advocacy he has given so far and to all noble Lords who have made this issue crucial.

I am sorry that the Government continue to refuse to do the right things. I am sorry that they failed to make any concessions, or answer any of the questions that were put to them in Committee. I am particularly sorry that, as a result, they intend to allow the fear and uncertainty of millions of EU and UK citizens to continue. But the Minister, to be fair to him, has been given an impossible job defending the indefensible and I respect the skill with which he does it. What I cannot respect are the seven current Cabinet Ministers who backed the Vote Leave campaign which made an unequivocal, unilateral commitment to EU citizens during the referendum campaign—a commitment that has been betrayed. I hope that all noble Lords who supported and were involved in Vote Leave will think about that commitment, which they made without caveats or conditions.

That is the Government's position. What I do not understand is the position taken by the Labour Front Bench in the House today, but I recognise that it will be as bewildering to many Labour Members as it is to me. I say to the noble Baroness, Lady Hayter, that if you want to get the ball back across the net, it is very important not to drop the bat before you get there. The Labour Party has a key role in the way things are decided in this House. If it was prepared to stand behind this and insist, there would be a greater chance of success.

Last Tuesday, the Leader of the Labour Peers, the noble Baroness, Lady Smith of Basildon, made great play of attacking the Liberal Democrats, as the noble Baroness, Lady Hayter, has done. The noble Baroness, Lady Smith, asked how we could oppose the Bill given how extraordinarily important the amendment on citizens' rights was. I voted that the Bill should not pass because I firmly believe that we should not begin withdrawal negotiations until there is a mechanism for the people to have a final say on the outcome of those negotiations.

There were two things also on my mind when I went through the Division Lobby: first, the Government were making it crystal clear, even at that stage, that they would concede nothing in regard to the amendments;

and secondly, the noble Baroness, Lady Smith of Basildon, had already indicated that if the Bill was returned to this House, she would concede everything.

Baroness Smith of Basildon (Lab): The noble Lord is absolutely wrong on that point. If he is going to quote me, he should do so correctly. I have always said that in this House we respect the primacy of the other place. We said that there should be no extended ping-pong but that we would listen to what the Commons had to say. If the noble Lord really believes that by voting for this Motion tonight he will change the mind of the other place, then he can go ahead but do not give false hope to people who rely on this House to make a point to get the other side to think again. It is no good noble Lords opposite cheering me—you got us into this mess.

Noble Lords: Oh!

Lord Oates: The noble Baroness's argument makes no sense at all. She has voted in many Divisions insisting on amendments when she knew they had no chance of success. It turns out that many of the amendments she voted for in the past to insist to the Commons when it was not going to give in were more important than this amendment. I am sorry about that and bewildered by it.

I hope that noble Lords of all parties and none will on this occasion pay attention to their conscience rather than their party Whip and join us in the Division Lobby. In view of the importance of this issue to millions of EU and UK citizens, I would like to test the opinion of the House.

9.06 pm

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9.21 pm

Motion A agreed.

Motion B

Moved by ***Lord Bridges of Headley***

That this House do not insist on its Amendment 2, to which the Commons have disagreed for their Reason 2A.

Commons Reason

2**A:** Because it is not a matter that needs to be dealt with in the Bill.

Lord Bridges of Headley: My Lords, last week I set out the three core principles governing the UK's approach to leaving the European Union, namely: that the Government are determined to honour the result of the referendum; that everything we do will be determined by our national interest; and that parliamentary sovereignty is key. This last principle was reflected in the Government's commitment to give Parliament a vote on the final agreement. This House believed that this commitment ought to be enshrined in legislation, and your Lordships sought to go further by giving Parliament the power to say whether the Prime Minister can terminate negotiations with the European Union.

The issue of parliamentary approval had been debated by the other place before the Bill came to this House. It disagreed with amending the Bill then and, having considered this specific amendment, it has now disagreed again by a majority of 45. In essence, and to keep it very short, the Government's position has not changed. This amendment is unnecessary. It would create untold uncertainty and would undermine our negotiating position. This is why the other place considered this issue again—

Lord Ashdown of Norton-sub-Hamdon (LD): My Lords—

Lord Bridges of Headley: Let me just finish this, and then the noble Lord will able to speak. I am sure that once I have sat down he will be able to speak. This is why the other place considered the issue again and rejected this amendment.

Lord Ashdown of Norton-sub-Hamdon: Before the Minister sits down, will he accept an intervention?

Lord Bridges of Headley: I will take one intervention from the noble Lord.

Lord Ashdown of Norton-sub-Hamdon: I am most grateful to the Minister for taking an intervention—enfin. I am genuinely puzzled. If it is the case that John Major could seek parliamentary approval for the Maastricht Bill twice without weakening his bargaining position, how is it that this Government cannot allow Parliament to have a say once without weakening theirs?

Lord Bridges of Headley: I am sorry to say to the noble Lord that I am genuinely puzzled by his position. He went on national television and said that he would obey the decision of the British people and now he is trying to get away from those comments. That is what I think will baffle many people. We have made the Government's position very clear: when an agreement has been reached, we will give this House and the other place the chance to vote on it. That is the Government's position. I urge noble Lords not to insist on the amendment and I beg to move Motion B.

Motion B1 (as an amendment to Motion B)
Moved by ***Baroness Ludford***

Leave out from "House" to end and insert "do insist on its Amendment 2".

Baroness Ludford (LD): My Lords, the Secretary of State for Exiting the European Union, David Davis, told "The Andrew Marr Show" yesterday that he was determined to make sure that Britain does not fall off a cliff edge—in other words, does not leave without an agreement. Meanwhile, Foreign Secretary Boris Johnson told the rival "Peston on Sunday" that it would be perfectly okay if we were not able to get an agreement; while the last in the trio, Trade Secretary Liam Fox told Sky News that not having a deal would be bad not just for the UK but for Europe as a whole—and I agree with Liam Fox.

So the three merry Brexiteers seem to be rather at odds about the prospects. One thinks that no deal is perfectly okay, another thinks that it would be bad all round and a third says that it will not happen. Given that the Cabinet is all over the place, it is perfectly self-evident that Parliament needs to stay in the driving seat throughout the process to prevent a disorderly and catastrophic plunge over the cliff edge—although, Liberal Democrats would add, with the people having the last word.

We have been reminded by the press of the Treasury view that an extreme Brexit, crashing out of the EU without a trade deal and relying only on WTO rules, would cause a major economic shock and is the option with the most negative long-term impact on the economy. The Commons Foreign Affairs Committee, chaired by Conservative MP Crispin Blunt, has just now warned of the uncertainty and shock of a hard Brexit, including confusion for EU and British citizens, the sudden return of a hard border between Northern Ireland and the Republic and a major hit to the economy.

Government assurances of a vote on a final deal are not enough. First, it is executive arrogance and presumption of the most preposterous kind for the Government to insist that MPs will have to choose only between the deal brokered by the Prime Minister and crashing out of the EU on to WTO terms in a hard Brexit. Secondly, Tory government assurances do not have a good track record. Their broken promises include manifesto commitments on safeguarding the UK's position in the single market, not raising national insurance contributions and on lifting the 15-year cap on votes for Brits abroad—the very Brits they claim to be looking after, incidentally. This is in addition to unfulfilled assurances in respect of the Dubs amendment on refugee children and pledges on the full implementation of Leveson.

On Report, the Minister, the noble Lord, Lord Bridges of Headley, said that of course the Government would honour their promise. But that is five broken promises already, and an assurance now on parliamentary sovereignty may well be destined to go just the same way, given that the track record on the issue of parliamentary sovereignty itself since last June has involved resistance all the way from this Government on any restraint on executive power. So a commitment on a vote wide enough in scope to be meaningful in the event of no deal must be written into the Bill. The Government have given no good reason why that should not be so.

The noble Lord, Lord Heseltine, who sadly I think is not in his place tonight, wrote yesterday about how Members of the House of Lords were called upon to vote on an issue involving a critical principle: the supremacy of Parliament in approving or rejecting the outcome of the Brexit negotiations. He said:

"Some say the involvement of parliament will weaken the prime minister's hand ... I reject this argument as mere blackmail, much of it peddled by extreme Brexiteers"—

some of whom, he added,

"hanker for the hardest Brexit of all, without a deal of any kind with our EU partners".

So he rejected what he described as,

"the cheap jibes uttered by Brexiteer fanatics, some of them—I regret to say—sitting on the government front bench".

The noble Baroness, Lady Smith of Basildon, last week set the tone for staying the course. She said:

"We passed those amendments not as some kind of vanity exercise or just to make a point—we are not a debating society where we have our debates and then afterwards shrug off home or off to the pub because we have made our point and have no thought about what happens next".

She issued a rallying cry, saying that,

"responsibility is not just about winning—it is about taking responsibility for our actions",

and that she was,

"very much committed to those two amendments".—[*Official Report*, 7/3/17; cols. 1342-43.]

I very much hope that that commitment will be made evident from the Labour Benches tonight—or at least from many of them. Otherwise, the risk is of facilitating what it is becoming clear is the real agenda of many if not all of this Tory Government, which is to pursue Brexit at any cost, to go over that cliff in what they apparently believe be a winning Tory Party formula for the 2020 election: "We have delivered Brexit". Maybe—but at what terrible cost? For us in the Liberal Democrats, as well as for the noble Lord, Lord Heseltine, last week, this is a matter of principle and conscience.

Noble Lords: Oh!

Baroness Ludford: Not the Government but Parliament must be in charge, for the good of the country. I beg to move.

9.30 pm

Lord Pannick (CB): My Lords, I moved the amendment last week that was approved by your Lordships' House. I very much regret that the House of Commons has not taken the advice of this House and indeed that the Government have made no effort to move in the direction of the views of this House. We won the vote last week because we won the argument. That is why the amendment was carried by a majority of 98, with the largest number of noble Lords voting, so I understand, in any vote since 1831.

However, it is now time for this House to give way to the House of Commons on this matter. Earlier this evening the Government had a majority of 45 in the Commons. There is no reason whatsoever to think that if this House were to stand its ground, the Commons would change its view later this evening. I have to say to the noble Baroness that for the Liberal Democrats to press this matter is in parliamentary terms—I say nothing about any other consideration—a completely pointless gesture, and I for my part cannot support it.

I also bear in mind that this afternoon the Secretary of State gave a clear assurance that any agreement would be put to both Houses for their approval. I would prefer that to be in the Bill, but we do have an assurance. We have no assurance on parliamentary approval if the Prime Minister decides it would be better to leave the EU with no deal, and I regret that. However, I take some comfort from the point that was made last week by a number of noble Lords who were supporting the Government: Parliament has ample means of asserting its sovereignty in those circumstances.

I have two other brief points. The first is that this Bill has demonstrated the value of parliamentary sovereignty at this stage of notifying our intention to withdraw from the EU. It is only because of the determination of my client, Mrs Gina Miller, and the independence of the Divisional Court and the Supreme Court that we have had the Bill at all. I very much hope that during the negotiating process, and at the end of it, the Government will show more wisdom on the question of parliamentary sovereignty than they have done at this notification stage.

My other point is that for my part, I bear very much in mind that this is only the beginning of the process of withdrawal from the EU, a point the Minister has repeatedly emphasised. A much more complex Bill is going to be brought forward in the next Session to repeal the European Communities Act 1972 in order to maintain rights and duties that owe their origin to EU law.

The Government are on notice that this House will be scrutinising that Bill with especial care to ensure that parliamentary sovereignty, the rule of law and other constitutional principles are upheld. Your Lordships' Constitution Committee, of which I am a member, under the excellent chairmanship of the noble Lord, Lord Lang, has produced an introduction to some of the issues which will arise.

This is just the start of the debate. This House has made known its views on the importance of parliamentary sovereignty. I very much look forward to continuing the debate with the Minister, but not on this Bill.

Lord Lea of Crondall (Lab): My Lords, the best part of 35 years ago, I had a hand in trying to amend what Gerald Kaufman described as the longest suicide note in history. I have played a little part in trying to amend what I think we should now call the shortest suicide note in history.

On the question of how Parliament fits into this, Parliament will be there in two years' time and there will be plenty of opportunity then—I would have preferred it today—for Parliament to have a decisive say, whatever the small print says, in relation to scenario A, B or any other scenario at the outcome of the negotiations, which I do not think will be a happy occasion.

Lord Taverne (LD): My Lords, I want to discuss a fundamental question. I think that we are absolutely justified on this occasion, for this amendment, in not giving way to the House of Commons, because it has now in effect abandoned the principle of parliamentary democracy and taken the view that the referendum verdict is sacrosanct and cannot be challenged. That is clearly the opinion of the Government. What does that mean? It means that MPs are delegates, not representatives; it means there is no point in parliamentary government considering the argument, and debates considering the evidence; they have to obey the will of the people. That is now the principle.

I was not the greatest admirer of Mrs Thatcher in all her policies, but she was not someone who said to the electorate, "These are my principles, and if you don't like them, I will change them". That, in effect, is what some of those who supported the remain cause and felt deeply that Brexit would be disastrous or very damaging to this country have now accepted. It is a very dangerous step towards the doctrine that the people's will must always prevail. This is the doctrine always favoured by Hitler, Mussolini and Stalin—and by Erdogan at present. It is a denial of the essence of democracy, which we have supported to great effect in this country. Now we are abandoning it.

We are the guardians of parliamentary democracy, and we are right in this. We are the democrats and we are right to support the democratic cause.

Lord Pearson of Rannoch (UKIP): My Lords, I ask a question of noble Lords who may be thinking of voting against the Commons this evening and in favour of their previous amendments. How do they justify extolling the supremacy of Parliament—the House of Commons and your Lordships' House—and wanting Parliament to have the last word on the terms of our leaving the EU, when for the past 43 years they have supported our EU membership and still do so?

I ask because perhaps the main achievement of the European Union is precisely that national Parliaments have been emasculated and that much of their former power has been transferred to the institutions of the European Union. Thus, the unelected bureaucrats in the Commission have the monopoly to propose EU laws in secret, which are then negotiated in secret by yet more bureaucrats in COREPER—the Committee of Permanent Representatives—and are then decided in the Council of Ministers from national Governments, not Parliaments, where our Government have about 14% of the vote. EU law, now a large proportion of our law, is then enforced by the Commission and the so-called Court of Justice in Luxembourg.

The point is that our national Parliament, which noble remainers have been praying in aid to keep us in this anti-democratic failure, is excluded from the whole process. We do indeed have EU Select Committees in both Houses of Parliament, which scrutinise very little of the legislation imposed on us by Brussels, but they cannot change any of it and never have—nor can the House of Commons or your Lordships' House change any of it, nor have we ever. Yet it is this system which those who have tabled this new amendment in truth wish to perpetuate with their newfound faith in parliamentary democracy. The people, with whom ultimate sovereignty resides, voted to leave that system. The House of Commons has this evening again agreed with the Government that the Bill shall become law as originally drafted. I would, of course, be amused to hear the noble remainers' answer, but I trust that this is the end of the matter.

The Archbishop of York: I shall not detain noble Lords long, but in response to the noble Lord, Lord Pannick, who always speaks with such clarity and grace, I must say that the problem with the amendment is with subsection (4). If the Prime Minister does not get an agreement, whatever she does she has to have the rule of Parliament. She will bring it to Parliament, but the problem is this, if I understand it right—that triggering Article 50 is an irreversible act. Two years after triggering Article 50, the UK will leave the EU; it will do so with or without a deal but, either way, it will leave, because paragraph 3 of Article 50 makes it clear that the:

"Treaties shall cease to apply … two years after the notification".

Of course, it is possible that the EU 27 might unanimously agree to extend the negotiation period beyond two years, but that cannot be taken for granted, nor should it be assumed that they will offer anything but a brief extension.

The amendment shows no awareness of the realities represented by the Article 50 timescale. It overlooks the fact that the Bill is about to trigger Article 50 and the formal divorce agreement. Neither this Bill nor Article 50 are about negotiating a new agreement with the EU. So as far as I am concerned, once we trigger it, it is irreversible; leave we will, with an agreement or without. So why put in subsection (4) of the amendment? For that reason, I hope that we follow what the House of Commons has just done.

Baroness Symons of Vernham Dean (Lab): My Lords, the notes to Article 50 of the Lisbon treaty say that,

"the Council needs to obtain the European Parliament's consent … voting by a simple majority of the votes cast, before it can conclude the withdrawal agreement".

That means that all Members of the European Parliament, including of course UK Members, have the legal right to vote on any final agreement, or lack of it, while Members of the British Parliament have no such legal right because the Government refuse to put such a right in the Bill. In that way I am trying to answer the point made by the noble Lord, Lord Pearson of Rannoch—that supporting the European Parliament having legal rights on the withdrawal agreement that our own elected Members of Parliament will not have seems completely inconsistent with why many people voted for Brexit. They voted for Brexit to have better control of our own laws and, by refusing to put this in the Bill, the Government are in effect making our legal rights less than those of the European Parliament. I think that that is a very strong argument on this point, which needs to be aired, and I hope that the noble Lord, Lord Pearson of Rannoch, accepts that that is indeed the legal position.

9.45 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I will also answer the noble Lord, Lord Pearson of Rannoch. I have not supported the EU for 45 years, but even I think that this amendment has validity. When people voted on taking back power, they did not expect it to be a Prime Minister with a very small mandate and a small coterie of people who would make these decisions. People imagined that they were voting for our Parliament to have some sort of supremacy. I have listened very carefully to the Government on this and have found that their arguments are not arguments at all. They are actually comments, and rather specious ones at that. This is not a time-sensitive issue: we are not triggering Article 50 until much later in the month. It is not true that a promise is as good as having something on the face of the Bill. Quite honestly, I think that it is time that we accepted that this is a mistake and we ought to support the amendment. I very much regret that it will not pass, but I will be voting for it.

Lord Hannay of Chiswick: I have a very simple question for the Minister before the Opposition Front Bench speech, because it may be relevant to what the noble Baroness says. His colleague in the other place has answered the question about what happens if there is a deal on the Article 50 withdrawal agreement: the matter will be brought to the two Houses for approval. I think he has also answered the question about what happens if there is a new partnership agreement: it will be brought to both Houses for their approval. So far, so good. What happens if the Prime Minister decides that no deal is better than a bad deal? Will the Minister please give an answer?

Baroness Hayter of Kentish Town (Lab): My Lords, I was never someone who enjoyed saying, "I told you so", because I rather expect my advice to be heeded. Never was this more the case than last week, with the highest ever vote in the House of Lords. Of the 634 Peers who voted, 366 advised that the promised vote on the outcome of the negotiations should be inscribed in law. That would make it very clear to the Government—but also to the EU Commission and Council as well as to the European Parliament—that this Parliament is a player in the process of how we extract ourselves from the EU. As my noble friend Lady Symons has said, without our change, the European Parliament, which has UK Members in it, has the right in law to consent to the deal but this Parliament has no such guaranteed right. Our amendment last week gave legal certainty to the promised vote and the legislative authority for the withdrawal agreement, something which the Government may well have to do another way if not in this Bill. There is currently no legislative way of authorising the withdrawal deal ahead of a treaty.

There are challenges ahead. Withdrawal is not simply about the divorce or even just about the potential shape of new trade deals with the EU 27. It will be about forging a new partnership, or concordat, which will cover so much more than trade, vital though that is. We will need a vision of how we should work together after exit, not just on the hard subjects such as security, terrorism and that, but on the whole swathe of our approach to the economy. We will need to negotiate with the EU in a way that shows our openness and willingness to retain our strong bonds, because that will influence our future relationship with the EU as a bloc and with the 27 members individually. It is for this reason that it is important to recognise Parliament's role in the process, because we will be part of those negotiations with the EU and the 27 countries. We will be working across Europe with all our contacts—in business, trade unions and consumer groups—to help get the best deal for this country. Parliament should be a part of that.

In so far as we heed the polls, they indicate that by 2:1 people are in favour of Parliament having a meaningful vote at the end of the negotiations. This House spoke very clearly last week. Therefore, I deeply regret that the Government and the Commons did not hear our plea. However, as the noble Lord, Lord Pannick, said, their view will not change. We will not make a pointless gesture. I believe that the noble Baroness, Lady Ludford, is now tweeting that that is shabby of us. However, that is our view. We have heard, regrettably, that the Commons did not heed the overwhelming vote in this House. However, we will hold the Government to their promise of a vote before that in the European Parliament and will work to devise a parliamentary route to establish that more firmly, not least because having the support of Parliament during the negotiations would be a source of strength rather than a weakness. The Government have made the wrong call on this amendment, but we will seek to rectify that another way.

Lord Bridges of Headley: My Lords, we spent considerable time debating this issue in Committee, on Report and again today. I fear that once again there is little I can add to this fulsome debate, especially as I am very much aware that my last attempt to convince the House of the merits of my case did not result in an unalloyed success.

As the noble Lord, Lord Pannick, said, we had the largest vote on record in this House, with a turnout of 634 Members. The fact that 366 of your Lordships did not accept my arguments was, I hope, as they say in Sicily, "Nothing personal, just business". However, my right honourable friend the Secretary of State did a bit better this afternoon. As has been remarked, the other place rejected this amendment by a majority of 45.

I will briefly remind your Lordships of the Government's case. First, as I have said, this is a simple and straightforward Bill designed to implement the referendum result and respect the Supreme Court's judgment. It is the culmination of a long, democratic process started by the people at the last election, endorsed by this House in an Act of Parliament and then voted for by the people at the referendum itself. Parliament will continue to play its part through the scrutiny and passing of future legislation, through questions and debates and, most important of all, through a vote on the final agreement. Therefore, despite what the noble Lord, Lord Taverne, said, we are not abandoning parliamentary sovereignty. Our commitment to a vote in both Houses, which we fully expect and intend will take place before the European Parliament votes on any deal, is an absolute commitment and will be honoured.

Furthermore, as my right honourable friend the Secretary of State for Exiting the European Union said this afternoon in the other place,

"of course, Parliament can, if it wishes, have a vote and debate on any issue. That is a matter for Parliament. It is not for a Minister to try to constrain that".—[*Official Report*, Commons, 13/3/17; col. 42]

Therefore, as I have said on a number of occasions, proposed new subsections (1) to (3) are unnecessary. However, as I said before, this amendment goes further. It seeks to make it impossible for the Prime Minister to walk away without a vote in Parliament. Article 50 does not give the European Parliament that power. The European Commission would not have to go to the European Parliament if it wanted to walk away from the negotiations. So it is incorrect to say that the amendment would simply put on the face of the Bill the same power as that given to the European Parliament.

Also, as I argued before, it is unclear what the effects of this would be in any case. If Parliament votes against the Prime Minister walking away, is she to accept the deal on offer? Is she meant to try to negotiate a better one? Or is she to try to revoke the UK's notice to withdraw? We do not know and, as I have said, such vagueness on something so critical is unacceptable.

The people voted to leave the EU in a referendum granted to them by this Parliament. We will respect that result. We are confident that the UK and the EU can indeed reach a positive deal on our future partnership, as this would be to the mutual benefit of both this country and the European Union. We will approach the negotiations in that spirit.

As to the point made by the noble Lord, Lord Hannay, it is very hard to see what meaningful vote there could be if there had been no deal at all. In the absence of an agreement, I have no doubt that there would be further statements to this House. However, we are leaving the European Union, either through the deal we have agreed or without a deal. So we now need to consider whether the other place should be asked to consider this issue yet again, given that it has considered and decided, twice, against amendments that seek to put on the face of the Bill a vote on the final agreement.

I end by saying that this Bill is to trigger the process of our leaving and to fulfil the Supreme Court's requirements. As I have said many times before, tonight we might just make it to the legislative base camp in terms of parliamentary scrutiny and debate. There is a lot more to come. The other place is clearly satisfied with this approach and satisfied that the Bill does not merit amendment. I therefore ask noble Lords to be mindful of that and to pass the Bill unamended.

Baroness Ludford: My Lords, the Minister attempts to bamboozle us and produce some of the same Aunt Sallies and red herrings that I mentioned last week. The key point is that, if he pledges that the Government will honour an assurance that there will be a parliamentary vote, why not put that in the legislation? No good reason has been produced why it should not be enshrined in statute. The more he doth protest too much, the more he generates concern that the commitment to honour a parliamentary vote may be somewhat fragile. If there are indeed ample means for Parliament to assert its control, there is no problem in writing them into the Bill.

This issue concerns a fundamental principle. It is the most important decision for this country in over 70 years. The noble Lord, Lord Lea of Crondall, referred to this Bill as the shortest suicide note in history. It would not have needed to be so if the Government had given any indication of pursuing a sensible Brexit, but unfortunately they give every indication of hurtling towards an extreme, brutal Brexit. That makes many people inside and outside this building very nervous.

The noble Baroness, Lady Hayter, said from the Opposition Front Bench that she wanted to show that this Parliament is a player and she wanted recognition of Parliament's role. The best way to do that is to follow the advice of my noble friend Lord Taverne not to abdicate parliamentary responsibility. There is a huge onus on us to continue to maintain that principle in the face of considerable bluster and insufficient legislative commitments. I therefore believe that it is justified to press this matter and I ask noble Lords to agree Motion B1. I wish to test the opinion of the House.

9.58 pm

Division on Motion B1

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Motion B1 disagreed.

Division No. 5

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Smith of Finsbury, L.
Smith of Newnham, B.
Steel of Aikwood, L.
Stephen, L.
Stoneham of Droxford, L. [Teller]
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taverne, L.
Taylor of Goss Moor, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Tonge, B.
Tope, L.
Tyler, L.
Tyler of Enfield, B.
Valentine, B.
Verjee, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Wigley, L.
Wood of Anfield, L.
Wrigglesworth, L.
Young of Hornsey, B.

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Aberdare, L.
Ahmad of Wimbledon, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Armstrong of Ilminster, L.
Arran, E.
Ashton of Hyde, L.
Astor, V.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Barker of Battle, L.
Bates, L.
Bell, L.
Berkeley of Knighton, L.
Berridge, B.

Bertin, B.
Best, L.
Bew, L.
Blackwell, L.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Boyce, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
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Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Browning, B.
Burns, L.
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Byford, B.
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Caithness, E.
Callanan, L.
Cameron of Dillington, L.
Carlile of Berriew, L.
Carrington of Fulham, L.
Carswell, L.
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Cavendish of Furness, L.
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Chadlington, L.
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Cope of Berkeley, L.
Cork and Orrery, E.
Cormack, L.
Courtown, E. [Teller]
Couttie, B.
Cox, B.
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Craigavon, V.
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Crickhowell, L.
Cromwell, L.
Cumberlege, B.
De Mauley, L.
Deben, L.
Deech, B.
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Eccles of Moulton, B.
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Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
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Feldman of Elstree, L.
Fellowes, L.
Fellowes of West Stafford, L.
Fink, L.
Finkelstein, L.
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Forsyth of Drumlean, L.
Framlingham, L.
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Gardner of Parkes, B.
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Geddes, L.
Gilbert of Panteg, L.
Glendonbrook, L.
Glentoran, L.
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Goschen, V.
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Harris of Peckham, L.
Hay of Ballyore, L.
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Helic, B.
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Hill of Oareford, L.
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Hope of Craighead, L.
Horam, L.
Howard of Rising, L.
Howe, E.
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Howell of Guildford, L.
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Janvrin, L.
Jenkin of Kennington, B.
Jopling, L.
Judge, L.
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Kalms, L.
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Kilclooney, L.
King of Bridgwater, L.
Kinnoull, E.
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Kirkhope of Harrogate, L.
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McColl of Dulwich, L.
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McInnes of Kilwinning, L.
Mackay of Clashfern, L.
Magan of Castletown, L.
Mair, L.
Mallalieu, B.
Mancroft, L.
Manzoor, B.
Mar, C.
Marland, L.
Marlesford, L.
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Mobarik, B.
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Morris of Bolton, B.
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Neville-Rolfe, B.
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Pearson of Rannoch, L.
Phillips of Worth Matravers, L.
Pidding, B.
Plumb, L.
Polak, L.
Popat, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Price, L.
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Redfern, B.
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Risby, L.
Robathan, L.
Rock, B.
Rotherwick, L.
Russell of Liverpool, L.
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Saatchi, L.
Sanderson of Bowden, L.
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Selsdon, L.
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Sharples, B.
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Shrewsbury, E.
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Southwark, Bp.
Spicer, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
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Stirrup, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Sugg, B.
Suri, L.
Taylor of Holbeach, L. [Teller]
Taylor of Warwick, L.
Tebbit, L.
Trees, L.
Trefgarne, L.
Trenchard, V.
Trevethin and Oaksey, L.
Trimble, L.
True, L.
Truscott, L.
Tugendhat, L.
Ullswater, V.
Vere of Norbiton, B.
Verma, B.
Wakeham, L.
Walker of Aldringham, L.
Warsi, B.
Wasserman, L.
Wei, L.
Whitby, L.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Willoughby de Broke, L.
Wolfson of Aspley Guise, L.
York, Abp.
Young of Cookham, L.
Young of Graffham, L.
Younger of Leckie, V.

Motion B agreed.

House adjourned at 10.11 pm.