Vol. 791
No. 144

Wednesday
23 May 2018

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2018-05-23

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

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

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

House of Lords

Wednesday 23 May 2018

3 pm

Prayers—read by the Lord Bishop of Oxford.

Royal Assent

3.06 pm

The following Acts were given Royal Assent:

Data Protection Act,

Sanctions and Anti-Money Laundering Act,

Smart Meters Act.

Northern Ireland: Devolved Institutions

Question

3.07 pm

Asked by ***Lord Lexden***

To ask Her Majesty's Government what progress they have made towards the restoration of devolved institutions in Northern Ireland.

The Parliamentary Under-Secretary of State, Northern Ireland Office and Scotland Office (Lord Duncan of Springbank) (Con): My Lords, my right honourable friend the Secretary of State recently met Northern Ireland's five largest political parties to explore how we might achieve restoration of devolved government. We also continue to reach out to the Irish Government to encourage support towards accommodation to restore the Executive. This is the Government's top priority.

Lord Lexden (Con): My Lords, we all wish the Government well in their endeavours to restore power-sharing devolution in Northern Ireland. In the prolonged absence of devolution, do the Government intend to consider the possibility of an interim arrangement by which Members of the Assembly could be involved in decision-taking on the major public services—particularly health and education—which are now entirely in the hands of civil servants, unaccountable to elected representatives in either Northern Ireland or Westminster? That has never before occurred in our modern history.

Lord Duncan of Springbank: It is our single most important priority to re-establish the Executive and Her Majesty's Government are doing all they can to achieve that end. We pay tribute to those civil servants who have carried a much heavier burden than they would have anticipated, but our single most important priority remains to secure a functioning and sustainable Executive.

Lord Empey (UUP): Is my noble friend aware that, in the High Court last Monday, Mrs Justice Keegan decided that a senior civil servant did not have the authority to sign off on the construction of a waste plant? As a consequence, all significant decisions hitherto taken by senior civil servants have now stopped. How can the Minister and the Government honour their commitments to ensure the effective and efficient delivery of public services to the people of Northern Ireland with the state of paralysis that has now ensued?

Lord Duncan of Springbank: The Government are studying that judgment very carefully. Its implications are significant; indeed, an appeal against it may be lodged. It is a reminder that we need a restored Executive because we cannot keep placing on the shoulders of civil servants such a heavy and onerous burden.

Baroness Blood (Lab): My Lords, following on from the question asked by the noble Lord, Lord Empey, I understand that there will be an appeal, which will take six months, and then another appeal, which will take a further six months. Northern Ireland does not have that capacity; we do not have that time. We have an almost invisible Secretary of State. People on the ground believe that Westminster's only interest in Northern Ireland is Brexit and the border. Given that, the one question being asked on the streets of Northern Ireland today is: who is actually running Northern Ireland?

Lord Duncan of Springbank: Brexit has been a focus of discussion in this House and elsewhere. The people of Northern Ireland deserve an Executive focused on the issues that matter to them: education, health, schools, farming and all the obvious stuff. We need to get the Executive back up and running; the parties need to do so. At the moment, the pilot light is on, but no one is twirling those knobs. We need to get the Executive restored.

Lord Browne of Belmont (DUP): My Lords, the recent report from the Northern Ireland Affairs Committee makes some excellent proposals, which, if adopted by the Secretary of State, would go some way to helping restore devolved government in Northern Ireland. Is the Minister aware that the Democratic Unionist Party's policy is very clear: it is willing to return to the Northern Ireland Executive tomorrow with no preconditions or partisan demands?

Lord Duncan of Springbank: I welcome those remarks in the spirit in which they were delivered. The report of which the noble Lord speaks is important and the Government will consider its findings carefully.

Baroness Suttie (LD): My Lords, does the Minister agree that an additional consequence of the continued absence of an Executive is that important social issues remain unresolved, such as the reform of the 150 year-old, outdated abortion laws in Northern Ireland, which continue to cause such distress and are leading women increasingly to adopt the dangerous practice of self-medicating and purchasing abortion pills online?

Lord Duncan of Springbank: Abortion is of course a devolved matter. None the less, it is important to stress that there are issues of conscience that need to be considered—but, again, we should not be relying on a Victorian law. It is time for change.

Lord Maginnis of Drumglass (Ind UU): My Lords, when will the Government recognise that Taoiseach Varadkar is in cahoots with Sinn Féin and encouraging it not to come together to let the Assembly work, and that a main architect of the Brexit negotiations, Mr Tusk, is briefed by an Irish republican? As the noble Baroness, Lady Blood, asked, when will we get to a stage where we do not have a Secretary of State who is unable to be seen and unable to be heard, as has been the case on three successive occasions? Are there not people—

Noble Lords: Too long!

Lord Maginnis of Drumglass: Are there not people in this Chamber who negotiated the Belfast agreement who could assist? Are there not some who served as chairmen in the Assembly? It is important that we face up to reality.

Lord Duncan of Springbank: There is a wealth of experience in this House, on which I hope we can continue to draw. My right honourable friend the Secretary of State for Northern Ireland flies above and below the radar.

Lord Hain (Lab): My Lords, I respect the work that the Minister is doing, as I think does the whole House, but does he agree that the longer the Assembly and the Executive are down, the harder it is to get it back up? That is the lesson of the past, even after Good Friday. Will he look at what was done in the past, when there were stalemates of this kind? Then, a summit was convened, involving the Prime Minister—not on a fly-in, fly-out basis, and not seeing the parties for an hour here and an hour there—and the Taoiseach, and the parties were kept at that summit, as was done at St Andrews, Hillsborough and other places, until there was an agreement. I believe strongly that that is the only solution in sight.

Lord Duncan of Springbank: My right honourable friend the Prime Minister has engaged directly with the Taoiseach and others, but we need to think afresh and, as we progress in the next few months, we will need to visit a number of past experiences and try our best to navigate a much more challenging way forward. Nothing is off the table.

Baroness Smith of Basildon (Lab): My Lords, the key question was that asked by my noble friend Lady Blood and alluded to by the noble Lord, Lord Empey: this court case and its decision basically says that the Civil Service was wrong to take a decision of such significance that it should have been taken to Ministers. With no Ministers in place now for more than 16 months, that calls into question any decisions on these issues taken by civil servants in Northern Ireland. I respect the Minister enormously; he says it is a top priority—the single most important issue for the Government—but he has to listen to my noble friend Lord Hain. The Government must get round the table and, if necessary, lock the doors until they come out with an agreement.

Lord Duncan of Springbank: I am sure there will be a lot of agreement to lock some people in certain rooms; there is no question of that. But the reality we must face is a simple one right now. That judgment is significant. In the past, the Government have sought to plot a trajectory from the policies and decisions taken by the previous Executive and not to stray beyond them. That cannot go on for much longer—the point of movement is too great—so there is now a necessity to find a way of restoring good governance to Northern Ireland. A number of options are available. The preferred option, the sensible option, the right option, is to ensure that there is an Executive that works in the interests of Northern Ireland, rather than people like me trying to work it out backwards.

Tourism

Question

3.16 pm

Asked by ***Lord Foster of Bath***

To ask Her Majesty's Government what plans they have to provide additional support for the tourism industry.

Viscount Younger of Leckie (Con): My Lords, the UK has a strong visitor offer and a thriving tourism industry, supported by the Government's tourism action plan. Initiatives such as the £40 million Discover England fund develop new and innovative products to offer both domestic and inbound visitors. We are working hard to support our first-class business visits and events sector. The industry, in close collaboration with VisitBritain, has proposed a tourism sector deal, which the Government are considering.

Lord Foster of Bath (LD): My Lords, I thank the Minister for his positive response, but the Government recently announced that they are considering a cut in tourism VAT for accommodation and attractions in Northern Ireland—no doubt a response to a DUP request. But why just Northern Ireland? Out of 36 European countries, only three, including the United Kingdom, have failed to reduce VAT for tourism, yet if a cut of 5% took place, over 10 years tourist businesses in this country would be hugely boosted, 120,000 additional jobs would be created and £4.6 billion would go into the Treasury coffers. So why do the Government not get on with this measure and do it for the whole country, not just consider it for Northern Ireland only?

Viscount Younger of Leckie: The noble Lord is correct that the call for evidence is focused on tourism in Northern Ireland, but of course responses from other parts of the UK would be very welcome, and there is still time: the consultation closes on 5 June. The Government are certainly aware of concerns about the impact of VAT on tourism and that is why at the Spring Statement the Treasury launched a call for evidence on the impact of VAT.

Lord Griffiths of Burry Port (Lab): My Lords, in the spirit of the Question asked by the noble Lord, Lord Foster, we had an almost identical Question just

a week ago, since when a very significant event took place on Saturday at Windsor. It seems obvious to me that British pageantry should be factored into the consultation that is taking place, which should extend not just to Northern Ireland but across the country. Will the Government consider this as a very concrete proposal? As a secondary question, and in view of the fact that the sermon preached last Saturday was so powerful, may I suggest that good preachers might form part of the strategy as well? I express an interest, of course.

Viscount Younger of Leckie: I think the House will agree with me that we all appreciated the sermon in all its innovative nature. The noble Lord is absolutely correct that pageantry is one part of the offering that we have in the UK. For 2018 we have lots of interesting events around the UK, including China's First Emperor and the Terracotta Warriors at the World Museum, Liverpool, and the Great Exhibition of the North. There is an awful lot we need to work at to ensure that tourists come here to Britain this summer and beyond.

Lord Roberts of Llandudno (LD): My Lords, has the Minister reflected on the loss to the tourist industry of the staff who are non-British if Brexit happens? Half or more of our hotels and so on rely on overseas staff. How are they going to be replaced?

Viscount Younger of Leckie: The answer to that, which I think has been given in the House on many occasions, is that the Government are certainly aware of it, as is the tourist sector. We are very much bearing that in mind in the ongoing discussions.

Baroness Gardner of Parkes (Con): My Lords, is the Minister aware of how damaging Airbnb and similar services are to the tourist industry, and what complaints there are about the damage it is doing? Internationally, a number of countries have within the last month introduced a restriction on these services so that they do not take away ordinary accommodation and destroy the tourist industry.

Viscount Younger of Leckie: Yes, I am aware, from the many questions that my noble friend has asked in the House. I think that my noble friend Lord Young would probably agree with that, so we are certainly aware of that issue.

Lord Clark of Windermere (Lab): My Lords, does the Minister appreciate that in some of our national parks, the problem of tourism is actually how to manage the number of visitors? For example, in the Lake District National Park last year we had 19 million visitors; this year, it is likely to be over 20 million, all of whom have to travel by road. Will the Minister look at the possibility of dusting down the plans for a light railway from Windermere to Keswick?

Viscount Younger of Leckie: I think the noble Lord raised a similar question about a week ago on the subject of routes into the Lake District. I am not going to repeat the answer given by my noble friend Lord Ashton but I will say that we are very aware of the need to transport tourists to and from important areas within the UK, including the Lake District, quickly and safely.

Baroness Doocey (LD): My Lords, eight out of every 10 international visitors to the UK book their holiday online but a lot of the smaller SMEs do not have the digital skills to be able to market their businesses. Will the Minister agree to meet me and representatives of the industry to work out the best way to enable those businesses to get the skills necessary to grow the visitor economy across the regions and nations of the UK, which currently brings in £127 billion a year?

Viscount Younger of Leckie: I cannot immediately agree to meet the noble Baroness but I can certainly pass the message on to the Ministers concerned. She makes an important point: the visitor experience for people coming to the UK starts the moment that they start booking, so it is extremely important that we make it user-friendly.

Turkey: Kurds and Yazidis in Syria

Question

3.22 pm

Asked by ***Lord Hylton***

To ask Her Majesty's Government what assessment they have made of allegations of genocide by Turkey against the Kurds and Yezides of Afrin province in Syria, made by 13 organisations, including the Kurdish Red Crescent; and what action they will take.

Baroness Goldie (Con): My Lords, we have followed the situation in Afrin closely. We are aware of the displacement of large numbers of civilians and of reports of civilian casualties in Afrin. It is vital that those civilians who have been displaced from Afrin are able to return safely and voluntarily. We continue to make this point strongly in our close dialogue with Turkey about Syria, and Turkey has assured us of its commitment to respect international law in its operations.

Lord Hylton (CB): My Lords, I am glad to hear about dialogue on return, but is it not the case that more than 100,000 locals have been driven out of Afrin? Kurds and Yazidis are being murdered while Turks from Turkey, Syrian refugees from Turkey and displaced Syrian Islamists from elsewhere are being settled there. Is that not strong evidence of genocide and of conduct unworthy of a NATO ally, partly executed by ex-members of Isis and al-Nusra and paid for by Turkey? Will the Government use all their influence to stop this?

Baroness Goldie: The UK has called for de-escalation and the protection of civilians while recognising Turkey's legitimate interest in the security of its borders. In relation to allegations of genocide, it has always been the position of the UK that that should be determined by the judicial authorities. I should make it clear that

[Baroness Goldie]
the UK has seen no credible evidence of genocide, but, on the general point made by the noble Lord, the UK has a close engagement with Turkey and that manifested itself most recently in exchanges between the Prime Minister and President Erdoğan when he visited this country between 13 and 15 May.

Lord Lea of Crondall (Lab): My Lords, I shall pick up the last point about the recent visit by the President of Turkey. Knowing the obvious paranoia in Ankara about the aspirations to some sort of Kurdish statehood, which is not going to happen in south-east Turkey, and about what is happening in Syria and in Iraq, did the Government raise this with President Erdogan? What sort of approach does the Minister think the international community, particularly in Europe, can take in relation to the deteriorating situation in Ankara?

Baroness Goldie: As I said earlier, it was an important development and an illustration of the strong relationship which the United Kingdom has with Turkey that at the recent visit the Prime Minister, as I indicated, raised a number of issues and in particular had a wide-ranging discussion with President Erdogan on foreign policy issues, such as the Israeli-Palestinian situation, Iran, Turkey's role in Syria and the importance of NATO unity to counter aggressive Russian action.

Lord Wallace of Saltaire (LD): My Lords, does the Minister accept that the presence in London in particular of a very large number of British-Turkish citizens of Kurdish origin gives us a particular interest in what happens in northern Syria and south-eastern Turkey, that the role that Kurdish forces have played in the defeat of ISIS on the Syria/Iraq border strengthens that interest and that, if there is to be any long-term solution to the Syrian conflict, it has to include a degree of autonomy for Kurds in northern Syria and probably also for Kurds in south-eastern Turkey? Are we making arguments like that to the Turkish Government?

Baroness Goldie: As the noble Lord will be aware, the United Kingdom supported the United Nations Security Council resolution which called for a ceasefire across Syria, the only exception being continued operations against Daesh, al-Qaeda and other terrorist groups as designated by the Security Council. The noble Lord will also be aware that the United Nations-led Geneva process, which is the principal peace process mandated by the UNSCR, remains the forum for a lasting political settlement. We expect all parties to be able to participate in that forum.

Lord Selkirk of Douglas (Con): Can the Minister say what the nature is of the relationship between the British Government and the Turkish Government, bearing in mind that Turkey is a key strategic player in the region?

Baroness Goldie: I thank my noble friend for that observation. It is indeed the case that Turkey is a key ally of the United Kingdom and a vital strategic and trade partner. I remind your Lordships that, in the very recent airstrike to degrade the use and capability of chemical weapons in Syria, Turkey was very supportive and was a helpful ally.

Lord Collins of Highbury (Lab): My Lords, in the discussions with the Turkish Government, has the Minister raised the announcement by the Deputy Prime Minister who said that the city will not be handed back but that a council will be established which will remain until stability is restored? What is the assessment of that period? Will we see Turkey occupying Afrin for a considerable time into the future?

Baroness Goldie: The noble Lord will be aware that, in Afrin, governance is administered by a Turkish-backed local Syrian council that was elected on 12 April. Indeed, the UK has urged Turkey to ensure that, under that administration, civilians are protected and the humanitarian needs of the population are considered. As I said earlier to the noble Lord, Lord Hylton, it is vital that those who have been displaced from Afrin are able to return safely and voluntarily.

Lord Elystan-Morgan (CB): Fifty years ago, Parliament passed the Genocide Act. Unnatural modesty forbids me from mentioning the name of the person who piloted it through the House of Commons. How seriously do we take our obligations under that statute? Do we regard it as part of living law from day to day?

Baroness Goldie: We take all obligations in respect of alleged breaches of international law very seriously, and we have always regarded the United Nations as an important forum for addressing these issues. The United Kingdom believes that allegations of genocide are for international judicial authorities to determine. As the noble Lord is probably aware, the International Criminal Court does not have territorial jurisdiction over crimes committed in Syria, because Syria is not a state party to the Rome statute.

Railways: East Coast Main Line

Question

3.30 pm

Asked by ***Lord Cormack***

To ask Her Majesty's Government what plans they have to deliver on the promise of more frequent direct services between London and Lincoln on the east coast main line following the termination of Virgin Trains East Coast's contract.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, in 2014, Virgin Trains East Coast committed to deliver six trains a day between London and Lincoln from May 2019. I am pleased to inform my noble friend that we expect these service improvements to be delivered as planned. The change of operator to London North Eastern Railway announced by the Secretary of State last week is not expected to have any impact on this issue.

Lord Cormack (Con): My Lords, I am extremely grateful to my noble friend for that helpful Answer, which will be received with great relief and delight in Lincoln. I ask her to keep her vigilant eye on developments and invite her and, indeed, all Members of your Lordships' House, to take advantage of a day in Lincoln to see its glorious cathedral and castle when that becomes possible next year.

Baroness Sugg: My Lords, I certainly reassure my noble friend that we will keep a close eye on developments with LNER. My honourable friend the rail Minister and the Secretary of State will work closely with the operator to ensure that the interests of passengers are protected. I have not been to Lincoln for some time, so look forward to doing so when the train services start.

Lord Blunkett (Lab): My Lords, while we all rejoice for the noble Lord and the people of Lincoln, is it not perverse that £7 billion spent to improve services in the south-east has not only resulted in temporary chaos but significantly worsened the timings of trains coming on the east Midlands line from Sheffield through Derby and Leicester, so that they have now lost eight minutes on the journey time to benefit those in the south-east? No wonder people voted for Brexit in the north.

Baroness Sugg: My Lords, the Government are investing significantly in northern transport. With the setting up of Transport for the North, there is now a strong voice to help us allocate funding up there. On the timetable, to which I believe the noble Lord refers, we have seen some big changes in the past week: the biggest change to rail timetables in a generation. That timetable change will deliver improved passenger services across the country—in both the south and the north.

Baroness Randerson (LD): My Lords, the failure of the east coast franchise seems to have surprised no one except a few people in the Department for Transport. Given that 92% of the public were satisfied with the train operating company concerned, it was clearly not a failure to achieve standards set within the franchise. Therefore, we must conclude that the failure lay with the Department for Transport in accepting an unrealistic bid that was just too good to be true. What steps are being taken to train staff within the Department for Transport involved in franchising to design and deal with franchises in a much more realistic, thorough and effective manner?

Baroness Sugg: My Lords, the noble Baroness is quite right that we have seen very high levels of passenger satisfaction—92%—under the previous franchise, and we are of course working to continue that. I take her point that the franchising system is not perfect, and we are working to improve it. We are continually refining the franchise model and monitor the performance of all franchises closely. We have evolved and improved bid assessment since 2014 and have a new process to ensure that bids are more financially robust, including a scenario where we look at lower growth than expected.

Lord Framlingham (Con): My Lords, may I suggest to the Minister that she might reconsider the question of HS2? If HS2 is abandoned, as it ought to be if there is any common sense in the world, there would be plenty of money out of those billions and billions of pounds for all the other projects required on the railways.

Baroness Sugg: I am afraid that yet again I will have to disagree with my noble friend on HS2. Our railways are at capacity; we have seen the doubling of passenger numbers since privatisation, and HS2 is much needed to relieve that capacity and provide a better service for people across the country.

Lord Berkeley (Lab): My Lords, will the Minister confirm that the trains which she pleasingly told the noble Lord, Lord Cormack, would be going to Lincoln will have enough seats for everybody in this House, and that they are not just two-car trains? More seriously, can she confirm that there is enough capacity on the branch line, and on the main line provided by Network Rail, so that these trains can be operated without any disadvantage to other services?

Baroness Sugg: My Lords, I am afraid that I do not know the exact size of the trains on the new local railway. On capacity, moving towards the east coast partnership, as we are planning to do in 2020, will enable both Network Rail and the train operator to work closely together to ensure that we have enough capacity on all lines.

Lord Beith (LD): My Lords, who will employ the staff under this arrangement, and what assurances have been given to them about their future?

Baroness Sugg: My Lords, that is a key question. As the noble Baroness pointed out, they have delivered an incredibly high passenger service and we should absolutely pay tribute to them for doing so. They have seen a number of changes in the train operating companies over the years. We can reassure staff that changes will not impact on their continued employment; it will be no different from a normal franchise change. Staff will be transferred and their existing terms and conditions of employment will be protected.

Baroness McIntosh of Pickering (Con): Will my noble friend confirm that the new trains planned for the east coast route will come into service next year?

Baroness Sugg: I can confirm to my noble friend those services planned for next year will come in. The good news also is that we fully expect the new intercity express trains to be introduced on the east coast main line from the end of this year, as planned. That will bring an increase in seat capacity and enable reductions in journey times.

Lord Shutt of Greetland (LD): My Lords, the noble Baroness will recall responding to questions in February on this issue about expansion of services. Lincoln may well be a splendid place, but can we look further north? The Minister indicated in February that new services would start in May 2019 and go as far as

[Lord Shutt of Greetland]
Bradford and Harrogate and, perhaps a little later, Middlesbrough and Huddersfield. Is that still the case? Would she like to reconfirm what she said then?

Baroness Sugg: My Lords, I am happy to reconfirm what I said then. The introduction of LNER will not affect the planned services or delivery. We will continue to see new services in 2019 and 2020.

Courts and Tribunals (Judiciary and Functions of Staff) Bill [HL]

First Reading

3.38 pm

A Bill to make provision about the judiciary and the functions of the staff of courts and tribunals.

The Bill was introduced by Lord Keen of Elie, read a first time and ordered to be printed.

Child Safeguarding Practice Review and Relevant Agency (England) Regulations 2018

Motion to Approve

3.38 pm

Moved by ***Lord Agnew of Oulton***

That the draft Regulations laid before the House on 19 March be approved. *Considered in Grand Committee on 9 May.*

Motion agreed.

Special Immigration Appeals Commission (Procedure) (Amendment) Rules 2018

Motion to Approve

3.39 pm

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

That the draft Rules laid before the House on 28 March be approved.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, the statutory instrument before us today updates the procedure of the Special Immigration Appeals Commission so that it reflects new bail provisions in the Immigration Act 2016, which I had the opportunity to bring before this House on behalf of the Home Office in the then Immigration Bill. It also implements measures included in the Criminal Justice and Courts Act 2015 allowing appellants to appeal directly to the Supreme Court, bypassing the Court of Appeal. Related to the second point, it also makes changes to the time limits for applying for permission to appeal to make them consistent with the High Court.

For noble Lords who are not familiar with it, the Special Immigration Appeals Commission, more generally known as SIAC, is a specialist tribunal which deals with challenges to immigration and asylum decisions made by the Home Office, such as decisions to deport a person or to refuse them leave to remain. Challenges to such decisions are usually heard by the First-tier Tribunal, the Upper Tribunal, or the High Court. However, when a decision is made for reasons of national security or international relations, or is made relying on evidence which it would not be in the public interest to disclose, any challenge is heard instead by SIAC.

SIAC is different from other immigration tribunals in that it has the ability to operate a process known as the closed material procedure, which allows sensitive material that the Home Secretary intends to use in his response to the appeal to be protected. In the closed material procedure part of the hearings, appellants and their legal representatives are excluded from the court but are represented by special advocates. These are lawyers who have undergone strict security vetting and are of the highest integrity and ability. The system of special advocates is designed to provide a balance between the right to a fair hearing and the need to protect national security.

The first piece of legislation to which this rule amendment is designed to give effect is Schedule 10 to the Immigration Act 2016, which simplifies the previous framework with a single power of immigration bail. This allows for illegal immigrants, including foreign national offenders, who are awaiting removal to be released subject to conditions if detention is not appropriate. Financial conditions were also introduced to replace recognizances, which in this context are undertakings to pay a sum of money in the event that bail conditions are breached, in England and Wales and bail bonds in Scotland. This statutory instrument will bring the SIAC procedure rules in line with the new bail provisions in the Immigration Act 2016.

The other piece of legislation that we are concerned with is the Criminal Justice and Courts Act 2015 which, among other things, extended the concept of cases leap-frogging to the Supreme Court, extending it from just civil cases in the High Court to include cases in the Upper Tribunal, the Employment Appeal Tribunal and SIAC. Leap-frogging will allow SIAC appellants to apply for a certificate which will allow them to appeal SIAC's decision directly to the Supreme Court without first going to the Court of Appeal, provided they can demonstrate that their case raises a point of law of general public importance. Leap-frogging is not a new concept; it has been allowed for civil cases in the High Court since the Administration of Justice Act 1969. This statutory instrument will bring SIAC into line with other courts on the same level of the appellate system.

The final change brought about by this statutory instrument is to increase the time limit for making an application for permission to appeal, which will bring it into line with time limits in the High Court.

To conclude, the draft rule amendment before us today makes technical but necessary changes to the procedures used by SIAC to make sure they are consistent with measures already set out in primary legislation, namely the Immigration Act 2016 and the Criminal Justice and Courts Act 2015. We have also taken the opportunity to make time limits for permission to appeal consistent with those in the High Court. I beg to move.

Lord Marks of Henley-on-Thames (LD): My Lords, I will be very brief. We note that these changes are supported by the judge who chairs SIAC, Mrs Justice Laing, and whatever we may think about the closed material procedure, the changes themselves are clearly sensible.

I use this opportunity to suggest that it is very important that closed material procedure be used only as a last resort and in cases of necessity. I note that only 14 cases have been before SIAC in the year under consideration, and that itself is a helpful indication.

On the implementation of the changes to immigration bail under Schedule 10 to the Immigration Act 2016, it is plainly sensible that there should be arrangements for the commission to grant bail. "Financial condition" is sensible terminology that is much better than "recognizances", if I may say so. We also think it sensible that there should be arrangements for the amendment or variation of bail conditions in appropriate cases.

The Minister is plainly right that leap-frogging is a useful procedure that is used in other courts and jurisdictions. Where there is a point of law of public importance or binding authority that would prevent a decision at a lower level than a Supreme Court, it is plainly sensible that the Supreme Court should be the first port of call in cases that are so certified by the commission, and where the importance of the case warrants it.

We also applaud the longer time limits. The time limit was five days for appellants who were in detention and 10 days otherwise. Fourteen days is a very short time limit, but it is at least a little longer, and it is of course important that appellants have a chance to consider their appeals and their applications for a certificate under the legislation before they have to make the application. However, broadly, we support this statutory instrument.

Lord Hodgson of Astley Abbotts (Con): I have one brief question, about the role of the special advocates. When we discussed the Justice and Security Act, one of the drawbacks of the special advocate procedure, very good though it was, was the inability to re-interview the client after an initial briefing. Does that proviso still work in these cases? In the case of an immigration appeal, are special advocates still unable to re-interview their client to find out their views on the information that has been put before them?

Lord Beecham (Lab): My Lords, I am grateful to the Minister for a very clear explanation of the provisions of this statutory instrument. I note that in the House of Commons Delegated Legislation Committee, all of 11 minutes were spent on this matter. The Minister has provided us with somewhat more information than was provided on that occasion. Is he in a position to indicate the number of cases expected? The noble Lord, Lord Marks, referred to a very limited number, but is it anticipated that it will remain at a low level, or is there likely to be any growth?

Can the Minister also make some reference to the condition of the asylum centres where, presumably, some of these applicants will be held pending the outcome of their cases? Of course, great concern has been voiced about the management of some of these establishments. I confess that this issue is not directly related to the statutory instrument, but it is a matter of concern and I would be pleased if the Minister could say that the Government are looking seriously at the management of these places, whatever the outcome of the applications by the individuals involved.

Lord Keen of Elie: I am obliged to noble Lords for their contributions. We consider that this instrument is necessary to make sure that the SIAC procedure rules are consistent with the primary legislation, as has been acknowledged. SIAC does of course perform an essential function in dealing with appeals without compromising national security.

On the point made by the noble Lord, Lord Marks, and followed up by the noble Lord, Lord Beecham, there have indeed been about 14 cases before SIAC in the past year. There is only one party on bail from SIAC at present, pending a determination by the commission, so the use of these powers is extremely limited and I am not aware of any indication that that will increase in the foreseeable future.

On the point raised by my noble friend Lord Hodgson, I am not aware of the current position on re-interview by special advocates, but I will determine what the current procedural position is and write to him on that and place a copy of the letter in the Library. On the point about the condition of centres where persons are held pending determinations by the commission, I am not in a position to comment upon any adverse management issues at present, but I will inquire of the appropriate department as to what current work, if any, is ongoing with regard to that issue. Again, I will write to the noble Lord and place a copy of that letter in the Library.

Motion agreed.

Restriction on the Preparation of Adoption Reports (Amendment) Regulations 2018

Motion to Approve

3.50 pm

Moved by ***Lord Agnew of Oulton***

That the draft Regulations laid before the House on 16 April be approved.

The Parliamentary Under-Secretary of State, Department for Education (Lord Agnew of Oulton) (Con): My Lords, the Adoption and Children Act 2002 provides that only a person within a prescribed description can prepare a report on the suitability of a child for adoption or a person suitable to adopt a child. The Restriction on the Preparation of Adoption Reports Regulations 2005 prescribe, for the purposes of the 2002 Act, those persons who can prepare adoption reports and in what circumstances. Those persons are social workers employed by, or acting on behalf of, an adoption agency or a person who is participating in a social work course and is employed by, or placed with, an adoption agency as part of that course, subject to certain conditions.

[Lord Agnew of Oulton]

This draft statutory instrument will make consequential amendments to the descriptions of persons who can prepare reports and update the references to the register of social workers in England and Wales. These changes are purely consequential in nature and do not provide for any new categories of persons who are able to prepare adoption reports. Given the consequential and technical nature of these amendments, no impact assessment has been prepared.

The Health and Social Care Act 2012 requires all social workers in England to be registered with the Health and Care Professions Council—the HCPC—and the Regulation and Inspection of Social Care (Wales) Act 2016 now provides for the keeping of a register of social workers in Wales. This statutory instrument will bring the 2005 regulations up to date by amending the references to the regulators in line with these two Acts. Although the Welsh Government would have been able to amend the 2005 regulations to update the references relating to Wales, they would not have been able to make the amendments relating to England using the powers in their 2016 Act. With support from the Welsh Government, it made sense for the department to make all the necessary changes in this set of amending regulations.

We of course have ambitious plans for a new social work regulator in England: Social Work England. This is a fundamental part of our social work reform programme, which will develop an in-depth understanding of the profession and set profession-specific standards that clarify expectations about the knowledge, skills, values and behaviours required to become and remain registered as a social worker in England.

We will have to amend these regulations again when Social Work England takes over as the regulator. However, it is important that we make these amendments now to ensure that the 2005 regulations continue to operate effectively and without confusion in both England and Wales. I beg to move that these regulations be approved.

Baroness Benjamin (LD): My Lords, we on these Benches are very concerned by the significant drop in adoptions since 2015. Action is urgently needed to improve permanency planning for vulnerable children. During debates on the two most recent Bills covering adoption law, we have raised concerns that the time taken to find a match between possible adopters and children remains far too long, particularly for hard-to-place children, disabled children, older children, sibling groups and children from BAME backgrounds. We also feel that more support should be given to children after they have been adopted, particularly if they have poor mental health.

Powers have to be given to Ministers to force local councils to combine their adoption services into regional agencies. These must be exercised transparently, with accountability to Parliament, and must be in children's best interests. The Government must not focus exclusively on adoption when amending legislation on looked-after children. Recent legislation has so far ignored issues that affect a wider number of children in care, including fostering, access to personal advice, and mental health.

As I have said time and time again, childhood lasts a lifetime. That applies to all children and includes the emotional turmoil that many children suffer, having had unfortunate, turbulent starts in life. Let us do everything in our power to ensure that these children are considered when we make legislation and rules so that they have fair, just, happy experiences to take forward into adulthood.

Lord Watson of Invergowrie (Lab): My Lords, I thank the Minister for introducing these regulations. I stand at the Dispatch Box representing Her Majesty's Opposition. It is therefore my job to oppose the Government, which I do with regularity and, I hope, with reasoned argument and some good humour. So by dint of habit, I want to oppose these regulations today, but I am unable to do so, and no matter how hard I try, I can find nothing remotely contentious in them. I therefore say two things to the Minister. First, Her Majesty's Opposition are content with his Motion, and secondly, normal service will be resumed shortly.

Lord Agnew of Oulton: My Lords, I am most grateful to noble Lords for the comments and questions on the regulations. The noble Baroness, Lady Benjamin, raises important points about adoption. We are very focused on ensuring that adoption times are reduced as much as possible. We have seen a reduction in the last couple of years—of six months from the peak of 2012-13—but of course we are not complacent. I also take on board the noble Baroness's comments about regional adoption agencies. That process is ongoing: we now have nine regional adoption agencies that have gone live, which cover 44 local authorities, and 16 other projects are in development. We hope that we will not have to use legislative power to coerce, but it is there as a final option if we need to consider it.

I thank the noble Lord, Lord Watson, for his gracious response. He certainly holds me to account on a regular basis, but I am pleased that there are no more issues to be raised. We wanted to ensure that the changes were flagged up to noble Lords with time to consider them. I therefore commend these regulations to the House.

Motion agreed.

Bournemouth, Dorset and Poole (Structural Changes) Order 2018

Dorset (Structural Changes) (Modification of the Local Government and Public Involvement in Health Act 2007) Regulations 2018

Motions to Approve

3.58 pm

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

That the draft Order and Regulations laid before the House on 29 March be approved.

Relevant document: 26th Report from the Secondary Legislation Scrutiny Committee

Lord Young of Cookham (Con): My Lords, these instruments will, if approved by Parliament and made, provide for the abolition of the nine existing local government areas in Dorset and their councils—the existing boroughs of Bournemouth and Poole, the county of Dorset and the boroughs and districts in the county of Dorset—and the establishment of two new local government areas with two new single-tier unitary councils for the area on 1 April 2019.

These instruments provide for elections to these new councils. Elections to the proposed Bournemouth, Christchurch and Poole council will take place in May 2019 and then every fourth year thereafter. Elections to the proposed Dorset council will take place in May 2019, 2024, 2029 and every fourth year thereafter, as requested by the local area. The instruments also make transitional provisions, including for shadow authorities and shadow executives to prepare for the new councils during the period from when the order is in force until April 2019.

We have had discussions with the Local Government Boundary Commission for England and understand that, should Parliament approve and we make these instruments, the commission will carry out a full electoral review of the areas of the two new councils to ensure that all people are equally represented within the area for each council. As provided for in legislation for previous local government reorganisations, provisions are made for the warding arrangements that would be used for the first elections should the commission be unable to conclude the electoral review in time.

The Government, as made clear in our manifesto, are committed to supporting those local authorities that wish to combine to serve their communities better. We have also announced to the House that we will consider any locally led proposals for local government restructuring which are put forward by one or more of the councils concerned and which improve local government and service delivery, create structures with a credible geography and command a good deal of local support.

We have brought forward these measures in response to a locally led proposal from the area concerned. Eight of the nine councils in the area support the proposals, and eight of the nine councils in Dorset have given formal consent to the instruments being made. Statute requires the consent of at least one relevant authority—in this case, Bournemouth, Poole and, for the two-tier structure of Dorset, the county of Dorset or one of the six districts and boroughs within Dorset—for the instruments to be made.

We told Parliament in February 2017 what criteria the Government would use for assessing locally led proposals for local government restructuring—namely, that, first, the proposal is likely to improve local government in the area concerned; secondly, the proposal has a credible geography; and, thirdly, the proposal commands a good deal of local support. We also told Parliament that our intention is for these criteria to be assessed in the round across the whole area subject to reorganisation and not considered individually for each existing council area. The Government are satisfied that this proposal fully meets those criteria.

The Dorset councils proposal which we are now considering would establish two unitary councils across the whole of Dorset, replacing the nine existing local government areas and their councils in the area with two new local government areas and councils, one covering the areas of Bournemouth, Christchurch and Poole, and a second covering the rest of Dorset.

Dorset estimates that this has the potential to generate savings over the first six years of at least £108 million and, if the full transformation programme, which unitarisation makes possible, takes place, there is the potential to save over £170 million over that period. Such savings and the larger size of the councils will increase financial resilience, help sustain good-quality local services and cement partnership working in the area. The new structures will also facilitate stronger strategic and local leadership across the area and enable a more strategic and holistic approach to planning and housing challenges.

Having regard to the representations received, we are also confident that there is a general consensus that the two unitary councils are structured around the natural and established sense of identity across the geography of the county. There is clear evidence that this geography aligns well with other public service provision, including health, police, and the fire and rescue service. In short, the area of each new unitary council is a credible geography.

In bringing forward their proposal, the nine Dorset councils undertook extensive engagement and open consultation, including a formal consultation from August to October 2016. The consultation programme, which included an open consultation, a representative household survey, workshops and the opportunity to submit written submissions, achieved well over 17,000 responses. There was clear support for moving to two unitary councils. Seventy-three per cent of residents were supportive in the representative household survey and, in general across all the areas of Dorset, there was an emphatic preference for the proposed option, with 65% of residents in the representative household survey supporting it. Only 15% of residents in the representative household survey opposed this option; 12% neither supported nor opposed it; and 7% did not answer or did not know.

It may assist noble Lords if I say something briefly about the processes which have been followed by government and which have led us to conclude that this proposal does indeed meet the criteria and is worthy of implementation. On 7 November 2017, the previous Secretary of State told Parliament that he was minded to implement the proposal made by the Dorset councils. There followed a period for representations until 8 January, during which we received 210 representations. On the basis of the proposal, the representations and all other relevant information available, the Secretary of State was satisfied that all of these criteria are met and that implementing this proposal would be likely to improve local government and service delivery across Dorset, represents a credible geography and commands a good deal of local support. His assessments of the Dorset proposal against these criteria were made in the round, across the whole area, subject to the proposed restructuring.

[Lord Young of Cookham]

On 26 February 2018, the previous Secretary of State announced his decision to implement the proposal, subject to parliamentary approval.

We believe that the proposed governance changes for which we are seeking parliamentary approval will benefit people across the whole of Dorset, in every district and borough. Our aim as a Government is to enable the people of Dorset to have as good a deal as possible on their local services. This is not just our view, but a view shared by 65% of residents across the whole of Dorset, 79% of all councillors across the whole of Dorset, and other public service providers and businesses, particularly those responsible for the provision of healthcare, police, fire and rescue, and rail services across the wider Dorset area. It is supported also by a number of my right honourable and honourable friends with constituencies in the area, who, on 29 November 2017, wrote to my right honourable friend the previous Secretary of State urging him to support the proposal. They state that,

"the further savings required to be made, if our councils are to continue delivering quality public services, can only be done through a reorganisation of their structures".

Eight of the nine councils in Dorset support the proposed change and have formally consented to the necessary secondary legislation.

Regarding the one Dorset council that does not support the proposal—Christchurch Borough Council—a third of its elected councillors do support this proposal. These councillors wrote to my right honourable friend the Secretary of State stating:

"We are acutely aware of the constraints on local government funding and the financial pressure that upper tier services are facing. We therefore consider it our duty to respond to these challenges by supporting the restructuring of local government in Dorset".

I believe we are delivering the commitment that my right honourable friend the Prime Minister made in December last year, when she told Parliament that we would seek,

"to ensure that the best result is achieved for the people of Dorset".—[*Official Report*, Commons, 20/12/17; col. 1060.]

It may have come to the attention of noble Lords that Christchurch Borough Council has launched a judicial review challenging the Secretary of State's decision to implement the proposal. However, we are instructing counsel to robustly resist this challenge and are clear that this has no impact on today's debate.

I am sure noble Lords will be aware that the Secondary Legislation Scrutiny Committee has brought these instruments to the attention of the House for reasons of public policy, namely the level of support in Christchurch from both the residents and the council. In particular, the committee asked how the Secretary of State can deem that the proposal meets the criteria that there is a good deal of local support for the proposal, and the justification for proceeding with a proposal which is opposed by one of the councils affected. The committee also asked about the process taken and why an invitation was not issued to these councils.

Government policy is to,

"consider unitarisation and mergers between councils where requested".

Accordingly, the Government's approach to Dorset is that the proposals should be locally led at the initiative of councils in the area, rather than in response to a government invitation. The Cities and Local Government Devolution Act 2016 provides the statutory mechanism for taking forward such an approach. It is this mechanism we are using by bringing forward the regulations and the order we are considering today.

Turning to the consideration of local support, I have already outlined the level of support from residents, businesses, key public sector partners and elected representatives across Dorset. The Secretary of State has had careful regard to the results of the Christchurch local advisory poll, the representations received about the poll and all other information available to him when making his decision. However, as a poll of only 6% of the whole area's population, we do not see it casting doubt on the evidence that, in the round, across the whole area of Dorset there is a good deal of local support.

During the passage of the Cities and Local Government Devolution Bill through this House in 2016, my noble friend Lady Williams of Trafford explained that it was not the intention of the legislation that one council could block a reorganisation proposal that the rest of the councils in an area had proposed. We have also been clear that our intention is for the proposal to be assessed against the criteria in the round, across the whole area subject to reorganisation, and not to be considered individually for each existing council area.

As rightly noted by my right honourable friend the Member for West Dorset, Sir Oliver Letwin, during the committee debate in the other place to consider these SIs,

"it is the job of the Minister and Parliament to legislate in a way that provides for stable, viable and effective local government".

He went on to say that this opposition from Christchurch should not,

"in any way justify overturning a set of proposals that have come from the people of Dorset and Dorset County Council. It is not a matter of the democratic tyranny of the majority. Rather, it is a matter of the viability of local government and local government services in our county".—[*Official Report*, Commons, Third Delegated Legislation Committee, 16/5/18; col. 11.]

In conclusion, in considering the two draft instruments we are assessing the merits of the abolition on 1 April 2019 of the nine existing Dorset local government areas and councils and the establishment of two new local government areas and unitary councils for the area. The proposal is widely supported across Dorset by councils, councillors, MPs, local businesses, town and parish councils, voluntary organisations, public sector bodies and members of the public. The potential to generate savings are considerable—£108 million over the first six years and even more if Dorset councils implement the full transformation programme that unitarisation makes possible.

My honourable friend the Member for North Dorset rightly said in the other place last week:

"The direction of travel is clear. What we are trying to do in Dorset is not eccentric or perverse; it is not in any way weird. It is a democratic response, underpinned by intellectual and academic

argument to deliver on that principal propulsion of public service".—[*Official Report*, Commons, Third Delegated Legislation Committee, 16/5/18; col. 38.]

I have full confidence in the local area to implement the unitarisation by next April, enabling elections to the new councils in May next year. On that basis, I commend these regulations and the order to the House.

Baroness Maddock (LD): In speaking to these instruments, I declare an interest as a vice-president of the Local Government Association. However, I have another interest in that, from 1993 to 1997, I was the Member of Parliament for Christchurch. I had lived in the area for a long time. I had been to school in Brockenhurst—indeed, that was when Christchurch was in Hampshire and I had friends who came to the school from there.

The present Member of Parliament for Christchurch, Sir Christopher Chope, was elected when I lost the seat in 1997. We have over the years been political foes, particularly since our time in Southampton, but life has a funny way of taking you by surprise. In trying to help his constituents, who do not want the borough of Christchurch to be abolished or to become part of a very big council area, he asked them to write to me in the House of Lords. As someone who has been there before, with the reorganisation of Northumberland, on which local views were completely ignored, and as a former member of the Merits of Statutory Instruments Committee, I was happy to look into what had happened. It is rather a sorry tale, I fear.

Christchurch folk have never really identified with their much larger neighbours, Bournemouth and Poole. Road connection to the conurbation is always a bottleneck, particularly over Tuckton Bridge. There are no high-rise blocks in Christchurch, as there are all along the western side of Bournemouth bay. As was pointed out in debates in another place, Christchurch has been an independent borough since 1215 and, unlike its neighbouring councils, is debt free and financially strong.

Proceedings in the Commons show that the Government's dealings with Christchurch and the consultation process have not been smooth or satisfactory. The noble Lord mentioned the 26th report of the Lords Secondary Legislation Scrutiny Committee, published on 26 April. The report drew the attention of Members to the lack of consent and to the Government's decision to ignore the clear and democratically expressed wishes of the people of Christchurch, and to choose instead to judge opinion across the whole of Dorset in the round. The people of Christchurch and their MP are rightly devastated by the decision to proceed without local consent, particularly so because the Member for Christchurch had twice received in the other place undertakings by the Secretary of State during the passage of the Cities and Local Government Devolution Bill 2015 that Clause 15 of the Bill would not be used to abolish any individual council without consent.

4.15 pm

As the Minister said, a consultation across all the local councils in Dorset was held between September and November 2016. It is thought that the questions were put in such a way that the consultation went in the direction most of the councils wanted it to go—there was a view that the questions were biased—and it appears that the survey methodology was seriously flawed. The Government relied on a sample survey that purported to show 64% support among Christchurch residents, rather than on another referendum held by the council in December 2017. In that referendum, the people of Christchurch were asked a much clearer question than in the other consultation, which was: do you support the current proposal for a single council covering Christchurch, Bournemouth and Poole? There was a 54% turnout and the vote was 84% no.

After the 2016 public consultation, there were debates in all the councils concerned. At that time, three districts did not support the proposals. However, the existing unitary areas went ahead with an application to the Secretary of State in February 2017, as we have heard. At this stage, where there was no local agreement, Christchurch expected fresh discussions to try to reach an agreement. However, on 7 November, the Secretary of State announced that he was minded to approve the proposals subject to the need for further local consent. As I have said, Christchurch had held a further referendum but this seemed to be ignored by the Secretary of State when he announced his final decision on 26 February 2018 and asserted that the criteria of local government consent had been satisfied. He maintained that Christchurch was only a small proportion of the total population in Dorset, as the Minister said today. However, if that was the case, why was Christchurch encouraged to have a local referendum?

Christchurch had also asked for time to put forward an alternative proposal of returning to Hampshire, where it had been in 1974. This was refused. At that point the Government suggested it hold the referendum to which I have referred, in which 84% of people were against doing it. In the absence of time for the Hampshire proposal, Christchurch borough submitted an alternative of keeping the status quo in the rest of Dorset with the Bournemouth and Poole unitary. The submission was made within the time limits but it was rejected by the Secretary of State on the grounds that he did not have the power to force Bournemouth and Poole to merge together—but he seems to have the power to force Christchurch not to join them.

Changing the goalposts has led to Christchurch feeling extremely aggrieved. Other rules changed in the process, particularly in relation to council tax. The harmonisation period was reduced from 20 years to five years and this dramatically changes the financial viability of the proposals in the first consultation. In addition, the process has been undertaken retrospectively. The Secretary of State had already decided to approve the application in his statement of 26 February 2018, despite the regulations permitting it not yet having been approved by Parliament. Is it any wonder that Christchurch Borough Council, on the advice of a leading QC that the legislation is ultra vires, has instigated proceedings for judicial review?

It seems that whenever we look at council reorganisation, everybody looks at process and finance above all; democracy and local democratic accountability and involvement seem to be last on the list. I believe passionately in local government and I have watched it be undermined by successive Governments. Is it any

[Baroness Maddock]
wonder that fewer people want to stand as councillors? Turnout in local elections is very low; in local by-elections, it is appallingly low.

The honourable Member for Christchurch and I are rarely on the same side, politically, but on this occasion I am with him all the way. For all the reasons I have set out, I do not support the regulations. The Government should think again and respect both the judicial proceedings that are under way and the strongly held views of the people of Christchurch. I know that my noble friend who presented the order is a very honourable person. I hope he will realise that, whatever its rights or wrongs, this has not been a very nice tale for the people who live in Christchurch.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I declare an interest as a vice-president of the Local Government Association.

The order and regulations before the House bring into effect proposals to create two new unitary authorities covering Dorset, Bournemouth and Poole. Generally, I am in favour of the establishment of unitary local government in England. I think that the local government structures in Scotland and Wales are generally more fit for purpose than the patchwork that we have developed in England. In those countries the two-tier approach was abolished at the end of the John Major Government, with 32 unitary authorities in Scotland and 22 unitary authorities in Wales.

On numerous occasions I have raised in this House the issue of how local government reform is evolving in England. Generally, it is confused, with little clarity on the objective, the purpose and how it is right to have four tiers of local government in one area while in a neighbouring county the view is that a unitary authority is best. This lack of clarity does not strike me as very strategic, nor mindful of the council tax payer or the delivery of efficient services.

There is also the issue of consent. Clearly, Christchurch Borough Council has not consented. It has gone further and held a referendum on the issue, where 84% of the borough's residents—on a 54% turnout—rejected what is being proposed here today. The matter went before the Secondary Legislation Scrutiny Committee, which highlighted that Ministers will apply the criteria in the round rather than considering whether the criteria should be met in relation to each individual council area. This is all very strange. Perhaps the Minister can clarify what happened during Third Reading of the Cities and Local Government Devolution Bill in the other place. Did the Secretary of State provide assurance that the council would not be abolished without its consent? I do not know the answer, so perhaps he can tell me.

On 9 May, in Grand Committee in the Moses Room, we discussed local government changes in Suffolk. Having at first been quite complimentary about me, the Minister's noble friend Lord Bourne of Aberystwyth went on to suggest that I was a Stalinist when all I asked for was clarity, certainty and value for money for the council tax payer. He said:

"We have a broad policy of saying these things have got to be locally led … local democracy is the key point".

I then moved on to Oxfordshire. I was well aware that certain councils there are pushing for a unitary Oxfordshire, which Oxford City Council is opposed to—as I believe are the majority of the citizens who live in that area. I asked the noble Lord, Lord Bourne:

"Do I take it from what the Minister said that if councils do not want things to happen, they will not happen?"

His response was:

"That is essentially true. These have to be locally led. If they have not got local support, they will not happen … That does not mean that there has to be 100% support".

He then clarified further:

"Well, for district mergers, there has to be 100% support from the councils. What I am saying is that there does not necessarily have to be 100% support from the local MPs, for example, and that has not been the case".—[*Official Report*, 9/5/18; cols. GC 22-23.]

I think that the noble Lord, Lord Young of Cookham, and his department are in some difficulty on this one. His noble friend Lord Bourne made it clear in Grand Committee on 9 May that there has to be 100% support from district councils for mergers to go ahead. Christchurch Borough Council does not agree. Furthermore, it held a referendum and, as I told the House, 84% of the residents of the borough, on a very respectable 54% turnout, did not agree either.

Then we have the Secondary Legislation Scrutiny Committee of your Lordships' House advising us that Ministers decide these things "in the round", which it is at complete odds with what the Minister's noble friend Lord Bourne told us on 9 May. As the noble Lord, Lord Young of Cookham, is well aware and has told the House, the Conservative leader of Christchurch Borough Council, Councillor David Flagg, has begun a judicial review of the actions of the Secretary of State and his department. I think that there are fairly good questions that have to be answered before a judge, because this seems to be a little confused. I respectfully suggest that this is a mess, and the wisest option for the noble Lord's department would be to withdraw these two statutory instruments, sort it out and get the lines clear in the department to avoid a possible court battle and a waste of public money.

Lord Young of Cookham: I am grateful to all noble Lords who have spoken in this debate. I commend the persistence of my former colleague Sir Christopher Chope in garnering support from unlikely quarters to continue his campaign against this merger. I recognise the locus in the area of the noble Baroness, Lady Maddock. Indeed, I remember taking part in the campaign to ensure that she was not elected in the by-election—a campaign in which I and others failed.

Perhaps I may deal with the important issues which the noble Baroness and the noble Lord, Lord Kennedy, raised. She mentioned that Christchurch was debt free—which it is, as are a number of the other local authorities. However, that is only part of the story, because many services provided to Christchurch are provided by the county council, which does have debt. So the people of Christchurch pay council tax on local authority debt, which is at the level of more than £500 per head.

I have just had news from the front. There was a deferred Division in the other place on these statutory instruments. Had the votes gone the other way, I am

not sure that there would have been a lot of purpose in continuing our discussions, but I am happy to say that the ayes were 293 against 19 and 294 against 19 on the other instrument, so we can proceed, the other place having done its duty.

On council tax levels, I think that I am right in saying that Christchurch benefits from harmonisation, as its average level of council tax is higher. Therefore, with harmonisation that level will come down.

I say in response to the noble Lord, Lord Kennedy, that there is a difference between the rules for mergers and those for unitarisation. He is quite right that, where we are talking about a merger, there has to be agreement from the councils being merged. But this is not a merger; it is unitarisation, and the rules for unitarisation are different. I read them out. Proposals have to be judged in the round as commanding a good deal of local support in the area. I quoted from what my noble friend Lady Williams said when the relevant legislation was being debated, which made it clear that there was not a right of veto of any one particular council within the proposed unitary; we had to look at the issues in the round.

The noble Baroness mentioned the poll conducted in Christchurch. There have been some criticisms of the conduct of that poll. Dorset County Council referred in its representations to,

"misleading and inaccurate information being circulated, not validated by the County Council or indeed Christchurch Borough Council. This was both before and while the poll was open and must introduce the question of bias in the process and undermine the validity of the findings".

Poole Borough Council in its representation stated that the advisory poll in Christchurch,

"was supported by privately promoted information which was factually inaccurate and misleading".

The borough council asserted that in its view the poll was "wholly unreliable" and asked the Secretary of State to "disregard" it.

None the less, we did have careful regard to the poll and its circumstances—but it did involve only 6% of the population of the whole area and we do not see this poll, for all these reasons, as casting doubt on the evidence that, in the round, across the whole area, the proposition has support. This proposal was locally led, developed and consulted on, and submitted jointly by the Dorset councils. The evidence is that nearly 80% of councillors across the whole area are in favour of the proposal, businesses and key public sector partners overwhelmingly support it, and the representative household survey showed that 65% of the public support it. Seven local Members of Parliament also support the proposal.

I have listened to the objections of the noble Lord, Lord Kennedy. I hope that I have addressed them and also dealt with some of the points raised by the noble Baroness.

Lord Kennedy of Southwark: That was a very helpful explanation and I thank the Minister, but will he explain a bit further why it is that if you merge two or three district councils, one council can object and veto it, whereas when you have a bigger reorganisation involving the unitarisation of a county, no one has a veto? Potentially, that involves many more services, a bigger area and bigger budgets, yet apparently no one has to be involved in that. Will he explain further, please?

Lord Young of Cookham: We made it quite clear that where an area wants to move from where it is now two-tier to unitary, we want to look at the proposal as a whole, and we do not believe it is right for any one component to have a veto. That is different from where two local authorities, as we are about to debate in a moment, want to get together and merge. We think that where they are going to merge—in other words, there is not going to be a wholesale reorganisation—it would be wrong to compel people to merge if they do not want to.

So, locally led proposals for district council mergers are to be assessed against criteria which we announced to Parliament on 7 November 2017, which include both the criterion that to be implemented a proposal should command a good deal of local support in the area and the criterion that the merger is proposed by all the councils to be merged. Locally led proposals for unitarisation are to be assessed against different criteria, announced to the Commons on 28 February 2017, which include the criterion that to be implemented a proposal for an area should, when judged in the round, be assessed as commanding a good deal of local support in the area.

Unlike in the case of mergers, unitarising an area does not need to be proposed by all the councils involved, since that area necessarily includes two tiers of councils, so that even if some councils in the area do not support the proposal, the area of those that do may cover the whole area. I may not have convinced the noble Lord—in fact, I can see that I have not convinced him—but he asked me what the criteria were and I have explained them.

4.30 pm

Lord Kennedy of Southwark: I appreciate that, and I thank the noble Lord for it. I am not convinced, but I will leave it there. All I will say is that, as I have said many times before, I think that the local government reorganisation in England is confused, and I respectfully suggest that the noble Lord's explanation highlights that.

Baroness Maddock: Does the noble Lord have any comment on the idea that one way out of this would have been to allow Christchurch to look at going into Hampshire? The Government were less than helpful when Christchurch wanted to do that.

Lord Young of Cookham: That would have involved a much wider proposal. Basically, what we are interested in are locally led proposals. I am not aware that Hampshire or the other authorities were party to that proposition, whereas the proposition before the House this afternoon is supported by the area as a whole, with a notable exception. Had Hampshire and Christchurch come to us with a proposition which commanded general support, we would of course have looked at it. But they did not.

Motions agreed.

Somerset West and Taunton (Local Government Changes) Order 2018

Somerset West and Taunton (Modification of Boundary Change Enactments) Regulations 2018

Motions to Approve

4.34 pm

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

That the draft Order and Regulations laid before the House on 29 March be approved.

Relevant document: 26th Report from the Secondary Legislation Scrutiny Committee

Lord Young of Cookham (Con): My Lords, let us see what trouble we have with these. In moving the draft Somerset West and Taunton (Local Government Changes) Order 2018, I will also speak to the draft Somerset West and Taunton (Modification of Boundary Change Enactments) Regulations 2018. These instruments, if approved by Parliament and made, will establish on 1 April 2019 the new local government area of Somerset West and Taunton, together with a new district council for that area, and will abolish the existing local government areas of West Somerset district and Taunton Deane borough, together with their councils.

The instruments also provide for elections to this new council to be held in May 2019 and each fourth year thereafter. This includes providing electoral arrangements—that is, the warding arrangements that would be used for the first elections should the Local Government Boundary Commission for England be unable to conclude in time the electoral review which it is expected to undertake. In addition the instruments make transitional provision, including for a shadow authority and shadow executive, to prepare for the new council during the period from when the order is in force until April 2020.

We have brought forward these instruments in response to a locally led proposal from the area concerned. Both the existing principal councils in the area which submitted the joint proposal continue to support it and, as statute requires, have given their formal consent to the regulations. In line with the Government's 2017 manifesto, we are committed to consider any locally led proposals for district mergers and, as we told Parliament in November 2017, we will assess proposals we receive on the basis that they will improve local government and service delivery, create structures with a credible geography, and command a good deal of local support. The Government are satisfied that this merger proposal fully meets these criteria.

First, the merger will improve local government in the area. It will secure the current shared service partnership and the £2.6 million in savings that come as a result, as well as generating further savings of £0.5 million. This would improve service delivery across the whole area. The area of the new Somerset West and Taunton district and council is a coherent geography with a population of around 147,000.

Finally, we are satisfied that the evidence shows that there is strong local support for this proposal from the democratically elected representatives of the population as well as the county council, the district and borough councils, and a majority of public authorities, town and parish councils, and voluntary and business organisations which made representations to the Secretary of State.

It may assist noble Lords if I say something about the processes followed by the councils and the Government, which have led us to conclude that this proposal meets the criteria and should be implemented. In bringing forward their proposal to merge, the two councils undertook an engagement programme with residents and stakeholders from December 2016 until February 2017. This included an independent, demographically representative phone poll; a dedicated website with background information and an online questionnaire; a series of eight public roadshow events throughout the whole area; a series of nine consultation events, involving groups of parish and town councillors and representatives of community groups; and various meetings with key stakeholders including businesses, partners, and other local public bodies.

The councils submitted their proposal to the Government in March 2017. Following careful consideration, my right honourable friend the then Secretary of State announced on 30 November 2017 that he was minded to implement the proposal. There then followed a period for representations until 19 January 2018. The Secretary of State received a total of 251 representations.

Somerset County Council supports the merger and all public bodies are either supportive or raised no objections. A strong majority of businesses and voluntary sector organisations were supportive or raised no objections. The majority of parishes were supportive or neutral. As to representations from members of the public, 53 were supportive of the proposed merger and 99 did not support it. Although most of these members of the public did not provide any reasons, the most common reasons cited were the perceived reduction in democratic representation for West Somerset following the merger and the concern that Taunton Deane would be financially detrimentally affected. We believe that both these concerns can be addressed.

The first, of democratic accountability, is something we all take seriously. We have had discussions with the Local Government Boundary Commission and understand that, should Parliament approve and we make these instruments, then the commission will carry out a full electoral review of the area of the proposed new district, which will ensure that all people are equally represented on the proposed new council. We also consider that the second concern expressed is addressed by the fact that Taunton Deane also stands to benefit from savings generated by the merger. I will say a little more on this later.

Having considered the proposal and all of the representations carefully, the Secretary of State announced on 22 March this year that he intended to seek parliamentary approval of the secondary legislation to implement this proposal, and the instruments that we are considering today were laid on 29 March.

Noble Lords will be aware that the Secondary Legislation Scrutiny Committee has drawn these instruments to the special attention of the House as it believes there were inadequacies in the consultation carried out by the councils. That is not a view we share. I have already outlined the extensive nature of the engagement carried out by the councils, including a demographically representative phone poll, an online questionnaire and a number of roadshows, events and meetings.

The Secondary Legislation Scrutiny Committee also mentioned that a number of representations to the Secretary of State from Taunton Deane residents outlined unwillingness to take on West Somerset as a financially unsustainable council. As we explained to the committee, both the councils and the Government consider that Taunton Deane is likely to enjoy financial and other benefits resulting from this proposed merger. The two councils already benefit from shared services and a senior management team and staff team, and considerable savings of £2.6 million per annum have already been generated through the current partnership.

These savings and improvements in service delivery would be safeguarded by the proposed merger being implemented. Should the merger not be implemented, the financial unsustainability of West Somerset District Council is considered to jeopardise the financial benefits of the current partnership, thus forcing Taunton Deane Borough Council to remove itself from the partnership agreement, which for both councils would risk the savings already generated.

The councils' medium-term financial forecast remains challenging, with both councils needing to reduce annual expenditure: West Somerset by £0.8 million and Taunton Deane by £2.3 million by 2021. The independent auditor notes that,

"if the 'One Council' was not to go ahead and TDBC sought to unwind the collaboration the financial gap would be exacerbated".

I think this helps to demonstrate that the continuation of the joint working arrangements and the additional benefits that a merger could provide will benefit not only residents in West Somerset but those in Taunton Deane. That may be why both councils remain in favour of the merger, consented to the instruments we are considering today and continue to urge us to progress as quickly as possible so that implementation can begin.

Turning briefly to the detail of the two instruments before us today, the regulations modify the provisions of the Local Government and Public Involvement in Health Act 2007 in its application to the case concerned. The regulations are made under provisions of the Cities and Local Government Devolution Act 2016. These regulations modify the 2007 Act provisions to enable a locally led and supported merger proposal to be implemented without the need for a time-consuming boundary review, which can be undertaken only at the discretion of the Local Government Boundary Commission for England.

The order is to be made under the modified provisions of the 2007 Act which provide for: abolishing the existing local government areas for West Somerset and Taunton Deane; establishing a new district coterminous with the previous areas of West Somerset and Taunton Deane named Somerset West and Taunton; winding up and dissolving the district council of West Somerset and the borough council of Taunton Deane and establish a new council Somerset West and Taunton District Council; providing appropriate transitional arrangements, such as a shadow authority and shadow executive; and establishing, in agreement with the councils, any necessary electoral arrangements. We expect the Local Government Boundary Commission for England to be able to undertake a full electoral review of the new area before the elections in May 2019.

In conclusion, these instruments establish the new local government area of, and council for, Somerset West and Taunton. The proposal was initiated and developed by the councils themselves, the democratically elected representatives of the population. The Secretary of State considered this locally led proposal according to the criteria that were announced in the other place. I have full confidence in the local area to implement the merger by April 2019 and allow for the election of the new council soon after in May. On that basis, I commend these regulations and the order to the House.

4.45 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I declare my interest as a vice-president of the LGA and a district councillor in South Somerset. Taunton Deane and West Somerset have been collaborating successfully for some time and share several services and offices, as the Minister said. Taunton Deane now wishes to terminate its collaboration. Instead, it wishes to take over West Somerset. I have received many submissions from local councillors and others who are opposed to the merger, and none in favour. I shall try to briefly give the House a flavour of the communities being discussed this afternoon.

Taunton Deane Borough Council, as its name implies, includes the county town of Taunton. It has a large community and includes some rural villages and the market town of Wellington, but it can in no way be described as extremely rural. It has excellent infrastructure in the form of the main railway line linking down to Cornwall and up to Bristol and the north of the country. It is situated on the junction of the M5 spine, which runs down the west of the country, and has a thriving hospital, a sixth-form college and FE college, several secondary schools and numerous primary schools. There is a vibrant town centre. Generally, it has everything going for it.

West Somerset is a very different area and council. It is one of the smallest, if not the smallest, district council in the country. It has extremely poor connectivity to the surrounding area. The A39, which is the main route to the largest town of Minehead, has not been updated. Seventy per cent of the landmass of West Somerset is within the Exmoor National Park. This means that the area is extremely beautiful and, with its interesting coastline, West Somerset attracts a great many tourists. However, unlike Taunton, which can rely on the new homes bonus to boost its budget, it is impossible to build large numbers of homes in West Somerset due to planning restrictions in the national park.

[Baroness Bakewell of Hardington Mandeville]

There are also many other challenges. The community college at Minehead takes pupils from 14 to 18 and covers an area of 600 square miles. This means that pupils travel large distances on school transport and consequently find it difficult to have any social life outside school, which the pupils in Taunton take for granted.

West Somerset is, however, the site of the nuclear power plants at Hinkley. Power station A is decommissioned but has never been removed, Hinkley B is still operational and Hinkley C is still under construction. Despite this, the roads serving Hinkley are, for the most part, rural, winding roads taking a great deal of extra traffic during the construction phase. West Somerset should have been able to count on the business rates from Hinkley. However, when the Government allowed local authorities to retain business rates, they did not transfer funds to cover historical appeals by businesses against their rating. This was an amazing sleight of hand of which many magicians would have been proud. Consequently, when Hinkley's appeal was allowed, West Somerset had to refund £6.7 million from its meagre resources to Hinkley. Hinkley's business rates were £5 million, but they have been reassessed at £29 million. Not surprisingly, Hinkley is trying the appeal route once again.

We have before us a David and Goliath situation. Taunton Deane is financially stable and able to plan for its future with confidence. West Somerset, although having some capital assets, has a revenue budget that is not solvent. This is due not to incompetence on the part of its officers or elected councillors but to the greatly increased costs of providing services in deep rural isolated areas, coupled with the business rates issue outlined above.

Central government does not accurately reflect rurality in its settlement for West Somerset, nor does the Boundary Commission reflect this when reviewing electoral boundaries. It takes no notice of sparsity or connectivity but focuses solely on the number of electors, hence the four county councillors who cover the whole of West Somerset have a great many parished areas to cover. In one case, that is 25 parishes.

Contrast that with the county town of Taunton, which is unparished. The draft Statutory Instrument refers to the Government's commitment to,

"immediately carry out a Community Governance Review to ensure that the currently unparished area of Taunton is parished as soon as possible".

I do not see any costs for that in the statutory instrument.

Now we come to the issue of democratic deficit—a subject close to my heart. Currently Taunton Deane has 56 councillors and West Somerset 28. The proposal is for 58 councillors going forward—a 32% reduction. One of the new wards will have five councillors. How is that going to work? There will be five people, potentially from different political parties, all trying to represent the views of the electorate. Many councillors cannot agree among their own party colleagues, never mind those from another party. If the number of electors demands five councillors, why not divide the ward into smaller sections and give those elected a fighting chance of doing a decent job?

West Somerset will now be covered by four divisions with a total of 13 councillors—more than a 50% reduction, while Taunton Deane gets only a 26% reduction. Who devised these massive, multimember wards for very rural areas? This whole thing reeks of political gerrymandering on a massive scale. A consultation has taken place, but this does not appear to have been satisfactory. Like a lot of consultations, the questions asked are often to produce the answers required. I note that the Secondary Legislation Scrutiny Committee was concerned about the nature of the consultation. I quote from a letter sent to that committee, which I received this morning:

"The public consultation was biased in many ways as noted earlier in HL Paper, but it is not mentioned that the proponents of the merger had promoted it in the local press as a fait accompli, (emphasising that the councils had already taken a vote and the proposal to merge had already been sent to the Minister) BEFORE this consultation took place. It was also repeatedly claimed, inaccurately, that the merger per se would save £3.1m".

I turn briefly to the predatory and unwelcome bid on 2 May by the leader of the county council to form a unitary county. We can see from press reports in the *Telegraph* on Monday that Somerset County Council is running a deficit budget. It is, therefore, looking to the districts, which are solvent, to bail them out. The leader of the county council says:

"This is the start of the conversation. At this stage the situation is best described as being in 'talks about talks' and I'm adamant that I will enter into these conversations with an open mind and nothing on my agenda except delivering long-term sustainable services for Somerset's residents".

Still on the subject of unitary, he says:

"I know the announcements earlier this month may have been unsettling, and even worrying, to some staff within SCC and also the districts, especially where it was coupled with alarming headlines. That was not the aim of publicising our discussions and I'm happy to apologise to staff in all organisations if that was the consequence".

I find these words somewhat disingenuous.

The press release from the five district council leaders who met last Friday, states:

"The leaders of all five district councils together with the County Council have pledged today to work together on a joint review of local governance in Somerset. The aim of the review will be to determine the best way of delivering local public services and meeting community outcomes in Somerset in the future.

Whilst the details of the review are still to be finalised, the leaders have committed to some important principles including … Ensuring the review is independent of any one or group of organisations and that the focus of the review is on what is best for Somerset and its communities … Considering a range of options for the future",

with all options having,

"a robust business case analysis … Inviting others, including health care, to work with the councils on the review … To engage with communities and stakeholders through the review process, keep people informed and undertake community consultation before any final decisions are made".

Work will now commence on drawing up detailed plans and timetables for the review, and further updates will be issued in due course.

There was a debate in the other place on the proposed unitary yesterday—this despite the leader of the county council taking the trouble to go to London to lobby the MPs on his proposal. However, his proposal did

not meet with unqualified support. I do not doubt that West Somerset is in desperate straits but, if Taunton Deane does not wish to continue its collaboration with it, why not look to Sedgemoor District Council? It also has a boundary with West Somerset and together they form one parliamentary constituency, represented by Ian Liddell-Grainger, who, incidentally, is opposed to the merger that we have before us today. He is recorded as saying that he was gobsmacked at the unitary proposal—and I take that from *Hansard*.

The costs of the merger are large, setting up a shadow authority on 1 April to be overtaken by the new authority in May 2019 and then, again, by a possible unitary authority. This seems like a desperate waste of taxpayers' money. I regret that I do not think now is the right time to be progressing this proposal.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I again refer the House to my entry in the register of interests as a vice-president of the Local Government Association.

This is another set of proposals that seems fraught with local difficulty and, as I said before, the lack of clarity from the Government on their plan for local government in England as a whole is not helping matters. The Secondary Legislation Scrutiny Committee of your Lordships' House has brought these two statutory instruments to the special attention of the House, on the grounds that there appear to be inadequacies in the consultation which relates to these instruments. Inadequacy in these sort of consultations is a matter that I have yet to receive a satisfactory answer on what the department will do to improve the situation.

I am very much in agreement that, for a consultation exercise to carry any credibility, those who organise it must be open-minded about its results, otherwise there is no point in the exercise. I also have some sympathy with the residents of Taunton Deane in respect of their concerns about this merger, as the independent auditor considers West Somerset District Council to be financially unsustainable. The merger may be the answer, but that has not been established to the satisfaction of many people locally. We then have various other individuals giving their views, as the noble Baroness, Lady Bakewell of Hardington Mandeville, said. The leader of Somerset County Council, the Conservative councillor David Fothergill, who lives in Taunton, wants a countywide unitary, which he claims will save the council £28 million. Marcus Fysh, the MP for Yeovil, who is a former county councillor, also wants the county unitary model. James Heappey, the Member for Wells, also wants a county unitary, but Rebecca Pow, the Tory MP for Taunton Deane, is firmly sitting on the fence, saying that she will wait to hear more proposals before she makes her mind up.

It is all a bit of a shambles again, which is not helped by the general approach from the Government, with no clear vision of how local democracy should be delivered in England. It just makes matters even more difficult to get right, although I accept that these things are very difficult. It would in my opinion be better, as we were saying, to see unitary local government in England, and we will work with local councillors and local communities to come up with the best options in each county to deliver that with full consultation.

I wonder whether the Minister can help me, because I am getting a little confused by all these mergers, and how it all works. I think that he said in our previous debate that when we have districts coming together in mergers, any one district can oppose that. Then he said that any unitary proposals are decided in the round, so a council cannot oppose it. But what happens if you get a county district wanting to merge with a unitary? Is that done in the round again, as well, or is there a third option? I am thinking of somewhere like Oxford City Council, which is a unitary and does not want to merge with Oxfordshire. Has it got a veto? I do not know. It all seems very confused to me, and we need to be clear because I think that the Government are very muddled on this.

5 pm

Lord Young of Cookham: I am grateful to all noble Lords who have taken part in this debate. May I just address one point that the noble Lord, Lord Kennedy, has raised in both debates? What he describes as a muddle is a reflection of the Government's approach—which we think is the right one—which is to respect what local communities want. We are responding to locally led proposals. Both the statutory instruments we have just agreed, and this one, are proposals that local people have asked the Government to approve. The alternative, which may be the option that the noble Lord, Lord Kennedy, prefers, is a top-down approach whereby government states its desired structure and then imposes that uniformly throughout the country. So I reject his description of our policy as a muddle: we think it is locally responsive. We considered the proposals in the round and we think this is a more satisfactory approach to local democracy than the alternative.

Let me deal with some of the points that were raised during our debate. Rebecca Pow is on record as supporting the proposed merger. On the electoral arrangements, the proposals in the order are a back-up option put together by the local authorities. The Local Government Boundary Commission will re-ward the whole area into appropriate wards. Once the number of councillors is reduced, the number of electors to each councillor will remain approximately 1,900, which is the average for the United Kingdom.

So far as support for the proposals before us is concerned, Taunton Deane Borough Council voted in support of progressing the merger at its full council meeting on 26 July 2016: 32 voted in favour, 16 against, and two abstained. Somerset County Council supports the merger, and there is no proposal from the county council or any of the districts for further unitary councils in Somerset. Should, in time, any locally led proposals come forward, we would of course consider them, but there are none on the table.

Looking at the parish councils, the majority of parishes supported the proposition: 10 were supportive and five were against. A strong majority of businesses and voluntary sector organisations—18—were supportive, and four raised no objections.

The thrust of the noble Baroness's case was that the merger would be to the detriment of Taunton Deane residents. I do not want to go through all the arguments that I rehearsed when I introduced the instruments,

[Lord Young of Cookham]
but we do understand that, should the merger not be implemented, the financial unsustainability of West Somerset Council is considered to jeopardise the financial benefits of the current partnership, thus forcing Taunton Deane Borough Council to remove itself from the partnership agreement, which for both councils would risk the savings already generated. As I said, the independent auditor notes that,

"if the 'One Council' was not to go ahead and TDBC sought to unwind the collaboration the financial gap would be exacerbated".

The two councils are clear that the merger will safeguard annual savings of £3.1 million—£2.6 million from transformation and £0.5 million from the governance changes.

I have listened with respect to the arguments put forward, but I think there is a strong case for agreeing to the proposition put to us by the two borough councils concerned.

Baroness Bakewell of Hardington Mandeville: Before the noble Lord sits down, may I ask him to clarify one point? I thought I heard him say that each councillor in the new council would have an electorate of 1,900. How can that be, when no single-member wards are proposed? In one case, it is a five-member ward.

Lord Young of Cookham: That would be an average, dividing the number of electors by the number of councillors. I have not drilled it down to an individual ward basis.

Lord Kennedy of Southwark: I thank the Minister for his contribution. I mentioned Scotland and Wales in the previous debate. I think the Minister was in the Cabinet when the Major Government introduced unitary government to both Scotland and Wales in 1996, producing 32 councils in Scotland and 22 in Wales. That has largely stood the test of time. It seems strange, if that was the right thing to do then—it seemed to work well then and carries on to this day—that in England, it is very confused. I accept that the noble Lord has said that is what the policy is, but when we have a unitary council in one place and a district council in another, it all just appears to be a muddle. I recall a discussion with, I think, the noble Lord, Lord Lansley, who described that he had five councils potentially levying council tax and other demands in Cambridgeshire, but in Cornwall there was only one. It certainly seems to me to be very confused.

Motions agreed.

Legislative Reform (Regulator of Social Housing) (England) Order 2018

Motion to Approve

5.05 pm

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

That the draft Order laid before the House on 28 February be approved.

Relevant document: 18th Report from the Regulatory Reform Committee

Lord Young of Cookham (Con): My Lords, the draft order we are considering today is, I hope, a largely uncontroversial one. Indeed, it passed through the other place without a debate. It seeks to establish the Regulator of Social Housing as a stand-alone body. It implements the recommendation in the *Tailored Review of the Homes and Communities Agency* to establish a stand-alone regulatory body for social housing. In so doing, it removes any possibility of a potential conflict by separating out the regulatory function from the organisation, which is also responsible for investment. It will not, however, change how registered providers of social housing are regulated or how they operate on a day-to-day basis.

That is not to say that this change is insignificant. The change will ensure the continuation of independent and robust regulation of the social housing sector. At the moment, the regulation of social housing is the responsibility of the regulation committee, a statutory committee of the Homes and Communities Agency. While the organisation responsible for undertaking this function refers to itself as the Regulator of Social Housing, it remains legally part of the Homes and Communities Agency. It is independent from government and is crucial in underpinning investor confidence in the social housing market.

In 2016, the then Department for Communities and Local Government conducted a tailored review of the Homes and Communities Agency. The review was forward-looking and focused on the challenges faced by the agency. In respect of regulation, the review found there was a compelling case for change of the regulator's structure. In recent years, the Homes and Communities Agency has expanded into commercial investments. This makes the agency, in some cases, both a secured creditor and regulator of registered providers. This potential conflict of interest did not exist when the decision was made to incorporate social housing regulation within the Homes and Communities Agency as, at that time, the agency's funding predominantly focused on grant-making.

I should make clear that existing governance arrangements and an operational "ethical wall" have ensured that information has not been inappropriately exchanged between the regulation and investment functions. However, the financial landscape of the sector continues to evolve and become more complex. Because of that, it becomes ever more important that the Homes and Communities Agency and the regulator are best positioned to adapt to such changes and that commercially sensitive information is safeguarded. Moreover, it is crucial that the regulator is perceived to be adept at handling such complexities, so as to uphold lender confidence.

The regulator's role and functions are set out in the Housing and Regeneration Act 2008, as amended by the Localism Act 2011. As a result, changes to primary legislation are needed to deliver a stand-alone regulator. We have used the powers in Section 2 of the Legislative and Regulatory Reform Act 2006 to deliver these changes through a legislative reform order. The order ensures that social housing regulation is made more consistent with better regulation principles by providing for greater accountability and transparency for regulatory activities.

I should also make an important point about legislative reform orders. They are intended to be used either to reduce the overall burden of regulation or to ensure that regulation is carried out in a more transparent or proportionate manner. They cannot be used to create new, or vary existing, regulatory functions. That means the current provisions on the regulatory and enforcement powers of the regulator contained in Sections 192 to 269B of the Housing and Regeneration Act 2008 remain effectively unchanged by this legislative reform order. These provisions set out the regulatory framework, for example around the economic and consumer standards that can be set and how they are monitored. They also cover enforcement powers at the regulator's disposal, for example, to impose penalties or to award compensation in the event of failure by a housing association. So—to anticipate points that noble Lords may wish to make—changes to how the sector is actually regulated are better considered as part of the forthcoming social housing Green Paper. What this legislation will do, however, is to put in place the arrangements for a robust and independent regulator ready to adapt to any policy changes that may arise from these reviews.

A crucial part of the process of delivering changes through a legislative reform order is that there is public consultation on both the changes proposed and the use of a legislative reform order to deliver them. The department conducted a consultation in early 2017. While the number of responses was relatively small, they were overwhelmingly in favour of the move, including from the sector and investors.

I turn briefly to the specifics of the LRO. In effect, this order reverses the changes made by the Localism Act 2011 and removes the regulator from the Homes and Communities Agency, thereby making it a stand-alone, independent body. The detailed provisions that do this are set out in Schedule 1 to the order. Part 1 of the schedule establishes the regulator and transfers functions from the HCA to the regulator. Part 2 makes amendments to other legislation consequent upon the creation of the regulator. Part 3 provides for the transfer of property, rights and liabilities from the HCA to the regulator. Finally, Part 4 of the schedule provides for transitional and savings provisions consequent upon the transfer of functions.

To conclude, the creation of a stand-alone Regulator of Social Housing is a necessary change that will ensure that the sector continues to be regulated effectively. This is essential if we are to ensure that the financial markets continue to have confidence in the sector and to allow housing associations to invest in providing the homes that we need. I commend this order to the House, and beg to move.

Lord Best (CB): My Lords, the argument over whether the grant maker for social housing and the regulator for social housing should be the same government body has raged for 45 years. I was in the midst of the argument back in 1973, representing the housing associations as chief executive of the National Housing Federation. The Housing Corporation was being greatly enlarged by the Housing Act 1974; it had been created 10 years earlier, but only to promote cost rent and co-ownership housing. My federation concluded that that the Housing Corporation, as the body responsible for paying out housing association grants—which frequently covered 90% of the capital costs in order to keep rents low—should also be the body responsible for regulating these organisations. Regulation meant registering each housing association as fit and proper and then visiting it to monitor performance, ensure probity, and so on. These regulatory processes to ensure good governance were of critical importance to the funding agency before it could allocate substantial government subsidies to the fledgling housing associations. It was natural then for the grant-making and regulatory functions to be combined.

With the arrival of housing benefit—the personal subsidies to tenants—charging higher rents created fewer problems and the Housing Corporation could reduce grants somewhat without those on lower incomes having to be turned away. The Minister was Housing Minister at the time. When it fell to him to oversee cuts to the Housing Corporation's grant making, he could declare, with some justification, "Let housing benefit take the strain". Moreover, loans from the Housing Corporation became increasingly less relevant after the Housing Act 1988, under which the housing associations could borrow the money they needed on the private market. So the dominant funding rule of the Housing Corporation was changing.

Increasingly, the combination of funding and regulatory functions within the one agency looked less relevant, and the earlier requirement for combining the roles in one body was becoming strained. The Labour Government, with Yvette Cooper as Housing Minister, in 2007 appointed Professor Martin Cave from Warwick University to review the position. Professor Cave argued convincingly that these were two different roles, requiring different skills. Indeed, Cave pointed out the potential conflicts of interest if the funder and regulator were one and the same.

5.15 pm

The result of the review was the Housing and Regeneration Act 2008, with two bodies: the Homes and Communities Agency, which took on the investment duties of the Housing Corporation, and the separate Tenant Services Authority, which was there to regulate housing associations, with an extended remit to cover local authority housing, too. However, the Tenant Services Agency was short lived. Its role in respect of the governance and financial regulation of housing associations passed back to the Homes and Communities Agency in 2012, when the Housing Minister, Grant Shapps, joined the fashion for reducing the number of quangos. Chinese walls were erected within the HCA to enable the one organisation to try to undertake the two separate functions. Staff and their overseeing boards have done well, but this was not a logical approach.

Today, we are back to the future, with the Homes and Communities Agency dividing into, on the one hand, Homes England—the investment side—helping to get more of the 300,000 new homes built, and, on the other hand, the new Regulator of Social Housing. This will avoid the potential problem of conflicting objectives between the funder, when it has invested in a housing association and wants to get the maximum return, and the regulator, when it may need to discipline, penalise or even close down that same housing association.

[LORD BEST]
The new arrangements will remove these tensions. They will allow Homes England to concentrate on the big job of supporting the provision of more, and more affordable, new homes. With a Green Paper on social housing due for publication later this year, they pave the way for the regulatory function to be refined and enhanced. It is surely time for history to repeat itself: the separation of functions, once again, must be right. I support the order.

Lord Shipley (LD): My Lords, I remind the House that I am a vice-president of the Local Government Association. I thank the Minister for his explanation and the noble Lord, Lord Best, for reminding us of the history of this matter. We support the order to create a stand-alone regulatory authority. It seems a logical and necessary step, given the changed nature of the Homes and Communities Agency, now Homes England, and the potential conflict of interest that could arise if a housing association was in financial difficulty. It should not be a secured creditor of organisations that it regulates, and the regulatory framework should be robust and seen to be robust by third parties and private investors. There is strong public support for the proposals and, as a consequence, these proposals should command our support, too.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I remind the House of my registered interest as a vice-president of the Local Government Association. The order before the House is one I support. I am grateful to the noble Lord, Lord Best, for reminding us of the history of this and of the bonfire of the quangos—I remember the debates we had in the House about that. Clearly, the phoenix has now risen from the fire and we are back where we started. I am very happy with that and with the explanation that the noble Lord has given us. I am happy to support the order.

Lord Young of Cookham: My Lords, I will respond very briefly. I am very grateful to the noble Lord, Lord Best, for his nostalgic journey through the history of social housing, its regulation and funding. I pay tribute to the key role he has played in a variety of ways in the development of social housing and the role that he still plays today. If I may say so, he made the case for what is before the House even better than I did. I am grateful to both noble Lords who have spoken in this debate for their support.

Motion agreed.

5.20 pm

Sitting suspended.

Passenger Ships: Evacuation, Search and Rescue Plans

Question for Short Debate

5.30 pm

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what steps they are taking to improve the evacuation, search and rescue plans for large United Kingdom passenger ships operating in distant locations.

Lord Berkeley (Lab): My Lords, I am pleased to be able to start this short debate on a subject which has interested me for a long time. I declare an interest as president of the United Kingdom Maritime Pilots' Association. Coincidentally, last night I attended the association's annual general meeting in Bristol and was given a great deal of help and updated briefings from pilots who have worked as pilots or skippers in the Arctic and the Antarctic. My concern is for the passengers and crews of ships that are a long way away from potential rescue if something goes wrong.

People have been travelling the oceans for centuries, but what has happened more recently is that the northern route around the Arctic Circle, both outside and inside it, is now being opened up for cargo and cruise ships, while the South Pole route is probably just for cruise ships because not much cargo will travel that way. However, I have discovered that there are navigation difficulties at both of the poles. The charts are now out of date because no one has felt the need to update them. I am told that in the Antarctic there is a problem because different countries are laying claim to different parts of the territory, which is making the sharing of equipment for navigational surveys difficult, and that is extremely serious. The other issue is that GPS does not work as well at the poles because again there is less demand and fewer satellites. Moreover, the obvious problem is that the water temperature is much lower close to the poles, so the problems of survival in a life raft are more acute.

Just over a year ago I received an interesting Answer to a Question I tabled from the noble Lord, Lord Ahmad of Wimbledon, on the regulations and procedures for evacuating ships. He pointed out something that I think all noble Lords know: requirements are laid down in chapter V, regulation 7, of the International Convention for the Safety of Life at Sea—SOLAS. I understand that there is a newer polar addition to that, which perhaps we can examine later. I have two questions: are they adequate for the modern situation, and who enforces them?

So what has changed? The first change that we all know about was when the "Costa Concordia" hit the island of Giglio in January 2012. A massive loss of several thousand people who could have died in that incident was avoided because the ship landed on a kind of rock sticking up and was then prevented from slipping down into very deep water. A lot of people have been asking questions about that ever since.

We are entitled to ask what has changed. Global warming is giving us easier access to the poles; there are stronger icebreakers, and there is a massive increase in the number of people going there in cruise ships. I know that at some of the ports around this country there is an increase in the number of cruise ships calling of 10% or 20% a year. Where they go we do not quite know; they do not all go to the poles but on the other hand there is a massive growth.

The other aspect is that an awful lot of customers, probably on the more expensive cruises although maybe not on the very biggest ones, want to go where no one has been before so that they can tell their friends. You can understand that but it puts pressure on the skippers

and the navigation crew to see whether they can achieve that rather than, for example, withdrawing because the weather is not quite right.

One of the pilots last night referred to one of the first crossings north of Canada and the US by the cargo ship "Nunovik" in September 2014 with an icebreaker escort. The skipper decided that he was not going back that way in October because, as he pointed out,

"in early November, we would have been about 1500 miles from the nearest other vessel, west or east".

If something were to happen to one of these ships, passenger or freight—a navigation error, a fire or whatever—getting passengers, some of whom cannot walk up and down stairs, into life rafts could prove difficult. However, assuming that they can get into life rafts—with covers, admittedly—they would be in water with a temperature of perhaps 1 degree. How are these people to be rescued? Helicopters would probably not be close enough and aeroplanes would be no good.

Many cruise ships take this issue seriously and have on board several navigators, including ice navigators. The "Crystal Serenity" was recently escorted by the RRS "Ernest Shackleton", a proper polar-class vessel, so at least some shipping companies are taking precautions. However, I am concerned that they are not all doing so.

What are we going to do about it? The statistics on how many ships are going across the top are that in 2010 there were four and in 2014 there were 53. That again shows an exponential growth. Whether it is for political or tourism reasons I do not know, but it is happening.

Some pilots are drawing their own charts and sending them in to the hydrographic department, which is excellent as long as the information is shared. It needs to be done and a proper polar navigator or two should be on board.

The pressure on the cruise ships to go to these places is high, which we can understand, but there is also pressure on them to reduce costs. I have heard that some do not want pilots on board because they cost money. I have also heard from friends who have been on cruises that, yes, they have a drill after they have left port but everyone carries on drinking and talking and no one listens—that is human nature. We are all probably guilty of that on occasion—not that I have ever been on a cruise ship—but we need to consider it.

We have got to find solutions; it is no good stopping people from going on these cruises, and clearly we need up-to-date charts. I hope that the Minister, when he responds, will say that he and the Government will do all they can to make sure that the international organisations responsible take this issue seriously.

Using icebreakers is another good idea, but the issue that is worth consideration is what I would call a cruising company. If two ships were required in the same area, if something happened to one—I cannot say that it never will because it might do one day—then at least another ship that might be able to provide assistance would be close at hand. The Minister will probably say that this is all a matter for SOLAS and the IMO, but the UK has tremendous experience in dealing with these organisations. We have a lot of influence; I know a lot of people on various committees for this.

I hope that the Minister can use his good offices to challenge some of the issues that have not come about and speed up the necessary changes so that we can make a much better job of ensuring the safety of passengers and crews on these ships.

5.41 pm

Lord Greenway (CB): My Lords, I am tempted to say,

"We few, we happy few, we band of brothers".

The noble Lord, Lord Berkeley, seems to have a knack for coming up with debates just before a recess when the House is sparse. Nevertheless, I welcome him bringing forward this very important subject. As he said, the cruise business has expanded enormously and we are always faced with the potential of a horrific accident at sea, which I hope will never happen.

I have been associated with the cruise business since about 1990. I worked with an organisation called Cruise Europe for about 14 years, which was set up to try to bring more cruise ships into northern Europe. It was an association of port members. We started with 25; when I left, we had over 100. It has gone from strength to strength. What astounded all of us was the enormous increase in the cruise business, referred to by the noble Lord, Lord Berkeley. As a result of that growth, ships have become ever larger, not only to cope with increased passenger numbers but to take advantage of the economies of scale.

The question of the noble Lord, Lord Berkeley, refers to large UK passenger ships. In my book, there are only about five of them because a lot of the so-called UK ships are registered in Bermuda. However, if we look at the ships on order at the moment—including deliveries so far this year—I have worked out that approximately 37 new ships will be completed by 2026, carrying 4,000 to 5,000-plus passengers. Passenger numbers are difficult to work out: a ship will have a certain number of passengers in a single-berth occupancy, but you can have double, triple or even quadruple-berth occupancies. Those make larger ships capable of carrying up to 7,000 passengers, with a crew of perhaps 2,000 on top of that. We are talking about 9,000 people.

In effect, these new large ships have become floating resorts. They tend to operate in areas that cater for the mass market, and not so much in the remote areas about which the noble Lord, Lord Berkeley, asked. They have extraordinary features and compete for the latest ones. I noticed that one of the new ships has a go-kart track, but we have had climbing walls, surfing things—you name it. It is all getting quite extraordinary.

Huge strides have been made in safety during the past 10 or 15 years. The industry has learnt lessons from disasters such as the ferry "Estonia" and even the Kings Cross fire. Ships are in many ways very much safer than they used to be. The noble Lord mentioned the "Costa Concordia". That to my mind was simply human error. The captain was behaving in an extraordinary way and I could never see it happening in a British ship. If I had been an officer under him, I would have made certain that I knew where the ship

[Lord Greenway]
was and would have told the captain, "You're standing into danger". That did not happen because the culture on board the ship was that nobody dared counteract the captain—and he was busy talking to his mistress. There have also been disasters with the Carnival company and generator fires in the Caribbean. One of the biggest problems to occur is if a ship loses all its vacuum toilets.

The noble Lord mentioned SOLAS. Partly as a result of "Concordia" but also of incidents before that, the new SOLAS regulations and the polar code have made an enormous difference to ship design and ship safety. Large passenger ships are designed for improved survivability, based on the age-old principle that a ship is its best lifeboat—so you do not get off until you know that it is about to sink. The regulations have brought in new casualty thresholds, providing for safe areas with essential systems, orderly evacuation and abandonment, medical care in such safe areas, and shelter from heat stress by means of light and ventilation. There is also a "seven days get home" provision. Some ships have new podded propulsion, retractable in some cases, which might get a ship home, but that is only a seven-day facility which does not help much in the Arctic, Antarctic or the middle of the Pacific.

I can testify to the principle that the ship is its best lifeboat. I was in the 1979 Fastnet yacht race, where we were taught, "Never leave your yacht until it is actually going underwater". A lot of people got into the life rafts, which proved to be unsuitable, and drowned as a result.

The polar code also tightens up on safety requirements and operating in extremely cold temperatures et cetera. I shall not talk too much about the polar aspect, because very large ships do not often go into such areas. I have a feeling that the Arctic treaties do not allow ships with a certain number of passengers on them. They are simply not allowed to land, because they would trash the ecology. As a result, the ships that go there tend to be much smaller; indeed, a large number of what I would call expanded yachts are being built at the moment, designed specifically for the Arctic and the Antarctic.

On evacuation, these very large passenger ships have extraordinarily large lifeboats. The "Britannia", which is the P&O cruising ship and one of our largest, has lifeboats capable of carrying 350 people. The two new ships which have been ordered for P&O Cruises, to come in in 2020 and 2022, have lifeboats that will take 440 people—incidentally, they will be powered by liquefied natural gas, a feature being introduced to cut down emissions. I understand that work is being done also on developing very large inflatable chutes, rather like those you come out of an aircraft on, that can carry 500 passengers and even have a small engine allowing them to move clear of the ship. The idea would be to have one of these on either side of a ship. That is fine if you are in the North Sea or the Caribbean, but not a lot of use in the middle of the Pacific, where one of these things is not going to get you very far.

Another thing that is being worked on is that crews are being trained in crowd management: that is very important when you have to evacuate a ship in an emergency. I mentioned the Pacific just now: another problem arises that is not necessarily anything to do with a ship, but if it happened near a small island, could that island cope with 6,000 or 8,000 people? Would it have the facilities or even the airlift capacity to deal with that? Communications have come a very long way recently and there is no problem remaining in touch. I think that a British ship, if it were to suffer a major problem, would probably immediately communicate with Falmouth coastguard, which is well practised in co-ordinating international rescues.

I am satisfied that the UK cruise companies, which have always enjoyed a very high reputation with regard to safety, have robust risk management structures. It is in their own interest to do so, because a modern, large cruise ship will cost approaching $1 billion. To put that slightly in context, Mr Abramovich's new yacht cost about the same but he does not carry 8,000 people. The other reason companies look so closely at these things is because the adverse publicity and potential loss of business that could arise from a serious casualty could affect them very greatly. What is surprising is that the "Concordia" accident had comparatively little effect on the Carnival Corporation's profits: it did not seem to put off the appetite of those who wish to take a cruise.

5.52 pm

Lord Bradshaw (LD): I thank the noble Lord, Lord Berkeley, for introducing this debate and I bow to the noble Lord, Lord Greenway, for his very expert knowledge of the cruise industry. I am not a maritime person, but I have been a manager in extremely dangerous industries where a small slip can kill 100 people easily. Always, after it happens, a lot of wisdom is poured forth in the press—but preparing and running a system of any sort where risk is minimised is actually a painstaking process. I have always been amazed, for example, when I have been involved in airport evacuations that planes are evacuated by 90 very fit young people on the airline's staff who can get out quickly because they know what they are going to do. In fact, in many cases we are carrying geriatric people whose ability is very much at risk.

I want to say first that safety is not about bureaucratic tick-boxes; it is about practical things such as frequent exercises and drills, and well-led, competent staff who are able to communicate in language that people can understand, bearing in mind that those people are going to be very frightened if any incident arises. It is about safety equipment being ready for use on demand. The noble Lord, Lord Berkeley, made reference to the fact that often at safety briefings people cannot even spare a moment away from their drink to listen. However, it is extremely important and I know that companies such as Saga pay a lot of attention to it and to the nature of the people they are carrying. It is also about alarm systems and off-site communications for summoning help from wherever it may come.

Risks, as the noble Lords, Lord Berkeley and Lord Greenway, said, are made greater by distance. Of course, risks such as fire need to be minimalised when ships are built—I think that is what the noble Lord, Lord Greenway, said. That is the time for thinking about hull thickness. Who is responsible in the UK for

checking such things and seeing that they are carried out? Is there a sort of building inspectorate for ships, if such a thing exists? Who actually tests the ships? Whether they sail under the flag of Bermuda or of the United Kingdom seems rather irrelevant when many of the people on board are from the UK. It is the people we should be considering, not where the ship is flagged.

Ships that sail from Britain's ports can be subject to regular inspections. Can the Minister confirm that these inspections are carried out regularly and that there are sufficient quality staff to do this, with all posts filled? It is no good having an establishment of 20 if you have only 10 competent people to go and do this very important work. Next, if the ships call anywhere in the EU, I presume that we can rely on the fact that similar, or the same, regulations are in force there. But when or if we leave the EU, will we continue to have access to the benefits of such checks carried out elsewhere? Do the Government have any concern about these standards being checked elsewhere? We can probably rely on what is done in the EU and in certain other countries, but if owners of ships are able to flag them out to less compliant regimes, what effect will our regulation have?

Time is very unforgiving when tragedy strikes, be it fire, collision or another accident. The search and rescue services of every country need to be ready, tested and fit for purpose. We seek assurances from the Minister that this applies not just in the UK but, more particularly, as other noble Lords have said, in remote and unfriendly climatic conditions. The "Costa Concordia" accident happened close to the shore in a benign climate, yet 32 people lost their lives. Any similar accident far removed from population could see a catastrophe.

5.57 pm

Lord Tunnicliffe (Lab): My Lords, I too thank my noble friend Lord Berkeley for initiating this debate, except that it is a bit unfair. He admitted that he had taken an interest in this issue for some time, while I know that the Minister has an army of civil servants to help him, but all I had was Google.

The first question I had was: is there a problem? The "Costa Concordia" clearly shows that a catastrophic event can occur. However, how frequently might it do so? It is a long time since a catastrophic event occurred on a large ship. Being interested in safety, I therefore went behind the catastrophic events to look at precursor events and alighted upon the "Queen Mary 2" as a British ship—so you would think, although it is actually registered in Bermuda—to see whether it gave some indication of accidents and incidents that might lead to catastrophe. I have taken my data from a website called CruiseMapper, which seeks to list all events on cruise ships.

The "Queen Mary 2" was introduced into service in 2004 and I have found three events which stood out in my mind. At 1.30 am on 15 August 2008, during a westbound transatlantic crossing from Southampton to New York, the vessel experienced a total power loss which lasted for one hour. This ship is electrically powered, so a total power loss meant that it was drifting. At 4.30 am on 23 September 2010, while operating in the Mediterranean and en route to call at the port of Barcelona, the vessel experienced a total power loss—the shut-down of all four main engines—and an electrical power outage. The incident was triggered by a deteriorated capacitor within the harmonic filter which caused an explosion. The electricity was restored in 15 minutes, but the power loss lasted for one hour until the main generators were restarted. The third incident I found took place on 12 December 2015 when the ship suffered a small engine-room fire. It was quickly extinguished and no injuries were reported. The incident resulted in a temporary loss of power and the ship drifting.

This ship carries more than 3,000 passengers. Drifting in a nice, quiet, calm sea is a benign event, but drifting in the middle of the North Atlantic in a storm is far from a benign event, and drifting off a hostile coast is clearly potentially catastrophic, so it seems that we have a problem. I tried to get a feel for the incidence of the problem. The ship has been in service for 14 years. I reckon it does an average of 50 cruises a year, so that is 700 cruises in that time and you have a 1:250 chance of being on the "Queen Mary 2" and having a total power loss, albeit so far they have been benign and short, so there is a risk.

Are there standards? Who sets the standards? Once again, Google tells me: it is the Maritime Safety Committee of the IMO. Does the UK participate in that committee? How are the standards enforced? What responsibility does the UK have outside the UK search and rescue zone? I ask that because it is not clear to me whether there are any UK large cruise ships. I was fairly shocked to discover that the "Queen Mary 2" is registered in Bermuda. Most of the ships I looked up on Google are not registered in the United Kingdom. If we have UK ships, how are the safety features in the regulations tested? Are there physical tests of the lifeboats? Do they run through the procedure for getting 3,000 people off the ship? How are safety events recorded? As I understand it, the United States has a marine accident reporting requirement run by the US Coastguard. Do we have a similar system?

I am sorry I cannot inject this with party-political excitement, but there are so many outstanding questions that I first need to be better informed, so it is in the Minister's court.

6.03 pm

Viscount Younger of Leckie (Con): My Lords, I am not sure whether I should be flattered as I find myself the third choice to be press-ganged to be on board today, with the tiller having been handed over to me as my noble friends Lady Sugg and Lord Young are unable to be at the helm, but I am certainly very pleased to respond to this short debate.

I start by declaring a keen interest. I have been a passenger on an expedition ship. The first time was in 2016 when I went to the Falkland Islands, South Georgia, Elephant Island and the northernmost tip of Antarctica. It was an epic, life-changing trip. The second time was last summer when my wife and I went to the Arctic in the same ship, following in the footsteps of Sir John Franklin. We went through Lancaster Sound and much of the Northwest Passage to the

[Viscount Younger of Leckie]

Boothia peninsula and eventually flew back from Resolute. It was another epic trip, and we were told that more people have climbed Everest than have been to that part of the world, so I know a thing or two about how it feels to be a passenger on a ship to remote areas.

As we are having a debate about the safety of passenger ships, let us consider this. When Sir John Franklin set off in 1845 from the Thames in HMS "Erebus" and HMS "Terror" to great fanfare to search for the Northwest Passage, nobody could have imagined the disaster that would befall them. All 129 men perished, with eventual evidence of cannibalism prevalent. No fewer than 36 expeditions were launched over a decade to find the men—there was of course the pride of the Empire to uphold. More men perished in these expeditions than were lost with Sir John. However, I am pleased to report, and it should be some comfort to Peers, that the safety of ships and the ability to respond have been transformed in the intervening years, as the noble Lord, Lord Greenway, said.

I thank the noble Lord, Lord Berkeley, for giving the House the opportunity to explore this important topic. Today, the popularity of cruise holidays continues to grow and, in response, not only are cruise ships getting bigger, as the noble Lord, Lord Berkeley, said, but the range of destinations is increasing. Therefore, it is right and proper to give careful thought to what additional challenges are presented in the event of an incident.

As the noble Lords, Lord Greenway and Lord Tunnicliffe, said, there are currently eight UK registered international trading passenger ships that carry 2,000 or more persons—that includes passengers and crew. One of these ships is capable of carrying more than 5,000 persons. Within the Red Ensign Group of British shipping registries from our overseas territories and the Crown dependencies, Bermuda has three passenger ships capable of carrying 5,000 or more passengers. However, as has been pointed out, there are many more large ships flying the flag of another nation, and the order books for these vessels are full. Very soon a ship such as the "Queen Mary 2", large at her time of launch, will not be in the top 50.

To answer the question of the noble Lord, Lord Tunnicliffe, there is no definition in international regulations of a large cruise ship. There was a discussion at the IMO on this matter following the "Costa Concordia" incident. However, it was agreed that passenger ships, whether carrying 1,000 or 5,000 persons on board, should be treated equally in respect of safety standards.

For interest, the five largest cruise ships in the world are the "Symphony of the Seas", the "Harmony of the Seas", the "Allure of the Seas", the "Oasis of the Seas" and "MSC Meraviglia". These ships range from 170,000 to 230,000 gross tonnes and carry between 5,700 and 6,700 persons on board—so sizes are indeed increasing. UK citizens are busy enjoying their holidays on those ships as much as they are on UK ships. Therefore it is so important that the safety of these vessels is regulated internationally so that there are reassurances that, whichever ship you choose, your safety will remain the same.

A wide range of challenges can have an impact on safety: natural forces, such as extreme weather, and accidents and incidents such as fire, collision, and grounding. Let us also mention—how shall I put this euphemistically?—plumbing malfunctions, to which the noble Lord, Lord Greenway, alluded, as well as security concerns and piracy. Over the years, technical innovation, backed by international regulation, has done much to reduce the risks and consequences of these challenges.

Therefore, the issue that the noble Lord, Lord Berkeley, raises is not only important but absolutely core to the mandate of the International Maritime Organization, which celebrates its 70th anniversary this year. We should all be proud that it has its home a short distance across the river from this House.

The main global instrument that addresses the safety of ships is the International Convention for the Safety of Life at Sea, which has been mentioned. One hundred and sixty-three states are party to SOLAS, and they are responsible for 99.45% of global ships by tonnage—so the IMO safety coverage is truly global.

SOLAS in fact predates the IMO. Its origin was a response, led by the UK, to the loss of the "Titanic" in 1912. Key to its provisions was setting the number of lifeboats and communication procedures to ensure the effective use of radio equipment to call for help. The technology may have changed but the issues remain the same.

The international community accepts that evacuation is the last resort and that the vessel itself should be the passengers' best lifeboat—I picked up the point made by the noble Lord, Lord Greenway, about the dreadful 1979 Fastnet race, when some people left their boats. However, we will also never forget the "Titanic" disaster. While our policies are based on enhanced survivability, we should never think any vessel is unsinkable. This was brought home to us all a century on from the sinking of the "Titanic" by the tragic loss of the "Costa Concordia", to which the noble Lord, Lord Berkeley, alluded. Once again the international community learned lessons from the loss, and took action.

For example, there have been enhancements to the requirements of "safe return to port", which allows ships' captains to navigate a damaged ship to safety, and with respect to SOLAS, which deals with the provision for passenger vessels to undertake regular drills at least on a weekly basis. For large passenger ships, the IMO adopted measures to include the need for passengers to undertake safety drills to familiarise them with evacuation procedures either before departure or immediately after. The noble Lord, Lord Tunnicliffe, wanted to know a little more about lifeboats. In accordance with SOLAS, "abandon ship" drills take place every month. Each lifeboat is launched and manoeuvred in the water by its operating crew at least every three months. During the three-month window, the crew maintain lifeboats. It should also be noted that, on most passenger ships, lifeboats can be used as tenders to take passengers ashore for excursions, and as such the lifeboats are lowered and manoeuvred far more regularly than SOLAS requires.

I want to focus on a bit more detail. First, the safety of the ship begins at the design stage. In the context of our Question today, computer modelling plays an

important role. It can predict the behaviour of passengers, which influence different designs—for example, who may be in a particular state of mind, depending on the incident, in terms of how they move through a space. This modelling for large passenger vessels helps to ensure that, if necessary, the passengers can evacuate the ship quickly and safely. The UK took a significant role in the international debate, which led in May 2016 to the mandatory requirement for the computer simulation of evacuation applying to all passenger ships, not just those of a roll-on roll-off design. UK officials were active participants in developing international guidelines on how this evacuation analysis for passenger ships should be conducted.

Secondly, during the construction of new vessels, surveyors from its future flag state will supervise the build to ensure that the quality of the construction meets international requirements. Thirdly, we need to ensure the safe operation of the ship, and here the training of the crew is all important. The convention for seafarers' training, certification and watch-keeping mandates specific training requirements for crew on passenger ships—in particular, training in crowd management for use in emergency evacuation.

However, despite all these actions, things can and do still go wrong. We need to reduce or mitigate the likelihood of incidents. The noble Lord, Lord Bradshaw, focused on this in his speech, and I hope to cover some of his points from a marine perspective. First, there is the need to plan and prepare by the operator. Operators of passenger vessels are required by SOLAS—chapter 5, regulation 7, which has been mentioned—to have plans for dealing with emergencies at any location where their vessels operate. These form an integral part of any response, especially with regard to assisting passengers and crew involved in an incident with, for example, humanitarian aid, assistance and repatriation. Her Majesty's Coastguard is the single point of contact for large passenger vessel search and rescue co-operation plans and provides these plans to the relevant SAR authorities in the event of an incident to a UK vessel anywhere in the world. It is the responsibility of the state within whose waters the vessel is in distress to co-ordinate the response. However, HMCG will provide support to that state and take steps to ensure that the response is adequate through its own communications and co-ordination capabilities.

I want to give a little more information about search and rescue, although time is running short. It was derived at the SAR convention in 1979 in Hamburg, and was aimed at developing an international SAR plan so that, no matter where the incident occurs, the rescue of a person in distress at sea will be co-ordinated by an SAR organisation, and where necessary by co-operation between neighbouring SAR organisations. We have memoranda of understanding to cover the area outside our own SAR to assist neighbouring countries, which include an Irish SAR to cover areas around Ireland and the Irish Sea, a French coastguard for the English Channel, and Canada and the USA for the Atlantic. There is a bit more to say on that.

I shall now focus on the process for those in distress calling for assistance. We have moved from the simple wireless set on the "Titanic" to the modern satellite communications of today. In the early 1990s, the IMO adopted the Global Maritime Distress and Safety System. A key feature is that it ensures the ability not only to alert search and rescue authorities ashore but also for nearby ships to be involved in the response. The IMO is currently updating the GMDSS to ensure that it continues to make best use of the latest technology.

Let us consider those who receive the call for help and those in charge of search and rescue. While many of the improvements to safety have come as a response to things going wrong, it is good to see that the IMO does not rely on a purely reactive approach. I am pleased to report that, in January 2017, there was a mandatory code for vessels operating in polar waters in response to a growing number of these vessels. This code provides a number of additional requirements for vessels operating in polar waters to provide additional environmental protections.

Time is running short, and I shall cover a couple of questions, but I shall also write to all noble Lords in this debate, because there is an awful lot more that I would genuinely like to say. Some most interesting and important points have been raised.

The noble Lord, Lord Tunnicliffe, raised the point about the Cunard vessel "Queen Mary 2". I am still investigating about the alleged cut-out of the engines. I am not aware that this has happened, so I want to find out more about it. As has been mentioned, the "QM2" is flagged with Bermuda and the UK's MCA, on behalf of the Secretary of State for Transport, oversees the Red Ensign Group. I hope that I will respond with some information on that.

As I said at the start of this speech, the noble Lord, Lord Berkeley, raises an issue of great importance—and, as mentioned too, it is close to my own heart. The process of enhancing passenger safety is an ongoing one; new challenges arise as technology develops, but equally new solutions arise too. This Government have the responsibility to ensure the safety of UK ships, but in such a globalised sector as shipping it is international regulation that delivers that objective. We are committed to remain proactive, and will not just react to tragic incidents.

House adjourned at 6.17 pm.

Volume 791
No. 144

Wednesday
23 May 2018

CONTENTS

Wednesday 23 May 2018