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PARLIAMENTARY DEBATES  
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# HOUSE OF LORDS

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

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# House of Lords

*Thursday 13 July 2017*

11 am

*Prayers—read by the Lord Bishop of Leeds.*

## Oaths and Affirmations

11.05 am

*Several noble Lords took the oath or made the solemn affirmation, and signed an undertaking to abide by the Code of Conduct.*

## Barnett Formula Question

11.06 am

*Asked by Lord Wigley*

To ask Her Majesty's Government what changes they propose to make to the application of the Barnett formula to Wales and Scotland arising from any potential additional financial provision for Northern Ireland.

**The Minister of State, Department for International Development (Lord Bates) (Con):** My Lords, the Government remain committed to the Barnett formula, which is designed to ensure that devolved Administrations are funded to deliver their priorities within their devolved responsibilities. Like those previous interventions, this exceptional funding will be made outside the normal ongoing Barnett funding system. It will therefore not attract Barnett consequentials.

**Lord Wigley (PC):** Surprise, surprise. The noble Lord will be aware that £1,000 million has been allocated primarily to hospitals, schools and roads in Northern Ireland—mainstream Barnett elements. Clearly the Government have perceived an extra need in Northern Ireland, however that is defined. Will they therefore move towards a needs-based formula for Scotland, Wales and indeed, for the regions of England, to ensure that valuable and important economic projects, such as the M4 in south Wales, the A55 in north Wales and the Swansea Bay lagoon—things that are important to the economy—can move ahead and are not constrained by the way in which these matters are approached at present?

**Lord Bates:** The noble Lord will be familiar with the long-running debate over the needs-based versus the population-based formula. The Government always remain responsive to needs. That is one reason why a number of investments have taken place in Wales, for example, outside the Barnett formula. There is the Cardiff capital region city deal of £500 million, the Swansea city deal of £115 million, and I hope the north Wales growth deal. All those will be outside the Barnett formula and reflect the particular needs of Wales, as the deal to which he referred reflects the particular needs of Northern Ireland.

**Lord Anderson of Swansea (Lab):** What advice will the Minister give us? What do we in Wales have to do to get an extra £1 billion? It would be extremely helpful to have that advice. For example, on the Swansea Bay lagoon, investors now say they are becoming wary of keeping their money on hold. Are the Government capable of making a decision?

**Lord Bates:** We are certainly always open. That is why we spend £120 in Wales for every £100 that we spend in England. We continue to be committed to that. It is why we increased the overall capital borrowing limit to £1 billion from £500 million, and we continue to look for opportunities to grow the economy in Wales, both within and outside the Barnett formula.

**Lord Forsyth of Drumlean (Con):** My Lords, given the Prime Minister's emphasis on fairness and on strengthening the United Kingdom, why are the Government so resistant to taking the advice of the late Lord Barnett and of the committee of this House that looked at the Barnett formula, which unanimously concluded that Wales lost out as a result and that a system based on needs would unify the United Kingdom and be fair to England, Scotland, Wales and Northern Ireland?

**Lord Bates:** I recognise that—and of course for 40 years there has been an ongoing debate about the Barnett formula. Our response to that, as my noble friend will recognise, is to believe that we should devolve to the devolved Administrations more responsibilities and financial accountability in taxation and how money is spent in the Budget. That is the best way in which to eventually work towards a needs-based rather than population-based formula.

**Baroness Kramer (LD):** Do the Government understand that this is an issue of trust? While the Barnett formula is not a legal requirement, it is clear to everyone in this House that the additional £1 billion for Northern Ireland is a sort of pork barrel, as they would say in America—a politically induced donation—which ought to fall within that formula if one was keeping to the conventions of Parliament.

**Lord Bates:** It is wrong for the noble Baroness to refer to it in that way. First, the details of the deal have been made very clear and published on the website on 26 June. There have been Written Ministerial Statements about it. As for terming this a donation, I stand by a donation that gives £100 million extra for health and education, £400 million for infrastructure, £50 million for mental health, £100 million for severely deprived areas and £150 million for broadband in one of the most needy parts of the United Kingdom.

**Lord Bew (CB):** In the context of the discussion of a possible needs-based formula, is it worth the Minister noting that Northern Ireland appears to have considerably more disadvantaged young people per percentage of population as against Scotland, and cannot afford the

[LORD BEW]

sort of things that Scotland appears to be able to afford, both in certain provisions of social care and in tuition fees?

**Lord Bates:** That is a good point. It is recognised, of course, in a lot of funding that goes through at the moment. When we look at employment in the UK, which we are pleased to say reached record levels this week, we recognise that there is a 75.2% employment rate in England, 74.1% in Scotland, 72.6% in Wales but only 68.7% in Northern Ireland. That is one reason why this is a good investment in the future of young people in Northern Ireland.

**Lord Spicer (Con):** Is my noble friend aware that the person who was most perplexed by the Barnett formula was the much-loved Joel himself, who came to believe that it was distorted and very unfair—for instance, to the north-east of England?

**Lord Bates:** He did. Although I am no student of history on this, it was introduced very much as a short-term formula to get the then minority Labour Government through to the 1979 election. It was not intended to be ongoing but it has been ongoing, and we have come up with a better solution, which is to have greater fiscal and political devolution.

**Lord McAvoy (Lab):** My Lords, all regions and nations across the United Kingdom have been subject to cuts, so if this fund can go towards ending austerity in Northern Ireland that is a positive step—but most regions and nations will continue to struggle, and government policy is only exacerbating that further. As the Industrial Strategy Commission reported this week, the United Kingdom is by far the most regionally unequal EU economy. The Cambridge area has twice as many jobs in scientific research and development establishments as the whole of the Midlands, more than Scotland and Wales combined, and only 2,000 fewer than the whole of the north of England. How do the Government intend to structure their policies to ensure that every region and nation in the United Kingdom benefits from them?

**Lord Bates:** Part of it is through devolution, but part of it is through recognising the particular needs of Northern Ireland. Owen Smith, the shadow Northern Ireland Minister in the other place, said last week that:

“Talking about parity between the sorts of treatment that Northern Ireland gets and other parts of the UK isn’t what we’ve done in the past. Northern Ireland is a special case and it will always need special consideration”.

He is absolutely right on this and we are following that advice.

## Pension Protection Fund and Pensions Regulator *Question*

11.15 am

*Asked by Lord McKenzie of Luton*

To ask Her Majesty’s Government when they intend to review the Pension Protection Fund and the powers of the pension regulator, as set out in their 2017 manifesto.

**The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con):** My Lords, the Government are determined to ensure that the entitlements of occupational pension scheme members are protected from the actions of unscrupulous employers. We published the Green Paper, *Security and Sustainability in Defined Benefit Pension Schemes*, in February this year, and consulted on changes to pension protection legislation, including those set out in the manifesto. I am pleased to tell noble Lords that the Department for Work and Pensions is today announcing plans to launch a White Paper on the future of defined benefit final salary pension schemes in the near future.

**Lord McKenzie of Luton (Lab):** My Lords, I thank the Minister for that reply. We agree with the importance of sustaining confidence in the pension system, particularly DB schemes, and ensuring that the pension promises of employers are honoured. We look forward to seeing the White Paper in due course, whenever that might be. But, given the experience of U-turns on the triple lock and the lack of reference to the issue in the Queen’s Speech, we are entitled to check the status of what was promised to the electorate, especially as it is branded as a component of the strong and stable leadership and said to be protection from “irresponsible bosses”—not usual Tory language, but we know who they mean. Can the Minister confirm that it is government policy—which would have our support—to introduce for the Pensions Regulator a notification scheme for certain mergers and acquisitions; powers to block certain takeovers; punitive fines for those wilfully under-resourcing schemes; and powers to restrict dividends of irresponsible employers? Can she also say what changes the Government consider necessary to the powers of a pension protection fund?

**Baroness Buscombe:** My Lords, as the noble Lord will know, the Green Paper covered four key areas: funding and investment, employer contributions and affordability, member protection, and consolidation of schemes. It looked to examine and build on the discussion already taking place on what, if anything, should be done to ensure that the system remains sustainable while ensuring that members’ benefits are protected. It is really important to say that issues such as powers to block certain mergers and acquisitions should be thought through extremely carefully, not least because we want to ensure that any changes to the powers of the regulator do not trigger unintended consequences and act as an impediment to business and growth.

**Lord Cormack (Con):** My Lords, my noble friend talked of the “near future”—is that soon, or shortly?

**Baroness Buscombe:** That will be shortly.

**Baroness Royall of Blaisdon (Lab):** My Lords, will the Minister join me in welcoming the decision of the Supreme Court yesterday, which will enable lesbian and gay couples to have the same pension rights as heterosexual couples?

**Baroness Buscombe:** I of course respect the decision of the Supreme Court—

**Noble Lords:** Oh!

**Baroness Buscombe:** I want to be absolutely straightforward about this with noble Lords. We are reviewing the implications of the judgment in detail and will respond appropriately in due course. The Government affirm their commitment to same-sex marriage and are proud of the achievement of the coalition Government, who delivered the 2013 legislation. The Government are committed to equality, and that is why legislation was introduced whereby pensions are built up equally for all legal partnerships.

**Lord Flight (Con):** My Lords, the main problem for defined benefit schemes is the rate of interest at which accounting standards require them to discount their future liabilities. This gives rise to arithmetic which shows a substantial deficit that is not likely to happen. I believe that a White Paper is coming, but can the Government get a move on and address this issue? It is causing problems where they do not really exist.

**Baroness Buscombe:** I entirely accept what my noble friend has proposed; I am very much hoping that this will be part of the many issues covered in the White Paper.

**Lord Stoneham of Droxford (LD):** Surprisingly, the section of the Conservative manifesto on protecting private pensions did not mention George Osborne's policy of enabling people to cash in their pensions, which was introduced without very much consultation. Today's *FT* says that this change is not,

"a palpable fiasco, but the early signs do not look promising".

So what are the Government doing to protect people from being duped—or was this simply a short-term measure to raise tax revenue?

**Baroness Buscombe:** My Lords, I too read the article in the *Financial Times* this morning. The truth is that these pension freedoms are proving very popular. However, they raise important issues around the operation of the market and how we support consumers, so we will be working with the Financial Conduct Authority on the next steps to address this issue.

**Lord Foulkes of Cumnock (Lab):** My Lords, the mention by my noble friend Lord McKenzie of irresponsible employers reminded me of Sir Philip Green. Can the Minister bring us up to date on the position of the BHS pensioners and what the Government are doing to help them?

**Baroness Buscombe:** My Lords, the financial settlement regarding BHS is valued in total at £363 million, and £343 million has already been placed in a fully independent escrow account to fund a new scheme. The settlement with Sir Philip Green for the British Home Stores scheme is the largest of its kind the Pensions Regulator has reached to date. Indeed, in total, the Pensions Regulator has secured more than £1 billion for pension schemes through the use of settlement in avoidance cases. Existing members of the scheme now have three

options: transfer to the proposed new pension scheme, opt for a lump sum payment, if eligible, or remain in their current scheme, which is expected eventually to transfer to the Pension Protection Fund. However, the new scheme will be a fully independent trust with independent governance and trustees. Neither Sir Philip Green nor the Arcadia Group will be involved in the management of the scheme. In the highly unlikely event that the new scheme fails, members can rely on the Pension Protection Fund.

**Baroness Altmann (Con):** My Lords, would my noble friend care to agree with me that the Pension Protection Fund is performing a vital function very well? Its investment policies and levy management have achieved a significant funding surplus and tens of thousands of workers are receiving most of their promised pensions, whereas in the pre-PPF days, they would have lost the entire amount.

**Baroness Buscombe:** I thank my noble friend very much for her question. She is completely right. With regard to the British Home Stores financial settlement, the lump sum payment option will be available to members with small pots of up to £18,000 in value. Those who choose not to take a lump sum and opt to transfer to the new scheme will be entitled to the same benefit structure as all other members. The new scheme will also be eligible for the Pension Protection Fund.

## Poverty Question

11.22 am

Asked by **Lord Bird**

To ask Her Majesty's Government, further to the Written Answer by Lord Henley on 6 March (HL5600) concerning early intervention programmes, what steps they are taking to prioritise their focus on the root causes of poverty and disadvantage.

**The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con):** My Lords, tackling the root causes of child poverty and disadvantage includes taking action on parental worklessness. New analysis carried out by the Department for Work and Pensions shows that children living in workless families are significantly more disadvantaged and achieve poorer outcomes than other children, including those in lower-income working families. *Improving Lives: Helping Workless Families*, published on 4 April, provides a framework for a continued focus on improving children's outcomes now and in the future.

**Lord Bird (CB):** I thank the Minister very much for her reply. I would like to make the obvious statement that prevention—

**Noble Lords:** Question!

**Lord Bird:** Oh! I am sorry. I will not make a statement; I will ask a question. Forgive me. Could Her Majesty's Government move inexorably towards a situation where we could put prevention right at the centre of all the work we do? We know that prevention pays off. We know that when money is spent on prevention, it reaps enormous benefits. Could Her Majesty's Government look at the possibility of creating a prevention unit across both Houses and all parties, so that we could at last make sense of the need to prevent people falling into poverty because too many people are stuck in poverty and are not getting out?

**Baroness Buscombe:** I thank the noble Lord very much for his question. I entirely agree that the focus must be on prevention. We strongly believe that it was right to replace the income-related child poverty targets, which we had until 2010, with statutory measures of parental worklessness and children's educational attainment—the areas that can make the biggest difference to children's outcomes. We believe that the way to help people out of poverty is through employment. A great deal of progress has been made and employment is now at a record high level. However, although record levels of employment are great, one in eight children across the UK still lives in a workless family, and we need to tackle that. A prevention unit is a great idea but the reality is that we can perform that function by working across government, as we are doing, on the strategy that we have now developed within Work and Pensions.

**Baroness Massey of Darwen (Lab):** My Lords, the noble Baroness will know that the evidence on social mobility and what makes social mobility work is now very strong. Two of the factors are excellent childcare and excellent early years education. Why, then, do the Government not accept that and put more money into that kind of early intervention for children?

**Baroness Buscombe:** My Lords, we are working on our strategy for childcare because we understand that, if we are to have people in work, we have to have the right system in place supporting childcare that works for everyone. I know that colleagues across government are looking at this at the moment, improving on the support for young families that we already have. The reality is that we want to focus on prevention through getting more people into work, because we know that that increases people's confidence and their health and well-being, and all that impacts on the child and their future levels of attainment and well-being.

**The Lord Bishop of Leeds:** My Lords, does the Minister agree that there is a problem here, in that we want to applaud the employment figures released today but, at the same time, we need to recognise that it is people in employment who are using our food banks, where the numbers have rocketed in the last few years? Therefore, the simple statement that we applaud the rise in employment disguises a deeper problem.

**Baroness Buscombe:** I entirely agree with the right reverend Prelate that it is not a question of just making statements; it is more about making sure that we do the right things from the bottom up. We have to take

on board the fact that we continue to spend over £90 billion a year on benefits for people of working age but that targets to put more into that area have not worked in the past. The reality is that we know that children in families where no one works are significantly more disadvantaged and achieve poorer outcomes, and it is right that we focus on improving the long-term outcomes for those children. *Improving Lives: Helping Workless Families* provides a framework for a continued focus on tackling worklessness. For those in work, we have introduced major reforms to make work pay, and we are introducing universal credit to strengthen incentives for parents to move into and progress in work.

**Baroness Hussein-Ece (LD):** My Lords, the Institute for Fiscal Studies says that the level of child poverty is rising and predicts that by 2020 5 million children will be living below the poverty line. Why does the Minister think that that is the case, and what strategies does she think need to be implemented to address it? These are serious matters. Do the Government have an overarching strategy that will tackle the root causes of child poverty?

**Baroness Buscombe:** Yes. I am sorry if I have not spelled it out but the reality is that we have a strategy for tackling child poverty. It is about putting more people into work so that children grow up in families where there is work, and educational attainment is also hugely important, but the rates of relative poverty are unchanged since 2009-10. We believe that employment is key to alleviating poverty. Children in workless households are five times more likely to be in poverty than those in households where all adults work. It is thanks to this Government's actions that there are now 828,000 fewer workless households and 590,000 fewer children in workless households compared with 2010.

## Northern Ireland Executive *Question*

11.29 am

*Asked by Lord Lexden*

To ask Her Majesty's Government when they plan to resume discussions with the political parties in Northern Ireland on restoring the Northern Ireland Executive.

**Viscount Younger of Leckie (Con):** My Lords, our overriding priority remains to restore an inclusive power-sharing Executive. This is in the best interests of Northern Ireland and what the people of Northern Ireland voted for. The Government are determined that intensive negotiations should resume as soon as possible. This Government stand ready to continue working with the parties and the Irish Government, and no one should have any doubt of our commitment to restoring the devolved institutions.

**Lord Lexden (Con):** On Monday of last week, the Secretary of State for Northern Ireland told Parliament that there was every prospect of agreement this week. Why did his optimism vanish, literally overnight? After

some 10 weeks of abortive talking, is there really any prospect of a breakthrough? Do the Government have contingency plans for some other means of making the Government of Northern Ireland directly accountable to the representatives of the people?

**Viscount Younger of Leckie:** The House will know that gaps remain between the parties, but we remain convinced that they can be bridged. It is welcome that the parties have emphasised their desire to remain engaged and to find a way to return to and resolve these issues. The Government welcome this and will do all they can to work with the parties to achieve a successful outcome, mindful of our responsibilities to uphold political stability and good governance in Northern Ireland. My noble friend will be aware that the deadline has now passed and the Secretary of State is under a duty to set a date for a new election. He will continue to keep that duty under review.

**Baroness Armstrong of Hill Top (Lab):** My Lords, does the Minister recognise that, in dealing with issues like this, you have to maintain momentum? The only way a peace process was signed was through a continuing drive to make sure that all the representatives—in Belfast, Dublin and London—were continually engaged and pressing. If the Government are now so busy with Brexit and all its difficulties, is it not time to think of some independent person coming in to do the heavy-duty work that is needed to keep the momentum going?

**Viscount Younger of Leckie:** I can reassure the noble Baroness that there is, if I may put it this way, heavy-duty work going on. Yes, there are a lot of issues that we as a Government have to tackle, but our overriding priority remains to restore an inclusive power-sharing Executive. Talks continue on a tripartite basis. The Secretary of State for Northern Ireland is working continuously and very hard on the issues, and, of course, the Prime Minister is in continuous contact with the issues as well.

**Lord Empey (UUP):** Will the Minister confirm to the House that it has been made clear to the Government that, in the event of the reintroduction of direct rule, Sinn Féin will refuse to co-operate with the institutions at Stormont?

**Viscount Younger of Leckie:** No, I cannot confirm that. Our overriding priority remains to reach an agreement on restoring an inclusive power-sharing Executive. That is our aim and focus, and we intend to make sure that it happens.

**Lord McAvoy (Lab):** My Lords, the Minister has outlined the seriousness of the situation. Can he confirm, or otherwise, that there will be an intervention by the Prime Minister of the United Kingdom in this difficult situation?

**Viscount Younger of Leckie:** As I said, and as my noble friend Lord Bourne of Aberystwyth said last week, the Prime Minister is fully engaged and involved with the issues, as the noble Lord would expect. In recent weeks, she has met separately with Northern Ireland's five main parties and had further conversations

with Arlene Foster and Michelle O'Neill. She has been fully updated throughout by the Secretary of State for Northern Ireland, and has engaged with the Taoiseach on the serious situation in Northern Ireland.

**Baroness Suttie (LD):** My Lords, in the complete absence of both an Executive and an Assembly in Northern Ireland, can the Minister say what mechanisms will be put in place to ensure that all parties in Northern Ireland have their voice heard on the Brexit negotiations, not least given that these negotiations have now started in earnest in Brussels and one of the key priorities for the first phase will be solving the issues in Northern Ireland?

**Viscount Younger of Leckie:** I can answer that question by saying that of course Northern Ireland is a firm part of the United Kingdom and that the negotiations will take account of issues relating to Wales, Scotland and Northern Ireland as a whole.

**Lord Bew (CB):** My Lords, does the Minister accept that, before the talks get going again in the autumn, there is a strong case for getting together with the Irish Government? The last talks failed in part because the two Governments were far apart on the question of the Irish language and the Irish Government took a strong pro-nationalist line. The success of the Good Friday agreement was ultimately achieved when the two Governments came together, but that came about only as a result of pressure from the British Government. Is there a case for getting together with the Irish Government before the autumn and putting an agreed game plan in place?

**Viscount Younger of Leckie:** I can confirm that informal talks are continuing. Of course they are not the main talks and what we want is for the main discussions to start again. Perhaps I could say that this is more of a natural pause, as the noble Lord will know, because of the parades process that is going on at the moment. However, we are ever hopeful that the main discussions will start up again as soon as possible.

**Lord Murphy of Torfaen (Lab):** My Lords, does the Minister agree that every single agreement reached in Northern Ireland which has been successful has been because of the direct involvement of the Prime Minister and the Taoiseach? Is it not about time that the Prime Minister actually went to Belfast to talk directly with the parties and the Irish Government? Until that happens, I fear that we will make little progress.

**Viscount Younger of Leckie:** The noble Lord raised this point during the debate on the Statement some 10 days ago, and indeed his noble friend Lord Hain made it as well. I can reassure him that the Prime Minister is taking a very close interest and is deeply involved in this issue. Should she see fit, she will indeed travel to Northern Ireland. But perhaps I may also say to the noble Lord that it has not always been the case in the past that the involvement of a Prime Minister has necessarily and quickly led to an agreement. I refer the noble Lord to the Leeds Castle situation.

**Lord Cormack (Con):** My Lords, the Prime Minister clearly takes a close interest in this matter and no one would suggest for a moment that she does not, but there is no substitute for a visit: to go to Northern Ireland and to talk on the spot in Hillsborough with the various parties involved. When she is talking to them, will she bear in mind the most admirable suggestion made by my noble friend Lord Trimble, who has said many times that the delay in setting up the power-sharing Executive need not necessarily mean that the Assembly cannot meet?

**Viscount Younger of Leckie:** I can only repeat what I have said before, which is that the Prime Minister will go when she thinks that it is right to do so and when it will make a material difference.

### **Property Boundaries (Resolution of Disputes) Bill [HL]** *First Reading*

11.37 am

*A Bill to make provision for the resolution of disputes concerning the location or placement of boundaries and private rights of way relating to the title of an estate in land; and for connected purposes.*

*The Bill was introduced by the Earl of Lytton, read a first time and ordered to be printed.*

### **Civil Partnership Act 2004 (Amendment) (Mixed Sex Couples) Bill [HL]** *First Reading*

11.37 am

*A Bill to amend the Civil Partnership Act 2004 to make provision for mixed sex couples to enter into a civil partnership.*

*The Bill was introduced by Baroness Barker (on behalf of Baroness Burt of Solihull), read a first time and ordered to be printed.*

### **Genocide Determination Bill [HL]** *First Reading*

11.37 am

*A Bill to provide for the High Court of England and Wales to make a preliminary finding on cases of alleged genocide; and for the subsequent referral of such findings to the International Criminal Court or a special tribunal.*

*The Bill was introduced by Lord Alton of Liverpool, read a first time and ordered to be printed.*

### **Kew Gardens (Leases) Bill [HL]** *First Reading*

11.37 am

*A Bill to provide that the Secretary of State's powers in relation to the management of the Royal Botanic Gardens, Kew, include the power to grant a lease in respect of land for a period of up to 150 years.*

*The Bill was introduced by Lord True, read a first time and ordered to be printed.*

### **Business of the House** *Motion to Agree*

11.38 am

*Moved by Baroness Evans of Bowes Park*

That Standing Order 72 (*Affirmative Instruments*) be dispensed with on Tuesday 18 July to enable a motion to approve the draft Justice and Security (Northern Ireland) Act 2007 (Extension of duration of non-jury trial provisions) Order 2017 to be moved, notwithstanding that no report from the Joint Committee on Statutory Instruments on the instrument has been laid before the House.

*Motion agreed.*

### **Business of the House** *Timing of Debates*

11.38 am

*Moved by Baroness Evans of Bowes Park*

That the debates on the motions in the names of Baroness Andrews and Lord Kennedy of Southwark set down for today shall each be limited to 2½ hours.

*Motion agreed.*

### **Financial Guidance and Claims Bill [HL]** *Order of Consideration Motion*

11.39 am

*Moved by Baroness Buscombe*

That it be an instruction to the Committee of the Whole House to which the Financial Guidance and Claims Bill [HL] has been committed that they consider the bill in the following order:

Clause 1, Schedules 1 and 2, Clauses 2 to 13, Schedule 3, Clauses 14 to 16, Schedules 4 and 5, Clauses 17 to 20, Title.

*Motion agreed.*

### **Deregulation: Public Services and Health and Safety** *Motion to Take Note*

11.40 am

*Moved by Baroness Andrews*

That this House takes note of the impact of deregulation on, and the role of regulatory enforcement in delivering, public services and health and safety.



**Baroness Andrews (Lab):** My Lords, I am grateful to have the opportunity to introduce this debate and particularly grateful to all noble Lords joining me in what is an extremely important matter. At the heart of this debate is a fundamental question: what sort of a state do we aspire to live in? This question is inescapable in the light of the appalling and preventable tragedy at Grenfell Tower and the issues it raises around the quality and safety of public services. Of course, our thoughts are ever with those people whose lives will never be the same again.

Following from this, the question we really need to ask ourselves is what sort of country we want to live in and whether it is one in which the universal principle of government that every citizen should have the basic right to safety and security has been replaced by a political ideology where the minimum will do. If the minimum puts the poorest and most vulnerable at the greatest risk, perhaps this is what the Prime Minister meant when she said, in response to Grenfell Tower, that the state is not working.

It is absurd to say that the state is not working, as if it is something beyond the control of government. The state has not failed; the fact is that the state is being wilfully dismantled and disabled by an ideology that explicitly pursues a leaner and meaner state. This has been marked not just by an increasing frenzy ramped up over seven years by successive Ministers to get rid of as many regulations as fast as possible, but by a climate of hostility that invites compromises over safeguards and standards, and opts for guidance rather than enforcement. Crucially, this fatal obsession with deregulation in all forms across Whitehall has been pursued with no regard for consequences, other than the benefits to business. Even then, the outcomes are far from transparent or consistent.

So it is no wonder that there is such visceral anger about the catastrophe of Grenfell Tower. There will eventually be answers to why the regulations that were supposed to protect residents signally failed to do so. What also needs an answer is why the review of the Building Regulations 2010 was delayed and why the 2013 review of the 2005 regulatory reform order was not converted into recommendations. This debate cannot pursue that or the contextual factors that contributed to the risks of living in Grenfell Tower. One such of course is the conspicuous refusal of successive Governments to prioritise housing for the poor as opposed to the rich and the refusal to respect the dignity and the voice of social housing tenants. When you put that together with 40% cuts on average in local authority budgets, there is no doubt that the poor will suffer the most.

I hope today's debate will open up further opportunities to uncover the impact of the culture in which regulation has been routinely derided as red tape and where Ministers are incentivised to reduce the so-called burdens on business as far and as fast as possible. It is worth reflecting on the term "red tape". It has in fact kept greed and exploitation in check since the beginnings of the Industrial Revolution and continues to do so. Red tape has meant that over many years in this country children no longer work all the hours God sends. It means that our food and drinking water do not kill us,

that our landscapes and green spaces are protected, and that our transport systems, homes and workplaces are as safe as they can be.

On 21 June, in an open letter to the Prime Minister, 70 leading health and safety agencies and practitioners said unequivocally that enough was enough. They stated that,

"for many years, Ministers and others with influence over them have called for regulations, including in health and safety, to be axed as a matter of principle ... This mind-set has meant that, even when it was recommended and accepted that mandatory fitting of sprinklers would make homes or schools safer, this was rejected in favour of non-regulatory action. In practice, this approach favours inaction".

As they emphasised, much of what is seen as most burdensome is due to poor understanding and implementation or an exaggerated fear of liability.

Those independent, authoritative national safety organisations now demand a change in direction and culture from this Government. No one defends keeping redundant or unenforceable regulations. Over many years—and the Labour Government were much involved in it—much has been pruned and improved in the pursuit of better regulation and it is being done daily by the Health and Safety Executive. But here is the change: since 2010, we have had Conservative-led Governments who have departed from a legitimate search for better regulation to a position where deregulation is an ideological and political choice—where, indeed, it has turned into a battle cry.

Having already pledged to,

"kill off the health and safety culture for good",

David Cameron in 2012 went on to describe it as an albatross around the neck of business. I wonder how that sounds to the families of the 13,000 people who die each year from exposure to chemicals or dust.

Since 2010, the Cabinet Office has charged Ministers across Whitehall with finding first one, then two and now three regulations to ditch for every new one made, on the grounds that red tape stifles growth and reduces profits. The Department for Communities and Local Government, the department responsible for building regulations, has proved only too eager to assist. One of Grant Shapps' first actions as Housing Minister in 2010, which now has a tragic resonance, was to abolish the National Tenant Voice, the first body set up—just previously—deliberately to represent social housing tenants. He also diverted the independent Tenants Services Authority, the first regulatory agency to champion tenants' rights, into the Homes and Communities Agency. This move not only made it less visible; it also had the effect of constraining the co-regulation opportunities and consumer elements of its work.

That work of representing tenants' interests has been taken forward by the national tenant organisations. My first question to the Minister is: will he meet the NTOs to discuss how to go forward in empowering tenants in the light of Grenfell Tower? There are landlords who are hostile to their involvement.

Mr Pickles at CLG also set to work to deregulate as much of development control as possible, thus making it much easier for housebuilders, for example—who have never had the incentive to build in the interests of society—to develop less carefully but more profitably.

[BARONESS ANDREWS]

The provision for “viability” in the National Planning Policy Framework has also let developers off the hook of social housing and social benefit if they can claim that it reduces their profit margins.

Mr Pickles’ successor, Sajid Javid, boasted during the election of May 2015 that the Conservative manifesto promised a further £10 billion of cuts in red tape over the following Parliament. That £10 billion, he said, would be easier to slash than the previous £10 billion. He was particularly pleased that deregulation had achieved,

“less bureaucracy for house builders and developers”,  
while,

“thousands of regular businesses no longer face health and safety inspections”.

How right he was, because, in April 2016, a TUC survey found that half of all workplaces had never been visited by a safety inspector.

The Red Tape Challenge ran until April 2013. On 27 January 2014, David Cameron announced that it had identified 3,000 pieces of regulation to be improved or removed, with 800 abolished or simplified. May I ask the Minister for an up-to-date figure on how many regulations have now been scrapped and with what savings, and how are the £10 billion in savings calculated? How much has been saved since 2015? I appreciate that the Minister may not have those figures with him; I would like him to write and I would like a copy placed in the Library. Some of the regulations that have been scrapped are particularly worth noting. For example, new homes no longer have to be zero-carbon rated. That is a problem, not least because it is at the forefront of new technologies. Self-employed people no longer have workplace protections.

It is rare that one gets a glimpse into the workings of Whitehall, but this comment by someone who served as a special adviser to BIS for four years is instructive as to the processes:

“In 4 years ... Steve Hilton and his Red Tape Challenge provided more moments of exquisite satirical lunacy than any other. I will never forget listening ... to Steve and A Certain Cabinet Minister debate whether to lift the ban on inflammable nighties ... At one point Steve suggested scrapping entirely the Consumer Protection Act”.

Bizarre thought though that is, my immediate reaction on reading it was one of simple anger that while this nonsense was being driven by No. 10, no such urgency was being given to updating the fire regulations.

However sophisticated the regulatory system, the loss of expertise, skills and resources for enforcement renders it ineffective. Evidence shows, for example, that since 2010, one-third of environmental health officers have gone, so food outlets are checked less frequently and air-quality stations are closed. The heaviest cuts fall in the poorest areas. Professor Steve Tombs of the Centre for Crime and Justice Studies has shown that health and safety, food protection and pollution control staff in Liverpool have been cut from 39 to 16, with corresponding reductions in the other Merseyside authorities. There has been a steady fall in the number of enforcement notices issued by the HSE and local authorities. I know that other noble Lords will have other examples. Most significantly, the

relationship between the HSE and industry itself has changed. The HSE has been directly disabled by a cut of 46%. It is no longer allowed to conduct proactive inspections. At the same time, the commercialisation of its activities, through the introduction of fee for intervention, means that the HSE is less likely to be consulted over health and safety.

Professor Tombs suggests that there is a long-term downward trend in every form of enforcement. If that is the case, I suspect that there will be a long-term downward trend in health and safety in the workplace, reversing the steady progress that has been made over 40 years. Housing and planning has been particularly hard hit. The planning system is now much weaker than it was, because of the expansion of permitted development and changes to the prior approval process. This means that a high-rise office block can be converted to housing without the requirements for any space for children’s play or social facilities. The Parker Morris space standards are long gone and there is now the prospect that these dwellings will indeed become the slums of the future. There has also been a loss of oversight in terms of building regulations. Nick Forbes, the leader of Newcastle, has described it thus:

“Buildings can go up and councils have no right to know what they are made of, if the developer chooses to have a private sector firm sign off on regulations”.

This debate is even more timely than I thought it would be, because of the publication of the European repeal Bill today. Stripping out the European regulatory frameworks is a compelling prospect for Brexiteers. Priti Patel, Secretary of State for International Development, told the Institute of Directors:

“If we could just halve the burdens of the EU social and employment legislation we could deliver a £4.3 billion boost to our economy”.

One example she offered was cutting working time protection for self-employed lorry drivers. In this House we will be in the paradoxical situation of both defending the current standards of safety and effectiveness in areas such as medicine or information technology and, at the same time, trying to prevent Government overriding Parliament by the use of excessive, inappropriate secondary legislation. I only hope that we will have the resources and arrangements that will allow us to do that to the best of our ability.

In conclusion, it is almost 200 years since the first expert inspectors were created to stop coal mines, factories and food killing people. The state has changed a lot—it has had to—from one which sprang to action only after a national disaster, in the nightwatchman state of the Victorians, to one which has tried, over a century, to anticipate and prevent new harms as they emerge in an increasingly sophisticated economy. We should be proud of that, not least since it has been good for growth, good for business, good for public health and good for society.

In view of these social and economic benefits, it is alarming that this retreat from regulation over the past seven years has been conducted without any public reference to the impact on anything other than business. So my third question to the Minister is: will he now take the lead in commissioning a comprehensive social and economic review of the impact of the Red Tape Challenge and all that has followed from this so that

the claims and assertions of the benefits of the deregulatory regime can be tested and the costs and charges can be revealed? Will he also agree to meet the health and safety bodies which have written to the PM to discuss their deep concerns? Their letter concludes:

“You have it in your power to remove immediately a “risk to people at work and outside of the workplace—unwise deregulation—which threatens public and worker safety.

We, leaders in health and safety in the UK call on you to scrap the Government’s approach to health and safety deregulation and to think again”.

Only the Government have the power to ensure that the state remains proactive, responsible and accountable in its care for the entire community, especially the most vulnerable. Grenfell Tower should indeed be a turning point, and I hope the Government will rise to that responsibility. I beg to move.

11.56 am

**Lord Patten (Con):** My Lords, I listened with great care and respect to the very interesting speech by the noble Baroness, Lady Andrews—as did, I am sure, the whole House—but I respectfully disagree with the impression that she gave that by definition all acts of deregulation are ideological. I am sure that is not the case—I do not believe it to be the case—for we cannot obliterate records or pretend that any party in recent decades has not wanted to get better regulation, including, from time to time, by getting rid of imperfect regulations.

The Labour litany is long, over the 13 years of their Government between 1997 and 2010, and all of it had some impact on regulatory enforcement in delivering public services on health and safety, the themes of the noble Baroness’s debate. There was the Better Regulation Taskforce and there were regulatory impact assessments falling over regulatory impact units and trying to avoid the Better Regulation Executive. The Labour Party was up to its neck in regulation and deregulation in those 13 years, and as a Minister the noble Baroness played her part in all of that.

In many ways, coalition and Conservative Governments since 2010 have been simply continuing the work that Labour started. I suspect that there is all-party agreement and consent to what my right honourable friend the Prime Minister said in this context as recently as 22 June in another place: namely, that,

“all regulation is not bad regulation; there is good regulation, which we need to ensure that we get right”.—[*Official Report*, Commons, 22/6/17; col. 189.]

However good, bad or unnecessary any regulations may be, the other key question, which has not thus far been discussed, is: are they always observed in the public sector and the private sector? We have human beings in positions of power in the public sector and the private sector interpreting and applying rules, or ignoring them if they think they are unnecessary or that they can get away with ignoring them. There are well-documented cases of that in the public sector as well as in the private sector.

There is also, alas, an increasing atmosphere among some in the delivery of public services. People are getting pretty fed up with their lot and what they are landed with and are verging sometimes on the sour in their dealings with the public. I can understand why—

because under Governments of all colours since 2007, including the last Labour Administration, pay has barely risen. Despite huge increases in public expenditure on public services, money always seems to be tight for those delivering public services in the face of what is very often inexorable demand. Yet despite the growing burden of regulation felt by many in public service overall, in its figures last week the Office for National Statistics showed that the greatest productivity growth had been coming from the public service. Congratulations are due to public service workers who have delivered this massive increase in productivity. Of course, part of it comes from the reduction in the numbers in employment in the public sector doing the same job at a time when the UK has been creating jobs hand over fist—the envy of the rest of Europe.

All that said, I do believe in trusting front-line professionals as much as possible and allowing them to get on with the job in exactly the same way in public services as in business. An important-to-achieve end is making sure that regulations do not interfere with professionals in the public service improving their outcomes in the services for which they are responsible.

A very good example of the effectiveness of this approach is in education. The last Labour Government realised that teachers needed less regulation—more autonomy to raise standards—so they set up city academies where schools were underperforming. I applaud that, followed, as it has been, by the Conservative/Liberal Democrat coalition not only speeding up that process but jointly—the Liberal and Tory parties together—setting up free schools. A tiny touch of amnesia has come over the Liberal Party about its role in setting up free schools, but I am sure that the memory will come back with adequate help. All this has been duly monitored by rigorous Ofsted inspections to ensure high standards. In this and other areas there has been much more agreement than most politicians on either side of the House will agree—which is a pity, because by and large they do agree.

I think we are also just about to see the beginning of some great debate on the balance between less regulation meeting better conditions for the new growing flexible national workforce after the publication of the excellent and thought-provoking report by Matthew Taylor, once a No. 10 adviser to Tony Blair, whom our Prime Minister, Theresa May, has had the great good sense to appoint to conduct his review with its ground-breaking, standard-setting seven principles for fair and decent work, which I applaud—and not just in the private sector, or “gig economy”, as the press has termed it. Matthew Taylor also calls on public bodies of all sorts delivering public services to design jobs offering genuine flexibility, allowing some public sector workers to choose hours that suit them, and public sector managers to meet peaks and troughs in demand.

New regulations perhaps come into play more quickly than old ones are updated, as much in the public as the private sector. However, for sure in the area of the implementation of the Taylor report, new regulations will have to be continuously refined to test where exactly someone should be placed on the employment spectrum. All this comes at a time—as yesterday’s excellent employment figures showed—when

[LORD PATTEN]

unemployment has fallen to just 1.9 million, the lowest level since 1975, when Harold Wilson was Prime Minister. This is despite the threat of Brexit, as some media outlets insist on having it, because there has also been so much inward investment.

All who are in work in whatever sector will continue to need the shelter of good regulation, which I applaud, regularly reviewed and, if found wanting, revised. To be completely transparent—I have never met Mr Taylor, I would not recognise him if I saw him in the street, and I have never talked to him, but I think he has got the balance exquisitely right. He has been excoriated a bit by the trade unions and a tiny bit by some political parties and, on the other hand, a bit by business—but by and large he has got the balance spot on. However, implementing his recommendations will be more challenging.

That said, I strongly support the application of the “one in, two out”—or, as it now is, “one in, three out”—measure in effecting new regulation. I am also reflecting on something that my noble friend Lord Cavendish of Furness, who is unable to take part in our debate today because of duties he is following elsewhere, said to me on Tuesday. He said that the principle of “one in, two out” or “one in, three out” may well be of great help in dealing with one as yet largely unregulated sector delivering public services: that is, the seemingly unstoppable exponential growth in the spad population of this country.

My noble friend is quite right and I am glad that he reminded me of the spad terror. Indeed, there are even rumours that some senior spads are now seeking to have spads of their own to help them in their work. They are a completely unregulated body—the Civil Service pretends to regulate them but it does not—and I think that we are rapidly coming to the point when we need to have a new organisation called Ofspad to regulate these creatures in the undergrowth.

Several decades ago, there were just a few of them. Proper, grown-up spads are extremely necessary for Secretaries of State: they were demure, attentive and diplomatic, doing a helpful job in advice, speech-writing and sometimes murmuring in the margins interpretations of what the Secretary of State really meant during some Civil Service meeting. I know that one or two of my friends in the Chamber, both civil servants and politicians, have seen all this in action: “No, no, the Secretary of State was just exaggerating”, et cetera.

That is all very valuable, but no wonder today the Civil Service feels undervalued with the emergence of huge numbers of megaspads since the Blair era first promoted them, who see it as their job to promote internecine warfare between departments on too many occasions, which is totally counterproductive and a waste of public money, or to sit giving spurious murmured briefings over warm prosecco to the media about who is up and who is down in a particular department—putting themselves above civil servants. No wonder too many talented young men and women are thinking twice about going into the Civil Service. “Don’t put your son or daughter in the Civil Service, Mr or Mrs Whoever”, is pretty wise advice at the moment. So let a cull begin, on the one spad in, two spads out principle—I am a moderate man, as the House knows—and later on we

can move, if that does not work, to the one spad in, three spads out principle to diminish this growing and unregulated industry.

There is a serious point here. Because of the way in which some spads have bossed about Ministers and taken powers on themselves, it is becoming a bit of a constitutional affront. They disturb the balance between civil servants and Ministers, whose constitutional roles are very well known and understood under our unwritten constitution, by interdigitating themselves in a way that is completely uncontrolled. I hope that on this, if nothing else during this debate, there may be some all-party agreement.

12.07 pm

**Lord Whitty (Lab):** My Lords, I congratulate my noble friend Lady Andrews and thank her for seeking and getting this debate. It is timely; in fact a lot of us would say it is seriously overdue. The noble Lord, Lord Patten, is correct to say that the mood for better regulation—or I would say, in many cases, less regulation—has persisted through several Governments, for about 30 years. I think that mood—that surge of anti-regulation—needs to be reversed, and my noble friend is correct that this is an ideological debate. She was very forensic in her approach; I will be somewhat broad-sweeping and pretty ideological in my response, because it is time for change, and the Bill that has appeared today shows us that we are going to have to take some very serious decisions about the future of British regulation post Brexit.

The first duty of the state is to protect its citizens. That used to be entirely about the Army, or possibly the police force, but it is about a lot more things in a complex society such as our own: the state also has the responsibility to protect its citizens from natural and man-made disasters and hazards, from exposure to unsafe substances, from disease, from unsafe buildings and workplaces, from economic and physical exploitation, from other people and sometimes, indeed, from themselves—not just the vulnerable but all of us.

This need also applies in the economic sphere. We need protection as well as freedoms for markets to operate. We need freedoms for businesses, consumers and workers, but we also need to make the capitalist system actually work. The state has stepped in here, from medieval weights and measures legislation to ensure fair trading, right through to the anti-trust legislation we now have. Regulation is not the enemy of the market: literally free markets end in oligopoly and monopoly. Without regulation, markets as properly understood would not work.

It is also true that, at various stages of history, there have been backlashes against regulation. Perhaps your Lordships should consider the House’s reaction to the Earl of Shaftesbury when he first started trying to stop people putting children up chimneys. We have a media which weep crocodile tears over natural and man-made disasters—as just recently—but on the opposite page are attacking the “jobsworths” who are attempting to apply the rules.

In the past three decades, there has been a torrent of abuse in the media and among politicians against the so-called nanny state. I am in favour of the nanny

state. There are some bad nannies and some good nannies—so I am told—and the way the state operates needs review to assess whether regulation is right and whether regulators are acting fairly, but the principle of regulation should be a central duty of the state and a central theme of a modern society.

As some more elderly Members of the House will recall, as a Minister I was responsible for large swathes of regulation in transport, local government, health and safety, agriculture and environmental matters, and I still take an interest. I also served on the boards of two regulators. I readily accept the sort of point which the noble Lord, Lord Patten, made: that some regulations are overcomplex, some regulate the wrong thing and some fail to achieve what they were intended to. I also accept that—this is a feature of the British legal system, including within the Civil Service—there has been gold-plating in the UK transposition of certain EU regulations. But that is an issue of better regulation, not of reducing regulation, not even one that favours light-touch regulation. Over the past few years, people have been calling for less regulation and surreptitiously acting to ensure it. What started out as a fairly scientific approach to existing regulations through the better regulation initiatives under different Governments has ended up with the absurdity of “one in, three out”.

In parallel with all this, organisations such as the Environment Agency—set up by a Tory Government as an independent body from government—have had their independence undermined and their resources and powers limited. Similarly, the HSE’s powers have been diluted and the resources given to it cut. In local authorities, because many of these are non-statutory services, the cuts have fallen disproportionately on areas such as environmental health officers, trading standards, planning departments and building regulation departments. The net effect is that there has been not only less effective regulation but, in many cases, an absence of regulation.

We will shortly be faced with a decision on what we do about the so-called great repeal Bill. We are to transpose some key EU laws into the UK and, in some cases, into devolved legislative frameworks. That all sounded very simple and straightforward when it was first announced in the Lancaster House speech, but it will be extraordinarily complex. A whole range of legislation on the environment, agriculture, land use, animal health, food safety et cetera is actually primarily EU legislation at the moment and is enforced by the EU. Simply transposing the regulations does not deal with the issue of enforcement. Of course, we can give some powers to organisations such as the Environment Agency, HSE or, indeed, local authorities, but they are all increasingly starved of resources and expertise and having their powers cut or queried by attacks on the nanny state. If they are to take on what has hitherto been largely the enforcement role of the European Union, they will need to be bolstered, improved and respected by politicians and Governments and not undermined and denigrated. So we need to resist the call for attacks on the nanny state.

Last week, I participated in a debate on air quality. I called specifically for a new UK clean air Act because, at present, our regulations are primarily from the EU,

which sets limits on air pollution locally and sets tests for polluting diesel vehicles and so forth. Theoretically, it has been the responsibility of national authorities to enforce those, but that has not happened; we have breached those limits, and the EU is about to take action. Without that threat of EU action and the fact that ClientEarth took cases to the UK courts in anticipation of that EU action, the Government would not have moved at all, and have still yet to deliver a proper and effective air quality strategy.

That is just one example of what we face, and it is crucial at this stage, before going into the debate of how we transpose EU laws into our own operations, that we face up to the need to sharpen up our own enforcement mechanisms and our own respect for the enforcers and those who play the game in industry and society, and who follow the regulations for the benefit of us all.

We are about to have a great debate on the repeal Bill. I accept that some of these negative effects started with very good intentions and delivered some good results. But, as we have seen of late, we start with attempts to simplify regulations, then we try to reduce the burden and cost on business, and then, as time goes on, we fail to keep regulations up to date with changes in use or in technology and society. Then we reduce the powers and cut the resources available to the national enforcement authorities. We put the burden of austerity cuts disproportionately on to local authorities, who then cut disproportionately the inspection and enforcement areas within their own remit. Then, of course, there is the deprioritising of that within both national and local government. As a result—surprisingly—unscrupulous individuals and firms, cutting corners, take advantage of inattentive public authorities and lack of resources for those authorities; and you end up with Grenfell Tower.

12.18 pm

**Lord Stunell (LD):** My Lords, I start by declaring that I was a Minister in the Department for Communities and Local Government between 2010 and 2012, and had responsibility for building regulation policy during that time. I alert the Minister to the fact that a week ago today, I asked a Written Question which is somewhat relevant to my latter remarks, and he may want to prompt officials to brief him on that. I do not believe I have yet had a reply.

I very much welcome the debate and thank the noble Baroness, Lady Andrews, for her very well structured introduction. She painted a particularly bleak landscape, on which, to some extent, the noble Lord, Lord Patten, shone a light. I guess that my views are somewhere in between those two different perspectives. In respect of the remarks of the noble Lord, Lord Patten, there is a good deal of agreement across parties about getting rid of red tape. All parties think that unnecessary red tape should be got rid of. The problem is the subsequent discussion about when red tape is making a safety net. That tension between red tape and safety net is at the heart of our discussion today.

I pick up another point from the noble Lord’s remarks. He said that he welcomed one in, one out—and so did I. I was one of the negotiators of the coalition

[LORD STUNELL]

agreement that included that precise wording. One in, two out and one in, three out is not based on any sound reasoning process at all, particularly when one considers how the Treasury interprets the in and the out. I had a particularly strange example in relation to the energy performance of buildings, which I was keen to upgrade during my time as a Minister. Savings in energy by commercial buildings was countable as a reduction in business costs. Savings in energy consumption in domestic buildings is not counted, because the beneficiary is the householder or renter, not the developer. That is an example of the Treasury applying a sensible rule in a completely foolhardy and stupid way, which actually slowed down the capacity of the Government to deliver better housing for people in tenures of all sorts being built at the present time.

The noble Lord, Lord Whitty, made a very important point about the opportunities that there are to put right anything that may be wrong, and the risks of making it a great deal worse with the great repeal Bill. My party leader has already made it clear what the Liberal Democrats feel about that.

The noble Lord, Lord Patten, with his remark about spads, needs to reflect on how many noble friends of the pair of us are former spads before he takes his purge too much further.

I want to focus on some of the interaction between the horrific and terrible tragedy at Grenfell Tower and the issue of regulation. We need to recognise that it was the worst fire disaster since World War II, and when a fire like that evolves you can be pretty certain that it was not one thing but four or five things that went wrong at the same time. All those things will have contributed to the tragedy, and I hope that the inquiry will be diligent in assessing what they are and what remedies there might be.

My remarks will focus on building regulations, and the impact that they may be said to have had, or not. I want to keep in mind the fact that it is extremely unlikely to be the sole or even the main cause of the huge loss of life. Building regulations are issued under the Building Act 1984, which prescribes matters about which regulations can be made and by its silences limits the regulation-making powers to those topics alone. Fire prevention is certainly one of the areas where building regulations can be, and are, made.

As well as a ministerial background, I had 20 years' work in the construction industry, and during that time I had many occasions on which to refer to the building regulations and satisfy myself that the drawings that I was making and the buildings and products I was supervising were compliant with those regulations. That brings me to my first main point. It was my job as a building designer and supervisor to comply with regulations and my job to get it right. It was not a question of seeing whether the building inspector catches us out and carrying on merrily until he does. I remember on one occasion taking it as far as testing a fire door of an unusual size and design. I learned plenty of things that day, including never to wear your best suit to a fire test.

The key obligation here is on the installer, applicant or client to comply with the relevant regulations. Some of the press and media comment may have missed that

important point. I see a parallel between the Road Traffic Act and the Building Act. If you travel at 45 miles an hour where there is a speed limit of 30 miles an hour, you are committing an offence. If you kill somebody, you have certainly committed an offence. In mitigation, you may say that the signs were obscured or there were no signs, but one thing you cannot say is, "I was relying on the police to stop me". We need to remember, in relation to what may or may not emerge as far as Grenfell Tower is concerned, that nobody should say, "I was relying on the police to stop me". It is well established under the Road Traffic Act that the vehicle keeper gets the rap; it is no good saying, "I don't remember who was driving the car on the day". There are no excuses or evasions.

A decade or two after my last construction projects, I drew first place in the Private Members' ballot at the other end of the building. My Sustainable and Secure Building Act 2004 was the first—and so far only—amendment to the original Building Act 1984. I thank my noble friend Lord Dholakia for steering it through at this end of the Palace. One provision in that Act amends the 1984 Act to empower the Secretary of State to require an applicant for building regulation approval to provide a named individual who would take responsibility for the building's compliance with the regulation—in other words, the equivalent of the vehicle keeper under the Road Traffic Act. My Written Question last week asked what assessment has been made of the costs and benefit of introducing this provision in the light of the emerging findings from Grenfell Tower.

At Grenfell Tower, there was a client—the tenant management organisation, supervised at arm's length by the Kensington and Chelsea council—and, underneath, there was the main contractor and a second, third and fourth, possibly even a fifth, tier of subcontractors. When we come to the crucial question of who was driving the car on that day and who ran away after the crash, it is quite likely that the inquiry will have to spend a disproportionate amount of time finding that out. If there had been a named building regulation compliance officer, which is thoroughly within the scope of the Building Act, as amended by my 2004 Act, several things would follow. First, the person appointed would have the skills and knowledge to do the job—they would be mad to accept it without. They would want indemnity and professional insurance, and the people providing the insurance would want to be satisfied that the person was doing that job in a diligent way and not going to cost them a packet of money. If that were the system applying to all buildings, there would be far fewer breaches of regulation and far better quality of buildings and homes. It is much less likely that there would be another Grenfell Tower incident. I very much look forward to the Minister's response to my original Question.

I have another question for the Minister. In the House of Commons on 22 January 2015—in cols. 459-64 of *Hansard*—my honourable friend Stephen Williams, who was the then Under-Secretary of State at DCLG and responsible for building regulations, replied to a debate that I had initiated following a fire in my then constituency, which had destroyed three newly built homes. He told the House at the other end that the

department was putting in hard work with BRE to look at fire-stopping—the technical stuff that goes in between floors to stop fire spreading through cavities from floor to floor. It had been defective fire-stopping in those three houses that had led to their destruction during a repair process, and this seems quite likely to have been a contributory factor at Grenfell Tower as well. Can the Minister say what progress has been made or what conclusions have been reached by that BRE study, which my honourable friend announced was to start back in January 2015? I hope that it did not fall through the cracks of the change of Government and Minister that happened five months later.

Nothing that we do or say today can undo the harm and grief of Grenfell Tower, nor can it lessen the anger and frustration of those who survived, but I hope that my contribution may point the Minister to a simple and ready-made measure that would make a catastrophe far less likely to occur.

12.29 pm

**Baroness Young of Old Scone (Lab):** My Lords, I declare some past interests. I was a former regulator of the environment as the chief executive of the Environment Agency, a former regulator of biodiversity and conservation as the chairman of Natural England and a former regulator of health and social care quality as the founder chairman of the Care Quality Commission.

I thank my noble friend Lady Andrews for this hugely timely debate in the light of the Grenfell tragedy. It is also timely as today marks, fortuitously, the day that the repeal Bill is published. It is now out there on the internet for those noble Lords who want to wade through its 57 pages. This is no doubt a signal for some Brexiteers to come out of the traps and condemn EU regulation, particularly environmental regulation, and call for its watering down as part of this process.

I was pondering how to encapsulate the wildness of some of the calls for a reduction in EU regulation. However, I spotted an article in the *Telegraph* in the spring in which it called on the Conservative Party to, “promise a bonfire of EU red tape”.

The examples the article mentioned were pretty interesting. For example, it referred to the working time directive. So we want to go back to doctors falling asleep while treating patients, do we? The article also referred to builders and newts. Apparently, the entire construction industry is on its knees as a result of too many newts. It also referred to forcing householders to use dim energy-saving lightbulbs. So let us fry the planet with climate change instead. And, of course, there was reference to the perennial bent bananas. I find it difficult to take seriously a campaign with these four prime examples. It is a real shame that noble Lords on the Conservative Privy Council Benches who have continuously advocated such a bonfire are not in their place for this important debate.

A considerable proportion of the EU regulation that will need to be transposed is environmental regulation, the purpose of which is to protect not only the environment but also the public. Therefore, I want to focus on the environmental regulation issue. European environmental regulation has delivered for the environment. We now have cleaner beaches and

bathing water. Before the European bathing water directive was passed, only 16 beaches in this country had bathing water considered safe for people to swim in. We now have more than 630 safe beaches. European environmental regulation has reduced waste and made more environmentally sound our handling of waste and our reprocessing and reusing of valuable raw materials. It has also made a huge difference to the protection of our wildlife sites. Every year some 15% of our sites of special scientific interest used to be damaged. That is now down to 0.1% a year on average.

The EU has also been very instrumental in introducing regulation to reduce air pollution. The whole issue of acid rain, which was a major problem for European countries, was resolved by European legislation. As the noble Lord, Lord Whitty, said, Europe, and the legislation coming from it, will be a key factor in the short term in trying to get more proactive action in this country on tackling urban air pollution and its impacts on human health.

Therefore, the repeal Bill is very important. However, I would like to outline a couple of principles with which I suspect the repeal Bill will struggle. We may well see European legislation and regulation being brought across without too much fiddling—I use that as a technical term—but the principles that underlie much of our environmental progress are at risk of not being transposed successfully: principles such as the polluter pays and the precautionary principle. Therefore, I ask the Minister to tell us how these vital environmental principles can be brought across safely and not be lost in the process.

There is also the issue of compliance and enforcement. I used to be responsible for the quality of water in the Thames. It was impossible to get adequate government investment and to free up Thames Water to allow the super-sewer to stop London being the last capital in the world that uses its river as an open sewer at times of high rainfall. European legislation meant that we were put into infraction and fined eye-watering sums daily, and that is why the Government enabled the creation of the super-sewer, which is now under way. Therefore, although we will lose the infraction process, the fining process and the European Court of Justice, we need to make sure that individuals' access to environment justice is not lost in the transposition. We will need proper mechanisms to allow that to be replicated effectively in this country. Access to the courts is not enough. We have recently seen a move to reduce the ability of private individuals to call for a judicial review by removing the cap on the costs. Your future livelihood and assets are now threatened if you take a judicial review without that protection.

We do not simply want a process whereby local authorities and companies can be fined for environmental failure; in cases where government has played a major part, we need a mechanism that allows the nation to hold government accountable for failure to deliver environmental outcomes. There are a number of suggestions for that, such as an environmental ombudsman process or an environment court. I have no strong views about which it should be, but it must be an effective process that allows action to be taken where there has been inadequate environmental protection.

[BARONESS YOUNG OF OLD SCONE]

Of course, the environmental legislation that we have is not just good for the environment and for all of us who depend on environmental quality; it is also good for business. For example, the global market for low-carbon environmental goods and services is estimated to be €4.2 trillion, and the EU member state market share is currently 21% of that, according to BEIS figures. Environmental impacts are the third most important factor for EU customers after quality and price. According to a report by the Office for National Statistics, environmental goods and services contribute £29 billion to the UK economy in value added, and they account for 373,000 full-time jobs. Therefore, there are big business opportunities here and big opportunities to use environmental regulation to drive innovation.

Some claim that environmental regulation is simply a burden and a barrier to global competitiveness. However, thinking about that rationally, the reality is that, if we fail at global competitiveness, it is because we are not sufficiently innovative and because inevitably we find it difficult to compete on labour-market costs with companies and industries based in countries with less labour-market and other regulation. Therefore, we need to find ways of promoting innovation and make sure that we compete on the basis of added value, not a race to the bottom on standards.

I have been impressed by the way in which various regulators have demonstrated how their approach to regulation supports innovation under the Government's productivity plan and complements the industrial strategy. Indeed, businesses mostly do not complain about environmental legislation. However, they say that, if they are to have a level playing field, there needs to be clarity on standards, an adequate lead time to allow industry to adapt to those standards and innovative ways of meeting them. The last thing they want is changes of direction, very short notice and flip-flops—which might be a bit of a problem for this Government.

Of course, we all want better regulation, and various noble Lords have spoken about that. It needs to be risk based, proportionate and transparent. The regulators need to work in partnership with the regulated businesses and parties and to help them improve, not stand on the sidelines until they get it wrong and then shout at them. But that implies that we must have resources for the agencies to allow them to take that more risk-based and collaborative approach. Alas, that has not been the history of the environmental regulators over the past few years.

I have been privileged to work with a number of people in the better regulation field, not least the noble Lord, Lord Curry, who I am delighted to see in his place. He led the Better Regulation Executive and did some excellent work. Indeed, when he said that he was standing down, I rather fancied the job, so I phoned up and inquired about it. It turns out that there is not going to be a chairman of the Better Regulation Executive in the future and that the Government have simply handed that over to the Civil Service as a process.

With the one in, three out rule, and without proper consideration of the full benefits of the costs to business and proposed benefits to the public—not just focusing on the £10 billion of savings but looking at what

environmental regulation delivers—we need proper oversight of the whole better regulation process. We need an independent body that combines business and beneficiaries, and keeps a firm eye not just on the costs of regulation but the benefits. Environmental protection is for people's future, and it is too important to be a victim of the anti-regulation political tendentiousness we see in the better regulation field at the moment.

12.41 pm

**Lord Best (CB):** My Lords, I am grateful to the noble Baroness, Lady Andrews, for securing this debate and for her excellent opening speech. I would add that allowing us 11 minutes in which to speak does produce some superb speeches—I have already learned a great deal this morning. I know that the noble Baroness was deeply affected by the terrible tragedy of the Grenfell Tower fire, as were so many of us. But she also encourages us today to broaden the debate on deregulation, and I want to look at this issue in the wider context of the UK's housing scene.

I declare my interests as a vice-president of three bodies: the Local Government Association, the Chartered Trading Standards Institute, and the Town and Country Planning Association. These three national bodies all represent organisations at the local level that are concerned with regulation, not least in the housing arena. All three stand up for higher standards and all know the effects of under-resourcing the people whom we expect to enforce regulations: building inspectors, environmental health officers, trading standards officers, and town and country planning officials. All these services have faced significant cutbacks in their budgets over recent years, seriously weakening the ability at a local level to enforce regulations that aim to ensure decent standards for the nation's housing.

Other noble Lords have noted that deregulation has been the mantra for the past two decades. Certainly, unnecessary regulatory measures are costly and wasteful. However, the conclusion from recent events, in combination with a more general apprehension that the pendulum has swung too far in the removal of important regulations, surely means we are now ready for a less negative attitude to proper regulation and to pay for the people who ensure that regulations are adhered to.

The case I want to make today is that requirements for higher housing standards actually represent a cost-effective approach, quite apart from enhancing the health and safety of the occupiers. My contention is that cutting costs seldom pays in the medium to longer term, yet housebuilders and property developers are very likely to go for the short cut and the cheaper option, unless compelled by regulations to do otherwise.

Although it is excellent that the Government and opposition parties are all committed to increasing the quantity of homes built in the UK, quality—the subject of regulations—gets much less attention. In this country we rely very heavily on a small number of volume housebuilders to construct the bulk of our new homes. Governments have hoped that market forces will mean that all developers will achieve good design, high physical standards and a good deal for local communities in affordable housing provision with amenities like play areas and green space. But, sadly, once a developer



has acquired a site, the element of competition is all about who can build most cheaply, who can most cleverly renegotiate the planning conditions, and whose marketing can secure the highest price for the lowest standards. Enhancements to the building regulations often meet with opposition from the building industry, but whenever an upgrade in the regulations is finally imposed universally across the industry, the complaints evaporate and the builders toe the line, knowing that there is a level playing field and all their competitors must do the same.

At the Joseph Rowntree Foundation in the 1990s, we brought together a set of lifetime home standards for improved accessibility: removing the steps up to front doors which debar not only those in a wheelchair or using a Zimmer frame but parents with buggies; ensuring space inside for those with a mobility problem; and making adaptations to the property as easy as possible if they are needed in the future. We demonstrated how building all homes to lifetime homes standards would support anyone with a temporary or permanent disability and would mean significant savings to health and social care budgets, with fewer accidents in the home, possible earlier discharge from hospital, the postponement or prevention of the need for a move to residential care and more. Our efforts to amend the relevant part of the building regulations, Part M, were opposed by the housebuilding industry, but after these changes were accepted by government and incorporated into the building regulations—before deregulation became the order of the day—the housebuilders got on with it and learned swiftly how to produce more accessible homes with minimal fuss. Today, tens of thousands of families benefit from enhanced accessibility standards because of more exacting regulations. I should add that the noble Baroness, Lady Andrews, championed these standards when she was a Housing Minister in your Lordships' House, producing the excellent 2008 report, *Lifetime Homes, Lifetime Neighbourhoods*.

Noble Lords have only to visit good-quality housing built 100 years ago like Joseph Rowntree's garden village of New Earswick, Cadbury's Bournville or the beautiful Whiteley Village for older people, where I was last week, to see how the economics works out. The 100 year-old homes in these places remain highly sought-after and the initial investment has been repaid many times over: quality pays. We have to ensure that the 1.5 million homes to be built before 2022, including I hope many new garden villages with proper master planning, achieve really decent standards not just for fire and safety but for health and well-being. The international architect Sir Terry Farrell's 2014 report brought together all the necessary components for excellent urban design, but it never gained traction. Perhaps the next president of the RIBA—I declare an interest as an honorary fellow—might take up this cause and make things happen rather than piously hoping that guidance will do the trick. The Government need to set out clear, tough building regulations and ensure that they be fully enforced. This is certainly the time for a wholesale review of the current building regulations.

As a concluding point, perhaps I may mention a recent regulatory enforcement success story. We all know that some private sector landlords—a minority—exploit their tenants and fail to observe health and

safety regulations. To enforce the current requirements on landlords, the London Borough of Newham under the leadership of the mayor, Sir Robin Wales, has established a comprehensive licensing scheme. This has led to 1,100 criminal landlords being prosecuted, £2.6 million in unpaid council tax being recovered and substantial tax bills being issued by HMRC. I joined one of Newham's dawn raids to witness the work of this borough in uncovering the alarming abuses in its private rented-sector stock and driving out bad practice. This is just the kind of enforcement of standards that needs to be replicated and extended elsewhere.

One genuinely positive outcome from the dreadful Grenfell Tower tragedy would be a recognition that raising and enforcing standards need not be a negative matter of adding bureaucracy, let alone costs, but instead can be a truly positive means of securing long-term value and enhancing quality of life and happiness for hundreds of thousands of us over the years to come.

12.50 pm

**Lord Hunt of Kings Heath (Lab):** My Lords, the contribution from the noble Lord, Lord Best, was immensely important and underpins the philosophy my noble friend Lady Andrews put forward. There is a real risk that the party opposite, in questioning the role of the state, which it is doing, is clearly undermining many important public safeguards.

I did not agree with much of what the noble Lord, Lord Patten, said, although I take his point on special advisers. Despite Mr Cameron's promise before the 2010 election, he proved himself to be attracted to the appointment of special advisers if we look at the figures and the amount of money spent. The one thing I agree with the noble Lord on is this: going back 40 years, almost every Prime Minister has had a certain obsession with deregulation. The one thing that seems to characterise each of those Prime Ministers is that none of them has ever had any experience of running anything, which has led them to believe that when people come along and say, "The whole of British society is weighed down by overbureaucratic burdens", they have tended to believe it. We have had a succession of Cabinet committees, task forces, tsars—you name it, we have had it.

The problem is that it has coloured the approach to sensible regulation that we ought to have in this country. The most important point that has been made by a number of my noble friends and the noble Lord, Lord Best, is that reputable companies do not mind proper, sensible regulations provided there is a level playing field and that there are regulators that can enforce those regulations. The problem is that if you take the Government's very light approach to regulation, which is soft touch in terms of regulators, often the regulations they allow to continue are not properly enforced. That then allows the cowboy companies to operate and reputable companies are put at great risk. Certainly when I was Minister responsible for the Health and Safety Executive and the DWP, that is the thing that struck me most: companies would grumble about regulations, but the one thing they would say, once they had the regulations, was, "For goodness sake, ensure a level playing field and enforcement".

[LORD HUNT OF KINGS HEATH]

The problem we have is a combination: austerity has forced local authorities in particular but other public authorities as well to almost invariably accept the lowest bid in a competitive tendering process. Whatever the Government say—one can challenge them on this and they blather on about best value—the fact is that nine times out of 10, 99 times out of 100, local authorities and health services go for the lowest tender. The combination of a deregulatory approach plus the kind of public sector tendering we have often means that the very companies we want to encourage—as the noble Lord, Lord Best, said, they are the quality companies—lose out. It is time for us to have a much more sensible approach to regulation.

I enjoyed, if that is the word, life as a Deregulation Minister—we called it Better Regulation Minister—in six departments. For some reason I was always appointed the Better Regulation Minister. It seems to be a punishment for Lords Ministers, looking at some of my colleagues. Regularly, we were summoned across to Downing Street to account for our sins, often with Prime Ministers advised by the special advisers referred to by the noble Lord, Lord Patten, who brought great experience and wisdom to their job. As we explained our dismal performance—because most of us thought that the regulations that we had were pretty good—the Prime Minister's eyes glazed over in that awful way of his and we knew that our prospects of promotion had been put back yet one more year.

We colluded with the Civil Service and offered up old regulations which were never in any use, so we got the numbers up, but fortunately most of us were sensible and kept the regulations that were required to defend the public interest. The problem was that Ministers in the Government when they were in coalition actually believed in it, so they got rid of some essential underpinning regulations which would ensure public safety and consumer protection. Like my noble friend Lord Whitty, I am in favour of the nanny state. The reason is that it protects vulnerable people from many of the inherent problems that arise in a deregulated society.

I am sorry again to turn to the noble Lord, Lord Patten, but he and I have been debating these things, both here and in Oxford City Council chamber, for many years. He mentioned that the Government had taken this deregulatory approach to the public sector. He mentioned teachers. Unfortunately in your Lordships' House, we tend not to have teachers in the membership, but my experience is that since Mr Gove's unfortunate appearance as Secretary of State for Education, their autonomy has been virtually destroyed. We now have this rigid national curriculum where poor kids are focused entirely on a narrow range of subjects, where the liberal arts seem to have been completely taken out of curricula in state schools and where teachers are wholly demoralised by the lack of innovation and enthusiasm they can bring to the job.

Finally, in relation to the public sector, and seeing the noble Lord, Lord Prior, who knows an awful lot about the health service, I would hardly describe the Health and Social Care Act 2012 as an example of a Government approaching the public sector with a degree of light-touch autonomy. As he knows, it is the

most extraordinary heavy-handed architecture that has ever been seen in legislation in relation to both the health service and other areas of the public sector. Sadly, the Government seem to have forgotten to bring the Bill they promised in their manifesto to lighten up the health service architecture—no doubt the noble Lord can tell us why.

My final point about regulation is the irony of Brexit. As my noble friend Lord Haskel has reminded us, the CBI reckons that, in place of the kind of regulation we have now, 32 bodies will have to be established in one way or another to regulate us post Brexit. The noble Lord, Lord Prior, will again know that medicines regulation is an excellent example of this. At the moment in the EU, we have a European regulator for medicines and then there is a national regulator. If your national regulator, in accordance with the rules, or the European regulator licenses a medicine, it can be used throughout the EU. In the future, we will have our MHRA, which is excellent, but, under the Brexit regime, to introduce a medicine in the UK you will need to go through the MHRA. The companies that do so will need a guarantee that, if they get a licence here, it will be recognised throughout the EU.

**Baroness Crawley (Lab):** Twenty-seven countries.

**Lord Hunt of Kings Heath:** Precisely. The problem is that the European court gets involved in it, so the Government cannot agree a mutual recognition position. We have £4 billion invested in R&D in this country by the pharmaceutical sector. One result will be that it will not continue to invest, despite the fact that 14 of the top 100 medicines are now developed here. That is because it will not go through the pain of getting a licence in the UK when it also has to go to Europe: it will develop in Europe and in other parts of the world. If ever one wanted a great contrast and irony with this Government's approach, it is that, in the mystical, deregulatory world that they wish to put into our country, the decisions they have taken are going to lead to a country which, because of Brexit, will actually have to be regulated in a very expensive way, putting at great risk our jobs, our economy and our livelihoods. Never could one see a more remarkable and ridiculous proposition than that which we have from this Government.

*1 pm*

**Lord Smith of Finsbury (Non-Aff):** My Lords, I begin by warmly thanking the noble Baroness, Lady Andrews, for initiating this important debate and for her excellent opening contribution. What a remarkable series of rather formidable contributions we have already heard this morning, because this debate, of course, is at heart all about safeguarding the lives and well-being of all of us—and there is nothing more important than that.

I will focus on the importance of environmental regulation and protection—something that the noble Baroness, Lady Young, and the noble Lord, Lord Whitty, also did. I was chairman of the Environment Agency for six years, from 2008 to 2014. The Environment

Agency is responsible for the implementation of much of the environmental regulation that pertains here in the UK, and over the course of the last 15 years or so there has been a real success story in the improvement of our environment.

In the 10 years from 2000 to 2010, sulphur oxide emissions in the UK fell by 75%. Nitrogen oxide emissions fell by 37%. Emissions of PM10s, fine particulates, fell by 39%. The amount of waste recovered and reused at all major industrial plants increased from 37% to 67% and, through regulating agricultural run-off into our streams and rivers, the quality of water improved to such an extent that we now have otters back in every county in England. This was all a result of regulation: a firm but proportionate regulatory framework, coupled with an intelligent business response. Of course, not every regulation is perfect. I point, for example, to the precise provisions for nitrate-vulnerable zones, which contain considerable absurdities. Overall, however, the impact of environmental regulation is really positive.

This applies not just in the UK; there is a global success story as well. When I was first a Member of Parliament in the other place, in my first term I was a member of the Environment Select Committee. We looked in detail at what was happening to the ozone layer, which was, in the 1980s, the big environmental issue. The issues in relation to the ozone layer were very carefully looked at across the world, and a combination of scientific evidence, international agreement and then firm regulation in place in order to tackle the problems of CFCs and HCFCs ensured that we began, as a globe, to resolve the problem—and the ozone layer is now in a much better condition than it was 25 years ago. That was a result of regulation.

All of this makes it all the more absurd and depressing that the constant theme of the need for deregulation, the burning of red tape, seems to be that it is argued for simply for its own sake, not looking at the content or impact of the regulation, or the need for it, but simply based on an assumption that regulation per se is a bad thing. The ultimate absurdity—and I fear that it is not just the present Conservative Government; the previous Labour Government were guilty of beginning this process—is the absurdity of one in, one out, and then one in, two out, and now one in, three out. This is a ridiculous way of trying to administer sensible public policy.

Of course, regulation needs to be smart and proportionate. Sometimes this Government and their predecessors have given the impression, however, of a completely arbitrary assault on regulation just for the sake of it. Our environment needs regulation; it must not be arbitrarily tossed aside. Take a very contemporary and controversial issue, the fracking for shale gas. I happen to believe that fracking has a role to play as an interim energy source in order to help the transition to a low-carbon future, but it can be allowed to be so only if the regulation of it is clear, firm, transparent and rigorously implemented in order to protect the aquifers underground, to ensure well integrity, to control what happens to waste materials and to ensure that no methane escapes to the atmosphere.

I also have direct experience of being a regulator in a completely different capacity. For the last 10 years I have been chairman of the Advertising Standards Authority. The ASA is a very successful example of self-regulation in practice, in terms of print and published media, and of co-regulation in terms of broadcast media. The ASA has been in place for 52 years. It was put in place and has continuously, through those 52 years, been strongly supported by the advertising industry. Because, of course, advertising, to have real impact, depends on trust, and advertisers have known for the last half-century that they will not secure the trust of the public unless they can demonstrate that the claims they make are properly regulated. They want sensible, proportionate regulation in order to thrive as an industry because it is in the interests of the industry. One thing that Ministers of all Governments who seem to believe that deregulation is a holy grail fail to realise is that, actually, business and industry know that regulation, when properly done, can be incredibly beneficial. Ask the major waste companies the question and you will get precisely the same answer. Regulation is welcomed by legitimate businesses because, in the way that the noble Lord, Lord Hunt, outlined, it provides a level playing field and means that the cowboys cannot have an advantage over the legitimate major players.

There is one other important way in which regulation not only helps to protect the public but brings business advantage. It is that regulation helps—sometimes forces—the driving of innovation with new technologies, more efficient ways of doing things, reducing waste and reducing cost by so doing and getting ahead of the market. For example, the constant improvement in the motor vehicle industry that we have seen over the past 15 to 20 years has been driven very much by a lot of the regulatory processes that have been in place. Regulation has meant that much in terms of technology has thrived when it would not otherwise have done so. UK businesses are not yet seizing these opportunities as vigorously as they could.

Is regulation always good? No. Is it frequently essential for public protection? Yes, absolutely. Is it good for business? Often. By and large, has it helped our society and our well-being over the decades? Yes. Has it been done well? Much of the time, yes, it has, although sometimes we could do it better. So let us hear a little bit less about burning red tape and the intrinsic virtues of deregulation and let us hear a bit more about good, safe, smart, sensible and forward-looking practice.

*1.11 pm*

**Baroness Crawley (Lab):** It is a delight to follow my noble friend Lord Smith of Finsbury, one of our great regulators. It is my fate as sweeper in this incredibly knowledgeable debate to repeat what other noble Lords have already said, but not quite so well. I congratulate my noble friend on securing this timely, indeed prescient, debate and on her excellent and sensitive opening remarks. I declare an interest as outgoing president of the Chartered Trading Standards Institute and chair of the Consumer Codes Approval Board.

Just a month ago, an appalling fire broke out at Grenfell Tower, a 24-storey tower block in North Kensington. So far, 80 people are presumed dead, with

[BARONESS CRAWLEY]

the final number of deaths not expected to be known until the end of the year. As well as being the most dreadful tragedy for those men, women and children involved, the Grenfell fire has made us all pause as a country and reflect on how such a terrible event could have occurred in the first place and where could be next. People's safety is now the major talking point in our land. A public inquiry has been launched and will be examining fire safety and construction regulations, as noble Lords have said.

Yet it is not our role here in Parliament simply to wait for the outcome of that inquiry. It must surely be right for us to discuss and examine more widely where we are in terms of our political and legislative approach to regulation and deregulation in modern Britain, and I therefore welcome today's debate as part of that important discourse.

The House of Lords Library briefing for this debate looks dispassionately at how all Governments have approached deregulation over the past 20 years. In looking through that, what I found striking was how, in that time period, we have moved from a position of better regulation, albeit more simplified and more business-friendly, under the Labour Government of 1997—of course we did not get it all right and of course it was the beginning of the madness we see now, but there was a real emphasis on trying to get better regulation—to the very crude “one in, three out” policy of the most recent Conservative Government of 2016, whereby government departments were required to introduce £3 of savings to business for every £1 cost of new regulatory legislation. That, along with statutory regulators also being tasked by government always to look first at the cost to business of regulation, has led to organisations such as the Government's advisory body, the Regulatory Policy Committee, concluding in 2016 that,

“society as a whole is worse off”,

as a result of government intervention in this field. That is the Government's own advisory body telling them that.

It is most surely right to look again at the principles of the 2005 Hampton report, which recommended to the then Labour Government that regulation should be accountable, consistent, proportionate, targeted and transparent. As my noble friend Lord Hunt said in his excellent contribution, we need to get away once and for all from the mantra “regulation bad, deregulation good” and have a grown-up conversation about how we rebalance our priorities not only for business but for the wider public as well.

Of course, in order for better regulation to work, there must always be the ability to enforce, as noble Lords have said, and we know that many years of austerity budgets have weakened that ability to enforce regulation. In the sector I know best, trading standards, I have seen over the past seven years the loss of more than 50% of the trading standards workforce from local government payrolls. It is not just about fewer people being there to protect British consumers and to enforce their rights, but the loss of so much skill, expertise and handed-down knowledge from a sector that goes back more than 100 years in its public

enforcement role in this country. We have to take stock now of where our priorities lie and of what difficult decisions Governments will have to make on taxation versus public spending.

Many leaders in the regulatory world are increasingly looking to government for some urgent assurances about the future of regulation in a post-Brexit Britain. I am aware of the good work currently being done on this with reference to consumer protection by our House of Lords EU Justice Sub-Committee in taking evidence from organisations such as Citizens Advice, Which?, the Chartered Trading Standards Institute, the Ombudsman Services and others. As other noble Lords have said, the EU has been a positive and protective influence on the British consumer over the past 40 years. It is vital that, in the Brexit lift and shift operation envisaged for transposing EU rights and protections into British law under the repeal Act, consumer rights will not be watered down and diminished. The British people are in no mood to be ignored any longer on this matter of their rights and their personal health and safety, and they are looking to government for robust answers. It is such a shame that, just when those answers are being sought, we are leaving the EU framework of regulation—which we helped to build, by the way—which could help provide future solutions.

1.20 pm

**Lord Shipley (LD):** My Lords, I remind the House of my vice-presidency of the Local Government Association. I thank the noble Baroness, Lady Andrews, for the opportunity to have this very timely debate today.

We have heard the words “red tape” a number of times today. It is a long time since red tape was used to bind official documents in the Holy Roman Empire. The Holy Roman Empire was a big, complex organisation and no doubt had to use plenty of red tape to bind its regulations. However, the term has altered over time to mean bureaucracy, unnecessary paperwork, unnecessary licensing systems, too many committees approving a single decision and the creation of unnecessary regulations that make running a business more difficult and expensive. But the problem is that most regulation is beneficial to the general public and most of the time to businesses themselves, because it can lead to higher quality and higher productivity and can make businesses better able to compete. As the noble Lord, Lord Whitty, reminded us, it enables markets to work better.

For 20 years or more, Governments have been trying to reduce unnecessary red tape. I agree with the noble Lord, Lord Patten, that we do need better regulation and that, where regulations are out of date or no longer needed, it is right to review. The Red Tape Challenge in 2013-14 identified regulations that should be improved or that were out of date. Inevitably, regulations have to be kept under that constant review. They become outdated, and sometimes they need to be added to on the basis of experience or new products and requirements.

There is nothing inherently wrong with regulation, because regulation protects the general public. Health and safety at work is not red tape. Basic employment rights are not red tape. Personal safety at home is not

red tape. Successive Governments have taken action to address perceived problems with regulations—hence the Better Regulation Task Force and the positive work done by the coalition Government, of which my noble friend Lord Stunell reminded us. One-for-one replacement, which was undertaken in that period, can encourage regulations to be kept up to date. I agree with the noble Baroness, Lady Young, that we need to be careful not to abolish bodies and organisations that help to deliver better regulation.

The one in, one out principle was changed to one in, two out, as we have heard. I have never understood the logic of that. As the noble Lord, Lord Best, reminded us, the pendulum has swung too far. As the noble Lord, Lord Smith of Finsbury, and other Members identified, the logic of numbers and targets of one in, three out seems to have no basis. Setting numerical targets does not seem right to me. We should note the report of the Regulatory Policy Committee in 2015 on the overall impact of the regulatory proposals that became law in the period of the coalition Government: 214 had reduced regulation on business but 119 had increased the scope of regulation.

I conclude that, until 2015, a balance had been struck in regulation: it was about better regulation. But in July 2015, the Government announced the Cutting Red Tape programme, seemingly to do things that they had been prevented from doing during the coalition years. It was announced that it was going to save some £10 billion—an enormous sum of money. In the words of the Secretary of State, it was about wanting to free British businesses from “heavy-handed regulators”. How is the potential saving known? How had the “heavy-handed regulators” been identified and what impact assessment had been undertaken by freeing British businesses from those “heavy-handed regulators”? For example, does it imply cutting the national living wage, or the national minimum wage, or perhaps the plastic bag carrier charge? Or is it about the day-to-day protections that the public benefit from?

I hope the Minister and the Government will look again at the Cutting Red Tape programme in the light of professional knowledge and experience. Attention has previously been drawn to the letter from over 70 organisations and figures from the UK’s health and safety profession in the aftermath of the Grenfell Tower fire. The joint letter to the Prime Minister called on the Government to end their approach to the deregulation of health and safety legislation. It called on the Government to think again. I hope very much that the Minister will be able to tell the House what has happened as a consequence of that letter from those organisations, figures and experts.

The dreadful disaster at Grenfell Tower should never have happened. Much has been said and written about it, but at its root it was a devastating failure of building control either through the regulations themselves or through their application. The public inquiry may take a long time, but as a matter of urgency we will need to review the building control regulations and the fire protection safeguards and whether they were correctly applied. Speed is essential. Three separate investigations are proceeding: the public inquiry, which may take

some time; the police investigations; and the Government-appointed expert advisory group working with the Government for the last few weeks to identify in what ways regulations should be changed. We must heed their professional advice, and it is not for us to second-guess the conclusion reached by any of those investigations or the inquiry. However, I agree entirely with the noble Baroness, Lady Crawley, who reminded us that the Government have a role in identifying what changes could be implemented immediately.

I draw attention to the Lakanal House fire in the London Borough of Southwark, which occurred just eight years ago, in which several people died. In 2011, the Department for Communities and Local Government wrote to housing providers with a number of recommendations that should be implemented as a result of the experience from that fire. In 2013, the coroner’s report made a set of recommendations about what housing providers should do to minimise the impact of a fire breaking out. I hope the Minister may be in a position to tell the House today—and, if not, in writing afterwards—what audit the Government have undertaken of the work of housing providers as a consequence of the letter sent by the then Secretary of State, Eric Pickles, in 2011 and the coroner’s report in 2013, which made a number of recommendations. There may have been a list of explanations as to what happened, but I have not seen it and I think it would be helpful if we did see it.

The noble Baroness, Lady Andrews, raised the question of the private sector’s role in building regulation, and I agree with her. This has been the case for over 30 years—it is not something new that the Government have done—but I question whether it is appropriate for building control, which is about public protection, to be managed entirely by the private sector in some cases.

Crucially, we have to examine why, in the light of the experience in so many parts of the world of the combustibility of external cladding, action in the UK has been slow and why whole-system testing has not been adopted until very recently, I understand, by the Building Research Establishment. In the course of doing some work on that, will the Government examine the relationship between British Standard 8414 and the relevant EU directive? It would appear that the British standard is actually stronger than the EU directive, but it is only advisory and is secondary to the EU directive, which seems to be weaker. I would be grateful for advice from the Minister about that.

Two suggestions were made, one by the noble Lord, Lord Hunt, and the other by my noble friend Lord Stunell, which the Government ought to take particularly seriously. The noble Lord, Lord Hunt, reminded us of the importance of not always agreeing the lowest tender when quality may be compromised. Agreeing the lowest tender is one of the consequences of budgets being under stress. My noble friend Lord Stunell suggested we should have a named building regulation compliance officer for every contract. Both seem to be important suggestions and, taken together, would improve the strength of our regulatory frameworks.

1.31 pm

**Lord Tunncliffe (Lab):** My Lords, I too thank my noble friend Lady Andrews for introducing this debate and thank the many Peers who subsequently agreed with her opening speech—there was, of course, one notable exception. In a previous debate on these matters, I claimed to be the most regulated person in the House. I am sure that that is not true, but for 51 years I have been under the control of one regulator or another: the CAA when I was an airline pilot; the Railway Inspectorate and the fire brigade when I was running London Underground; the nuclear inspectorate when I was chairman of the UKAEA; and subsequently, the regulator on the railway system. In various cases, I have also been involved with financial regulation over perhaps the last 10 years. If there is a worst example of what happens when light-touch regulation gets out of hand, it has to be the financial crisis, and I am delighted by the way that both the Government and regulators have reacted to improve things. My enthusiasm for regulation, which will come out, was slightly blemished by the threat of prosecution by the Scottish Environment Protection Agency when my radioactive rabbits escaped, but apart from that, I believe that regulation is good for society and good for good business.

It is vital that we have the right level of government regulation to protect citizens, particularly the poorest and most vulnerable in society. Indeed, when it comes to public services and health and safety, as in finance and other sectors, the destructive effects of dogmatic deregulation have been plain to see and have been laid out very well in this debate. Many good examples have been provided, and I will add another, in the realm of transport. Outside of London, where public bus services have been deregulated since the 1980s, the number of trips has collapsed from 2 billion to 1 billion; in London, where TfL closely oversees transport services, we have seen the opposite, as the number of trips has risen from 1 billion to 2 billion since the 1980s.

If we accept that untrammelled markets can have negative impacts on society, then we accept the case for regulation. The next question is often framed in terms of extent: should we have more or less regulation? This is important to get right. We must have the right level of regulation to protect citizens in the face of highly complex and evolving markets. We must ensure that regulation stands in the shoes of consumers, making their world safe and fair in areas they cannot control for themselves. We certainly must not see deregulation as an end in itself. Less does not equal better.

Although we must not place undue or unnecessary pressures on business, we must not, as we too often hear from parts of the other side, dismiss all regulations as “burdensome red tape” and seek a minimalist approach. On that note, I would be grateful if the Government would confirm whether they support the view of the Red Tape Challenge initiative that EU regulation 305/2011, which aims to harmonise construction material quality across the EU, including external cladding, is a “red tape folly” which is “expensive and burdensome” for business.

Indeed there is a bigger question than whether we need more or less regulation, which has been touched on in the debate, about the quality of the regulation.

Yes, we want the right level of regulation, but above all we want good regulation. Health and safety rules, at their core, are about saving lives. To be effective, they must be well evidenced. They must be flexible enough to deal with new techniques and new technologies. We are fortunate in this country to have the Health and Safety at Work etc. Act 1974, which has at its centre the requirement to reduce risk to as low as reasonably practicable. As far back as 1974, the importance of proportionality was understood—proportionality is the key to safety and good regulation.

Of course we must achieve a good balance between enabling businesses and the economy to grow on the one hand and protecting consumers on the other. Consumers are vulnerable if regulations do not exist, or are not monitored and enforced. Where we fall into a trap is when we see those aims in opposition. In reality they are complementary, and as far as possible government should work with business to design and enforce regulation. In this way, regulation can be both pro-business and pro-consumer—indeed, it must be. Although many noble Lords have pointed out the costs of deregulation to public services, we must equally point out the benefits of good regulation.

A sound regulatory framework depends on clear communication about the purpose and importance of the rules. This is no easy task, especially when many wish to undermine the case for regulation for their own purposes, but it has never been more important to make the case for good regulation and to rebuild trust in both government and business, which is at a record low. Part of the challenge is to inject more transparency, and clear lines of accountability, into our regulatory framework. One reason why so many feel powerless in their lives is the steady dilution of accountability. No one is ultimately held responsible, and no one knows who to turn to for redress. This is compounded by rules preventing proper scrutiny of private contractors who profit from public funds. A more accountable and transparent regulatory regime can play a crucial role in returning a sense of power and control to people’s lives.

Those who believe in the good that regulation can do must be especially vigilant in the context of Brexit and the powers proposed in the repeal Bill published today. As the Government aim to convert 40 years of EU regulation into UK law, it is vital that those regulations are made properly applicable and enforceable in the UK. I have not been reassured by a series of Written Answers provided by the Government to my noble friend Lady Hayter. There are 1,369 directly applicable EU regulations that apply just to consumer issues, 191 for health protection, 728 for transport, and many thousands more in related areas. Without converting these with proper scrutiny, we will be left with gaping holes in our regulatory system in many crucial areas that protect lives. Will the Minister update the House on how many of these directly applicable regulations have so far been redrafted so that they can be applied outside of EU membership? When may we see those redrafts?

My noble friend Lady Andrews rightly underlined the Red Tape Challenge, which ran until April 2013, and which the Government boldly estimated would

make £10 billion in savings. I reiterate her call for the Minister to give an updated figure on how many regulations have been scrapped and what is the final total of savings calculated as a result of this measure. Further, I would value a categorical assurance that consumer, environmental and societal protection has not been diluted by these savings.

Most of the contributions from noble Lords were in support of the general theme that my noble friend Lady Andrews set out. I liked the openness with which my noble friend Lord Whitty agreed to be part of the nanny state. I am afraid that I cannot agree with the noble Lord, Lord Patten, that one in, three out—or whatever it is—makes any sense whatever. Bad regulations should be eliminated where there are risks in society—

**Lord Patten:** When I talked about one in and three out I was referring to my much-encouraged cull of spads in central government. As the noble Lord's colleague recognises, we were having a little fun at the expense of spads. I was not discussing the general issue.

**Lord Tunnicliffe:** I am sorry if I misheard the noble Lord. I thought he was demanding one in and one or two out for regulations and had not realised that one in, three out was solely for human beings.

Other noble Lords made some important points. The noble Lord, Lord Stunell, touched on a concept that I have come across in my professional career, which is the idea of having clarity on who is responsible and on the duty of care. My noble friend Lady Young touched on the whole idea of principles. If the principles and themes are debated and got right, the regulation becomes sensible in itself. I liked the approach of the noble Lord, Lord Best, which in my professional career I have found true: getting the regulation right, and then firms and businesses applying it sensibly, means that you will get safer, better operations, and, in the long term, quality in safety and in the environment. Quality pays. My noble friend Lord Hunt touched on the fact that good companies like good regulation—they know the rules of the game and that regulations keep out the freeloaders. The noble Lord, Lord Smith, thoughtfully ran through the tremendously positive impacts that regulations have on the environment, which is extremely important. Like my noble friend Lady Crawley, I too regret that our better-regulation efforts have turned from better regulation to less regulation. It should be about better regulation.

My professional career has shown that regulation, in general, is not burdensome. In general, it requires management to be better and more effective; it makes the world safer, cleaner and fairer; and it means that good managers thrive and that those businesses are not only fairer and safer but more efficient—and, at the end of the day, more profitable.

1.43 pm

**The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Prior of Brampton) (Con):** My Lords, I thank the noble Baroness, Lady Andrews, for tabling this debate, which has been of an exceptionally high standard—

**Lord Curry of Kirkharle (CB):** I apologise to the House for not having put my name down and missing the opportunity to contribute to this debate. However, I would like to make two comments. First, as the noble Baroness, Lady Young, stated, I chaired the Better Regulation—

**Viscount Younger of Leckie (Con):** There was an agreement that the noble Lord might wish to make an intervention at some point during the closing speech, but not at the very beginning. If he wishes to, he will be able to do so, but it should be short and during the closing speech.

**Lord Prior of Brampton:** I have forgotten where I had got to. The noble Baroness, Lady Andrews, raised a rather existential question at the beginning of her speech when she asked, “What kind of state do we want to live in?”. Many noble Lords on the other side may be thinking about that at the moment, as noble Lords on our side may also be. I heard the Mayor of London on “Newsnight” last night talking about London and the tale of two cities: the invisible people as well as the visible people. This awful tragedy at Grenfell goes far beyond the narrow issues we have been talking about today. It asks all of us what kind of state we want to live in. However, I take issue with one point the noble Baroness made, when she said that we were ideologically opposed to regulation. As someone who was chairman of the Care Quality Commission for several years and has been quite heavily involved in education for many years, I can tell the noble Baroness that we are not ideologically opposed to regulation; I will address that issue later on in my speech.

I will go further than that and say that regulation is essential to any civilised society. The noble Lord, Lord Whitty, referred back to Lord Shaftesbury. I had hoped that Lord Shaftesbury was a Tory, but I note that as it happens, he was a Whig. However, many former Conservative Prime Ministers throughout the Victorian age were at the forefront of bringing regulation into the factories, to chimneys and the like. So let us be absolutely clear that regulation has a long and proud history and that it is an important and crucial part of improving people's lives. That does not mean, as a number of noble Lords said, that all regulation is perfect, or that some regulations have gone beyond their sell-by date. All regulation needs to be kept under constant review.

We have heard a number of examples from the environmental field, particularly from the noble Lord, Lord Smith, and there has been no question that regulation has achieved hugely beneficial things. The noble Baroness, Lady Young, mentioned beaches and water quality, as well as air quality and the like. There is no question that regulations have had a huge impact to the good in that area. However, the noble Baroness is concerned within the context of Brexit about some of the principles that underlie some of that EU regulation. For example, she mentioned the principle that the polluter pays. There is nothing to stop us incorporating that as a principle in our future environmental legislation here, and in a post-Brexit world we can carry on many of the good things that have come out of Europe, of

[LORD PRIOR OF BRAMPTON]

which there are many. The noble Baroness mentioned pollution in the inner Thames. The Thames tideway project will remove 60 million litres of raw sewage out of the Thames, and we can do that both in or outside Europe.

**Baroness Young of Old Scone:** It is slightly fishy that action on the tideway happened only when Europe threatened to fine us.

**Lord Prior of Brampton:** Europe has brought us many good things.

**A noble Lord:** Hear, hear.

**Lord Prior of Brampton:** I do not think that there is any doubt about that on all sides of the House; even people who were supportive of Brexit will accept that Europe has brought us some good things. One of the criticisms has often been that we have gold-plated things that have come out of Europe and made them stronger.

On the subject of Europe, as it happens, I just received a “Dear Colleague” letter from David Davis, and it is worth reading just one paragraph. He says that the repeal Bill,

“ensures, as far as possible, that the same rules and laws will apply on the day after exit as on the day before. For business, workers and consumers across the UK this means that they can have confidence that they will not be subject to unexpected changes on the day we leave the EU ... This Bill is not a vehicle for policy changes”.

It is worth making sure that that is on the record.

Turning back to regulation, it needs to be kept under constant review. Products change, technology changes, and, more than anything, people’s expectations change. The noble Lords, Lord Whitty and Lord Hunt, went back 30 or 40 years, and all Governments, rightly, while not obsessed with the need to review regulation constantly, have taken it seriously. A fault of regulation is that although it can drive up quality, it can also level down to minimum standards. That is one of the reasons why it has to be constantly reviewed, because what was acceptable 30 or 40 years ago may not be acceptable today. That is one of the reasons why regulation needs constant revision.

What has been the recent history of keeping our rulebooks and regulation up to date? Over the past 20 years, all Governments of all parties have been working consistently on getting the delicate balance right between the costs and benefits of regulation, developing a number of tools and institutions to make our rulebooks the right ones to have. The tone that has surrounded the debate about regulation has not been a happy one. Regulations and those who enforce them have been subject to caricature and ridicule. The culture that has surrounded regulation has not been very constructive.

In 1997 the Labour Government set up the Better Regulation Task Force. I think it is worth stressing the word “better”—it was better, not lesser, and that has been a consistent theme for the past 20 years. The Better Regulation Task Force identified the basic tests

of whether any regulation is fit for purpose, which were set out by the noble Baroness, Lady Crawley: proportionality, accountability, consistency, transparency and targeting. The only word I would add is “intelligent”. There are times when regulations have ticked the box but entirely missed the point. Regulations need to be enforced intelligently. Sometimes more is less.

March 2005 saw the creation of the Better Regulation Executive and the publication of the Hampton report, which led to the introduction of the Regulators’ Code in 2008, which asks regulators to perform their duties in a business-friendly way, by planning regulation and inspections in a way that causes least disruption to the economy. At the same time the Government adopted a target to reduce the administrative burdens of legislation, such as form-filling, by 25%. The rule that has attracted the most criticism today is the coalition Government’s one-in, one-out rule, which later became one in, two out. I should say that in taking two out, they did not have to come from the same area: if you introduced one regulation on safety, you did not have to take out two relating to safety. The coalition also introduced the Red Tape Challenge initiative to tackle the stock of regulation by asking the public to help identify outdated, unnecessary or overly complex legislation.

I argue that these initiatives have delivered some real improvements in how people, business and public bodies are regulated. This includes the removal of some outdated and rather bizarre rules, such as the requirement for childminders who feed children in their care to register as a food business, or the ban on teenagers buying Christmas crackers. But it has also seen the removal of a huge amount of unnecessary form-filling, as well as simplification; for example, 37 million vehicles no longer need a paper tax disc, and small firms do not have to do full audits on their accounts, saving them some £300 million a year.

Of course, in the light of the awful tragedy at Grenfell, we are looking at regulation anew.

**Lord Curry of Kirkharle:** My Lords, I thank the Minister for giving way. He has reached the point in his speech that is relevant to the comments I want to make. As the noble Baroness, Lady Young, indicated, I chaired the Better Regulation Executive during the coalition period from 2010 to 2015, so was responsible for the one-in, one-out and one-in, two-out process, and the Red Tape Challenge programme. It is important to bear in mind that in 2010 business attitudes in Britain were very negative about regulation. We regularly carried out surveys and in 2010 62% of businesses regarded regulation as a barrier to progress and expansion. By the end of that period, that had dropped to 42%. We did that, as the Minister indicated, without putting lives at risk. It forced departments to really review their stock of regulation and to consider regulation that had become outdated and irrelevant. As a cleansing exercise it was a very effective process. I have to say that I was never responsible for one in, three out, which I believe is a step too far, and even one in, two out can be administered for only a short period to allow departments to really look at their stock and, having done that, to move on. The change in business attitudes to regulation in Britain is really important as



we face Brexit. We want Britain to be an economy where businesses want to be located, grow and expand, and we need to encourage that thinking.

**Lord Prior of Brampton:** I thank the noble Lord for that intervention. It is worth noting that over this period, in which a significant number of regulations were taken off the statute book, public safety has improved significantly; for example, the number of fatal injuries in the workplace has halved over the past two decades. Deregulation and public safety are not necessarily contradictory. Throughout this time successive Governments have continued to bring in new regulations when they are necessary, including the licensing of security staff, the mandatory wearing of seatbelts and banning smoking from workplaces. Whenever there has been a public safety or public health issue, the Government have not been slow to bring in new regulations.

How regulation is delivered is just as important as having the right protections in place. My department works with regulators and businesses to support good regulatory delivery so that regulation works in practice. That is one reason why the number of businesses that object to regulations has dropped from 62% to 42%. Good regulatory delivery is not about less enforcement, nor necessarily about a light touch. It is about having competent regulators, being outcome-focused and having regulatory activities that rely on a robust assessment of risk. Those are the principles that underpin good regulatory delivery. It is not about officious box-ticking.

There has been a strong focus in government, in this and previous Administrations, on improving how regulators deliver the protections they are responsible for. Regulators must have regard to the Regulators' Code, introduced in 2008 and updated in 2014. It is a principles-based framework for how regulators should engage with those they regulate. It requires regulators to consider risk and to be transparent about their activities and expectations. It applies to nearly all regulators across the UK, including fire and rescue services, trading standards and national regulators such as the Health and Safety Executive. Regulators know the industries they work with and the outcomes that they need to deliver, whether that is the safety of premises or the labelling of foods. Through robust risk assessment they can identify and target the highest risks more effectively and make the most difference.

I think the crux of today's debate is whether the pendulum has swung too far in one direction or whether we have got it about right. That is a matter of judgment. Of course, the awful tragedy at Grenfell will make us rethink some of these issues. I hope it will change the culture that surrounds the way we look at regulation. It is worth repeating the words of my right honourable friend Damian Green, when he said yesterday in the House of Commons:

"The Department for Communities and Local Government and the Cabinet Office are working together across the piece and on the wider building safety programme, about which I know hon. Members on both sides of the House are concerned ... DCLG has formed an expert advisory panel made up of a range of building and fire safety experts to advise the Government on any immediate action required to ensure that buildings are safe".—  
[*Official Report*, Commons, 12/7/17; cols. 316-17.]

The panel will certainly take into account the words of the noble Lords, Lord Tunnicliffe and Lord Stunell, who both made very interesting observations about how we can improve safety regulations in buildings.

This debate will carry on into the future. I feel that the balance we have achieved over the past 20 years has been about right. It is now time to think afresh about how we approach regulation and certainly time to stop demonising those people who are involved in the enforcement of regulations.

1.59 pm

**Baroness Andrews (Lab):** My Lords, I am very grateful to everyone who has taken part. I said that I thought that this would be the start of a wider debate on the state of the nation and the nature of attitudes towards regulation, and so it has turned out. I note that in concluding, the Minister said that he hopes that Grenfell Tower will indeed change the culture around regulation, and I hope that that is the case. It is up to the Government, essentially, whether that happens.

I thank all noble Lords for their incredibly thoughtful and informative contributions. I say to the noble Lord, Lord Patten, that there was wide consensus around the House that the attempt to introduce effective, proportionate regulation started with the Labour Government, but there was also a sense around the House that there has been a step change to a more aggressive culture. The Prime Minister has learned of the absurdity and perversity of the process and outcomes of some of the ways in which the one in, three out rule has been interpreted. I was particularly grateful for the contribution of the noble Lord, Lord Stunell, his frank and thoughtful account of his time as a Minister, and his proposition on building inspection responsibility.

I asked the Minister four questions; none of them has been answered. I understand why two of them were not. They were about the review of regulation, although he gave some illustrations of outcomes. I should be very grateful if he would answer them as best he can, especially the invitations to the organisations that I mentioned.

**Lord Prior of Brampton:** I am sure that I can address those questions. On the meeting with the two groups of people that the noble Baroness suggested, I would be very happy to do that, but I think it would be best if they met my noble friend Lord Bourne from the DCLG, rather than me.

**Baroness Andrews:** I understand and am grateful for that.

In conclusion, Brexit raises huge problems, some of which have been identified today, in terms of transposition and enforcement. I go back to where the noble Lord, Lord Best, started: when we have effective regulation, high standards and high ambitions for the quality of public services—what we provide by way of housing and everything else—we are actually doing a service to the economy as well as to the community. That should be our ambition; that should be what we want government to do; that should be what we want the state to do.

[BARONESS ANDREWS]

I am very grateful to all noble Lords who have taken part, some at considerable personal expense, and I hope that this will open up a debate which we will continue, particularly as we face the prospect of Brexit. I beg to move.

*Motion agreed.*

## **Public Sector Pay Cap** *Question for Short Debate*

2.02 pm

*Asked by Lord Haskel*

To ask Her Majesty's Government whether they intend to review the one per cent cap on public sector pay.

**Lord Haskel (Lab):** My Lords, we have been through difficult times these past few weeks. The response of our police, fire and ambulance services, our security and social services, our hospitals and our doctors has been absolutely outstanding and inspirational. But when we realise that, because of pay restraint, their earnings have effectively decreased in recent years, some of us feel a little bit awkward—not to say hypocritical. That is why in recent weeks, this topic has generated lots of heat but very little light.

As a result, I thought that noble Lords on all sides of the House would welcome a more measured debate that generates more light than heat, because these events remind us how much we depend on our public services. In 2015, the Chancellor announced that the Government would fund public sector workforces for a pay award of 1% for four years. In the debate on the Queen's Speech, the Government voted down a Labour amendment to end this 1% pay cap. Self-inflicted heat was generated when, despite this, anxious Ministers concerned about recruitment and retention in their departments pressed for pay rises above 1%. They referred to the recommendations of the Government's independent pay review boards. More heat is generated because of the obvious split in the Cabinet, with the Chancellor taking a firmer, more rigid view. Conservative Home adds to the heat by telling us that this behaviour is manoeuvring for the leadership of the party, and tweets create yet more heat by referring to finding £1 billion on a money tree in Belfast.

So let us see whether we can throw a bit more light on the subject. To do so, we need to know that there are eight pay review bodies, mainly covering the vocational part of the public sector, which recommend pay levels in their sectors. They take evidence and send their recommendations to the Government. They were originally created to avoid protracted disputes but, since 2010, when inviting them to make their recommendations, the Government have also told them what they expect the results to be. When you do a management course, lesson one is: do not blur the lines of responsibility and accountability. Otherwise, you cause confusion and irritation, which is exactly what has happened. Either we have pay set by the review bodies, or by the Government. The current system blurs responsibility, creates dissatisfaction and certainly does not help to produce a thriving public service.

The letter to the review bodies setting out their work for 2018-19 will soon be going out. What will it say: to review pay by looking at the evidence, or not to bother, because of a cap of 1%? In France, public service pay is determined by central government, but at least that is honest.

Many think that this dismissive attitude towards pay review bodies stems from years of ideological assault on public services: private good, public bad. But we have learned that even when public services are contracted out to the private sector, it costs taxpayers more than they think. It is estimated that nearly 1 million low-paid private sector workers actually work in outsourced public service jobs—social care, school staff and hospital service staff. Many of the contracts to supply those services were won on the basis of low pay, so it is not surprising that most of those 1 million workers rely on tax credits to make ends meet. So the taxpayer pays in the end, but from another pocket.

Lifting the pay cap may enable public sector employers to provide better value by being better employers, instead of contracting out to employers subsidised by tax credits who rely on the minimum wage.

Both manifestos in the recent election spoke of the state becoming more active: more active government. One reason why this Government have put a cap on public service pay is that productivity, on average, is static—in the public and private sectors. In his Statement last Wednesday in reply to a question on productivity in the public sector, the Minister replied in terms of growth. What he did not say is that many workers are now more expensive to employ per unit of output because of low productivity, and that is why there is a pay cap. Yet the Government have an industrial strategy partly designed to deal with this. Can we not review this strategy before the White Paper is issued, with particular reference to raising productivity in the public sector as a means of removing the pay cap?

Charlie Mayfield's report on Tuesday, launching a movement to raise productivity through better management and skills, applies just as much to the public sector as to the private. Is the public sector working with the catapults or with Innovate UK? My inquiries say, only indirectly. I put it to the Minister that this is a much more constructive narrative than having a pay cap, and that it is within this narrative of greater productivity and improved public services that one can speak of tax rises. Surely they will be inevitable. Within this narrative, one can justify continuing to broaden the tax base, as the Government are already doing on expensive homes and flats. They can extend council tax beyond band H and bring heavier taxes on activities which damage the environment. That makes sense in this changed narrative of better public services. It makes a lot more sense than a pay cap.

Some compare pay in the public and private sectors. It is complicated but a recent paper from the National Institute of Economic and Social Research shows that, taking into account pensions and other benefits, pay restraint has meant that public sector workers have lost 12% since 2010 while private sector workers have lost 2%. So, the pay of public and private sector workers has now become more or less equal.

It was not surprising that on Monday we received a report from the education review panel drawing our attention to serious staff shortages and recruitment and retention problems. We had reports of 96,000 teachers taking strike action in the 12 months to May. We have had similar warnings in health, care and local authority services. Cabinet Ministers are rightly worried about this in their own departments, yet the Treasury's official position is that the 1% pay cap holds.

I have tried to point out the dishonesty of and damage caused by hiding behind the pay review bodies. I have tried to point out the cost to the taxpayer in money terms and inferior public services, and how caps can lead to cuts, and I have tried to point out what can be done about it by a Government who believe in action. I look forward to hearing what other noble Lords and the Minister have to say.

2.12 pm

**Lord Monks (Lab):** My Lords, the Prime Minister called it correctly at the Conservative Party conference when she said:

“Our economy should work for everyone, but if your pay has stagnated for several years in a row and fixed items of spending keep going up, it doesn't feel like it's working for you”.

She was right then, but she is wrong now, as she and the Chancellor refuse to lift the cap on public sector pay. So I am very grateful to my noble friend Lord Haskel for initiating this debate and highlighting the yawning gap between words and actions. I am just sorry that not more Members of the government party are present to keep the Minister and his Front Bench colleagues company today.

It is not just public sector workers who are affected. It is evident that real earnings for the many have been falling since the financial crash of 2008. It often seems that the implosion of our banks then has led to an explosion of food banks now. British workers, according to the OECD, are languishing at the bottom of the pay increase league, and this is before the effects of Brexit are felt fully. The Government need to listen to the TUC's campaign that Britain needs a pay rise. A decent living on offer to all public sector workers should be and must be our goal.

There was a time when the Government saw it, as part of their role, to set a good example as a good employer. That no longer seems to be the case. We have seen seven years of pay freezes and caps, meaning that on average the public sector worker is £2,000 worse off in real terms. Nurses, for example, are £3,000 worse off. The effects on morale are obvious, and the effects on recruitment and retention are becoming obvious. Just recently, we have seen plummeting numbers of applications to join the nursing profession, and a rising number of teachers are leaving theirs. A cap of 1% and an inflation rate of 2.7% is a recipe for disaster. Something must give, and it should be the cap.

A recent wide-ranging survey by UNISON found an increased rise in usage of debt advice services, pawn shops, payday loans and food banks. It is very graphic and it is certainly a sorry story. My plea today to the Government is that the cap should be lifted and there should be restoration of collective bargaining and the

restoration of autonomous pay review bodies, maybe reformed a little bit—the productivity area is one they could usefully look at more than they do. The Government should also introduce a living wage for public sector workers.

It is not a question of not being able to afford a pay rise for public sector workers; we cannot afford not to give public sector workers a decent pay increase. They certainly deserve it, and we depend on them.

2.16 pm

**Lord Adonis (Lab):** My Lords, I want to ask the Minister two specific questions, of which I have given him prior notice. Do the Government believe that average salaries of £275,000 for England's vice-chancellors are justified? What do the Government intend to do to cut vice-chancellors' pay?

I specifically refer to the University of Bath. Bath is a mid-ranking university among the UK's 130 higher education institutions. It has barely a fifth of the income of the University of Cambridge. A majority of that income comes from tuition fees, and most of the rest from state research grants, so students and the Government have a predominant interest in the university. This year, the university is paying salaries in excess of £100,000 to 67 staff. Of those 67, 13 are paid over £150,000.

Last year, the vice-chancellor earned £406,000. This year, despite the 1.1% cap on pay for non-managerial staff across the higher education sector, the vice-chancellor's pay rose by 11%, to £451,000. On top of this, the vice-chancellor, Glynis Breakwell, earns £27,000 from three non-executive directorships, which she apparently has time to undertake alongside being a full-time vice-chancellor. She also has a large house in the historic centre of Bath—a benefit in kind worth £20,000 a year. Put all that together, and Glynis Breakwell is paid almost exactly half a million pounds—more than three times the Prime Minister's salary.

The University of Bath has a remuneration committee and governing bodies to decide these matters and prevent abuse. The problem is that the governing council is mired in controversy over this precise issue. In February, after an intense debate, the university court voted by the narrow margin of 33 votes to 30 not to censure the remuneration committee. However, that majority of three included the vice-chancellor herself and the very members of the remuneration committee whose conduct was in question. I have been contacted by many members of the university, staff and students. One member of the court has written to me, and has given me permission to quote his words to the House. He says:

“I find the failures of governance and unchecked self-serving senior management to be sources of nauseating embarrassment and inevitable reputational harm to a university otherwise comprised of wonderful, hard-working, and dedicated students and staff”.

If this is not a case for HEFCE and the Government to intervene, I do not know what is.

People often say that top pay is only one brick in the wall and it does not make much difference to the whole edifice what people at the top are paid. However, this is to miss the crucial point that top pay is just the apex of the pay structure, and it determines

[LORD ADONIS]

what happens across senior management within an organisation. The fact that the vice-chancellor is paid £500,000 makes possible the pay of more than £100,000 for the 66 others at Bath University whom I mentioned. Take those 67 salaries together, and the total is £8.7 million. That is £8.7 million out of the university's budget of £283 million—a sizeable chunk. If that £8.7 million were halved, it would save £4.4 million—the budget of many secondary schools.

A final point is that the highly paid should set an example, particularly at a time of pay restraint. The only example the vice-chancellor of the University of Bath is setting to her staff is one of greed. That is not my idea of a university; I doubt it appeals to your Lordships either. So I hope the Minister will tell us what the Government will do to stop it.

2.20 pm

**Baroness Dean of Thornton-le-Fylde (Lab):** My Lords, I thank my noble friend Lord Haskel for this starter debate, as I hope it is, on a very topical and important issue. There has been much publicity in the press, and during that publicity there have been a number of statements saying that public sector workers, covered by the various review bodies, have an independent review body, and that it is up to that body to say what the increase should be. That is not the case. I was formerly chair of the Armed Forces' Pay Review Body. The Government give clear guidelines, and the review body's report this year says that the funds available to the MoD, set out by the Government, must be taken into account.

Our Armed Forces have been limited to a 1% increase this year; we are told that that is going to be followed for the next two years, as it has been for several years now. Of course, that has had an impact. Our Armed Forces, until recently—and day after day we read about the deaths—have been carrying out their normal, day-to-day work, mainly in the Middle East and some in Afghanistan. It is wrong that we should treat them in this way, because it is not the right thing to do and because it has a detrimental impact on us as a community. It has led to voluntary departures being historically high from the Armed Forces at a time when they are operating at 4.4% below the manning levels that were set and when their targets and operational requirements have increased. Indeed, we had a Statement today about Daesh in Syria and Iraq. Our people are out there now in the RAF risking their lives, day in and day out, yet their morale is not as it should be.

We have heard from my noble friends—and I, too, regret that we do not have any contributions in this debate, which affects our country, from the other side of the House—about how the Government will not be reviewing the cap. Yet the reality is that we have a split Cabinet; some in the Cabinet feel that it should be reviewed, and they are right. In the 2016 *Armed Forces Continuous Attitude Survey*, just 12% thought that morale was high. If that was a private employer, a few heads would be being counted to go. That means 12% are working day in and day out, sometimes risking their lives, while knowing that the accommodation that their families are in back home is below par in too

many instances. Indeed, families are complaining about what they are living in. Temporary operations and gapping and overstretch against increased targets all cause low morale. Officers in the Armed Forces have expressed concerns about the apparent inability of the MoD to say no to extra tasks, even when its people appeared to be at breaking point. Those junior officers were concerned because it would affect their career prospects if they spoke out.

We have the Armed Forces covenant and Armed Forces' Pay Review Body, which is supposed to be independent, but its hands are tied. This is no fair way in which to treat public sector workers in our Armed Forces. That is a case that will be made continually. I know that my noble friend Lord Touhig made it in the opening debate yesterday. It is wrong; the discussion should be transferred to the Armed Forces' Pay Review Body, which I think will do a fair deal.

2.24 pm

**Lord Cashman (Lab):** My Lords, I join my voice to those who are calling for the public sector pay cap of 1% to be lifted. I apologise in advance to my noble friend Lord Haskel in that I think that I will generate heat rather than shed light. I have read the debates in another place and elsewhere, and I find it infuriating to read time and again praise rightly heaped on our public service workers, only to be followed by myriad excuses for not paying them properly or rewarding them even adequately for the work that they do on our behalf. As Shakespeare rightly wrote in *King Lear*,

“Nothing will come of nothing”.

My fear is that we will continue to drive people away from working in our public services, we will exhaust their good will and their vocational qualities, and we will witness public services suffering as a result. The people who work in all our public services are the weave and fibre that hold our society and our different communities together. In extremis, we rightly recognise and applaud them, but let us remember, too, that they undertake their work day in, day out, often unseen, unnoticed and unrecognised, and sometimes pilloried by a judgmental press when things and matters go awry—never more so in the case of social workers, the brunt of tabloid attacks, stereotyping and misrepresentation. Social workers are often called upon to weave the fabric of society back together.

Public sector workers operate in extremely difficult circumstances and often with diminishing departmental budgets. They work unsociable hours and carry out unsociable work that many others would not undertake. Sadly, I have witnessed at first hand when the workforce feels unrewarded, unnoticed and demotivated, when that public service crumbles into dysfunctionality.

So I call on the Government to be magnanimous and lift the 1% pay cap. We can afford it, and we can find the means, as my noble friend Lord Haskel said—and if we cannot, we must ask ourselves why. Why do we demand world-class, vital public services and expect them on the cheap? We must step up to the plate and reward our public service workers instead of relying on their good will, good faith and sense of public duty. That means a commitment to fair pay rises, too. We must no longer try and do things on the cheap. Failure

to take action now, and to signal that we will match praise with financial commitment, will inflict long-lasting damage on our public services across the board.

2.27 pm

**Baroness Blackstone (Lab):** My Lords, I want to start by making a general point about setting a five-year pay cap. It is an unsustainable policy, because it is rigid and cannot be easily adjusted according to changes in economic circumstances. When the decision was made to have a 1% cap, inflation was extremely low. Indeed, there were fears of deflation and high unemployment. Moreover, private sector pay levels had still not recovered from their downturn following the earlier economic crash. None of those conditions applies today. Indeed, the pay of many public sector employees has already been eroded by rising levels of inflation and staff shortages are occurring in key areas, such as health and education. In spite of teacher shortages and growing evidence of teachers leaving the profession, the Government have just announced a 1% award. The 1% cap is too crude a method of pay restraint; it is unfair in its impact on the public sector workforce. As several other speakers have said, it constrains what the independent pay review bodies can say, leading to a question of how independent they are.

I want to focus on one important group of public sector workers—nurses. As a member of the Select Committee on the Long-term Sustainability of the NHS, I was impressed by the evidence that we received on the central importance of the sustainability of the NHS workforce. Failure to address the interlinked issue of nurse numbers and staffing standards with pay policy poses risks to the NHS and the quality of the care that it provides.

Does the Minister accept the following facts? Between 2010 and 2017, the pay of health service workers in general, and nurses in particular, has been eroded by inflation, falling by 6% in real terms while, in the economy as a whole, it has fallen by only 2%. If the current cap continues, after inflation forecasts are taken into account, pay will have been cut by 12% in real terms for band 5 and above staff in the decade 2010-20. There is now a shortfall of nurses, particularly caring for adults, of 22,000, which is nearly 10% of the workforce. Does he also accept that the shortfall could increase to 15% of the workforce, unless there are changes in policy?

With respect to the supply of nurses, does the Minister agree that the decision to abolish grants for students doing nursing degrees has led to a large decline in applications for these courses, which has been confirmed in the latest UCAS figures, which came out just this week? Does he agree that Brexit will create further supply problems because, as far as the recruitment of nurses from Europe is concerned, there has already been a decline in the numbers wishing to come to work as nurses in the UK?

This really is a very serious situation, which is likely to lead to an unacceptable decline in the quality of care in our National Health Service, in a context where the demands on it are growing to unprecedented levels, mainly as a result of an ageing population. The situation in psychiatric hospitals, other mental health

settings and learning disability settings is particularly worrying, since the percentage decline in the number of nurses there is considerably greater than in acute hospitals. The Government have pledged to attach greater priority to mental health, yet this is happening under their watch.

According to the Royal College of Nursing, just last year, in 2016-17, 45% more UK-registered nurses left the register than joined it. This puts greater pressure and stress on those who remain, who feel that they cannot do the kind of job that they want to do, and on medical staff. This in turn leads to further resignations. The NHS needs a pay policy that enables it to recruit, retain and engage the workforce it requires in order to succeed. The cap on public sector pay must be removed, and it is urgent that this happens.

2.32 pm

**Lord Sawyer (Lab):** My Lords, I also thank my noble friend Lord Haskel for initiating this debate.

With my union, the National Union of Public Employees, I spent a working lifetime thinking about how to help public service workers to improve their pay and conditions and how to be properly and fairly valued by the people they served. Back in 1970 when I started, with the so-called “dirty jobs” strike we thought that the conventional method of strike action, which at that time seemed to be so successful in the private sector, was the way forward. It was not until 1979 and a much bigger dispute—the so-called winter of discontent—that I personally came to the conclusion that strikes as we had pursued them in the past no longer worked. The big thing to do was not to win a strike but to win the battle of public opinion.

One good example of how this was achieved was in 1989, when the late Roger Poole led a team of negotiators into a pay round on behalf of ambulance personnel against the Secretary of State for Health, Kenneth Clarke. This dispute was not fought on the picket line but on the television screens—in every home in the country. Some 4 million people signed a petition of support for the ambulance workers. They won a 16.9% pay award—amazing—and, more importantly, the ambulance staff who were on the road took the proper paramedical status that they had always wanted, but which, sadly, they had to take industrial action to achieve. Roger Poole was voted the No. 2 man of the year on the Radio 4 “Today” programme, and Kenneth Clarke, as noble Lords would expect, crept away with good will and good grace. Why do I tell the Minister this story? Why do I want him to pass it on to his colleagues in the Government? It is because I believe that today we are in a similar position with the pay review boards. Luckily for the Minister, he is not facing Roger Poole, but he should heed the lesson: public opinion is very much against what the Government are doing with these pay review bodies. He should make clear now, if they want to make any headway, that the Government intend to lift the cap.

Unfortunately, however, this will not be enough. If the Government want to regain public support, they will have to do the right thing; they will have to show the public that they understand the pressure and hardship faced by public service workers, including the majority

[LORD SAWYER]

not covered by pay review bodies. They will have to do that by looking seriously at the stresses and strains that public service workers work under today, including in the caring and nursing professions. The Minister has only to look at the article by Dr Rachel Clarke in yesterday's *Guardian* or today's *Telegraph* to see from an independent, non-political perspective what people are going through in the public services. Do not listen to the politicians but to the people—they are telling the Government what they want them to do.

Before I sit down, I will give the Minister one more lesson about how to go forward and how to do something for more than the pay review bodies. He should look at how a large group of staff in the National Health Service negotiated a very good settlement in 2003. The unions were represented by a man called Bob Abberley and the Government by Alan Milburn. The unions set out to improve the pay and conditions for a large group of public service staff and also, as has been mentioned in the debate today, to improve productivity in the health service. Pay and conditions and improved productivity go together. This was the Agenda for Change, a ground-breaking agreement in the National Health Service, the principles of which could even be applied today. If I picked up the phone, I think I could get Bob Abberley to come back to help today—I do not have a more generous offer than that.

I ask the Minister to look at how these things can be done and how they were done in the past and not to squander the immense good will that has been built up between the public service workers and the community, in places such as Manchester, but shared right across the country, and assure noble Lords that, by listening to what is happening in the real world, the Government intend to take things forward, help public service workers and help the communities that they serve.

2.37 pm

**Baroness Kramer (LD):** My Lords, I begin by picking up the issues raised by the noble Baroness, Lady Blackstone. She pointed out that, when the pay freeze later relaxed and the 1% pay cap was brought in, it was at a time of fiscal crisis; the economy was in dire straits and the expectation of the Government was of rising unemployment and, potentially, deflation. It was in that context that these measures were brought in. Although of course, during the coalition years, there were cuts in public services, these measures limited the number of people in the public services who lost their jobs and protected against a fair amount of unemployment. But, as the noble Baroness, Lady Blackstone, pointed out, we now live in an entirely different period. We are facing chronic labour shortages in key parts of the public sector and, because pay is now back to the same levels as the private sector, the public sector has to compete aggressively for the kind of talent that it requires to deliver the quality of services that our consumers expect. Yet our public sector workers are facing erosion from real inflation, which is now beginning to bite and is pushing up towards the 3% mark. So the set of circumstances is entirely different. As the Minister will know, there was no intention that any kind of pay restraint would continue beyond one Parliament. This surely has to be

the time to completely rethink what has become a completely inappropriate policy.

I pick up on the issue raised by the noble Lord, Lord Cashman. The public sector is praised, quite rightly, in times of crisis for the heroic work that it delivers but it is certainly true—and I think it sticks in the gullet for quite a few of us—that when the Government have had a choice on where to spend money, it has not been on public sector workers. However, we have had significant cuts in corporation tax—I can never see a justification for a cut below 20%—and cuts in capital gains tax, inheritance tax and the marriage allowance. In other words, the praise is heaped upon the public sector worker but the money is shared between completely different groups. It seems to me that there is a time for the Government to align their praise with the way they manage the public finances, and that time is now.

Anyone who works with businesses knows that the ability of any sector to absorb change is somewhat time-limited. Our public services have been through a period of extraordinary change. That creates stress and problems in making further changes. To pick up the point made by the noble Lord, Lord Haskel, we need much greater productivity within our public services but it cannot be done through relentless cutting and relentless pressure. There has to be a period of time for change to be absorbed and for new ideas to come forward. The Government need to look seriously at that issue, which very much ties into their attitude on public pay. The issue of public opinion towards our public sector workers, raised by the noble Lord, Lord Sawyer, also ties into that. I suspect that that is now at one of its highest levels in many decades, as that work has finally been recognised. This creates an opportunity for the Government to work co-operatively with the public—who are in effect consumers of public services—and public sector workers to redesign a system which will work much more effectively for all of us in the future, instead of treating this as a very traditional worker/manager conflict, which is surely outdated.

Relaxing or taking off the 1% pay cap can be done without putting fiscal competence at risk. My party's 2017 manifesto—I went through it with a tooth-comb—allowed the 1% public sector pay cap to come off, but we still balanced day-to-day spending in 2019-20 by rowing back some of the extraordinary tax cuts that had been made which had offered very little benefit. Therefore, there are ways to retain fiscal competence and to achieve what I think is well deserved—namely, the end of what should have been a short-term pay restraint.

2.42 pm

**Lord Tunncliffe (Lab):** I thank my noble friend Lord Haskel for tabling this debate and the powerful manner in which he summed up the issue before us today.

The Government's argument seems to rest on two main pillars: first, that responsibility for public sector pay rests with the review bodies, and secondly, that the cap represents a so-called balance between fairness and affordability.

Let us take the review bodies first. Can we please start by dropping the pretence that they are independent?

They are not. The Government set the parameters of their scope, therefore limiting their scope to make recommendations. As the NHS review body outlined back in 2011, when the cap was first introduced:

“Any constraints placed upon our role limit our ability to assess the full range of evidence on pay and related matters and potentially undermine the parties’ confidence in an independent Review Body process”.

It went on to say:

“During the period of the pay freeze our role is limited”.

This year, the NHS review body said not only that the, “current public sector pay policy is coming under stress”, but that:

“There are widespread concerns about recruitment, retention and motivation that are shared by employers and staff side alike”.

Only this Monday, the teachers’ review body concluded that:

“The number of qualified teachers leaving the profession for reasons other than retirement has continued to rise, and teacher retention rates have deteriorated, including for those with two to five years’ service. The number of schools reporting teacher vacancies and temporarily-filled posts has also increased markedly over the last five years”.

It said that this,

“creates a real risk that schools will not be able to recruit and retain a workforce of high quality teachers to support pupil achievement”.

Last week, during the debate on an Urgent Question in the other place, the Chief Secretary to the Treasury claimed that she respected the “pay review body process”. How can the Government respect the review process while ignoring such concerns?

The second argument the Government fall back on is the need for balance between what is supposedly affordable and fair. But what does this balance look like in practice? As the Resolution Foundation has shown, the Government’s version of balance will mean that some of the poorest people in our society will have 5% less annual income over the next four years while the wealthiest are untouched. How is this fair or balanced?

Apparently, though, this is not all about pay—not when the Government have increased the personal allowance and introduced the so-called national living wage. That argument does not hold up either because, as the latest report from the Joseph Rowntree Foundation shows:

“Pay increases in themselves do little to improve net incomes because they trigger reductions in working benefits, and the income level at which these reductions start has also not risen with inflation”.

Because of inflation, household income for families has fallen 2% in just a single year. Review bodies are not independent and the Government’s policy is not balanced by any definition of the word.

The public sector is the beating heart of our country. It connects each and every one of us to our friends, family and communities. It entrenches in us a sense of worth and value. Those who sustain this effort work tirelessly to maintain the services that are integral to our country. They deserve to stop being taken for granted.

2.46 pm

**The Minister of State, Department for International Development (Lord Bates) (Con):** My Lords, I pay tribute to the noble Lord, Lord Haskel, for securing this debate, and to noble Lords who have taken part in it. In a spirit of trying to shed more light than heat on this issue, I thought it would be useful if, rather than leading off with my set text, I went straight into trying to respond to some of the key questions that have been raised.

A number of noble Lords questioned our commitment to the public services, saying that we were very happy to pay tribute to the workers when crises arose but questioning whether we were backing that up with resource. It will not surprise noble Lords to hear me say that we pay tribute to our public services, particularly given the horrific events that we have seen in recent months. Their performance has been utterly outstanding, as has that of the Armed Forces. How do we respond to that? We respond to the Armed Forces through signing up to the 2% pledge in NATO for defence expenditure, thereby investing in the Armed Forces. We speak up for our nurses and health workers in England, where we have responsibility, through an £8 billion increase in real terms in expenditure on the health service. We have protected expenditure on schools and protected front-line policing. As a result, we have seen that crime is falling, more patients are being treated than ever before and more pupils are being taught in good or outstanding schools.

The noble Lord, Lord Monks, and the noble Baronesses, Lady Blackstone and Lady Dean, spoke about nurses and the issues around nursing. It is absolutely right that the public sector review bodies should take into account the recruitment factors here. It is worth noting that they said:

“We do not see significant short-term nationwide recruitment and retention issues that are linked to pay”.

We have seen an increase of 13,000 in the number of nurses but there are also 52,000 nurses in training. That should be welcomed. The noble Lord, Lord Tunnicliffe, will probably not be surprised that I return to the following point. One needs to make comparisons when one talks about average pay in the public sector. The average pay might be set by a pay review body at 1% in terms of an increase but actual pay settlements in terms of pay progression have averaged between 3% and 4% in the health service. The comparison was made with other European countries. The OECD looked at the purchasing-power parity of the average salary of nurses and found that where, in the index, the UK was measured—

**Lord Tunnicliffe:** Would the noble Lord be willing to share with us by letter the source data for those statements?

**Lord Bates:** I can give that information. It was from the NHS Pay Review Body’s report of March 2017. It said:

“We do not see significant short-term nationwide recruitment and retention issues that are linked to pay”.

Returning to my key point about UK nurses, where the UK is measured at 100 in the OECD index, France, which was cited, is at 84.2. Therefore, I think that average salaries bear some comparison.

[LORD BATES]

I want to turn in particular to the point made by the noble Lord, Lord Sawyer, about the importance of public opinion here—a view that I recognise. The Government are seeking to balance the opinion of public sector workers with that of taxpayers, who contribute to the maintenance of our public services. Frequent mention has been made of comparisons with real wages in 2010—the noble Baroness, Lady Blackstone, referred to that. Of course, 2010 is a particular point at which to make the comparison. The noble Lord, Lord Haskel, will recognise that if you make the comparison with the situation at the beginning of the great financial crisis of 2008-09, you get a different result, because at that point there was a significant reduction in private sector pay, which has recovered recently.

In response to a point made by the noble Lord, Lord Sawyer, taxpayers' confidence is maintained by looking at reductions in the deficit. I know that that may be greeted by groans in some quarters of the House, although perhaps I am wrong about that, but we should bear in mind that the interest that we pay on the debt—£50 billion—is equivalent to the entire pay bill for the NHS. Therefore, it is simply not true to say that macroeconomic and fiscal responsibility does not have a bearing on the public finances. However, it is true to say that at present we have record levels of employment—we have never seen them at such a high level—and that in itself leads to pressure on recruitment in the professions.

It is also true that, because we are seeking to manage the economy well, interest rates are at historically low levels, and that reduces the cost of living. The noble Lord, Lord Monks, and the noble Baroness, Lady Kramer, referred to the fact that inflation has increased to 2.9%, which is outside the target. We believe that that is associated with short-term exchange rate issues relating to last year's decision to exit the European Union and that over time the rate will return to being within the 2% target that we want to achieve.

The noble Lord, Lord Monks, quoted the Prime Minister at the party conference and referred to equity between public service employees' salaries and the taxpayer—a point I mentioned in response to the noble Lord, Lord Sawyer. On 4 July—that is, last week—he said, “It's all coming out of the same pot. Therefore, you have to, as a government, have a view on how much you are prepared to spend on pay and how much you are going to spend on the day-to-day running costs of the services you provide”. That is a very fair observation and we would go with that.

The noble Lord, Lord Haskel, referred to productivity, which I recognise is important. Between 2010 and 2016, total public service productivity is estimated to have increased by 3%, with growth of around 0.5% per year. This represents a longer, sustained period of growth in public service productivity since the start of the series in 1997. We have also invested £13 billion to improve productivity, supporting Charlie Mayfield's work, to which the noble Lord referred.

I am very grateful to the noble Lord, Lord Adonis, for having given me notice of the points he raised, and I want to make sure that they are covered. He asked a

number of questions about pay. I think that the House will have been in some shock as he quoted the numbers relating to public sector pay for vice-chancellors and the specific example of the University of Bath. The answers may not surprise him but I put them on the record. Universities are independent and autonomous institutions, and are responsible for setting the pay for their staff. As such, government does not have pay controls in place for senior university staff. The Government have no current plans to intervene in universities' remuneration. Vice-chancellor pay is decided by official university remuneration committees, which include expert representatives from outside the sector. We expect these committees to examine robustly the evidence for pay increases for all relevant staff. As I said, I know that those answers—

**Baroness Blackstone:** My Lords, would the noble Lord accept that, where the regulatory function of remuneration committees in universities is obviously not working properly, as in the case of the University of Bath, the Higher Education Funding Council ought to intervene to see that it is put right? It cannot be accepted that a pay package of £0.5 million is appropriate for any vice-chancellor, particularly the vice-chancellor at the University of Bath.

**Lord Bates:** I certainly undertake to relay to colleagues the views and concerns raised by the noble Lord, Lord Adonis, the noble Baroness, Lady Blackstone, and others in the House to see what further can be done, and I will be happy to write to the noble Baroness when I have done that.

Our position remains that we value the public services. We recognise that we have a duty of responsibility to the people who pay for them and to those who work in them. These are difficult judgment calls but we believe that we are delivering a balanced approach, involving fiscal responsibility to get our financial status in order. It is delivering benefits, whether through average pay growth, through benefits and pensions or through taxation policies. The personal tax threshold has been raised significantly over a period of time, meaning an increase equivalent to £1,000 a year for the average person, and 1.3 million of the lowest-paid people have been taken out of tax altogether.

I am grateful to noble Lords for their contributions to the debate. I will review them to see whether there are any points that I have not responded to and will write to noble Lords accordingly.

## Local Government Finance

### *Motion to Take Note*

2.58 pm

*Moved by Lord Kennedy of Southwark*

That this House takes note of local government finance and arrangements beyond 2020.

**Lord Kennedy of Southwark (Lab):** My Lords, in moving this Motion, I bring to the attention of the House my usual declarations of interest—namely, that



I am an elected councillor in the London Borough of Lewisham and a vice-president of the Local Government Association.

I am delighted that a number of Members with expertise in local government and finance are speaking in this debate, as this is an important issue that we need to keep raising and shining a light on.

I have served on two local authorities. Presently, I am a member of Lewisham Borough Council, and many years ago I was a member of Southwark Council, the borough where I grew up.

Throughout my working life, as a full-time official for the Labour Party, I have had dealings with councillors in a variety of local government settings, including larger parish, district, county and unitary authorities, and seen a variety of different methods of governance, both as a controlling majority group, part of a coalition and in the role of an opposition group. Councillors of all parties generally do a difficult job very well, and are supported by dedicated professional staff delivering important services—everything from preschool and nursery provision through to social care towards the end of life, and the more general services such as keeping the streets clean and the street lights working properly.

Local government is ever present in people's lives. It is the part of the state that they see most frequently, and the council has a leading role in understanding the issues that local people have and in delivering solutions for them. Councils need stability and as much certainty as possible to do their job. I accept that that is not always easy, but where they can, the Government need to help local authorities and not make things more difficult for them. I hope that in responding to the debate the noble Lord, Lord Young of Cookham, can give more certainty. Where he cannot, will he at least agree to take back the concerns raised in the debate and initiate discussions within government, the department and with the Local Government Association to as quickly as possible bring more certainty and stability on the issues raised.

I have a number of general points to make and some specific points in respect of London. Local government is not clear where it is heading beyond 2020. In the last Parliament, discussions and work took place to develop a new system by which local government as a whole would retain 100% of its business rates by the financial year 2019-20. With the calling of the general election, the Local Government Finance Bill was lost, understandably. The Bill set out a framework for local government in England to keep all of the £26 billion it raises locally in business rates, and it is fair to say that there was some surprise that there was no mention of this in the Queen's Speech that was recently unveiled. Certainly my party had some issues with the scheme, such as how we were going to introduce fairness without making things worse for those councils that do not have the income base to replace the money they received through central government grants. But everyone was surprised that this key piece of legislation does not appear to have made it even to the starting line this time, in a Session of Parliament that is supposed to last two years. Perhaps the noble Lord, Lord Young of Cookham,

could shed some light on what has happened to the Bill? Is it on the back burner, has it been scrapped never to be seen again, or will it resurface at some point in the future? In addition to finding out what has happened, it would be useful if we were given the reasons why that is the case.

Recently, there has been lots of debate and discussion in many forums about austerity, including the Cabinet, which we know from what we see and read in the media. There have been lots of briefings from various Ministers both on and off the record. What cannot be in doubt is that local government has taken a huge hit in the spending decisions made by the Government in recent years, despite delivering some of the services that people rely on the most.

The Local Government Association pointed out recently that funding lost from central government since 2015 and projected further losses will mean that, by 2020, local government will have lost 75p of every £1 it had to spend of core central government grant. That will equate to a £5.8 billion funding gap by the end of the decade, with an estimated additional £1.3 billion required to stabilise adult social care. That gives a total of £7.1 billion as a funding gap—a staggering amount that will result in significant reductions in services that people, sometimes the most vulnerable in our communities, have to rely on.

In addition, the department's own figures show that funding to local government will have fallen 63% in real terms up to the financial year 2019-20, but overall public spending will have increased by 4% in real terms over the same period. So we have further savings along with increased demand for services, which is particularly stark in London. It would be useful if the noble Lord, Lord Young of Cookham, could update us on the fair funding review which the Government have committed to. If we do move to another system of funding local government, we want to ensure that it is fair and addresses all the needs, as it is often areas with huge social needs that are not going to have the business rate base to replace the funding they lose.

London has unique pressures. It is a growing city with huge challenges that need to be addressed. Adult social care is a problem widely acknowledged but with no sustainable solution identified. In London, the elderly population is expected to rise by 70% between now and 2039. I am in that group of statistics, as are, I suspect, many of your Lordships who are not yet retired and live in London. A long-term solution to adult social care needs to be found, but as the Prime Minister found out during the election, solutions that are not carefully worked out are not going to be accepted and will prove impossible to deliver.

Children's social care is another pressure point, with the growing requirements of the new Ofsted inspection framework. In London, the overspending is twice that of adult social care, and with London's young population set to continue to rise, this demand is only going to increase.

We all acknowledge that there is a housing crisis. The Housing White Paper was a missed opportunity and we have seen very little from the Government when measured against all the hype and expectation that was generated beforehand. Government policies

[LORD KENNEDY OF SOUTHWARK]

leaving people without recourse to public funds add significantly to overspending pressure on local authorities, as does homelessness and the requirements of the Homelessness Reduction Act 2017. The Government do not appear ready to provide the level of funding necessary to make this legislation work. The 1% rent reduction on social housing is also making the situation worse.

As I outlined earlier, we need to see stability in local government funding. The Government need to be clear on their plans for 100% business rate retention. If the 2020 plan is no longer on the agenda, what is?

Many in this Chamber and elsewhere have raised the fact that we have not had a revaluation of council tax. Governments of all persuasions have time and again decided to sidestep that issue. The Government need to take a proper look at council tax: is it fit for purpose, is it the right vehicle for local government and does it deliver what is needed? Is the hypothecated precept for social care the right mechanism or just a sticking plaster that is not going to do the job?

The borrowing cap on the housing revenue account should be removed to help address the housing crisis. We need to build more council homes on proper social rents.

On a whole variety of services, local government levies fees and charges for delivering services. The fees are often at rates set by the Government, with no local discretion. If we even got to the point at which there was full cost recovery, it would be progress. I recall our debates in this House on planning fees. Although there was some proposed uplift, local authorities are still not going to be recovering anything like the costs they expend, and that situation is the same across other services.

It is a perfect storm. Local government has no certainty how it is going to be funded post 2019-20. Whatever the funding mechanism, there are huge issues regarding fair funding; there are greater pressures on and more demands for services, especially for those that are vulnerable, in early years and in social care; people are trapped with no recourse to public funds and turning to the local authority as they have nowhere else to turn; there is a housing crisis and a desperate need for more homes to be built at social rents; the housing revenue account is under pressure from enforced rent reductions; and there is no sign that the Government are going to let councils build more homes. I could go on and on. It is shocking: this is a terrible state of affairs that the Government must urgently address.

However, urgency seems to be in short supply at the moment from the Government. No one could suggest that in either House there has been an energetic start from the Government in this Parliament. I know that they have problems, but those are entirely of the Prime Minister's own making. Local government and the residents it serves need certainty, action and direction. There are big issues to be solved and local government often speaks with one voice on these matters with little to divide the parties. Local government is asking to be allowed to do the job that it is capable of doing through a funding mechanism that is fair. It wants action from the Government to allow it to get on with

the job. It is time for the Government to respond positively to the call being made by local government for certainty and stability, and to be given the tools to do the job.

3.10 pm

**Lord Shipley (LD):** My Lords, I should remind the House that I am a vice-president of the Local Government Association. I thank the noble Lord, Lord Kennedy of Southwark, for initiating this debate, which I think is particularly important given the absence of any mention of local government in the Queen's Speech—a point that I will come back to. The debate gives us an opportunity to talk about the current financial crisis impacting on local government, as well as on all the people who expect and need the services that local government provides. It also gives us an opportunity to take a step back from the immediate funding crisis and take a look at the principles that should underpin local government funding after 2020.

The noble Lord, Lord Kennedy, explained the financial problems of local government very well: that is, the £5.8 billion funding gap by 2020 and the need for an additional £1.3 billion fund to stabilise the adult social care provider market. The Minister will not be surprised if I draw attention to the fact that it was not difficult for the Government to find £1 billion extra for Northern Ireland. It is broadly the same amount of money and I hope that the Government will urgently seek to solve this problem.

We need the clarity on business rate retention referred to by the noble Lord, Lord Kennedy. It was not mentioned in the Queen's Speech. It may be that the Minister will tell us that it is going to be delivered through secondary legislation, and I hope that the matter will be clarified today. I also hope that we will hear of a commitment by Her Majesty's Government to continue the fair funding review, which would ensure that all local councils, including poorer ones, will have enough resource to do their job properly.

We now need a national cross-party debate about the relative powers of national and local government, the consequential responsibilities that should fall on each of them, and the funding needed to deliver those responsibilities; that is, the overall funding available and the sources of that funding, be they national or local. The debate needs to be about partnership working between central and local government, based on mutual trust. I would suggest that it should not be led by slogans about excessive waste in local authorities, which today are frankly well wide of the mark.

The arrangements beyond 2020 will be a complex picture because so much in policy terms is unclear. The relationship between central and local government in terms of devolution has, as expected, become a patchwork with, for example, some combined authorities, some mayoral combined authorities, and powers in some policy areas devolved to some places but in others not devolved at all. Of course, this is what the relevant combined authorities have asked for. Broadly speaking, the level of current devolution is not really devolution at all. It might qualify as semi-devolution and it may prove to be a staging post—but, because it leaves so much power over resources with central government, it is hard to think of it as true devolution.

This picture is also complex because of the different structures in local government which can permit the duplication of overheads and occasionally conflict between tiers. Some parts of the country have unitary councils while others have two-tier structures. As the functions of local government change and budget cuts bite further, it will be necessary for councils to assess how they can reduce their overheads further, pushing ahead with, for instance, much more sharing of services—in which there are many examples of good practice.

Of course, the impact of cuts in central government support have been much greater in the poorer parts of the country, which are more dependent on the central government grant, and that has compounded the problem. Such cuts in areas of high need have become unsustainable and they no longer command public support. I would therefore urge the Government to reverse any plans they have to cut the budgets of local government even more.

I would venture to suggest that the overall crisis in funding will not be resolved until the problems surrounding adult social care are resolved, so let me start there. We need to pool budgets between the NHS and local councils. Joint but separate working is not enough; pooled working has become essential. The Dilnot review pointed to a way forward financially and I hope that the Government may still back it. I should add that I do not think it is appropriate to load the problems of adult social care funding on to council tax payers; council tax was never designed for that.

There is a crisis in local government and the reason is that it is under resourced for what it is expected to do and it is having to cut non-statutory services to pay for statutory services. There are huge stresses in policing, fire, social care and the support of children, as well as in universal services such as libraries, parks and environmental maintenance. All of this begs the question: what should happen?

First, we need to understand better what the public want. The public want greater local decision-making, so we need to be clearer about what “local” means. We used to have very small councils for a specific geographical area—often urban districts or rural districts. They had a strong local identity. There has been a tendency to amalgamate and make democratic structures bigger. The 1973 reorganisation was a case in point. Cities grew outwards and absorbed smaller neighbouring councils. But since 2010, with city deals and combined authorities, those democratic structures are getting larger. I wonder whether the time has come to look again at greater empowerment for smaller, local areas for defined services, building on towns and parishes.

In terms of money and resources, we should remember that members of the public think that they pay council tax to benefit from universal services—but, of course, it is far more complicated than that. I have come to the conclusion that we now need to address the issue of more council tax bands at the top end. That would bring in more income from council tax. I think we also have to engage much more in voluntary taxation. I am thinking in particular of expanding the role and powers of business improvement districts, many of which are now a huge success. We need to maximise the role of

trusts and volunteers—the National Trust now has a role in parks in a number of councils—but I do not think that we can ever assume that they are always going to be a satisfactory replacement for public services. Councils need powers to raise other forms of taxes, too. Council tax referendum limits should be abolished and councils need greater flexibility on fees and charges, which will enable them to recover their costs, including their overheads.

There has been a lot of publicity recently about council borrowing powers. The noble Lord, Lord Kennedy, talked about the importance of councils investing in housing. He is absolutely right about that, and the removal of the cap would be a huge help. I had not realised until I read it in the *Times* earlier this week the extent to which local authorities are investing in commercial developments. It is one thing for people to invest in commercial developments in their own area in order to complete them; it is another for councils to become property developers. I was somewhat shocked to discover that, since 2015, councils have spent £2.7 billion on property—five times the level of the previous three years. It is almost as though something happened when the coalition Government came to an end. It is probably fortuitous, but the reasons for that fivefold increase in property deals need to be looked at, dare I suggest, by auditors—if the department is not already doing that.

I welcome the announcement by the Secretary of State of a housing infrastructure fund that will provide 100,000 new homes in sought-after areas—but, in my view, it is the responsibility of local councils to invest in their infrastructure and in housing as a priority, and not to invest in buildings sited in other local authority areas with which they have no connection.

To conclude, I understand that the Government have a problem with debt and the annual deficit, but they must now clarify how the funding gap will be addressed, their plans for business rate retention, the completion of the fair funding review and their willingness to empower councils to do more financially for themselves. It is poorer people who are suffering from the current level of cuts. I have concluded that we were right at the general election to urge a 1%—or rather 1p—increase in income tax to provide extra resource to pay for some of the services that I have been talking about. My party was right to have the courage to propose that 1p rise, of which I strongly approve.

3.20 pm

**Lord Desai (Lab):** My Lords, we are very grateful to my noble friend Lord Kennedy for initiating this important debate. Unlike some other speakers, such as my noble friends Lord Smith and Lord Kennedy, I have no experience of local government, but I am an economist.

In all the years I have spent in your Lordships' House, local authority revenue has haunted British politics. I am old enough to remember what was there before the poll tax. It was the biggest crisis in British politics that there was a need at that time, with the rating system, for the Government in charge to take the bull by the horns and revalue properties, because property prices had risen. Governments were proud that they had. Rising house prices is a fundamental part of British politics and we are alarmed when

[LORD DESAI]

property prices are not rising. But when it comes to earning the state's share of the rising capital value, we are suddenly very shy. Because of the Conservative Government under Mrs Thatcher, we do not want to go into the tricky idea of revaluing property and then passing on the standard rateable value calculation.

Then we got into the poll tax. We all remember what happened with that. It was a complete disaster. Then we had the council tax. I remember taking part in the debate on council tax and trying to point out that it would not be adequate unless there was flexibility to increase council tax or add new property bands, because property values would rise. We know that; it is a fundamental fact. So here we are discussing a variety of revenue sources. The noble Lord, Lord Shipley, talked about a variety of sources that his party has been proposing over the years—local income tax and various other things—but we are not taxing the most valuable asset local authorities have. It is like the elephant in the middle of the room: we know that when we talk about that we are going to talk about every little bit—business taxes and this and that.

At some stage, one of the political parties has to bite the bullet and say that we need a royal commission or some other official body to sit down and examine how much property prices have risen since the council tax was introduced. We all know that it is a gigantic sum. I have lived in a house in south London since 2004. I might not be too far wrong in saying that the property price has risen by three times. I am still paying the same council tax. It would be fair for me to pay a bigger local authority tax so that my local authority does not have to shut down local libraries. Yes, I can join the campaign to not shut down local libraries, but that will not solve the problem. They need money. If you unlock that particular source of local authority wealth—houses cannot run away; they have to be there, so you can be pretty sure it is your asset—then they will have a flexible and buoyant source of revenue. You could even cut the council tax rate and increase the revenue. It is a win-win solution. You could say, "If we get into power we're going to cut the council tax rate but we're going to revalue properties". It could be done—if the Government want, I could do it in 15 days—and we would release this buoyant source of revenue and solve a lot of the problems local authorities have.

As I said, this could be done keeping the current structure of council tax intact. You do not need to be predatory or increase the tax rate. As some people may know, there is the philosophy of Henry George, who said in the 19th century that countries need only one tax: on the improvement of landed property. If you had that one tax you could abolish all others. I have done some work on that—I will go down that route—and we have a source of taxation that we are deliberately not using because we think it will be very unpopular. We are willing to go through austerity and all the hardships local authorities have. Even local authorities are not thinking about this as a source taxation.

Being an academic economist, I do not have to worry about the real world; I can think about ideal solutions. One feasible solution is to keep council tax

but have a panel that revalues properties across the country. It does not have to rely on anything subjective; there is enough evidence in estate agents' records. We know what transactions have taken place in each area and we know how much property prices have gone up. We could easily treble, if not quadruple, local authority income from council taxes. I know it will not happen. I have spent a lot of my life saying things here that will not happen that ought to, but we ought seriously to consider, on a bipartisan or all-party basis, that the time has come and we cannot deprive our local authorities of a fruitful source of revenue and go through torturous negotiations between central and local government.

Every party in one way or another tells us how valuable local initiative is, how much we want to decentralise and, once we have delegated power to local authorities, how power should be near the people. The Conservative, Labour and Liberal parties have slightly different philosophies, but we are all for it. It is only when it comes to giving the money that we suddenly become centralist. If we stay centralist we will deprive local authorities of proper revenue. That is unfortunately a sad truth, as some speakers have said, and more will talk about it. I suggest to the Government that they have a panel to revalue properties across the nation. They have enough problems on their hands anyway; one more will not make much difference, so they may as well bite the bullet. Then, we can have a proper yield from council tax. That will solve the problems of local authority financing.

3.29 pm

**Baroness Donaghy (Lab):** My Lords, I thank my noble friend Lord Kennedy for initiating this debate. His commitment to local government is well known. He is known as "Mr Local Government" down our way.

With so many local government experts in this debate, my contribution should be taken as one from a lay member. I am not a vice-president of the Local Government Association, nor have I been a councillor or even a candidate for a local council. I was an unpaid branch officer in a trade union for more than 30 years, which provided all the joy I needed.

I have worked with hundreds of local government staff who were members of NALGO and then of UNISON. I witnessed their pride in their job and their community, which led me in turn to see the importance of local government to society. I will start with a question to the Minister—it has already been asked, but it is incredibly important: what has happened to the missing local government finance Bill? His Secretary of State said nothing about it in his speech to the Local Government Association conference. Where is the introduction of 100% business rate retention, or the bit which allowed tax relief on new ultra-fast broadband lines? I understand that the telecoms infrastructure Bill will deliver the tax relief instead, backdated to April—the Minister is nodding. Which legislation will deal with business rates retention? I ask only because the Secretary of State said how important that legislation was in February. He said that the reforms offered,

“a bold and innovative response to the twin challenges of promoting economic growth and securing more self-sufficient and sustainable local government. They will help determine the role, purpose and means of delivery for local government in the years ahead”.—[*Official Report*, Commons, 20/2/17; col. 27WS.]

That is all pretty important, yet the Secretary of State can make a speech to the LGA conference without mentioning it. Usually the saying is: “It’s like the play without Hamlet”; in this case, it was Hamlet without the play. What information can the Minister give to the House on this subject?

I live near Camberwell Green, one of the busiest crossroads in London. On the edge of the green is a purpose-built residential home, which also facilitated nursing care. I know the building because my mother stayed there before she died, more than 10 years ago. The building was bought and sold a couple of times and now lies empty with a “To Let” sign outside. I cannot begin to describe the desperate need of some families in south London for residential and nursing care for their loved ones, or even for a halfway house or respite care unit. This building is a shocking monument to our failure as a country to deal with social care. If we had well-resourced local government, this is the kind of service that it could and should provide.

Southwark’s children will lose the equivalent of £1,000 per pupil in the education cuts. We have a serious problem with air pollution: the level of nitrogen dioxide is more than one and a half times the accepted limit on the Peckham Road, which is where I wait for my bus every morning to come here.

Southwark Council has been magnificent in checking all the high-rise blocks in its area and assisting Kensington and Chelsea Council after the Grenfell Tower tragedy. Its experience with the Lakanal House tragedy, already referred to by the noble Lord, Lord Shipley, made it well aware of some of the dangers. We still remember that it was Sir Eric Pickles, then DCLG Secretary of State, who refused a public inquiry into that very serious issue eight years ago. How many lessons might have been learned had that been taken more seriously?

We have one of the highest incidences of knife crime in the UK in my area, and never has the need for community police work and council resources been greater. Local government finance is about the fabric of our society, as has already been said. If central funding to local councils is cut by 77% by 2020, as the Government intend, people will suffer—not the haves, but the have-nots: those with the worst housing, the greatest personal debt, the most insecure jobs and the most need. Doling money out from the centre, such as with the infrastructure fund for building new homes, is no substitute for vibrant local government. The Secretary of State should not blame councils for faults in central government, as he did at the LGA conference. He should reflect the pride that people from all parties feel when they serve the local community. Having spent several hours this week and last helping to select our three candidates for our local ward, I am staggered by their energy and commitment. It is a reflection of the pride in municipal government which all parties support but which I feel this Government do not.

Council tax has increased by 15.8% in the past 10 years, compared with increases of 58.7% for gas, 50.5% for electricity and 34.2% for water, all of them

privately owned. While the increase in utility bills is shocking, I suspect that local councils would have been grateful for even half of those increased sums.

We all know about the desperate shortage of affordable homes, with young people today being half as likely to be on the housing ladder as they were 20 years ago. The Local Government Association has reminded the Government that in the 1970s local government built 40% of the 250,000 new homes then constructed. The LGA has put forward sensible proposals, including, “allowing the Housing Revenue Account borrowing cap to be lifted”—

that has already been mentioned by my noble friend Lord Kennedy and the noble Lord, Lord Shipley—and,

“building a new wave of different affordable housing options linked to a new definition of affordable housing as being of a cost that is 30 per cent of household income or less”.

These are all things which noble Lords on this side of the House have called for.

However, it is in the area of homelessness and its prevention where councils have a vital role. The level of homelessness has increased by 44% in the past six years. According to the LGA:

“Councils are currently housing 75,740 families including 118,960 children in temporary accommodation, at a net cost that has tripled in the last three years”.

If the Government were to adopt even half the LGA’s proposals to tackle homelessness, it would make a real difference.

Finally, if the Minister is unable to say what plans the Government have to legislate in the area of financing local government, can he at least tell us how the Government intend to alleviate the parlous financial condition of local authorities, which are doing their best to serve their communities?

3.37 pm

**Lord Greaves (LD):** My Lords, I congratulate the noble Lord, Lord Kennedy, on initiating this debate, which is very timely. I declare an interest as a member and deputy leader of Pendle Borough Council and various other local government interests. Talking of Pendle, I am reminded of a time, a very long time ago, when the Minister, the noble Lord, Lord Young of Cookham, visited Pendle—in fact, it was two occasions—when he was a junior Housing Minister in a Conservative Government. He gained a reputation in Pendle which one or two people still remember him for. He came and we told him why we wanted more housing money and all the rest of the things that we do when Ministers come—we showed him lots of good things and tried to hide all the bad things. Fairly soon afterwards—a few days, I think—he was sacked as a Housing Minister and we thought, “That was all a waste of time”. Time passed on and he became a junior Housing Minister again, and yet again came to visit Pendle—at the behest of the man who is now my noble friend Lord Lee of Trafford. We went through the whole rigmarole again. I do not think that he was sacked that time, but he was certainly moved on from being a Housing Minister. The word went out in Pendle: “If we get a government Minister coming, make sure it’s never that man Young”. I have to say to

[LORD GREAVES]

the noble Lord, Lord Young, that he will be very welcome indeed to come to visit Pendle again and I hope we will not have the same effect on him.

I associate myself completely with the comprehensive speech made by my noble friend Lord Shipley, who covered quite a lot of very interesting matters, some of them fundamental. If local government is going to be sorted out, many of those matters are going to have to be tackled.

I want to comment briefly on the goings-on at the moment in two local authorities in my part of the world, in Lancashire and Liverpool, where very strange things are happening. I do not know what the latest information is—it seems to change every hour—and in mentioning it briefly I shall be very careful because it involves criminal investigations. I shall not get involved in those, but some time ago four people were investigated by the police in relation, as I understand it, to goings-on in connection with partnerships between those two councils and BT, Liverpool Direct and One Connect. It may well be that that will be discussed in the future. However, one of those being investigated, a man called Geoff Driver, was released from the investigation. He was leader of Lancashire County Council at the time that is being investigated and is leader again now after an interregnum of four years. On 22 May—these are just facts—all four of these people were arrested, according to the police, “on suspicion of conspiracy to pervert the course of justice and witness intimidation”. They were bailed on 19 June and rebailed on 23 August. I do not wish to comment on those investigations in any way. I want to comment on the effect that they are having on these two councils.

In Liverpool, the chief executive, Ged Fitzgerald, one of these four, was suspended and, the press reports, is on paid leave of absence from his £200,000 a year job. However, the significant thing is that the elected mayor, Joe Anderson, the Mayor of Liverpool, has taken over the functions of the chief executive, according to the press, which seems an extraordinary thing to happen. Despite that, according to reports in the newspapers, specifically in the *Liverpool Echo* of 23 June:

“Liverpool’s arrested chief executive Ged Fitzgerald will continue to ‘guide and advise’ Mayor Joe Anderson while he remains on paid leave as police investigations into his conduct continue”.

What is happening in Liverpool seems unusual, to put it very mildly indeed.

As for Lancashire, Geoff Driver, perfectly properly, was elected as leader of the county council, but he has issued what I can only describe as a quite extraordinary injunction to four senior officials of Lancashire County Council: they are not to attend any briefings at which he is present. In other words, the elected leader of the county council, Geoff Driver, has banned four senior officials—including the chief executive, Jo Turton; Mr Sutton, director of development and corporate services; Ms Lowry, head of internal audit; and Ms Kitto, director of corporate services—from giving the leader any advice, except in writing. They can email and no doubt they can send old-fashioned written communications. This is causing a great deal of concern. The leader of the Labour opposition on Lancashire County Council, Councillor Azhar Ali, has written to the Communities

Secretary to ask for a government investigation into what is going on in Lancashire, and I have to say that none of it does Lancashire, or Liverpool, or local government any good whatever, regardless of the ongoing investigations by the police.

It is inevitable in a discussion such as this that current budgets are top of the list; although they are current budgets, they are a symptom, a serious symptom, of the crisis which is hitting local government. I have the exciting task of being what people call the “portfolio holder for finance” on my council and it is not a particularly pleasant job at the moment. This is particularly true, if I may say so, for district councils in two-tier areas, as opposed to county councils, which are lumbered with having to deal with what in the old days, when finance for local authorities was given in blocks, were simply called “other services”. The recent general election and a great deal of speculation now about “the end of austerity” suggests that funding for health, social care, education and transport—high-level public services—might be released. I do not hear anyone saying that the same thing is going to happen for the ordinary local services on which the health and future of communities depend and which people expect to keep going: street sweeping, dustbin collection, recycling, libraries and all that kind of thing. I see no sign at all.

The Local Government Association, of which I am not a vice-president, issued a statement saying:

“Even if councils stopped filling in potholes, maintaining parks and open spaces, closed all children’s centres, libraries, museums, leisure centres, turned off every street light and shut all discretionary bus routes they will not have saved enough money to plug this gap”.

The point is that these are exactly the kinds of services which are discretionary and do not have to be done except at a very low level—and I do not know how long it is going to be before somebody takes a district council to court for not sweeping the streets properly. They are that kind of service. They are in the front line of cuts and, frankly, in a lot of places, they are in the front line to be reduced to a level where they are of no use whatever.

Councils are finding all sorts of wheezes to try to get round these things, and some of them may be desirable in themselves. Apart from everything else, I hold the exciting title of chair of Pendle Borough Council’s transfer of services and facilities to town and parish councils committee. If that sounds like a low-level job, let me tell the House that negotiating with 18 or 19 parish and town councils that are full of people who want to get involved in the detail of everything—because they are very local and that is what they do, and quite rightly too—is such that I could quite easily spend much more of my time and energy on that work than on work in the House of Lords, and perhaps I do. And we are doing it: we, an ordinary district council of 90,000 people, are currently working on transferring, for example, our 11 parks to our town and parish councils. Perhaps that is the right level for those parks to be run at—and I agree with that. The problem is that the town councils will be able to do it only if they put their council tax up. One of the reasons why the councils are doing things like this is that town and parish councils can put their council tax up but the district council cannot. I hope the Government will never stop us doing that, because it is

a matter for local decision, but still it does not avoid the need to raise the money. The alternative is to sell off some of the parks, for housing land, perhaps, and use that money to keep the parks going for another 10 years. That is an answer. Another is to close two or three of the parks, to stop cutting the grass very substantially, to stop planting flowers in the park or to stop painting the railings—or whatever it is. Surely local government is not down to that kind of level.

The country as a whole has to have a fundamental rethink about what local government is for and how it is organised. I wish we would stop using the word “government”. What I am interested in is local democracy. At a local democracy level it is not the regions and city regions and the arbitrary amalgamations of local authorities to make combined authorities. People are not interested in that. They do not understand it and they are not particularly bothered about electing mayors or anybody else for towns on the other side of the big city. What people want is the ability to have an influence and to get involved in making sure that basic local services in their local community are there. As far as democracy is concerned, that means coming back to the fundamental building blocks of democracy which, in my view, are towns—big towns, little towns, middling towns, small towns. Towns provide the civic focus—the name gives it away—for people to get involved in running and helping to run them, as well as the accountability that local representatives should have. I believe that towns are the key to the future, and by “towns” I include big cities such as Manchester and a little town such as Earby in Pendle which has 3,000 electors. They are the places that things have to be built on. We have to rebuild our local democracy from the bottom upwards and stop trying to run everything from London, Manchester or Leeds in a top-down way.

3.51 pm

**Lord Smith of Leigh (Lab):** My Lords, in thanking my noble friend for securing this debate I must apologise to him for missing his first sentence. I was coming down on a train today and unfortunately it, like the Government, had a loss of power. Fortunately for Virgin Trains, the loss of power was only in Milton Keynes, not over the whole country.

I need to declare my interests in local government. I am leader of Wigan Council, a member of the Greater Manchester Combined Authority, a vice-president of the LGA and vice-chair of an organisation called SIGOMA.

In looking at the Government’s loss of power, one of the factors that affected the election in June was the impact of austerity. As the campaign went on and as issues such as school funding, police funding, the loss of police numbers when the Prime Minister was Home Secretary and social care, which was a total disaster, came out, it made people understand that if you cut back public services you cut back on the way they affect people’s lives—and people had had enough. I shall say a bit more on this later.

In Wigan, one of the things we do now which we did not do before is that we go around to the different communities to explain to them what we are doing and answer questions from the local community. We

were in a former mining village the other Wednesday. It was one of those rare evenings in Wigan when the heat was blasting down and I would rather have been in the garden with a long, cool drink than in the venue—but enough people turned up and they listened to my explanations, and then we got to question time. Again, austerity was the dominant issue.

The first question people asked was about the increase in anti-social behaviour by young people and the lack of police response. In the last few years, Greater Manchester Police has lost 2,000 officers and does not now come out. If somebody now rings the police and says: “We have an anti-social”, the police reply, “It’s category 3 and we only come out to category 1 and 2. You’ve had it. We don’t turn up at all”.

In the same area, people criticise the council for not having enough youth workers on the scene. As the noble Lord, Lord Greaves, was implying, this was a discretionary spend. Where we are looking to make the kind of savings we have to make, we do it, but not as much as we did before.

One gentleman raised the issue of transport. People cannot get in and out of the place early in the morning or in the evening because there is no public transport; the buses stop running. Why is that? Because Transport for Greater Manchester lost funding and can no longer subsidise non-profitable routes, so they go. He made the point that if you want to get a job on a shift pattern, you could not do it. We have also reduced street cleaning. To be precise, I think about £3 billion has been taken out of the neighbourhood services budget nationally.

I think the Government were sleep-walking when they went into the election, not understanding the way austerity was hitting people. In some ways, there is an excuse. The former Prime Minister—as I was stuck on the train, I have not heard on the news today whether the current Prime Minister is still with us, but I assume she is—David Cameron said, “We are all in this together”. That was a totally untrue statement. The unfairness in the way that austerity is applied has come through quite dramatically. In cash terms, local government lost 20% of its budget from 2010 to 2016. There will be a slight increase between 2016 and 2020—which is distorted, as the noble Lord, Lord Greaves, pointed out. Huge amounts are not going into local government services, except for the better care fund for dealing with some of the problems. My authority, Wigan, lost far more in that period. In real terms, we have lost over 40% of our budget, as has the noble Lord, Lord Storey, in Newcastle. All the northern authorities lost out.

If we turn to a place such as the Royal Borough of Windsor and Maidenhead—not perhaps unknown to the Prime Minister—the losses are much less. It has not taken the hit; there has actually been an increase in funding in some of those areas. The cuts taken in more affluent areas have not been the same.

I also want to talk about the continuing unfairness of one of the ways in which the Government tried to fund the social care increase: namely, through the increase in council taxes, the so-called social care precept. The level of cash that can be raised by authorities depends on the level of council tax banding in those

[LORD SMITH OF LEIGH]

areas. In a place such as Wigan, there are not many £1 million properties, I have to confess. Most of the properties are in band A or band B. So if we put a 2% or 3% increase on council tax, it does not raise as much money as more affluent areas raise. SIGOMA gave me some figures that show that in SIGOMA authorities, for every dwelling that raises £713, the figure for the rest of the authorities that run social care is £857—quite a significant 17% difference between the amounts that can be raised in that way. Clearly, those in urban areas and the most deprived areas are having to put more money in to solve the problems of social care.

The one area of local government activity that was in the Queen's Speech with a promise was the fact that the Government are looking for a solution to social care funding. I think that all sides of the House would welcome a proper approach to that funding, but it cannot be done by the Government. It has to be done working with local government and across parties, because we need a solution that will be satisfying and sustainable in the long term. If we do not do that, a number of local authorities and health services will be overwhelmed by the increase in pressure of the ageing population. I believe this is an urgent problem. It is not an immediate problem but it is certainly urgent, because the longer we do not solve it, the greater the pressures are going to be.

I also want to echo what my noble friends have said about business rates. We need to know what is happening with this promise to return business rates to local authorities, in two ways. The questions that my noble friends asked are absolutely right, but I also want to know what is going to happen to the pilot schemes which are in progress but which we are told will run only until the end of this year. The pilots are meant to teach us things, but how can we learn if we do not know when that will happen? We need to see what we can get from those.

The other issue around business rates is of course the mess the Government got into of their own making on valuations. I remember arguing with the Government—it always seemed to be at 11 pm—along with my noble friend Lord McKenzie of Luton and the noble Earl, Lord Lytton, about their plans to defer the regular revaluation of business rates. We tried to point out to them that if you defer it and then try to come back to the scheme, you will actually get into more of a mess—and of course it proved to be that way. The figures for revaluation were so high in many cases that, as soon as the Government saw what they were like and got such bad publicity, they had to bury it. The third issue around business rates is equalisation because, clearly, the ability of different areas to raise funds through business rates is quite variable. I fully support the principle of return, but the Government still need to find a mechanism by which they can make sure that places that are not able to raise such a big amount of money can do it.

Then of course the other main source of income now for local authorities is council tax, and I welcome the comments of my noble friend Lord Desai on this matter—again, I am banging on. It is over a quarter of a century now since we last revalued houses for council

tax. The council tax was brought in as a desperate measure to replace the poll tax: “What can we do? We need to replace the poll tax?”. So allegedly the noble Lord, Lord Heseltine, as he is now, sent round teams of estate agents to run up and down streets with fairly arbitrary rules saying, “Band A, band B, band C”. These bands have stuck for all that period and have not been revalued since. But of course there have been huge changes in the values of properties over that period, and changes in quality. A house built in 2017 will have broadband and different facilities that were not available in 1991. How do you say, “Ah, but if this house had been built in 1991, what would it be valued at?”. It is a rare art to be able to look at a house being built in the current year and think what it might have been valued at all that time ago. As my noble friend said, if we do not have the change in valuations, we have no buoyancy in the tax. Unlike with income tax, VAT and other taxes, the only way to raise more money through council tax is to raise the rate of the tax—and that is not the best way to do it, so we need to do this.

It is easy to have a glass-half-full or even a glass-quarter-full mentality, but I like to see opportunities from what has happened. Many local authorities, including my own, have responded to the cuts in as positive a way as we can by looking to see what we can do for public service reform. Again, I have spoken before about this in the House, but the Government have not really taken much of a lead on this. In a programme that we call “The Deal”, we are looking to see how much more we can help people. We take what is called the asset-based approach on individuals, looking to see what their needs are and what their benefits are. When you do that and look at people, what you find is that the individuals we are dealing with as a local authority are often undergoing health treatments for various things—often mental health problems—or may have housing issues, and probably the police know them. So if we can get a holistic approach to families, we can begin to start turning them around. Rather than waiting until a child has problems and we have to put them into care, we try to support the family so that they can remain in the heart of the family.

We have to do much more on integration, working with all the different agencies to ensure that we can look at the family and help to address those issues. One of the problems we have is getting people back to work. We do not ask people just to rewrite their CVs, as they were often asked to do under the previous job creation scheme; we get them to understand what their issues are. If you do not have a home, you are likely not to be able to get work, so we need to address that.

The final area is working better with the community. I think we are one of the few authorities that puts more money now into the community than we did in 2010. We call it investment because it is an investment. We have attracted visits from various parts of the UK and Europe and we are holding a conference in September 2017, so if any noble Lord wants to come, they should get in touch.

I agree in part with the noble Lord, Lord Greaves, on how we deliver services. We have to go back to units that people understand in terms of delivery. However, we need a strategic role in local government, which is



where the larger authorities can work together. I am a great supporter; it has been a challenge and a privilege to be a leader of local government, it continues to be so, and I continue to be positive.

4.06 pm

**Baroness Pinnock (LD):** My Lords, I draw attention to my interests: I am indeed a vice-president of the Local Government Association, but more importantly, I am an elected councillor in Kirklees in West Yorkshire.

The clear message from all speakers is that funding for local government is at crisis level. The Government's response, as we know, was—or maybe is—to set it free from reliance on central government funding of its core services by the introduction of the 100% retention of business rates. In theory, people across local government can support that aim, although with some caveats. The first is that local government has, following this divvying-up of business rates, sufficient sources of funding to deliver essential local services. The second is that central government stops delegating additional responsibilities to local government without at the same time fully funding the resources needed to do so. The third principle is “He who pays the piper calls the tune”, so that if government does not fund local government, local government is set free to fulfil the needs of the people and businesses it serves and is enabled to raise the funding it requires to do so.

We have heard a number of ideas from across the Chamber as to how that could happen, and I will throw in a couple more. First, why is local government not able to have a proportion of the VAT that is raised locally, by spending in local businesses and shops, to spend on local services? That would be relatively easy to do and could transform local government's relationship with businesses. Secondly, why is local government not able to take a proportion of taxes raised from vehicle taxation in order to repair roads? Those are a couple of ideas for the Minister to ponder, and I hope that he will be able to respond in a positive way.

The Government's proposal was 100% retention of business rates by local government, but the balancing act was the 100% removal of revenue support grant. The position local government now finds itself in is that the continued reduction of revenue support grant will continue for the next three years, but there will not be a replacement revenue stream of business rates—unless, of course, the Minister is able to tell us otherwise. So uncertainty reigns and, where there is uncertainty, there is inability to plan. Local service providers need certainty in order to plan. Without a local government finance Bill to deliver the business rates retention model, local government continues to be starved of the funding it needs.

However, that is not to say that the business rates model is without significant problems. The National Audit Office report of March this year drew attention to some of the stark facts. It said:

“Designing and implementing the 100% scheme will require a ‘radical overhaul’ of the local government finance system. The Department”—

of Communities and Local Government—

“faces complex design issues, which need to be addressed in the context of often competing views within the sector. At the same time, the Department is undertaking a fair funding review of the

sector. This will identify relative levels of needs and resources across the sector and set the baseline distribution for funding under the 100% scheme. The Department is undertaking this work having faced some reduction in staff resource”;

a reduction of nearly 40%. It goes on to say:

“There are risks in designing and implementing the 100% scheme. These include short-term risks whereby failing to deliver the scheme on time or to provide the sector with enough information in advance could undermine local financial planning. There are also more significant long-term risks whereby poor planning and design could deliver a scheme that puts local authorities' financial sustainability at risk or fails to create a mechanism that delivers local economic growth”.

It also says that failure to address the lack of correlation between areas of need and areas of business growth will lead to some council areas having even larger cuts in services than they have now.

That is the National Audit Office's fairly impartial view of what the Government are—or were or may be—planning for local government funding reform. The conclusion I draw is that the business rates model for self-sufficiency as a stand-alone solution to local funding is totally inadequate. That is without even considering the increasing demands, as we have heard from all speakers today, for housing and social care or the funding of the base delivery of core services.

Local government has seen what can be described only as massive cuts in funding over the past six years. Taken as a whole, local government funding has had nearly a 40% real-terms cut. Again, as we have heard, the reduction is not shared equally across councils. Those that serve more deprived areas and relied more heavily on central support have had to shoulder the lion's share of the cuts—how fair is that? These have been so deep that another National Audit Office report in 2014—even then, three years ago—reported district auditors as saying that some metropolitan and unitary councils may not be able to provide statutory services when the last of the grant cuts are felt in 2019. I would like to hear the Minister's response to that statement from the district auditors.

I will use some of the figures for my own council of Kirklees as an example of what is going on. The estimated budget shortfall is £54 million this year, increasing to £104 million in 2020-21. This comes on the back of significant reductions, the revenue support grant having reduced by over 40% in the 2010 to 2016 period. That is for a council whose net revenue spend was nearly £400 million in 2009 and will be less than £300 million—around £270 million—by 2020. That gives the scale of the cuts that a big met authority such as Kirklees is facing.

The current level of revenue support grant for Kirklees is £32.7 million—that is after all these cuts that we have heard about. The assumption is that that will disappear by 2020-21. That currently funds 11% of the council's net revenue budget, so it is significant in absolute and proportional terms. Obviously, the council continues to experience significant service pressures, in particular on support for children, providing adult social care and on environmental issues such as street cleaning and waste collection.

Obviously, the council tax will not bridge the gap and neither will the business rate, so cuts in services will continue. For instance, it is currently consulting

[BARONESS PINNOCK]

on decommissioning half of the play areas across the borough. This is for a population of 420,000 in a big urban area. How poor is that, when we are trying to encourage children to exercise more?

The Government have a responsibility to find a solution to this situation and need to explain to council tax payers, who will find—in my borough and, I guess, many others—that two-thirds of the council's spending will be to fund vulnerable adults, whether they be elderly or people with learning difficulties or disabilities, and vulnerable children and families. That is two-thirds of the budget on, perhaps, 2% of the population. That is what council tax and business rates will be funding. It seems to me that we have that totally out of kilter. If local government is to do what many noble Lords have said, which is to provide basic community services that local people want and need, such as street lighting, street cleaning, parks, libraries and somewhere to work and play, people, especially at the poorer end of the spectrum, will suffer, and indeed are suffering.

I thank the noble Lord, Lord Kennedy, for initiating this debate and trust that the Government, through the Minister, will find another couple of billion pounds at the back of the very large sofa, where they have already found £1 billion, so that we can have even just a small reduction in the large gap of funding for local government and its services.

4.18 pm

**Lord Young of Cookham (Con):** My Lords, I welcome this opportunity to debate this important issue, and I am grateful to all noble Lords who have taken part. We have had a thoughtful and, on the whole, consensual, debate about the future of local government. As the noble Lord, Lord Kennedy, said, right at the beginning, many of the key services on which our society depends—education, social services, housing and public transport—are not delivered by central government but by local government. Local government works hard to deliver quality services when it has had fewer resources to do so, as the noble Lord, Lord Smith, said. It works hard to deliver those services. Local councils have much to be proud of and I pay tribute to the way that they have made economies and efficiencies and yet still maintained a high level of public satisfaction.

I cannot claim the same intensity of local government service as many noble Lords who have spoken. I served three years on Lambeth Borough Council in 1968, when there were 50 Conservative and three Labour councillors, but I must have visited Pendle in 1971, because I then lost my seat.

This debate, which I am grateful to the noble Lord, Lord Kennedy, for initiating, gives us an opportunity to stand back a bit from the day-to-day challenge of service delivery and look at some of the medium-term strategic issues that we have talked about—if not the fundamental rethink that the noble Lord, Lord Greaves, called for, at least a serious look at the challenges faced by local government and possible solutions. These strategic issues include finance—the main subject of the debate—but we have also touched on the relationship between central and local government and the redistribution of powers, and within that, the

relationship between the NHS and adult social care, which has been one of the major themes. I also want to touch on the emerging and changing structures of local government, and new ways of working together, mentioned by the noble Lord, Lord Shipley, and indeed, working with the private sector to deliver those services.

First, a cautionary note: when I was no longer Housing Minister after my second visit to Pendle, I became a Minister at the Treasury. We need to set this discussion in the context of the challenging fiscal position in the UK. As we heard at the end of the previous debate, at nearly 90% of GDP, our public debt is the highest it has been in nearly 50 years. Our deficit is still above the post war average and above sustainable levels. We have the fourth highest deficit and the sixth highest level of debt out of 24 advanced economies.

We are having this debate against the background of trying to return to balance by the middle of the next decade, which is the right medium-term fiscal objective, enabling debt to fall back to safer levels. We cannot exempt, and we have not exempted, local authorities from this process. As I said, we have recognised their successes in making efficiencies over recent years. Looking ahead, local authorities will see a modest 1.2% increase in cash terms between 2015 and 2020, but looking only at central grants—RSG—does not reflect the totality of resources available to local authorities to deliver local services, including business rates and council tax, as well as dedicated grants, such as the improved better care fund.

Local government finance is a key element in enabling local councils to play their role. To facilitate their work, we have given councils important financial freedoms and flexibilities to help them manage their own budgets. For example, we have given councils new flexibility to use up to 100% of the receipts from the sale of land and buildings, to help make the up-front investment in the transformation of local services and therefore ensure further savings.

The noble Lord, Lord Kennedy, asked in his opening speech for more certainty and stability—I think those were the two words he used. In 2015 we provided more certainty and stability through the offer of a four-year financial settlement, and 97% of eligible local authorities have accepted that offer. We have also introduced flexibility to use the receipts from the sale of land and building, as I have just mentioned, not just to help pay the up-front investment in the transformation of local services, but to put more money into adult social care. We have also introduced the social care precept. As a result of those, against a challenging background, councils can now plan for the future with greater certainty over their funding than ever before, helping them to take more control and plan service delivery and transformation, and to achieve more effective collaboration with local partners.

For example, the transformation challenge award is a challenge fund to support local authorities to re-engineer their business practices and redesign service delivery. It helps local authorities to go further and faster with their transformation plans. Among many others, Lancashire County Council used it to develop and implement an integrated well-being and resilience offer,

the London Borough of Brent used it to help local residents overcome barriers to employment, and Blaby District Council is using it to make housing support services easier to access. Much of this debate has been about business rates retention. The noble Lord, Lord Kennedy, and the noble Baroness, Lady Donaghy, touched on that.

As noble Lords have noted, there was no government finance Bill in the Queen's speech, so there have been questions about our plans for the future of business rates. Looking ahead, I can assure the noble Lord, Lord Kennedy, and others, that local government finance is still very much on our agenda. We are committed to delivering the manifesto pledge we made to continue to give local government greater control over the money it raises, and we will work closely with local government to agree the best way of achieving that. We have no plans yet on timing for a broad local government finance Bill; we will, of course, be looking at what can be achieved without primary legislation, which was something the noble Lord, Lord Shipley, touched on, although, of course, there will be some constraints on what we can do through that route.

We are planning to take this opportunity to open up a conversation with business and local government stakeholders, and ask what their priorities are for the future direction of local government finance reform. We are committed to making the right reforms and ensuring the long-term sustainability of the local government system, delivered on an appropriate timescale. That does not mean we have abandoned the idea of early action. We recognise the impact of increasing service pressures, and are already responding positively to help councils meet immediate issues. For example, as noble Lords have said, in addition to the money announced by the Government in 2015, at the spring Budget this year the Government announced an additional £2 billion to put social care on a more stable footing and alleviate short-term pressures across the health and care system. We have also allowed relevant authorities the flexibility to raise more income through the adult social care precept.

I note the point raised by the noble Lord, Lord Smith—that the money raised from the precept is not quite as much in areas with low-valued housing. But the money raised from the precept is only part of the additional funding made available for adult social care. The majority of the funding announced in the spring Budget will be allocated using the improved better care fund formula, which takes account of the ability to raise money through the council tax precept for social care. Therefore, the total reflects relative need as closely as possible, in recognition of the additional challenges that social care places on certain councils.

In the medium term I reiterate our commitment to the fair funding review, which addresses local authority concerns about the fairness of current funding distributions and the lack of transparency and simplicity in how that funding is allocated. It has been almost 10 years since the current formula was reviewed, and it needs revision to reflect the rapidly shifting factors, such as changing population and demographic pressures, which determine local authority costs in providing services. The fair funding review will set new baseline funding allocations for local authorities by delivering

an up-to-date assessment of their relative needs and resources, using the best evidence available. It will be a thorough, evidence-based review of what the relative needs formula should be and will consider a wide range of options for developing an updated funding formula by looking again at the factors that drive costs for local authorities. We cannot and will not do that in isolation; the review is using an open process of close consultation and engagement, and the team is working actively with the LGA and with representatives from all parts of local government through a technical working group to try to get this right. I recognise that local authorities are keen to make progress on this, as indeed are the Government, but they also tell us that it is important to get this review right. We shall continue to seek views on the approach and the target date for implementation.

Adult social care was mentioned by the noble Lord, Lord Smith, the noble Baroness, Lady Donaghy, and others. As my noble friend Lord O'Shaughnessy said in exchange at Question Time earlier this week:

“This Government's ambition is to make the UK a good place for everyone to grow old, and we have put in place a programme of reforms across health, care, housing and other services to support older people to live independent and fulfilling lives”.—[*Official Report*, 11/7/17; col. 1158.]

For example, following the rollout of full devolution in April 2016, 10 local authorities and clinical commissioning groups for Greater Manchester have devolved responsibility for the health and social care budget to a new Greater Manchester partnership, which will oversee an annual £6 billion budget with which to commission both health and social care services. That has to be the way forward—breaking down the iron curtain between health and social care.

The ageing population still presents one of our nation's most profound challenges—one of the themes of this debate—and it raises critical questions as to how as a society we enable all adults to live well into later life and how we deliver sustainable public services that support them. We have, as I said already, invested an additional £2 billion to put social care on a more stable footing and alleviate short-term pressures across the health and care system. However, further reform is required to ensure that the system is prepared to meet the challenges of the increasing numbers of over-75s.

To address these questions, the Government will work with partners at all levels, including those who use services and who work to provide care, to bring forward proposals for public consultation. The Government will consult on options to encourage a wider debate. The consultation will set out options to improve the social care system so as to put it on a more secure financial footing, supporting people, families and communities to prepare for old age, and to address issues related to the quality of care and variation in practice.

On emerging structures of local government and new ways of working, local government has changed since I was first elected as a councillor nearly 50 years ago. The aldermen and town clerks that I recall working with have been replaced by chief executives, leaders and cabinets. Across government, we are making huge strides towards rebalancing the economy and empowering local government. Devolution deals have been mentioned

[LORD YOUNG OF COOKHAM]  
 in this debate, and we have supported such deals, strengthening local leadership and institutions through the establishment of mayoral combined authorities. We have devolved powers and funding away from Whitehall, so that those powers are exercised at the right level. We are also strengthening local leadership and institutions through the establishment of mayoral combined authorities. Directly elected mayors provide a single point of accountability for residents and are an ambassador for their area, boosting the area's profile and helping to attract inward investment. On 4 May, six combined authority mayors were elected, representing 9.8 million people in England—33% of England, including London, now has a directly elected mayor with new powers to create jobs, improve skills, build homes and make it easier to travel.

We want to see these new city region mayors continue to develop innovative policy solutions. I will, for example, be interested to see development of the West Midlands Mayor's mentorship scheme, which he hopes will attract mentors to help guide young people into worthwhile careers and out of unemployment. Councils are also innovating in how they work with each other—a point raised by the noble Lord, Lord Shipley—and with outside bodies. This has produced new delivery models such as Achieving for Children, a social enterprise company created by the Royal Borough of Kingston upon Thames and the London Borough of Richmond upon Thames to provide their children's services.

Touching on some of the issues raised in the debate, the noble Lord, Lord Desai, mentioned the poll tax. I confess that I was one of the Tory rebels who voted against the poll tax at every conceivable point as it went through the House of Commons—I was subsequently surprised to be appointed Chief Whip against that background. The noble Lord said, I think, that he could quadruple the revenue from council tax in a way that was almost painless. I think that we would like to see that scheme worked up in a little more detail before we finally commit ourselves to it.

On revaluation, I gently point out that the Labour Government, between 1997 and 2010, did not revalue in England, despite the powerful arguments for revaluation that we have heard from the noble Lord, Lord Desai. The Government capture the rising values of property in other ways, for example, through inheritance tax and, of course, stamp duty. It is not the case that the public purse does not benefit from rising values. We have no plans to introduce new bands; adding new bands would be complex, involve the valuation of many homes and raise fairness issues about the ability of those liable to pay the tax. Many people living in high-value homes may be on fixed incomes and may have lived in them for a long time. It would risk penalising those people on low incomes, such as pensioners, who have seen their homes appreciate in value. They might face a substantial increase in taxes without having the income to pay it.

**Lord Desai:** The noble Lord will remember, during the poll tax debates, that we had the whole population studied. It was said there were houses where a working man lived with four adult boys working and others where there was a lonely old lady, and there was an

injustice because their rates were the same. That is a myth. Let us face it: we need revaluation. People with a fixed income living in a highly valued property will be a very tiny minority.

**Lord Young of Cookham:** Well, I hope that the noble Lord's words of wisdom have fallen on his Front Bench as well as my own. I just make the point that they did revalue in Wales, in 2005; 33% of homes were placed in a higher band and only 8% of homes were placed in a lower band. Two-thirds of the net rises were among homes originally in bands A to C, meaning that in that case revaluation hit the less well-off households the hardest. Therefore, I note the case that was made, but I have to disappoint the noble Lord and say that that is not on the agenda.

I was encouraged to hear the noble Baroness, Lady Donaghly, say that she has three energetic candidates waiting to fight in her ward. I will make it my mission to ensure that they are opposed by three equally energetic, dynamic and motivated candidates from my party so that we have a proper contest in whatever part of Southwark she may live in.

The noble Lord, Lord Shipley, raised the point about local authorities investing in property. Like him, I saw the article and made some inquiries following the leader in the *Times* on Tuesday about local authority property investments betting with taxpayers' money. There are strong checks and balances in place to protect taxpayers' money, and local authorities are required to ensure that they have the right skills and commercial expertise to make investment decisions. However, we are actively monitoring the nature and scale of local authority commercial activity, working closely with the sector to ensure that the governance framework continues to be appropriate.

Yes, we have to do more on housing; I recognise that. I have some briefing here on housing, explaining how we are building more council houses than the Labour Party. I will not read this out because I am short of time, but I agree with one of the thrusts of this debate that we need to raise our game on housing.

I say to the noble Lord, Lord Greaves, that it says here that you should not comment on an ongoing police investigation, so I will not.

**Lord Greaves:** I was very careful not to comment on the ongoing police investigation. I commented on what is happening in Liverpool council and Lancashire council, which is alarming.

**Lord Young of Cookham:** I will be even more careful by moving quickly on.

The noble Baroness, Lady Pinnock, made the interesting proposal that we should somehow topslice DVLA proceeds and VAT and give it to the local authorities. However, they would not then have the certainty that they have at the moment, because they would not know how much they would raise. Local government would be out of pocket because it would have kept the money and we might simply reduce the RSG to that local authority by the amount that it was going to get from the VAT, so actually you would be back where you started. I note that in the many reviews of local government finance that proposal has not found favour.

In conclusion, local government has met some major challenges recently. It has faced immediate demands from emergencies: terrorist attacks in London and Manchester and the fire at Grenfell Tower. It is dealing with these emergencies against a background of rising demand for services in key areas such as adult social care. It has shown willingness and ability to work together across boundaries of all kinds, not just geographic boundaries but social and political ones as well, to best support the communities it represents.

Despite such challenging conditions, councils continue to deliver, and council tax is expected to be lower in real terms in 2019-20 than it was in 2010-11. Councils have embraced innovation and transformed the way they work to deliver services for their local areas. We must create the conditions for strong local public services to serve our communities. This will support the important work that our public sector workers do in ensuring that all our citizens are provided with high-quality public services at local and national level at every stage of their lives.

4.38 pm

**Lord Kennedy of Southwark:** My Lords, I thank all noble Lords who have spoken in the debate. Listening to it, I was struck by the amount of agreement on all sides.

The noble Lord, Lord Shipley, made an important point about collaborative work and the need for clarity in the patchwork that has been created. We have discussed many times the issue of council tax. The noble Lord, Lord Marlesford, who is not in his place this afternoon, has talked about that issue many times and presented a Private Member's Bill in the previous Parliament looking at council tax bands.

My noble friend Lord Desai talked about the problems we have caused ourselves by not having a revaluation. As we have heard, council tax was introduced as a fix to get the Government out of the poll tax disaster, and many noble Lords referred to it. I did not realise that the Minister had opposed the introduction of the poll tax. I congratulate him on doing so—well done.

My noble friend Lady Donaghy made a powerful point about the crisis in social care. I know the area to which my noble friend referred, as I went to school in Peckham and Camberwell and lived in Walworth. I was a Southwark councillor for many years. The noble Lord, Lord Young of Cookham, mentioned aldermen. I was appointed an honorary alderman by Southwark council many years ago after I left the authority. When I was a councillor there, we had a category of housing called “hard to let”, which included the Pullens Estate in my ward. No such category now exists because there are no more homes that are hard to let—every home is snapped up the moment it becomes available.

The noble Lord, Lord Greaves, commented on austerity and how to move forward. His points in respect of parks were also well made.

The noble Lord, Lord Young of Cookham, has an open invitation to visit Lewisham any time he wants. I would be delighted to show him what a great place it is, particularly if he comes to Crofton Park, which I represent. In issuing that invitation, I hope that I will

cause him none of the problems that he had when he went to Pendle, because there have been a few issues there in the past.

My noble friend Lord Smith of Leigh has vast experience of local government as the leader of Wigan Council and as a member of the Greater Manchester Combined Authority. The spending cuts have had a real effect on people's lives, and my noble friend highlighted many other issues, such as council tax. He made an important point about the effect of the cuts in different authorities, and that, for me, highlights how important the fair funding review will be.

The noble Baroness, Lady Pinnock, raised a number of interesting points, including on VAT, road tax and other taxes. I did not mention it in my opening contribution, but the London Finance Commission has reported under both the previous mayor, Boris Johnson, and the present mayor, Sadiq Khan, and has looked at those very issues. I think I am right in saying that both mayors have been supportive of the commission's reports, but perhaps further work needs to be done. This may be an issue that needs to be looked at in the future.

I thank everyone who has spoken in this debate. Again, I make the point that on most of the issues raised today local government speaks with one voice, and that is one of the more positive things to have happened in local government in recent years. Things were very different when I was a Southwark councillor in the 1980s. However, things have moved on, which pleases us all. Any disagreements today tend to be much more between central and local government; as I said, local government often speaks with one voice.

The response from the noble Lord, Lord Young of Cookham, particularly in respect of local government finance, was interesting. Discussions need to take place urgently on how local government is to be funded in future years, particularly beyond 2019-20. It does not appear that the previous proposals, if implemented, will be achieved in the same timescale—these things always seem to slip.

In conclusion, I thank the noble Lord, Lord Young of Cookham, for his detailed response to the debate, which he delivered with his usual courtesy. I appreciate it very much, and I thank all those who have spoken.

*Motion agreed.*

## Korean Peninsula

### Question for Short Debate

4.42 pm

*Asked by Lord Alton of Liverpool*

To ask Her Majesty's Government what assessment they have made of security challenges and related human rights violations on the Korean Peninsula.

**Lord Alton of Liverpool (CB):** My Lords, in 2003, after taking the testimony of an escapee from North Korea, whose wife and three children had died there, I initiated a debate in your Lordships' House. I described a, “corrupt, paranoid and tyrannical regime”,

[LORD ALTON OF LIVERPOOL]  
responsible for “unbelievable brutality and viciousness”. I said:

“This regime has subjugated its own people and now threatens and blackmails the world’s democracies. It does so by threatening nuclear war unless the free world accedes to its demands. To do nothing about North Korea would be the most dangerous option of all”.—[*Official Report*, 13/3/03; cols. 1546-48.].

Those remarks led to four visits to North Korea, three of them with my noble friend Lady Cox. In subsequent reports we argued for a Helsinki-style critical engagement, increasing the pressure for human rights, in combination with a firm policy of military containment. We argued for a breaking of the information blockade and for the centrality of China’s role, and said that we had to distinguish between what we described in one of our reports as a “decaying political ideology” and the,

“courageous Korean people, caught in this nexus of danger and despair”.

In 2004, we founded the All-Party Parliamentary Group on North Korea, which I co-chair. It has held many public hearings with escapees, including prisoners jailed for political or religious beliefs, highlighting the depredations of the gulags, the use of child labour and the Stalinesque purges and executions.

In 2010, in a debate in your Lordships’ House, I called for the creation of a United Nations Commission of Inquiry into human rights violations. It was established in 2013, and the Sages Group, of which I am a member, remains focused on the commission’s findings.

The all-party group also secured agreement for BBC World Service broadcasts which, with smuggled USB sticks and DVDs, will help to prise open a closed society and counter propaganda that literally teaches people to hate.

North Korea is caught in a time warp which has its origins in the armistice of 27 July 1953, designed to put a temporary halt to a war that claimed up to 3 million lives. Sixty years later, a short-term armistice is still in place and a solution is still pending. Having done too little to change the weather, we now find ourselves on the edge of a nuclear winter. We called it “strategic patience”—patient yes; strategic or urgent, no.

James Mattis, the United States Defense Secretary, is in little doubt about how catastrophic a new war would be, saying that a conflict in North Korea, “would be the worst kind of fighting in most people’s lifetimes”.

Miscalculation, rather than design, is capable of triggering a “Sarajevo” moment, and with more than a million troops under arms and some 8,000 artillery pieces located within range of half the South’s population, this is not a moment for sending the wrong signals.

It was Winston Churchill who insisted that:

“The statesman who yields to war fever must realise that once the signal is given, he is no longer the master of policy but the slave of unforeseeable and uncontrollable events”.

But he also warned about the dangers of appeasement—of feeding the crocodiles who end up eating you. He said that there will come a point when:

“The era of procrastination, of half-measures, of soothing and baffling expedients, of delays, is coming to its close. In its place we are entering a period of consequences”.

If we have not quite reached that moment, we are perilously close to it and on the brink of the irreversible.

When the North Korean leader, Kim Jong-un, warned in early January that his country was in the “final stages” of preparing an intercontinental ballistic missile, Donald Trump tweeted, “It won’t happen!”. Last week, on American Independence Day, it did. That, the return to America of a dying student, Otto Warmbier, and the holding of three other United States citizens as hostages, whose plight was reported yesterday to be worsening, inevitably becomes a *casus belli*. It is impossible for the United States to contemplate open talks while their citizens are incarcerated, and now with ICBMs, North Korea would be unwise to believe that the United States would easily accept a nuclear freeze. Attempting to perfect the miniaturisation of its nuclear warheads to mount on an ICBM simply increases the danger and the urgency. I suggest four areas in which to swiftly target our focus: diplomacy, sanctions, North Korean operatives and judicial action.

Nikki Haley, the US ambassador to the UN, warned that North Korea’s actions were,

“quickly closing off the possibility of a diplomatic solution”.

President Trump has also told South Korea’s President Moon Jae-in that dialogue with North Korea remains open “under the right circumstances”. China would gain great credit from brokering such an initiative.

But let us be realistic. North Korea has flouted the nuclear non-proliferation treaty, two nuclear safeguard agreements with the International Atomic Energy Agency, an inter-Korean denuclearisation agreement, and denuclearisation agreements with the United States in 1994, 2005, 2007 and 2012. It has sent assassins to kill Kim Jong-nam and human rights activists, proliferated ballistic missiles, sold weapons to terrorists, attacked South Korea on numerous occasions, helped Syria employ chemical weapons and engaged in cyberwarfare, including against the United Kingdom. Reason, not hope, should inform any effective policy, and reason tells us that North Korea will not negotiate its nuclear and missile programmes away.

The quest for deterrence may well trigger a race for atomic weapons within the region. South Korea, Japan and even Taiwan may follow suit, none of which would be welcomed by China any more than a failed state on its border and the prospect of millions of refugees destabilising China and the region. Yet despite the gains from a diplomatic breakthrough, both China and Russia—with its increasing business links and trade, along with the use of North Korean labour in its timber camps—seem more interested in cornering the United States than in cornering North Korea or in encouraging fundamental change. With the flick of a switch, China could bring North Korea to the table, but there is a growing belief that it suits China to leave Washington dangling. This year, Chinese trade has increased by 40% and banks continue to launder North Korean money. Paradoxically, it is prosperity and market reforms that ultimately will fundamentally change North Korea, but in the short term, toughened Chinese sanctions might bring the North Koreans to the table and help to avert a catastrophic war.

We should note also that a recent UN report confirmed that North Korea uses foreign banks to access European and US financial systems. Why is this still the case? Moreover, what of the North Korean operatives as generators of hard currency for North Korea? For

years, the UN Panel of Experts has named and located North Korean operatives working around the world. Some make money for the regime in seemingly legitimate businesses, while others engage in more sinister activities such as the purchase of weapons-related materials and assassination. Why too was the Korea National Insurance Corporation able to use London to generate more than £113 million to support both the regime and its nuclear weapons programme? An estimated 100,000 North Koreans are working in timber camps and in stadia in Qatar and St Petersburg where they are said to be treated like prisoners of war, in Chinese sweatshops and in Malaysian mines, and are forced to return most of the nearly \$2 billion they generate each year in wages to the regime.

Let me finally also speak of justice and act on the United Nations commission of inquiry's recommendation that the regime be held to account through the International Criminal Court for crimes against humanity. The prospect of justice helped to concentrate the minds of the military regime in Burma and it can play its part in North Korea too. In Geneva this year, Tomás Quintana, the UN Special Rapporteur on North Korea, and a group of independent experts called again for an ICC referral or, in the event of a veto at the Security Council, for the establishment of an ad hoc international tribunal. Crimes against humanity are by definition a concern for all of humanity, and a failure to take appropriate action sends a deplorable signal to despots around the world. Democratic nations should issue arrest warrants for North Korean officials. Any representative of the regime should be detained and tried for complicity in crimes against humanity. We should also downgrade our British diplomatic presence, which is treated contemptuously by North Korea while providing it with a veneer of legitimacy.

North Korea is not a normal nation. It is a brutal totalitarian regime that starves its people while simply seeking its own survival. But a better outcome is still possible if the international community pursues a hard-headed, effective and reasoned foreign policy that unites a concern for security and human rights while supporting Koreans who are working for change. Doing nothing remains the most dangerous option of all, and I thank all noble Lords who are to participate in this debate for drawing attention to these issues.

4.53 pm

**Lord Farmer (Con):** My Lords, I am grateful to the noble Lord, Lord Alton of Liverpool, for bringing this important question to the House. I commend him on his insightful and clear introductory speech. I shall focus my comments on the plight of Christians within North Korea. Given that it is an extraordinarily restrictive state, up-to-date information on conditions for Christians or indeed any other group within the state is limited. Moreover, a dearth of domestic criminal law guidance which would codify sanctions against those who counter the state prevents concerned outsiders building up a systematic understanding of the consequences of non-conformism.

In 2014, the UN commission of inquiry report on North Korea outlined the, "almost complete denial of the right to freedom of thought, conscience and religion",

within the country. During the same year, the UK Parliament's APPG on International Freedom of Religion or Belief documented the persecution of religious groups in North Korea, similarly concluding that,

"the DPRK systemically oppresses freedom of religion or belief and that Christians in particular are targeted by the regime and subjected to chronic human rights abuses, amounting to crimes against humanity".

The state commits to protecting religious freedom in its constitution, but Article 68 affirms:

"Religion must not be used as a pretext for drawing in foreign forces or for harming the State or social order".

While two Protestant churches reportedly exist in the DPRK to welcome believers on official visits, this constitutional qualification allows the state to persecute North Korean adherence to religious beliefs, such as Christianity.

According to Christians from the DPRK in contact with organisations outside the country or who have managed to escape across the border, this persecution flows from the state's view of religion as a national security threat that challenges in particular loyalty to the Supreme Leader. Christianity in particular is perceived by the state in geopolitical terms as an unwelcome manifestation of neo-imperialistic western influence. Dedicating one's life to Jesus Christ represents the most profound threat to a state-sanctioned cult that treats total loyalty to a ruler as indispensable to patriotism.

Branded as foreign spies or enemies of the state for their beliefs, Christians are placed on the bottom rung of the caste system, labelled hostile individuals and forced to live in isolated villages where they are subjected to forced labour and horrific treatment in "Nazi-esque" death camps. The most recent estimates from Christian Solidarity Worldwide state that between 10% and 45% of those currently imprisoned in detention camps are Christians, detained under national security pretences for such vague and innocuous charges as possession of religious items or contacts with religious people. The tales of torture, sexual violence and starvation that emerge from these camps are horrifying, but it is also instructive to note the incessant and intimidatory scrutiny Christians and others not living in the camps face.

United Nations and NGO evidence portray an Orwellian society in which Christians are forced to live in a state of constant fear, monitored by the national security and public safety agencies' extensive surveillance network and a system of neighbourhood groups and informants. Former agents of this surveillance network vividly describe how the state roots out Christians by setting up fake "secret" prayer meetings to attract Christians in both North Korea and China. Chinese pastors are sometimes bribed to hand over Christians who have managed to escape across the border. Agents are given rewards that include medals, higher pay or promotion for identifying and arresting religious offenders. Their training focuses on identifying possible signs of Christianity—sometimes seemingly innocuous acts such as remaining silent with closed eyes and meditating, or suddenly giving up alcohol and smoking.

Faith must be practised in strict secrecy and only in association with closest family members, always vigilant to being monitored and to overcurious friends and neighbours, with self-censorship of one's speech, behaviour

[LORD FARMER]

and even thoughts to ensure beliefs are well hidden. Such self-censorship and fear are utterly destructive for building the good society in which individuals can support each other beyond the bounds of incredibly tight family groups by carrying out charitable acts inspired by faith. Whence comes civil society in such a climate of suspicion? The preconditions for a public square in which human rights can even be called for, let alone a prevailing culture where these could be put into practice by the DPRK's population, are eerily absent.

After 1945 the world promised never again to allow the horrors that the Jewish community endured—living in fear, being hunted down for their beliefs and being herded into concentration camps—to happen again. Despite our good intentions, Christians in the DPRK are reliving this shameful history under the auspices of a regime seemingly impenetrable to outside intervention. As a nation that upholds and advances international human rights law we must do all we can to protect those who are suffering in such conditions. Will my noble friend the Minister urge the Government to support the referral of the human rights situation in the DPRK to the International Criminal Court, following the recommendation of the UN's 2014 commission of inquiry on North Korea that found that crimes against humanity are being perpetrated?

Will the Government call on countries such as Brazil and China, which have good relations with the DPRK—I read this morning that North Korean exports of iron ore to China are up 200% so far this year—to exert all their power to encourage Pyongyang to abide by every international human rights instrument it has ratified and, in particular, to protect freedom of religion or belief as stipulated in Article 18 of the International Covenant on Civil and Political Rights?

5 pm

**Lord Stirrup (CB):** My Lords, I too am very grateful to my noble friend Lord Alton for securing this debate, although I have to say that it is a very short period in which to discuss one of the major security challenges that our nation will face in the years ahead. I say “security”, for that is the aspect on which I shall focus my remarks, but I echo the concerns raised by my noble friend and other noble Lords regarding the serious violations of human rights by the North Korean regime.

The Korean peninsula remains frozen in a divided state between two very different societies—frozen, let us recall, by an armistice and not by any enduring political settlement. The north is governed through a paranoid dictatorship which defies most efforts at analysis. Its leader is by any measure a loose cannon. As an old friend and colleague of mine in the United States said recently, Kim Jong-un has not even been unpredictable for long enough to be predictable in his unpredictability.

This regime, which dispenses bellicose threats like confetti, has nuclear weapons and is working on a ballistic missile and miniaturised warhead programme that will allow it to deliver such weapons to the territory of the United States. South Korea and Japan are already well within its compass. In the recent assassination

of Kim Jong-nam with VX nerve agent, the regime seemed to be going out of its way to signal its possession of chemical weapons

This all presents us with a deeply worrying prospect, and it is not one that we in the UK can ignore, thinking that the region is far removed from us and our interests. Conflict on the Korean peninsula, drawing in the United States and possibly Japan and risking the involvement of China, would destabilise the world more widely and have a severe economic impact on us, to say the very least. The use of nuclear weapons would, needless to say, be a global game-changer.

How should we respond to the current challenge, and particularly to the North Korean programme to develop a nuclear-armed intercontinental ballistic missile? It seems to me that there are three broad possibilities. The first is that China exerts sufficient pressure on Kim Jong-un to convince him to give up his ambitions in this regard. The second is that the United States, perhaps in concert with others, takes military action to try to destroy the programme. The third is that North Korea is successful and establishes such a capability. Let me examine these scenarios in turn.

China is the only country with any real influence over North Korea, but how willing is it to use it? In response to Pyongyang's missile tests, China has issued some deprecatory remarks in various international fora, but does Kim Jong-un pay any attention to them? All the evidence suggests that he does not. The only thing that seems likely to sway him is diplomatic and economic action that constitutes a realistic threat to him and his regime. Is China prepared to take such action?

Despite Beijing's announcement of a ban on North Korean coal imports following the assassination of Kim Jong-nam, the value of Chinese exports to North Korea, as we have already heard, has remained strong through the first half of this year. There is absolutely no evidence to suggest that China is serious about bringing real economic pressure to bear on Kim Jong-un. And why would it be? China does not wish to see any progress towards a unified Korea. On the other hand, anything that causes difficulties for the United States is very welcome to Beijing. Nor does China wish to risk a flood of North Korean refugees across its border. Perhaps the only thing that would seriously concentrate China's mind would be the development of nuclear weapons programmes in South Korea or Japan, neither of which seems likely. My conclusion is that China is not prepared to take the kind of draconian measures that would have a realistic chance of changing North Korea's course.

What, then, of military options? Although General Brooks, the commander of American forces in Korea, has said recently that his troops are prepared for war—as one would expect him to—how likely is it that the United States would be the one to initiate such a conflict? Most analyses suggest that America would eventually be victorious, but at a terrible cost, not least to Seoul, and of course the position of China remains a great imponderable, as does the use of nuclear and chemical weapons. Remarks by Defense Secretary Mattis suggest that he views the costs as unacceptable. How likely is it that a more limited strike, if the consequences could indeed be limited, would destroy or at least



severely derail North Korea's missile programme? Given the inadequacy of intelligence inside the North, and the regime's extensive use of tunnels and underground sites, it seems unlikely that we could have a high degree of confidence in the outcome. All of this suggests to me that military action, unless initiated by the North, is unlikely.

That leaves the third scenario, the one where North Korea develops a nuclear weapon capable of striking the United States. This, it seems to me, is far and away the likeliest outcome, in which case we must consider how we deal with such a situation. This does not mean that we should cease our efforts to persuade China to exert realistic diplomatic and economic pressure on Pyongyang, just that we should not count on them succeeding. We should work for the best but plan for the worst. The good news is that the one thing we probably can reliably expect from Kim Jong-un is a serious interest in his own survival and the continuance of his regime. That means that he will be susceptible to nuclear deterrence, but to be effective, deterrence has to be credible. We should therefore be working with our allies now to determine the best way of ensuring that credibility. The continued need for strong nuclear deterrent capabilities seems to me to be the key lesson from what is happening in North Korea today.

The situation that I have set out in this debate is a gloomy one, but that is no excuse for hiding our heads in the sand. We must be prepared for a much more dangerous world in the years ahead. We must recognise that the stakes are far too high for us simply to leave the problem to others. We must recognise that the clock is already ticking and that the time to act is now.

5.07 pm

**Lord Desai (Lab):** My Lords, it is a privilege and an honour to follow the noble and gallant Lord. I thank the noble Lord, Lord Alton, for having, over these many years, tracked the North Korean situation very closely, and for bringing it to our attention. I shall not talk about the human rights record, which he is very much more capable of, but shall follow the noble and gallant Lord, Lord Stirrup, in talking about security aspects. I will take what he said as my starting point so that I can work further on it.

The problem is that, in one sense, the world gave up any worry about nuclear proliferation 20 or 30 years ago. We have many more nuclear nations now than was the case when the Cuban missile crisis confrontation took place. I think it was partly the Cuban missile confrontation that removed the fear of nuclear weapons. We thought, "We can handle this; we can handle Armageddon and we do not have to worry about it". I was a young graduate student in America at that time, watching it on television, and I thought, "Either this is the end of the world or it is not; I have no choice in the matter". Luckily, it was not, but since then we have nuclear arms in India and Pakistan and God knows where else, so I think it will not be possible to denuclearise North Korea. Nobody—neither China nor the USA—has either the military or the diplomatic strength to denuclearise Kim Jong-un.

It is remarkable for me as an economist. Economics textbooks start with a peculiar diagram about the choice between guns and butter. Kim Jong-un has

taken the view, "Forget about butter, I only want guns". And for a relatively poor country, he has an extremely high level of military sophistication. Weapons are cheap. That is the issue. Weapons are not expensive. Anybody can get them. It will not persuade him if we say, "If you do not do this your people could have a much better life". He would be worried about that. If his people had a better life, they could have other ideas about why he was there—so it is in his interest to keep the people as they are, to dazzle them with weapons but not to let them have bread.

So what is to be done? My view is that first of all one has to bring to a conclusion the Korean War—which has not been brought to a close, as the noble Lord, Lord Alton, pointed out. We only have an armistice. We have not got an end to the war. This is not entirely my own idea; it has been around in the literature. First, we have to say that the Korean War is over and that the division of Korea is permanent. We must have no idealistic dreams about uniting Korea, because that would really alarm the poor man as he would lose his empire. One has to pacify the situation by saying, "Yes, we honour your sovereignty, we confirm that North Korea is a separate republic"—or country, or whatever it is—"and we want some sort of settlement across the 42nd parallel"—or whatever it is—"so that we can demilitarise the border". We need to give him an assurance that we are not interested in removing him, killing him or de-fanging him.

Any attempt to attack him militarily—as I have often said, I do not have much realistic knowledge of this, but I can guess—to destroy his weapons or whatever it is will leave him with enough weapons to attack Japan and South Korea. It is not a risk worth taking, so we have to let him have his weapons but persuade him not to use them. That requires freezing the current situation in a more peaceful direction. Give him recognition, negotiate with him, give him status and make quite sure that he does not attack either of his neighbours—Japan or South Korea.

I agree with the noble and gallant Lord, Lord Stirrup, that China has absolutely no interest in playing our game. We want China to do such and such, but we have no kind of sanction on China—and why would China want to do it, because basically China is more worried about Japan and South Korea militarising themselves, or America offering them considerable amounts of weapons, than about what trouble Kim Jong-un can make for it? He is not going to make any trouble for China. So we have to assume that this is our problem and that, while we need China's co-operation, we have to tackle it diplomatically.

We will not get everything. North Korea will not become a liberal democracy—forget it—and its human rights situation may still be very peculiar. But the priority right now is to get away from a nuclear winter, as the noble Lord, Lord Alton, described it, because that way lies the deaths of millions of people. We ought to go very carefully and very diplomatically, in a combined effort of the US, the UK and other NATO powers, and make quite sure that, whatever we do, we do not incite him into any kind of action. Let him keep his toys, but do not let him play with them.

5.14 pm

**Lord Evans of Weardale (CB):** My Lords, I also congratulate the noble Lord, Lord Alton, on securing this debate.

I will comment on two aspects of the current North Korean crisis. First, we are clearly at a very dangerous point in the development of North Korea's nuclear ambitions. What has been until now a chronic regional issue is on the cusp of becoming an acute global one, as North Korea develops the capacity to launch an intercontinental attack. We all know the dilemma that this creates. Do we accept that North Korea, led by a maniac, can continue to threaten with impunity, or do we try to pre-empt the risk, with the danger that North Korea uses its existing nuclear capability with devastating regional results? Both options are clearly unacceptable.

It seems to me that apart from sanctions, our only available operational avenues are covertly to sabotage North Korea's developing capabilities or to do what we can to undermine the regime from within. I am sure that covert sabotage is already happening, although this will rightly not be made public. It is one of the few available options and such a programme should receive all the support and resource available.

The other way through the impasse is to hasten the downfall of the current regime. Tyrannical regimes that terrorise their populations are not inherently stable or secure. If regime change is the aim of the international community, public sabre rattling may be counterproductive. We might do better to keep quiet while doing what we can to undermine the regime from within.

I realise that this is very much easier to say here than it is to do in practice. But there are rumours that executions of alleged traitors within the regime are at an unusually high level over the last 12 months, with several hundred killed in the last year along with their families. This suggests that the regime fears losing its grip. But terror can act as a solvent as well as a glue. If you fear for your own future and that of your family, you may well be looking for a way out. You may be next on the list, and you have the incentive to change the regime. Though I recognise that understanding the internal dynamics of such a regime is extremely difficult, the fact that these purges appear to be taking place does at least present us with the germ of a possibility of progress.

My second point relates to the wider human rights situation in North Korea. The Warmbier case demonstrates the inhumanity and brutality of the regime but is one manifestation of the situation depicted in the work of the United Nations Commission of Inquiry. It described the position in North Korea as unparalleled in the world. Human rights are routinely and deliberately abused in North Korea. Freedom of religion and belief, in particular, is almost non-existent. As the noble Lord, Lord Farmer, reminded us, the regime persecutes severely those who practise their religion, particularly Christians, and punishment is also extended to their families. This may include slave labour, sexual violence and torture. Those forcibly returned to North Korea from China are also subject to abuse, torture and even death.

Will the Minister comment on three points? First, will the Government ensure that the recommendations of the UN Commission of Inquiry are regularly raised in the Security Council despite the difficulty of getting agreement to take action? Secondly, will the Government continue to press the Chinese Government to reconsider their policy of repatriating North Korean refugees, given the conditions to which they are being returned? Thirdly, will the Minister update the House on the BBC's plans to develop and extend its Korean language coverage in order to provide those in North Korea with at least the possibility of receiving accurate information on the situation in that country and beyond?

5.19 pm

**Lord Lee of Trafford (LD):** I congratulate the noble Lord, Lord Alton, on securing this debate.

As the north's state-run *Rodong* newspaper described it:

"The peninsula is the world's biggest tinderbox."

Conflict could break out at any time by accident, miscalculation or some form of pre-emptive strike. Let us be clear: by action and by rhetoric, North Korea is striving to develop ICBM nuclear capability, threatening and taunting the United States, South Korea, Japan and others. We cannot, ostrich-like, bury our heads and ignore this, as the noble and gallant Lord, Lord Stirrup, said earlier.

But conflict is not inevitable. There are two potentially hopeful factors. First, perhaps rather strangely, there is Kim Jong-un himself. For all the obvious negatives, he has never indicated that he is prepared to see the destruction of his country or the termination of his family dynasty. In other words, he may be ruthless, reckless and playing with fire, but he is no kamikaze. Secondly, of course, there is China. But China is between a rock and a hard place: between a nightmare refugee problem if the regime in the north collapses, and being reluctantly dragged into a serious military clash with America. I do not believe that tighter sanctions would work. Kim Jong-un has clearly demonstrated utter disdain and worse for his population's welfare, and China is hardly supportive—as has been indicated, trade between the two countries has grown by 40% in the first quarter of the year.

I believe that there is only one way forward to avoid conflict, and that is for America to swallow its pride, be magnanimous and appeal to Kim's vanity: humour him, by offering, for example, direct talks with no preconditions or reciprocal visits; maybe the lifting of sanctions or allowing the north to host perhaps a major world event. It may not work and would require a big US climbdown but surely it has to be worth trying. This is where China could be the key facilitator. The alternative is frightening. Of course, the United States has a huge range of military capability, including cyber, and probably new weapons, which previous US Administrations did not possess when weighing up the former options. It may conclude that in the final analysis, it has no option left but military action. We must all pray that an alternative way is found—but how much time is left?

I remember some years ago, as a Defence Minister, visiting South Korea and laying a wreath at the Gloucester

Valley war memorial, commemorating the Glorious Glosters in the Battle of the Imjin River. Surely, enough blood has already been shed on that peninsula.

5.22 pm

**Baroness Cox (CB):** My Lords, I too congratulate very warmly my noble friend Lord Alton on his tireless work on North Korea, on securing this debate and on his characteristically comprehensive opening speech.

The tragic death of the US student Otto Warmbier is just one example of the North Korean regime's brutality, which has incarcerated between 100,000 and 200,000 political prisoners. Hundreds of escapees testify to the horrors of slave labour, torture and prisoners forced to scavenge for rats and snakes because of the deliberate shortage of food. For Christians and other religious minorities, the situation is particularly bleak, as highlighted by the noble Lord, Lord Farmer. Christian Solidarity Worldwide's 2016 report, *Total Denial: Violations of Freedom of Religion or Belief in North Korea*, highlights the denial of freedom of religion and belief and the fact that it is a political crime to practise Christianity:

"Christians usually practice their faith in secret. If discovered they are subject to detention and then likely taken to prison camps ... crimes against them in these camps include extra-judicial killing, extermination, enslavement/forced labour ... torture ... and other inhumane acts".

Four years ago, the United Nations established a commission of inquiry, to which my noble friend Lord Alton has referred, to investigate North Korea's human rights record. They found a state where "crimes against humanity" including extermination, murder, enslavement and torture are committed with impunity. The Australian High Court judge who chaired the inquiry, Justice Michael Kirby, claimed that the abuses committed in North Korea are on a par with the Holocaust. Kim Jong-un stands accused of crimes against humanity and should be called before the International Criminal Court. Can the Minister say what action the United Kingdom is taking to ensure that ICC referral and accountability for human rights abuses is a UN Security Council priority? On 6 July the US Ambassador to the United Nations, Nikki Haley, said that the US would table a new resolution against Pyongyang at the UN Security Council. Will Her Majesty's Government use their diplomatic leverage to ensure that human rights are at the centre of this new resolution, as requested by my noble friend Lord Evans?

I raise concerns about recent proposals that North Korea be invited to co-host skiing events at the Masikryong ski resort during next year's Winter Olympics, which will be hosted by South Korea. My noble friend Lord Alton recently raised this issue in a Written Parliamentary Question. I was reassured by the Minister's concerns in the Answer about the use of forced child labour at the ski resort. Will Her Majesty's Government use their influence to ensure a rather broader response to that and that the International Olympic Committee should not allow the North Korean regime to host the event at all?

I also raise concerns about UK travel and tourism in North Korea. Otto Warmbier's case demonstrates the dangers of western citizens travelling to North Korea, and I welcome the Foreign and Commonwealth

Office's warnings to all those travelling there regarding the risks involved. However, there is a related concern that UK-run tour companies may be providing considerable revenue to the regime. Given the Minister's response to Lord Alton's Written Question that,

"it is not possible to accurately assess the income generated for the DPRK government from tourism",

would Her Majesty's Government consider barring all tourism to North Korea until the human rights situation improves? I speak as someone who, with my noble friend Lord Alton, has been there three times. At that time we thought it was right to go to raise our concerns; now we feel that it would not be right to go.

May I raise the case of Mr Ham Jin-Woo? Mr Ham escaped from North Korea in 2011 and has worked for the defector-run news organisation *Daily NK* since January 2012. His insider knowledge and sources have allowed him to provide the world with vital information about life inside North Korea. In addition, he used to be an agent of the Reconnaissance General Bureau, which was in charge of abduction of Japanese citizens, so he has testified several times about the abduction operations that the bureau carried out and the nature of the institutions of the North Korean regime. On 28 May of this year, Mr Ham took a business trip to China to contact his sources and to obtain information. Since then, the *Daily NK* has not had any communications from him at all, and it is feared that he has been abducted.

The work of people like Mr Ham for defector organisations is particularly important, and his possible abduction in China is also, obviously, tragic. Will Her Majesty's Government consider making representations to China to ensure that the Chinese Government do all they can to investigate the possible abduction of Mr Ham?

In a report to the UN Human Rights Council in March 2016, before completing his term as UN special rapporteur on human rights in the DPRK, Marzuki Darusman said:

"The totalitarian governing structure in North Korea absolutely denies rights to its people and its unchecked power appears as strongly entrenched as ever throughout the whole country".

I passionately hope that this debate will highlight the case for our Government and the international community to redouble efforts to call the regime in North Korea to account and to end the impunity with which it is carrying out such systematic, wide-ranging and brutal violations of human rights, which should not be allowed to persist anywhere in our world today.

5.28 pm

**Lord Myners (CB):** My Lords, I, too, congratulate the noble Lord, Lord Alton, on securing this debate. I will visit the Democratic People's Republic of Korea again in early September and will continue to use these opportunities to engage with that country and seek improvement.

To understand the DPRK, we need to look at its history over the last 100 years. It is a country that has suffered sequential and barbaric invasion, brutal occupation by other countries, pillage, famine and disease on an unimaginable scale. In that context, it is not surprising that the Democratic People's Republic

[LORD MYNERS]

of Korea feels alarm, distrust of other countries and acute fear of the dangers that surround it. I see no advantage at all to the regime of North Korea in promoting such fear and in favouring guns over butter—other than that it genuinely and sincerely believes the risk to be acute. This has led to extreme isolationism and the promotion of the national philosophy of *juche*—self-reliance, not depending on any other country because no other country can be trusted.

The debate has focused a great deal on weapons. But weapons are only one part of the dual strategy currently being followed in North Korea, known as the *byungjin* line. The second is economic change. Since Kim Il-sung and Kim Jong-il, we have seen dramatic changes in the economy of North Korea. It is moving towards a more market-based economy, led by Pak Pong-ju, the former Prime Minister. The Korea Development Institute has told us about the strong growth in earnings and the increasing easing of economic freedom. We have seen the emergence of a new class in North Korea: the *donju*, which we might call the middle class.

These are small changes, but they would not have happened under the two previous leaders—and they are happening under Kim Jong-un. This is the direction of travel that we saw successfully followed in Singapore, China and Vietnam: centralised power and control, but a gradual movement towards a more market-based economy, which increasingly makes the centralised control impossible to sustain. When you visit Ryomyong in Pyongyang, you see a very different environment from the one you would have seen 10 years ago. It is not just in the urban areas. In the rural areas there is now more freedom and autonomy for farmers to manage the land as they choose.

Politically, we have kicked the can down the lane for long enough. We have now realised that that lane is a *cul-de-sac* and that the can is hitting the end of it. We have to do something before something very dire happens. The policy of strong patience works only while the can can still move down the lane. It is quite evident to me that President Trump has no plan for North Korea. The key must be to re-establish the six-party talks that commenced in 2003. The USA will not take the lead in doing it—it will not swallow its pride. Nor will the Chinese, as the noble and gallant Lord, Lord Stirrup, said, have much incentive to go much further than they have done.

What North Korea needs now is a facilitator who will bring together the talks that the country needs. There are no easy options in North Korea. This is a country of lousy choices and any improvement will require great patience, but the UK is uniquely placed to provide leadership here as we are not a member of the six-country group. There is a global challenge and if we rise to it and take a lead in promoting a bringing together of the various nations, we will be rewarded not only by the people of the Democratic People's Republic of Korea but by the rest of the world. In the current vacuum there is a risk that Russia may step in and grab a toehold in the valuable economies of north Asia. We have to give Kim Jong-un face in promoting these talks, but I believe that the opportunity is so great that we should do that.

Kim Jong-un is acting in what he believes to be a rational way because of the fear that surrounds him. That is what we have to address. Otherwise, some of the very bad things that have been described to your Lordships' House today will continue. What are we as a country going to do to take a positive lead here?

Frankly, reinforcing and enhancing sanctions does nothing; it only hurts people who are already suffering. It is not obvious to me that the leadership of North Korea is taking huge economic advantage, as opposed to political advantage, of the situation.

What have we done to help North Korea, to defuse the tensions, to take a lead? How are we using our opportunity to influence? Do we have the courage and confidence to rise to the challenge? Is the Foreign Secretary willing to visit North Korea? I urge that as a first step towards better dialogue. It is not right to say that we should not visit North Korea. Nor, I fear, do I agree with my noble friend Lord Evans of Weardale that we should continue conducting covert action—if we already are—because it just fosters the very fear that has led to all the bad things that Members of your Lordships' House have discussed today.

We must make it clear to North Korea that it must cease developing nuclear weaponry, but we should also respect the integrity of the country and its distinct philosophy, not try to force western systems into *juche*. Otherwise, I fear, we will see more blood spilled. The noble Lord, Lord Lee, referred to the Glorious Glosters, and it is very moving to visit the cemetery—but, goodness me, if things go in the direction that some people forecast, that will be but a small corner of the huge cemetery that will have to carry the dead if we allow this situation to go out of control.

I urge the noble Baroness to say that the UK will not just sit quietly by and do little but will instead seize the opportunity to make a positive contribution.

5.37 pm

**Baroness Smith of Newnham (LD):** My Lords, like other Members of your Lordships' House, I thank the noble Lord, Lord Alton, for bringing this debate to us this afternoon. It is clearly a serious issue and one that is, as we so often say, timely, but we are looking at two discrete aspects today: one is the domestic; the other is the international. I am very grateful that I am not sitting on the Government Bench this afternoon, because the noble Baroness, Lady Goldie, has been asked to do some difficult things. She has been asked to think about bringing cases to the International Criminal Court; to ensure that North Korea should be allowed to host international events, as my noble friend Lord Lee suggested; or not be allowed to host international events, as the noble Baroness, Lady Cox, suggested; and that it should be opened up and that we should be trying to work with North Korea and accept it as a very different sort of state. The noble Baroness is being asked to do difficult things which almost get to the realms of Alice in Wonderland.

I go back to the beginning and say that in many ways, despite the excellent work of the noble Lord, Lord Alton, and the All-Party Parliamentary Group on North Korea, North Korea remains a country about which very little is known. The noble Lord,

Lord Myners, may have far more information about and understanding of North Korea and what is going on there than most of the rest of us, but what we hear about human rights abuses in North Korea—about the persecution of Christians, as the noble Lord, Lord Farmer, and the noble Baroness, Lady Cox, in particular, talked about; about the concentration camps; and about the way that people are treated if they try to escape that country—should be brought to international courts. What do Her Majesty's Government propose to do about those issues? What assessment have the Government made on the challenges? What are the Government doing?

The noble Lord, Lord Myners, suggested that we need to take a leadership role, and we on these Benches agree with that, but it has to be one that is not about acquiescence. Some values are too important for us to say, "Well, we'll leave it to the North Koreans. If they have a different set of values, that's fine". Matters of human rights are universal. It is wholly wrong to suggest that somehow we should leave it to the North Korean Government to sort themselves out. Military intervention of the sort that took place in Iraq and the regime change sought there and in Libya are clearly not the right thing to do. However, we can say that some things are morally reprehensible and try to find change in North Korea, which is hugely important. I was thinking, when the noble Lord, Lord Myners, reminded us of the initials DPRK that it lives up to the tradition whereby, if a country has "Democratic" in its title, it is very rarely democratic. Most of the people in the Democratic People's Republic of Korea probably do not really feel that it is a republic that takes their interests or concerns at face value either.

North Korea remains a very closed country. We know very little about it, other than from those brave people who have managed to escape and have told their stories. I had the opportunity during the election recess to contribute to a conference that was organised by the All-Party Parliamentary Group on North Korea—under a slightly different guise because it could not function in that capacity during the election—and it was very moving.

The noble Lord, Lord Evans of Weardale, seemed to suggest that we could maybe think about change that would come about by revolution—an internal rising up, but we would need to really believe the noble Lord, Lord Myners, that the world in North Korea has changed so fundamentally that there is now a middle class that would be able to rise up. People who are starving rarely create revolutions. It is when society has moved on and people are not starving that they begin to seek their political, democratic and human rights. I do not believe that that is where North Korea is at the moment.

The second aspect of this debate is about the international situation. There has been much talk about the nuclear capabilities—so far, not entirely clear—of North Korea, but the military intentions are clear. So, too, is the cyber intention. I for one would not be terribly keen to go to an international event hosted in North Korea—certainly not with a mobile phone, an iPad or any other sort of electronic device. We need to think about the role North Korea wants to play in the world and how we respond to that.

The President of the United States has frequently said he has no red lines, but in the case of North Korea he has begun to suggest that maybe there are some red lines. He has begun to take his ships literally to the Korean peninsula. The last thing we need is an escalation of military power in the Korean peninsula. China clearly already is a nuclear power, and the idea that South Korea or Japan might also want to respond in kind is indeed a chilling prospect. If that is not to happen, what are Her Majesty's Government doing to persuade not just the United States to respond, but for China—a key member of the P5—to respond? It is North Korea's closest neighbour and, in many ways, an ally. It is also a key trading partner. If China is willing to step up to the plate and assist, maybe we can look to military de-escalation. We would not expect China to change its traditional views and say, "We want North Korea to change what it does internally". China has a long-standing view that it does not intervene in other countries' internal affairs.

It would be helpful to know what Her Majesty's Government are doing not just about assessing what is happening in North Korea but how they might help to change it.

5.44 pm

**Lord Collins of Highbury (Lab):** My Lords, I begin by thanking the noble Lord, Lord Alton, for initiating this debate. He has done so before; we had a very good debate in 2016, and I shall make reference to some of the issues raised in it.

In January this year, the US State Department report on human rights abuses in North Korea highlighted summary executions, arbitrary detentions, including the accused's family members and children, abductions, forced labour, prison camps, torture, forced abortions and rape. The 2014 UN Commission of Inquiry report accused the regime of grave systematic human rights abuses, concluding that the,

"gravity, scale and nature of these violations reveal a State that does not have any parallel in the contemporary world".

The nuclear testing of 18 months ago resulted in swift condemnation from the UN Security Council. As we have heard, Peter Wilson, the UK's deputy permanent representative, said at the time:

"The United Kingdom fully supports the call for the Council to consider how it can best ensure accountability", of this regime, which of course is so important, "including through considering a referral to the International Criminal Court".

Since the 2016 nuclear tests, there have been more than 30 ballistic missile launches, and the first intercontinental ballistic missile launch, as we heard from the noble and gallant Lord, on 4 July. Two days ago, a Chinese official rejected President Trump's calls for China to do more to rein in its neighbour, saying that the "China responsibility" theory must stop, and that it was not the key to calming tensions on the Korean peninsula. Before a meeting with Chinese President Xi Jinping at the G20 in Hamburg, Trump cited strong trade figures between China and North Korea, saying:

"So much for China working with us—but we had to give it a try!".

[LORD COLLINS OF HIGHBURY]

According to data released in April, China's trade with North Korea grew by 37.4% in the first quarter compared to 2016.

In today's *Washington Post* a senior defector from the regime, Ri Yong-ho, said that American and multilateral efforts to sanction North Korea into submission will not work because there are too many ways around them. For around three decades, Ri was a top money-maker for the Kim regime, sending millions of dollars a year back to Pyongyang even as round after round of sanctions was imposed. He argued that unless China, Russia and the United States co-operate fully to sanction North Korea, it will be impossible to hurt that country. Amid calls for China to limit oil exports to North Korea, Russia has dramatically increased the amount of oil it has sent to North Korea this year. The US Treasury has sanctioned more and more North Koreans and North Korean companies by name to try to cut them off from the American financial system, but few, if any, have any exposure to the United States.

President Trump appeared to strike a more conciliatory tone at the G20 meeting with President Xi, saying that he was confident that the North Korean nuclear issue would eventually be resolved, but it may take more time. In the light of the USA's testing of anti-missile technology this week, what is the Government's assessment of how this will impact on the growing crisis in the peninsula? What are we doing to reduce tensions? How are the Government following up on the conclusions of the Office of the High Commissioner for Human Rights' 2014 inquiry—mentioned by many noble Lords—which recommended that the top leaders of North Korea be referred to the ICC for gross violations of human rights? What steps have the Government taken to pursue that? There are suspicions, as the noble Baroness mentioned, that a North Korean hacking group was responsible for the cyberattack that hit the NHS in May. Is the Minister in a position to tell us whether the National Cyber Security Centre's investigation found this to be true? If it is true, how will this impact on the UK's sanctions strategy?

We have had the further missile tests and the death of US student Otto Warmbier, which have heightened tensions in the peninsula. The Government have made it clear that they see military action as undesirable, and that they will work with the US within the UN to ensure that there are stronger sanctions. Bearing in mind what we have heard in today's debate, have the Government assessed the effectiveness of the current sanctions regime, and what recent dialogue has there been between the Prime Minister and President Trump on how it can be strengthened? Do the Government share President's Trump's apparent renewed optimism about China's position towards North Korea in terms of trying to reduce the tension, and have they raised with Russian authorities the question of oil supplies? We all want a resolution, but it cannot be at the expense of the people of North Korea, who have suffered so much.

5.52 pm

**Baroness Goldie (Con):** My Lords, I first thank the noble Lord, Lord Alton, for calling this debate and for the valuable work that he does with colleagues in this

House as co-chair of the All Party Parliamentary Group on North Korea. Indeed, his four visits to North Korea are further testament to his interest and his knowledge. I also thank other noble Lords who have contributed to the debate, which I found genuinely interesting; there were some very thought-provoking contributions.

The actions of the North Korean regime cause serious challenges to its immediate neighbours and the wider world. Indeed, the noble Lord, Lord Alton, eloquently expanded on these, as did other contributors. North Korea has repeatedly demonstrated total disregard for its international obligations and for United Nations Security Council resolutions. There has been a sharp escalation in provocative behaviour over the last 18 months, starting with the fourth nuclear test in January 2016. Since then, we have seen more than 30 ballistic missile tests and a fifth nuclear test, in September last year, and of course, as a number of contributors identified, just last week, the regime carried out a launch of an intercontinental ballistic missile.

The noble Lord, Lord Collins, asked what the UK is doing. The UK has been swift to condemn North Korean provocations. We have supported strong action at the United Nations Security Council aimed at stopping North Korea's illegal ballistic missile programme, and our activity includes three United Nations Security Council resolutions since 2016. We have also been at the forefront of EU efforts to impose additional measures aimed at further reducing North Korea's ability to fund its illegal nuclear and ballistic missile programmes. We are working to ensure that all United Nations member states implement and rigorously enforce the sanctions.

Following the latest violation of United Nations Security Council resolutions last week, my right honourable friend the Foreign Secretary has said that the UK would redouble its efforts to ensure that the international community responds robustly. We are working to that end in the United Nations Security Council and with the EU. Our objective is a tough and united international response, with further significant measures to limit the regime's ability to fund its missile programme. I know that the noble Lord, Lord Desai, was pessimistic about achieving that objective. However, I think that we and our global partners would do better to endeavour to maintain that pressure, exercise that influence and, above all else, keep talking through diplomatic channels. I think that point was made also by the noble Lord on the Liberal Democrat Benches.

We have also expressed our condemnation directly to the North Korean regime. My right honourable friend the Minister of State for Asia and the Pacific, Mark Field, summoned the North Korean ambassador to the Foreign Office on 5 July. Mr Field condemned the latest test and made it clear that North Korea must begin to take credible steps towards dialogue on its nuclear and ballistic missile programmes. Such dialogue can begin only if the regime is serious about denuclearisation.

A number of contributors mentioned the role of China. As my right honourable friend the Foreign Secretary has made clear, China has, indeed, a vital role to play. This point was reaffirmed by the noble and gallant Lord, Lord Stirrup, and endorsed by the

noble Baroness, Lady Smith. China does not want a nuclear-armed North Korea. As a permanent member of the Security Council and North Korea's neighbour and closest ally, it has a crucial role to play in the implementation of United Nations sanctions, as the noble Lord, Lord Alton, identified. As the noble and gallant Lord, Lord Stirrup, urged, we will continue to press China to use its influence, and we shall continue to put pressure on North Korea to change its approach.

Many noble Lords commented on the humanitarian and human rights situation in North Korea. We have grave concerns about these issues. We continue to hear reports of widespread and systematic state-sanctioned human rights violations and the use of forced labour of both children and adults. The noble Lords, Lord Farmer and Lord Evans, and the noble Baroness, Lady Cox, powerfully referred to human rights violations.

The regime's actions, its lack of international engagement on human rights and its rejection of the United Nations Commission of Inquiry report are all serious concerns. My right honourable friend the Minister for Asia, Mark Field, set out these concerns to the ambassador last week. I mention this to reassure the noble Lord, Lord Evans, and the noble Baroness, Lady Cox. Mark Field made it clear that the regime should prioritise the welfare of its people above its nuclear and ballistic missile programmes.

Our ambassador in Pyongyang also regularly raises human rights directly with the North Korean authorities. The noble Lord, Lord Alton, questioned the wisdom of maintaining the diplomatic presence. However, it keeps a line of communication going and the embassy runs a number of small-scale humanitarian projects to help some of the most vulnerable in North Korean society. I am grateful to the noble Lord, Lord Lee, for advocating that we should keep communicating. Indeed, I think that the noble Lord also eloquently identified the importance of trying to maintain dialogue.

In addition to the bilateral action, the UK works hard to maintain pressure on the regime and to highlight its human rights violations on the international stage. In December 2016, the UK Permanent Representative to the United Nations condemned the regime's use of forced labour as an example of modern-day slavery. We also strongly supported the recent Human Rights Council resolution, making it clear that there can be no impunity for those who violate human rights in North Korea. That is why we fully support efforts to create a viable system of accountability.

I shall try to deal with some of the specific points that were raised. The noble Lord, Lord Alton, talked about the Korea National Insurance Corporation. It is designated under EU sanctions and, as such, is subject to an asset freeze. I confirm that the United Kingdom has complied with all provisions of the EU designation of the Korea National Insurance Corporation.

The noble Lord, Lord Farmer, and the noble Baroness, Lady Cox, referred to the plight of Christians in North Korea. Our embassy regularly raises concerns about these matters. The noble Lord, Lord Farmer, also raised very justified concerns about the treatment

of Christians. We are aware of reports that people in North Korea who are involved in religion outside the state-controlled organisations have been imprisoned for practising their beliefs, and we urge North Korea to abide by the provision in its constitution that allows freedom of belief in religion.

The noble Lords, Lord Farmer and Lord Collins, asked about the role of the International Criminal Court, if any. It could be an appropriate forum in which to hold North Korea to account for its behaviour, but it has jurisdiction only when a crime against humanity is suspected to have been committed by a country which is party to the Rome statute or when a situation is referred to it by the United Nations Security Council. As noble Lords will be aware, the DPRK is not a party to the Rome statute.

A number of contributors referred in general terms to the role of China. The noble Lord, Lord Evans, particularly raised the issue of refugees. We have on numerous occasions raised with China the matter of the forced repatriation of refugees, including at the UK-China Human Rights Dialogue in June this year. We have also discussed the United Nations Commission of Inquiry report with senior Chinese officials in Beijing.

The noble Lord, Lord Evans, mentioned the BBC World Service. We strongly support the BBC's mission to bring high-quality and impartial news to global audiences, including where free speech is limited. In 2016, the BBC announced that it would launch a Korean service, to begin in late 2017, and I am sure that all your Lordships await with interest the BBC's report on progress on that proposal.

The noble Baroness, Lady Cox, referred to the Winter Olympics. We are aware of reports that ROK officials are considering the possibility of co-hosting certain Winter Olympic events with the DPRK. This is a matter for the Republic of Korea Government. However, any decision to allow co-hosting would require the agreement of the International Olympic Committee.

The noble Lord, Lord Myners, in what I thought was a particularly interesting and thought-provoking contribution, asked what we are doing in relation to aid. The Department for International Development does not have a bilateral aid programme in North Korea but UK aid reaches people there through our contributions to multilateral agencies, including the United Nations Central Emergency Response Fund. They work in-country and are better placed than we are to deliver development assistance, given the restrictive nature of the North Korea regime. We also support small-scale projects with a humanitarian focus through FCO funds, which are managed by the British embassy in Pyongyang.

The noble Lord, Lord Collins, raised the recent cyberattack. There was speculation on the part of the media that linked the Lazarus Group, which the media accused of being responsible for these attacks, with the DPRK. On 16 June the Foreign and Commonwealth Office summoned the North Korean ambassador to demand that the DPRK Government investigate the group—accused of operating within the DPRK—of such alleged activity.

[BARONESS GOLDIE]

In the time available I have tried to deal with the issues raised by your Lordships. If I have omitted to address any of them, I shall look at *Hansard* and endeavour to make good my omission by writing to

whichever of your Lordships I have managed to disregard or ignore. I thank noble Lords for what I thought was a genuinely interesting and very well-informed debate.

*House adjourned at 6.04 pm.*