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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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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

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House of Lords

Thursday 14 June 2018

11 am

Prayers—read by the Lord Bishop of Derby.

Oaths and Affirmations

11.06 am

Lord Mance took the oath, and signed an undertaking to abide by the Code of Conduct.

Housing: Private Rented Sector

Question

11.07 am

Asked by **Baroness Wilcox**

To ask Her Majesty's Government what progress they have made in encouraging the private rental sector to increase housing supply.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, 20% of housing is in the private rented sector, which has doubled since 2002. Since 2012, the Government have been encouraging investment in the segment of the private rented sector known as Build to Rent.

Baroness Wilcox (Con): I thank my noble friend for his short reply; it is very helpful. Have the Government any plans to extend the tenancy length before stamp duty land tax is charged, and what are they doing to ensure that local authorities and people in general are aware of the new changes that are coming? I have only recently visited some of these things that are being built and the people who are moving in. It is absolutely wonderful to see the change; it is so well suited to the fast-changing lives of our younger generation.

Lord Bourne of Aberystwyth: My Lords, I thank my noble friend for her encouragement of my short responses, followed by her two questions. Stamp duty land tax will not be payable by many people purchasing tenancies; it will be very unusual outside London, and then only at the higher-value end of the market. Any changes are clearly a matter for the Treasury. My noble friend is quite right about the need for publicity for many of these excellent schemes that we are pursuing and, quite apart from her and others' questions, we obviously ensure that details are provided on the website and that our partners are aware of this. It is a very good story to tell: we are progressing many changes through this House and the other place in relation to the private rented sector.

Lord Clark of Windermere (Lab): My Lords, the Minister has indicated that there has been a considerable increase in the buy-to-let market. The informed newspapers say that it is drying up. Are they wrong?

Lord Bourne of Aberystwyth: My Lords, if I may slightly correct the noble Lord, I said that there was great growth in the private rented sector generally.

I think it is fair to say that there has been a slowdown in the buy-to-let sector. Some of that is in response to tax changes, but I think it has stabilised now.

Lord Best (CB): My Lords, 99% of the growth of private renting has not been about private landlords building new homes but private landlords buying existing homes, hence the corresponding decline in owner-occupation. May I ask the Minister about the concerns of Generation Rent, which are really about affordability and security—what you pay and how long you can stay in the property? Is there any progress with the important proposition from Sajid Javid—then Secretary of State for housing—that tenancies be for four years or so in the future in normal circumstances, rather than six months to one year, which can be so unsettling for tenants, particularly those with families and children?

Lord Bourne of Aberystwyth: My Lords, first, the noble Lord may not appreciate that the latest figures indicate an increase, although a modest one, in the rate of owner-occupation. On Generation Rent and the issue of longer tenancies, he is right that most of the private rented sector is not new builds, although we have 97,000 in the pipeline for the Build to Rent sector. However, in relation to longer tenancies, the noble Lord is absolutely right that the previous Secretary of State was in favour of this, as is the present one—very much so. We are pursuing that with the British Property Federation, which is the main player here and is committed to offering three-year tenancies and longer.

Baroness Thornhill (LD): My Lords, the National Planning Policy Framework is due to report shortly. Will the Minister assure us that, in order to incentivise Build to Rent—I have some hope that this might provide additionality—there will not be further policy shifts which will in effect let developers off the hook when it comes to their financial contributions to councils with regard to the community infrastructure levy and Section 106 agreements? They provide important amenities and, in particular, contributions to social and affordable housing. Secondly, can he assure us that there will not be a trade-off in the quality of build against speed and the quantity of delivery?

Lord Bourne of Aberystwyth: My Lords, quality of build is important and is included in the NPPF; we have consulted on that and are now considering the responses, as the noble Baroness will know. There is also a commitment in the NPPF, as she will know, to people who want to rent their homes, and a particular provision on affordability.

Lord Marlesford (Con): My Lords, I draw the attention of the House to my interests as declared in the register. Will the Government do more to encourage local authorities to facilitate the conversion of redundant agricultural buildings into residences to let?

Lord Bourne of Aberystwyth: My Lords, we are clearly in favour of anything we can do in that regard. As my noble friend will know, we are progressing a policy of a higher premium on empty buildings in

[LORD BOURNE OF ABERYSTWYTH]
legislation that is currently passing through this House, and it is important that we look at all avenues available to us to ensure that we use buildings for housing.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I refer the House to my relevant interests. While the overwhelming majority of private sector landlords do a good job, does the Minister agree that compulsory landlord licensing schemes, like the one in the London Borough of Newham, are an effective way of tackling rogue landlords? Will he join with me in congratulating Newham Council, the present mayor, Rokhsana Fiaz, and the previous mayor, Sir Robin Wales, on the effective work they have done in conjunction with the Metropolitan Police which has protected tenants but also uncovered council tax and income tax fraud, people trafficking, and people hiding in plain sight who were wanted by the Metropolitan Police in connection with serious crimes?

Lord Bourne of Aberystwyth: My Lords, I know that the noble Lord has raised this issue before, but not quite on such a broad front. This morning it is almost as if he had been sponsored by the London Borough of Newham. However, I congratulate him on getting that in. It does much good work, as all London boroughs do, and licensing, where appropriate, is certainly effective. The noble Lord will know that we are doing much in this House and elsewhere to encourage effective licensing of landlords, and I thank him very much for his support in that regard.

The Earl of Listowel (CB): My Lords, I declare my interest in the property I have. I welcome what the Minister says about the increasing supply of housing in the private sector given the latest statistic released in March that 120,510 children are living in temporary accommodation, which is the 26th rise since December 2010. Would the Minister consider, among other options, developing an arm's-length body to oversee the private rented sector so that more tenants would enjoy security and more landlords would enjoy security and a predictable future in their investment?

Lord Bourne of Aberystwyth: My Lords, I congratulate the noble Earl on what he does in promoting the position of children and families. That is absolutely appropriate and is something that we watch very closely. We will seriously consider any means of ensuring that that figure, which is too high, comes down.

UK Territorial Seas: Incidents

Question

11.14 am

Asked by **Lord West of Spithead**

To ask Her Majesty's Government who has operational authority to coordinate the cross-departmental response to an incident within the United Kingdom's territorial seas and exclusive economic zone.

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, it depends on the nature of the incident. Operational responsibilities fall to a number of different government departments and agencies. For example, environmental incidents would be led by the Department for Environment, Food and Rural Affairs, and search and rescue operations would be led by the Maritime and Coastguard Agency. The Joint Maritime Operations Coordination Centre, or JMOCC, retains an overview of where appropriate assets are and seeks to co-ordinate their support.

Lord West of Spithead (Lab): I thank the Minister for his Answer, and indeed I thank him for the very good briefing that we had yesterday. However, as he knows, I remain concerned that no single figure in the JMOCC is in operational command. If there is a clash of options as to where these units should be used, I am afraid that with nine departments all talking about it, it will be like ferrets in a sack. However, my question relates to the funding of the joint maritime centre beyond April next year, as it does not seem at all secure. Can we have an urgent study into the number of craft and ships available for the various government departments tasked with looking after our inshore waters, our borders and the exclusive economic zone? Clearly, there are not enough of them, and there will be a crisis post Brexit unless something is done urgently. In that context, can we make more use of the Maritime Volunteer Service?

Earl Howe: My Lords, I take the noble Lord's points and suggestions fully on board. I have come equipped with a list of the assets and vessels that are available for deployment today, and I can inform noble Lords about them if they are of further interest. The noble Lord makes a very important point about the funding of the JMOCC. In a purely technical sense, it is fully funded, but only for the current financial year. However, he should be in no doubt that all contributing departments are committed to it and to the work that it does. Even in its short life since October last year, it has very much proved its worth in terms of co-ordination.

Lord Robathan (Con): My Lords, I too thank my noble friend the Minister for the briefing that he gave yesterday, which I found very helpful. Although I agree with a great deal that the noble Lord, Lord West, said—I think that we need to be very clear about this—it seems that this is work in progress. This is a relatively new organisation which is developing as we go forward, so will my noble friend keep the House updated on what is happening? I think that many of us share the noble Lord's concerns.

Earl Howe: I am grateful to my noble friend and I can readily give him that assurance. In addition to the platforms and assets required for maritime security, which is of course an important priority, the key to effective maritime security operations is that they should be, first, intelligence led, secondly, risk assessed on the basis of that intelligence and, thirdly, well co-ordinated. There is no doubt in my mind that, since the creation of the National Maritime Information Centre—which

the noble Lord, Lord West, was instrumental in setting up—and the JMOCC, we have seen a step change in efficiency in the delivery of these operations.

Lord Lisvane (CB): My Lords, can the noble Earl say a word or two about fishery protection and the continuing funded role of the JMOCC? Three-hundred thousand square miles of sea will need to be patrolled after we leave the European Union.

Earl Howe: My Lords, I am grateful to the noble Lord for that question, which is very much centre stage in the Government's thinking. We need to prepare for two things in this context after we leave the European Union. One is amended legislation relating to our territorial waters and exclusive economic zone, so that we ensure that our security and prosperity interests are fully protected. The other is to make sure that we have sufficient platforms and assets to monitor that area of sea. I would be delighted to talk to the noble Lord outside this Chamber on the work that is intended in that area.

Baroness Scott of Needham Market (LD): My Lords, I declare an interest as deputy chair of the Harwich Haven Authority, which includes the ports of Felixstowe and Ipswich. Will the Minister tell the House what national oversight there is of the workings of the local resilience forums, which are very important in managing emergency planning? There are growing inconsistencies in their approach and a lack of clarity about who would actually be in charge. Can he tell me when they were last operationally exercised and what national oversight exists and whether he would be prepared to meet interested parties to discuss their concerns?

Earl Howe: I would be more than happy to meet interested parties to discuss those concerns. This is an important element in the tapestry of activity on which we depend for maritime security. It is important to emphasise, as the noble Baroness is aware, that we rely not just on aerial surveillance, space-based systems, radar and so on, important as those things are; human intelligence is often important as well. There is now a network of field intelligence officers working for Border Force around the country. I would be happy to take this matter forward with the noble Baroness.

Lord Harris of Haringey (Lab): My Lords, I too am grateful to the noble Earl for the briefing that was provided yesterday. The improvements that have come with the co-ordination activity are welcome, but it is co-ordinating limited resources, as the noble Earl has admitted. He talked about it being intelligence led. Perhaps he cannot share it with us, because it would be difficult, but can he ensure and guarantee the House that he, as the relevant Minister, will have an intelligence assessment of what is actually required to prevent illicit materials, guns, people and so on entering the country, and whether that is sufficient given the resource that is available?

Earl Howe: My Lords, Ministers collectively will have that picture presented to them because, as I have explained, it is not just the Ministry of Defence that is involved in this sector. The Royal Navy is deployed, as

noble Lords will be aware, very much in a supportive role to many of the other agencies. But I entirely take the noble Lord's point. He may be interested to know that UK Border Force has introduced into service six new coastal patrol vessels in addition to the five cutters already in service, while continuing to call on a maritime patrol aircraft contract for aerial surveillance. But that is not the end of the story: we are looking at future needs across the piece.

Defence: Helicopters Question

11.20 am

Tabled by Lord Ashdown of Norton-sub-Hamdon

To ask Her Majesty's Government what plans they have to sustain the United Kingdom's standalone capacity to design and manufacture helicopters as part of their modernising defence programme.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, on behalf of my noble friend Lord Ashdown of Norton-sub-Hamdon, I beg leave to ask the Question standing in his name on the Order Paper.

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, we continue to assess the military effectiveness of rotary unmanned aerial systems and carry out ongoing capability studies that will help inform our future manned and unmanned equipment choices.

Baroness Bakewell of Hardington Mandeville: I thank the Minister for his response, but the Government's failure to provide a clear strategy for the preservation of our onshore sovereign capability to design and manufacture helicopters is now endangering investment, jobs and prosperity, both in the south-west and nationally. Is the Minister aware that, if this is not remedied either in the modernising defence paper this summer or in the Budget, long-term real damage will be done to the crucial national defence and aerospace capability, as well as to local jobs in the Yeovil area and to the UK economy?

Earl Howe: The noble Baroness raises some very important points and I understand the emphasis that she attaches to this aspect of UK industry. Our approach to rotary capability will be considered as part of the modernising defence programme, as she mentioned. It is worth remembering that we already have a long-term close relationship with Leonardo helicopters, which represents the design and manufacturing capability in the south-west, through our strategic partnership arrangement—a 10-year arrangement from 2016. That arrangement is unique and it enables us to maintain a continuing dialogue with the company to ensure that we are speaking the same language on capabilities, needs and requirements.

Lord Browne of Ladyton (Lab): My Lords, another NATO summit is imminent. This brings to mind the frustrations of 15 years of shortfalls in NATO's helicopter capability, which was much-needed in Afghanistan. Despite the fact that most of our European allies had

[LORD BROWNE OF LADYTON]
helicopters available—at one stage I counted over 1,000—we could not get 17 into Afghanistan. Our stand-alone capability reminds me of the relevance of this Question. We have an opportunity with the MDP for the noble Earl and the MoD to sit down with Leonardo, Boeing, Airbus and other providers of our helicopter capability. Will the noble Earl refresh his memory of the 2005 defence industrial strategy, which is still the last strategy any UK Government have had and is still relevant? He may want to look at page 90 in particular.

Earl Howe: My Lords, I shall do exactly that. I am grateful to the noble Lord for his suggestion. We are on track to share headline conclusions from the modernising defence programme by the NATO summit in July. At that stage we expect to describe what the changed strategic context means for defence policy and planning, including the area in which the noble Lord is interested; how our overall approach needs to evolve, as surely it must; and how we intend to pursue improved capability in the new domains of warfare.

Lord Houghton of Richmond (CB): My Lords, does the noble Earl not agree that, given both the size of our defence budget and the multiple challenges of affordability it faces, the idea that we can for all time sustain a whole range of sovereign defence capability is simply untenable?

Earl Howe: My Lords, I do not think that this Government or any preceding recent Government have pretended that we can maintain sovereign capability in every area of our defence requirements. We certainly consider maintaining sovereign capability where that is in the national interest but, in general, competition ensures best value for money, best capability and innovation.

Lord Razzall (LD): My Lords, following up on my noble friend's Question, I am sure the Minister will agree that this not only is a question for the south-west but also affects the position of Airbus, which, after all, provides at the moment one-third of all UK defence helicopters. Bearing in mind the likely pressures on Airbus to shift production to France or Germany if Brexit happens, what steps are the Government taking to ensure that Airbus's helicopter capability remains in the UK?

Earl Howe: The noble Lord is right: Airbus provides the majority of police and emergency services helicopters and has the largest share of the UK's civil and military market. Its main base is in Oxford, where it modifies and customises helicopters, although the design and manufacture is completed in France, as the noble Lord is aware. We are in regular contact and have regular discussions with the company. The aerospace growth partnership, in particular, enables the industry and Government to engage on a formal basis to tackle the barriers and unlock market opportunities across these sectors of the economy.

Lord Hamilton of Epsom (Con): I know it is not my noble friend's responsibility but does he have any idea when the Metropolitan Police will start using

unmanned aircraft for surveillance over London rather than flying helicopters, which is the most expensive form of aviation?

Earl Howe: My Lords, I am afraid I shall have to write to my noble friend on that issue as it is not in my brief.

Lord Tunnicliffe (Lab): My Lords, in researching this Question I discovered the defence industrial policy December 2017, which I believe is the latest statement of the Government's intentions. I word-searched it for the word "helicopter", which appeared under two pretty pictures and nowhere in the main text. Are we really going to get by the middle of July in the modernising defence programme a definitive answer to the original Question?

Earl Howe: I might suggest that the noble Lord should turn his attention to the Government's industrial strategy White Paper as well. We are very alive to the issue he raised concerning helicopters. We are committed to keeping the UK as a leading aerospace nation. The industrial strategy White Paper identifies a range of cross-government measures to boost productivity, employment, innovation and skills. Indeed, my honourable friend Philip Dunne has recently completed a review of prosperity arising from our defence industries which will help to inform our future thinking in this area.

Mediterranean Sea: Rescue Operations Question

11.29 am

Asked by **Lord McConnell of Glenscorrodale**

To ask Her Majesty's Government what discussions they have had with European Union Member States and the European Commission about the SOS Méditerranée ship, the "Aquarius", and associated rescue operations in the Mediterranean Sea.

Baroness Goldie (Con): My Lords, we are aware of recent incidents in the central Mediterranean involving a sailing vessel named "Aquarius". On Sunday, the ship rescued 629 migrants and there was disagreement about where it should dock. The Spanish Government have now agreed to allow the ship to disembark in Valencia. This resolves the immediate humanitarian situation. In the longer term the UK remains committed to working with its European partners to identify a sustainable solution.

Lord McConnell of Glenscorrodale (Lab): I thank the Minister for that Answer and I should declare my charitable interests as set out in the register, which may be appropriate here. Last summer I visited the ports and camps in Sicily and saw for myself the pressures on Italy as a result of the inadequate response of the other 27 member states of the European Union to the situation that it faces. I am also well aware of the pressure in Libya, where the International Organization for Migration believes that there are now hundreds of thousands of people, both refugees and economic migrants, who are in camps both official and unofficial. In some cases they end up in slave markets, and there are other cases of rape and other forms of abuse.

These people have no choice but to get on those boats to cross the Mediterranean. Will the Government, along with their other European partners, urge Italy to reopen its ports to all rescue vehicles pending discussions on a more sustainable solution, one where other countries take their fair share and step up financially and morally?

Baroness Goldie: My Lords, no one could be unmoved by the piteous plight of vulnerable people who are being cruelly exploited by ruthless smugglers and traffickers. It is the case that the UK remains committed to working with its European partners to tackle the shared challenge of illegal migration. For example, we are a major contributor to Operation Sophia, the EU's counter-illegal migration operation in the Mediterranean, including through naval assets, headquarters staff and support for the Libyan naval coastguard. As the noble Lord will probably be aware, the United Kingdom maintains a close diplomatic relationship with Libya and has been instrumental in assisting the Libyan coastguard service to address some of the more immediate issues around the hazardous journeys being contemplated by migrants.

Lord Wallace of Saltaire (LD): My Lords, the public perception here is that immigration is a problem largely for the European Union and that if we leave, our immigration problems will be largely resolved. The reality is that over the past 20 years, the majority of immigrants almost every year have come from outside the EU. In Africa the population has doubled in the past 25 years and is likely to double again in 30 years' time. The pressures to get across the Mediterranean and into Europe are going to be huge, and some migrants will make it to Britain. Given that, whether or not or when we leave the EU, should we not continue to work very closely with our European partners to face this common problem?

Baroness Goldie: I thank the noble Lord for his question; he makes an important point. It is the case that the United Kingdom anticipates continuing to work closely with partners to address these issues, but perhaps what he has identified is the kernel of the problem, which is to adopt a whole-of-route approach, as the UK has done. We seek to identify problems at source in countries of origin and do whatever we can to assist migrants in making a decision not to undertake a hazardous, and in some cases fatal, journey. The noble Lord is probably aware that Operation Sophia has had successes. It is not a search and rescue mission, but more than 45,000 migrants have been rescued, while more than 500 smuggling vessels have been destroyed. Perhaps more important is the work that the United Kingdom Government have been doing and propose to do with DfID programmes, which will go a long way towards addressing some of the challenging issues that surround migrants in their countries of origin when they make these important and at times tragic decisions to embark on a hazardous journey. The UK is committed to doing what it can to address the issues at source.

Lord Collins of Highbury (Lab): My Lords, the Minister may recall the answer she gave me to a question I asked her; she should recall it because it was

only last night. We had a lengthy debate on Operation Sophia. I asked her whether we had had discussions specifically on the "Aquarius" with our allies in Europe and she responded that the United Kingdom Government had had such discussions. Perhaps the Minister can tell us precisely what we said to Italy about the current crisis and the fact that it is closing its ports.

Baroness Goldie: My Lords, at my stage in life I am very hesitant to rely on my memory, even of something from 24 hours ago. It might be safer if I looked at *Hansard* to see precisely what I said. I do not have specific information in my brief, but I undertake to investigate this and write to the noble Lord if more specific information is available.

Lord Alton of Liverpool (CB): My Lords, while I strongly welcome what the Minister said about tackling root causes, perhaps I might press her to revisit suggestions made in your Lordships' House about the creation on the north African coast of internationally guaranteed safe havens where people can live in security, develop livelihoods and build homes, as well as to look at the root cause of human rights violations—egregious ones in many cases—in countries such as Eritrea and Sudan, from which people are fleeing in their hundreds of thousands.

Baroness Goldie: As I said earlier, the United Kingdom is in close communication with Libya and has actively supported measures there to address some of the principal issues confronting migrants. The United Kingdom will continue to review and assess that position. The noble Lord, Lord Alton, made a number of interesting suggestions; I will certainly have a further look at them.

Lord Cormack (Con): My Lords, further to the point made by the noble Lord, Lord Alton, when did a member of Her Majesty's Government last go to Libya to discuss these issues on the ground?

Baroness Goldie: I can say to my noble friend that close diplomatic contact with Libya takes place on a regular basis. I do not have precise dates to hand but, as my noble friend will be aware, the United Kingdom Government have worked closely with Libya on a number of issues, not least the Libyan naval coastguard. Indeed, they have not been shy about raising with the senior leadership of the Libyan naval coastguard allegations of mistreatment of migrants, which have caused some concern. We are very persistent in raising such issues if they are brought to our attention.

Business of the House

Timing of Debates

11.37 am

Moved by **Baroness Evans of Bowes Park**

That the debate on the motion in the name of Lord Bassam of Brighton set down for today shall be limited to 3 hours and that in the name of Baroness Prosser to 2 hours.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, in moving this Motion I remind the House that we will interrupt the first debate just before midday so that the House can join in the national minute's silence to remember the victims of the Grenfell Tower fire on 14 June 2017. I beg to move.

Lord Wallace of Saltaire (LD): My Lords, perhaps I might take this opportunity to ask the Leader of the House about future business. We have a very light level of business at present but we have been told to expect a series of Bills, followed by up to 1,000 SIs, by the end of November to enable us to leave the European Union by March 2019. Given that those Bills have not yet reached us and that there are a large number to come—I am sure that the noble Baroness will support the House in wanting to thoroughly scrutinise them and the SIs—are contingency plans being made for the House to meet for longer hours or on more days from the end of the summer onwards so that we can get through this business before we leave the European Union?

Baroness Evans of Bowes Park: We will certainly make sure that we give noble Lords ample time to scrutinise everything that is necessary. The usual channels will continue to discuss this. We will bring business forward as soon as we can and make sure that noble Lords do their excellent job of looking at the legislation that is coming forward.

Motion agreed.

Immigration: Hostile Environment

Motion to Take Note

11.39 am

Moved by Lord Bassam of Brighton

That this House takes note of the impact of the Government's "hostile environment" approach towards illegal immigration on those with residency and employment rights.

Lord Bassam of Brighton (Lab): My Lords, when I think of the term "hostile environment", it conjures up notions of a war zone, of environmental degradation or an inhospitable climatic event, perhaps an earthquake—something stark and unpleasant, like a scene from a World War I killing field. I do not think—or, I should say, I had not previously thought—of it as something to do with my own country.

Sadly, that perception changed when the full horror of the Government's treatment of the Windrush generation became increasingly apparent over the last few months. Back in 2012, Theresa May said:

"The aim is to create here in Britain a really hostile environment", for illegal immigrants. This was at a point when net immigration was running at about 250,000—well above the Conservative Party's target of bringing it down to the tens of thousands. Over the course of Mrs May's tenure at the Home Office, this usually cautious politician brought forward seven pieces of immigration legislation and an estimated 45,000 changes to immigration rules—so many we might have been forgiven for thinking that immigration was an obsession. It also explains why

many foreign EU nationals are so disbelieving of Prime Minister May's promises about preserving their residency rights post Brexit.

I fully expect the Minister to repeat a point she made to me in a Written Parliamentary Question: that the term "hostile environment" originated during Alan Johnson's tenure as Home Secretary. Maybe it did, maybe it did not, but the really important point is what that term came to mean when it was elevated to become a policy that had to be delivered with the careful precision that Mrs May has made her trademark.

The treatment of the Windrush generation is the most objectionable manifestation of the Government's intentions for the hostile environment. The *Guardian*, to its great credit, has documented its full human impact. It seems that from about 2013 legal advisers began telling the Home Office that older Caribbean-born people, here entirely legally, were receiving letters from Capita saying that they had no right to be here. Some were told to leave immediately. The Refugee and Migrant Centre in Wolverhampton reported that it had seen hundreds of clients getting the Capita letters but they had already been given right to remain and the correct documentation. As time went on the threatening letters turned into action. People began reporting loss of housing, benefits and jobs, and refusal of access to free healthcare.

The impact of these deprivations has become clear. Many Windrush workers and their children have experienced years of uncertainty, leading to ill health and mental breakdown, and some have ended up sleeping rough. But the hostile environment policies were not just visited on the Windrush generation. In April this year, the Oxford Migration Observatory estimated that some 57,000 Commonwealth migrants from Pakistan, India, Kenya and South Africa might be caught by the policy. Refugee Action reports that the detention, destitution, homelessness and limbo experienced by Windrush children were the tip of the iceberg and that asylum seekers face exactly the same problems.

Colin Yeo, an immigration lawyer, has described the effect of the policy well. He says that it has led to, "the creation of an illegal underclass of foreign, mainly ethnic minority workers and families who are highly vulnerable to exploitation and who have no access to the social and welfare ... net".

Rachel Kryss of the End Violence Against Women Coalition speculated that while rightly the public were outraged by the policy impact on the Windrush generation:

"The same policy is also leaving many women at risk of violence and exploitation, scaring them away from seeking help, and making it harder for them to access life-saving services".

This cannot be right, but it is exactly what the policy was supposed to achieve: to create such a hostile environment so that people simply left the UK. It is precisely that fact that ultimately led to the undoing of the previous Home Secretary, Amber Rudd, and forced her resignation. We should remember that she first tried to deny that there was a target for forced removals and then, when it was pointed out that she had been briefed on the target, she resigned for misleading Parliament. I suspect that, by that time, Amber Rudd realised that the target covered operations that wrongly deported people, falsely detained them, increased their

vulnerability and was probably unlawful—most of its victims were in the UK quite lawfully.

The Government must now regret the day that they dreamed up the expression “hostile environment”. In the wake of the Windrush scandal, the policy of being tough on anyone deemed illegal, or without documents proving citizenship, has rapidly unravelled, and so it should. The new Home Secretary, Sajid Javid, presumably fearing the impact of the policy on the Conservatives’ credentials as a more multiracial party in the Theresa May era, has been rapidly distancing himself from the term. He knows that the policy is a stain on our country’s international reputation for fairness and goes to the heart of the reputation we once had for providing a safe haven and a home to the dispossessed.

As a deliberate act of government, creating a policy called “hostile environment” seems odd in itself; cold, politically calculating and designed for effect. So to adopt the term to be used as a policy relating to immigration, where race plays a part, is even more awful. What can Ministers and in particular our Prime Minister have thought they were doing and, more particularly, why? What was the purpose of the term? It seems to me that it was dreamed up as part of the Cameron response to UKIP, to somehow demonstrate that this Government were getting a grip on the ridiculous target they set to bring immigration down to the tens of thousands. I was a Home Office Minister during Jack Straw’s tenure and I find it hard to believe that officials would have advised on a specific target. Migration and asylum targets are notoriously hard to hit because so many factors are involved in driving the numbers.

Weirder still, of course, was the mobile billboard campaign of 2013 that came with the adoption of the policy. Apart from its offensive language, this acted only to highlight the Government’s failure to grapple with a problem of their own imagining. The ill-fated campaign was nothing more than a piece of naked populism aimed at appeasing UKIP-leaning voters. The policy also had inbuilt flaws. The Independent Chief Inspector of Borders and Immigration reported on three areas covered by the policy. The reports are instructive. The report looking at driving licences and bank accounts found real concerns about incorrect data. The chief inspector reported:

“During file sampling, the inspection identified a number of examples of individuals being wrongly listed as in the UK without leave”.

Similar problems were found with bank accounts: from a test sample of 169 individuals, 17 were wrongly flagged as disqualified persons, whatever that means. As the chief inspector observed,

“the Home Office did not appear to appreciate the seriousness of such errors for the individuals affected, and its proposed avenue of redress for individuals who had left the UK with valid leave outstanding ... was inadequate”.

The right to rent review published in March 2018 was even more devastating in its conclusions. The policy, colleagues will recall, was piloted in 2014 and rolled out in England in 2016. It resulted in 468 referrals to the Home Office civil penalties compliance team, resulting in 265 civil penalties and levies of £167,000, but not a single prosecution. The Home Office enforcement of right to rent, through its immigration compliance and enforcement teams, gained entry to more than 10,000 properties but made referrals to the

civil penalties compliance team in only 3% of cases. The chief inspector reported that the scheme suffered from poor communications, and early signs had shown the scheme to be wholly ineffective. He said that, overall, the right to rent scheme,

“had yet to demonstrate its worth as a tool to encourage immigration compliance”.

In fact, the number of voluntary returns had fallen over the period. Internally, he found the Home Office had failed,

“to coordinate, maximise or even measure effectively its use”.

The chief inspector went on to reflect stakeholder concerns in four policy areas: wrong right to rent decisions; racial and other discrimination; the exploitation of tenants; and homelessness. The charity Crisis reports that whole households were becoming homeless where a right to rent case had been found in a property, while the Residential Landlords Association research found that 49% of landlords were less likely to rent to someone with limited leave to remain and 44% would rent only to those with documents they were familiar with. Overall, the chief inspector reported that the Home Office failed to monitor the scheme, failed to tackle reported exploitation inherent within it, and made no attempt to measure its intended impact. Recently, your Lordships’ House heard from the noble Lord, Lord Best, that the Home Office’s own Landlords Consultative Panel had failed to meet or even be convened. One wonders why.

Given the treatment of the Windrush generation, we should not be surprised at any of this. As the United Nations special rapporteur, Professor Tendayi Achiume, observed in May 2018, the hostile environment policy was,

“destroying the lives and livelihoods of ... ethnic minority communities”.

including people with rightful citizenship status and those who had been in the UK for decades. Of course, the new Home Secretary’s moves to defuse the hostile environment issue are to be welcomed, as are the commitments to compensate and investigate the appalling Windrush cases where people have been deprived of their home, job and access to medical care and benefits.

That the hostile environment policies since 2012 have seeped into the fabric, operation and culture of many of our public institutions shames us all. It is right that these policies are now being scrapped as their appalling implications have been realised. It is also right that the Government have apologised. However, for me, that is not enough. There remains a big question over what replaces the policy, the racial stereotyping it must have been based on, and the loss of trust it has engendered in many of our communities. I want to know from Ministers across our public services how they intend to tackle this. It will be no easy task and they need to convince a sceptical public that they have a plan. Warm words will not suffice.

However, there is a bigger opportunity hidden in this policy disaster. A Government who had a broader vision could start afresh. They could set themselves a goal of taking race out of their political calculations. They could, when they eventually brought forward an immigration Bill, set themselves the task of promoting fairness in the system without playing at dog-whistle politics or trying to appease the politics of social

[LORD BASSAM OF BRIGHTON]

division and racism. Fundamentally, this is where both the Cameron and May Governments have gone wrong. Honesty about the country's labour needs and the impact of migration at a time of austerity could have helped avoid the policies that led to the hostile environment strategy and the fear of UKIP that triggered the Cameron Government's foolish rush to a referendum on the EU.

What we should now do is begin to reshape and rethink the debate so that absurd policies such as this do not rematerialise under a different guise in the future. To this end I have a few questions for the Minister to think about. The UN special rapporteur recommended that,

"the Government repeal the aspects of its immigration law ... that deputize immigration enforcement to private citizens",

and make public officials responsible for policing immigration rules in providing health and other public services. Given the evident failure of these policies, can the Minister tell us how actively that recommendation is being considered across government? Can she also update us on the progress being made by the Home Office on identifying the number of Windrush victims of the hostile environment policy, specifically the numbers refused re-entry to the UK and those wrongly made to leave following refusal and denial of housing, health and public services? Perhaps she could tell us where we have got to with the compensation scheme.

Finally, given the welcome hints of change in the offing, can the Minister update us on the position of tier 2 visa applicants and shortage professions? Our health service has been deprived of trained and qualified doctors as a by-product of the hostile environment policy. I know that the Royal College of General Practitioners has raised this issue and has identified cases of trainees being threatened with deportation—this, when we are light of some 5,000 GPs, is a form of public service self-harm.

To conclude, I am pleased to have had the opportunity to highlight this most shameful of public policies. David Lammy and the MPs who have shone the spotlight on the Windrush cases, together with the *Guardian*, deserve praise for their diligence and determination. I hope that as a result of the exposure of the hostile environment policy and its intended and unintended consequences, public policymakers will begin to rethink attitudes to migration, and we can continue to tackle the underlying causes of racism and discrimination on our society and celebrate the multiculturalism which should be at the heart of modern Britain. I beg to move.

Lord Morris of Handsworth (Lab): My Lords, I am mindful that in five minutes this House will participate in a minute's silence. I therefore seek the Minister's advice as to whether I should start my speech or wait until the five minutes has elapsed and the minute's silence is observed.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): Given that the noble Lord has addressed the question to me, I would be very happy if he would like to start his speech and resume it afterwards. It is entirely up to him.

Lord Morris of Handsworth: My preference is to wait.

Baroness Manzoor (Con): My Lords, may I suggest that the noble Lord starts his speech?

Noble Lords: No.

Baroness Manzoor: My Lords, this may then be a convenient point for us to interrupt the list of speakers so that we can wait to observe the national minute's silence at midday, to remember the victims of the Grenfell Tower fire.

11.56 am

Sitting suspended.

Noon

A minute's silence was observed in memory of the victims of the Grenfell Tower fire on 14 June 2017.

12.01 pm

Lord Morris of Handsworth: My Lords, I am grateful for the tolerance shown to me in starting my speech.

I start by declaring an interest. I came to the UK from Jamaica in 1954, aged 16, and am classed as a member of the Windrush generation of migrants from the Commonwealth who arrived between 1948 and 1971. Many of the earlier migrants had been among the 10,000 members of the British Armed Forces in the Second World War. Others had responded to our Government's appeal for workers to help build a new Britain. Many were accompanied by their wives or husbands and children. They are all British citizens, and many have subsequently been branded as illegal by the Home Office.

What led us to this? How did we get here in the first place? As British citizens from a British colony, the adults had British passports and the children travelled on a parent's or sibling's passport. Many of those passports were lost as the years rolled past, so parents and children had no documentation showing their arrival. We are told that the landing cards, which would have sufficed, were destroyed at the Home Office in 2010.

However, there is no problem. We are British citizens. The British Government had told us so, and in 1971 our status was set in law, confirming that we had been given indefinite leave to remain. We went to school and college, got jobs and paid taxes and national insurance. Many of us were proud to do national service. The problems began when a new immigration Act was passed in 2012 which required people to have documentation to prove they were here legally in order to work, rent a property or access benefits, including healthcare. Employers, landlords, GPs, hospitals and banks were all required to check that employees, tenants, patients and customers had proper authority to be in the UK.

Without paperwork, many British citizens who had been here since childhood found themselves homeless, jobless and without access to funds, including pensions. They slept on couches, in huts and on the streets, and begged and borrowed. Some were deported. To prove to the Home Office that they had a right to live in the

UK, they had to produce four pieces of evidence for every year of residence, or they faced deportation. Proof of income tax and national insurance payments were not accepted. They had fallen foul of laws that we are told were intended to catch illegal immigrants. The tabloids, and some papers that should have had better knowledge, took the view that politicians knew best. For those citizens, home became a place that they knew not.

In 2004 Prime Minister Tony Blair introduced the so-called open-door policy that increased immigration from eastern Europe. When David Cameron took over as Prime Minister, he promised to cut immigration numbers, and illegal immigrants were the first target that he aimed at. When Mrs May became Home Secretary in 2010 and set about making a big reduction in the net migration numbers, her attempts did not always work.

The 2013 promise of a “hostile environment”, about which we have already heard, may have been for illegal immigrants but it was soon to be for everyone, including legal immigrants. Reduced numbers of Home Office staff had to navigate through some 45,000 changes to immigration rules made during Mrs May’s tenure at the Home Office. Was the Windrush generation seen as an easy target? Challenges were difficult because legal aid was almost unavailable, and some people bankrupted themselves fighting deportation. It is reported that about 50% of decisions were overturned, but many lives were destroyed in the process. Where is the logic, the common sense, the compassion?

Will immigration policy and the practice of those policies change? Do not hold your breath. Papers have been lost, bad decisions have been overturned on appeal, families have been split up and more difficulties have been experienced by people of all colours and nationalities—and we have yet to see what Brexit will bring for EU citizens. In the meantime, visa applications even from doctors and nurses were being denied, despite their having contracts with health authorities, yet because of staff shortages, around two-thirds of NHS trusts spent £1.46 billion on agency nurses in 2017.

The new Home Secretary has announced a rethink of immigration policies, rejecting the “hostile environment”. Speaking during her trip to the G7 summit, though, the Prime Minister rejected calls for a rethink on policies to curb illegal immigration that have trapped British citizens and many more. She insisted that she had the public’s backing for measures that have turned employers, landlords, the NHS and banks into de facto border guards. All of those are required to make a contribution to the hostile environment.

I wish the new Home Secretary well in the hope that he will bring some sanity and compassion to our immigration policies. He clearly needs it. As I understand it from this morning’s newspaper, though, at last sanity is prevailing. It seems that there is a rethink due to the demands of the UK’s labour market. Employers are saying “Enough is enough”.

12.09 pm

Lord Taverne (LD): My Lords, first, I congratulate the noble Lord, Lord Bassam, on introducing this debate, enabling us to consider this matter.

On the face of it, what the Home Secretary has announced seems good news, but there are some serious questions. Will the Government end the refusal of applications under tier 1 only, or does it also apply to those who are refused independent leave to remain under tier 2? In particular, does it deal with a typical case which I have raised in two emails with the Minister asking for information?

A Mr Owais Raja is a highly skilled migrant, a UK-trained engineer who until recently trained Ministry of Defence engineers at City College Plymouth. The college asked him to write the training programme himself and promote it every year he worked for them. He applied under tier 1 but was refused indefinite leave to remain. He is now destitute and faces imminent deportation. He lost the right to work or to rent somewhere to live and, subject to what the new policy change means, neither he nor his family is allowed to use the NHS. This means that his six-year-old son Ayaan, who has a hole in his heart, can no longer receive potentially life-saving treatment. Nor can Mr Raja afford to buy blood-thinning tablets for his wife, who has a pulmonary embolism which is at constant risk of travelling to her heart or brain, causing a heart attack or stroke. She, of course, cannot visit her GP.

What was his crime leading to the refusal of his application for indefinite leave to remain? Raja’s accountant made a mistake in filing his 2012-13 tax return. Raja had no knowledge of the error: he found out only in 2016 when applying for renewal of his indefinite leave to remain, and immediately paid the £1,200 he owed. It is worth mentioning that he had paid about £60,000 tax over the previous eight years. The Inland Revenue accepted that his was an honest mistake, imposed no fine and charged no interest—which it does when it judges that there has been dishonesty.

The Home Office, however, said that the discrepancy was evidence that Mr Raja had deliberately provided false information, informed him that he was a threat to national security and triggered its discretionary powers under paragraph 322(5) of the Immigration Rules. This is a section designed to deal with serious criminals and terrorists. It meant that Mr Raja cannot work in Britain or travel to any country other than his country of birth, as no other country will risk letting him in now that he has been labelled a threat to national security. It also deprived his family of access to the NHS.

The family’s position is desperate. When his son recently had chest pain, Mr Raja could not afford to visit the consultant and pay fees of £80 an hour or send him to hospital and pay £100 a day. He cannot pay for food or rent. He has no connections or relatives in Pakistan any more and his children speak only English. He is now destitute. So far, he has survived by liquidating his savings, selling his car, his wife’s jewellery and wedding dress and his precious engineering books, and by living off discarded food from Tesco that has passed its sell-by date.

He has had help from his friends. His former students were so upset by his plight that they send him odd gifts of £10 and £20. I have seen the most moving letters from students who say he was an inspirational teacher,

[LORD TAVERNE]

and from his employer, praising his work and integrity. He, and his family, face a future of having to beg and sleep on the streets, or deportation.

Since I wrote a letter about Raja in the *Guardian*, I have had many emails showing that his plight is not exceptional. I gather from an organisation, the Highly Skilled Migrants Group, that there are at least 1,000 similar cases where people's lives have been ruined. These highly skilled migrants such as Raja are teachers, doctors, lawyers, engineers and professionals on the Government's list of occupations in which Britain is short, and who have often lived here for a decade or more and have British-born children. Their only error is one that half a million British taxpayers make every year. Native taxpayers amend their tax returns without facing any penalty—not even a fine—but the Home Office treats migrants who do as terrorists.

This treatment is a national scandal every bit as outrageous as the treatment of the Windrush immigrants. A monstrous injustice is being perpetrated by our Government in our name. If it is not remedied, the Home Office will not only be breaking every canon of a civilised society, but ignoring one of the most basic tenets of the rule of law—the golden rule that someone is assumed innocent until proved guilty.

How did this happen? The history is important because we must know how far the policy change means a break with the past. Originally errors in tax returns were dealt with under paragraph 322(1) of the Immigration Rules—a draconian provision specially designed for that offence—with a penalty of refusal of ILR and deportation. Under that sub-paragraph (1), at least it was the Home Office which had to prove dishonesty, but because of that, it kept losing in the courts. So in its determination to increase the number of deportations and intensify the hostile climate for immigrants, the Home Office switched to using another rule—sub-paragraph (5). This was originally intended not for tax errors but for really serious crimes, such as murder, terrorism and conduct that constitutes a threat to national security.

That switch was a switch for an improper purpose. Furthermore—this is almost unbelievable—under that sub-paragraph, which deprives immigrants of the right to work, rent property or access to the NHS, I understand that the burden of proof lies on the migrants to prove their innocence, not on the Home Office to prove guilt—and not just innocence but that the Home Office's decision was “perverse” or “irrational”. To top it all, they cannot get legal aid. What could be a greater betrayal of our traditional respect for justice and the rule of law? However, the switch proved a success. Not surprisingly, by use of this sub-paragraph, the Home Office could boast that the number of deportations has dramatically increased.

The Secretary of State has now announced a change in policy, which gave us hope. He said that applications to refuse ILR would be put on hold. But refusals of ILRs and deportations continue. Amelia Hill cited further examples in Tuesday's *Guardian*. The Home Office explained that these cases had already been scrutinised by the review and that the use of paragraph 322(5) had been judged to be appropriate—an ominous explanation. Now the question arises: will

those new rules apply only to tier 2 immigrants? Will they quash all applications under paragraph 322(5) and open them up for fresh consideration? If the answer is that only those who are now making applications under tier 2 are affected, the scandal that I have announced continues; it is not remedied. If, on the other hand, it is remedied, and the use of paragraph 322(5) is discontinued—and, indeed sub-paragraph (1) should also be discontinued—I would say three cheers for those who have made what is often a difficult decision in politics in admitting the Government's grave errors.

12.20 pm

Baroness O'Neill of Bengarve (CB): My Lords, it turns out that this debate is extremely important for forward-looking reasons, as well as for the reasons raised by the noble Lord, Lord Morris. I congratulate the noble Lord, Lord Bassam, on introducing this debate and the noble Lord, Lord Taverne, on giving us a vivid sense of a current issue.

The best protection against being misclassified as an illegal immigrant, and any consequential application of restrictions from which one should be exempt, is surely to be able to demonstrate either that one is a citizen, or that one is a non-citizen with specific rights, such as rights to travel to, to live, or to work in the UK. An ability to demonstrate entitlement is crucial. We have seen some of the consequences of inability to demonstrate entitlement in the sorry story of the events that affected some members of the Windrush generation, as well as, as already noted, the experience of others who were not from the Caribbean but from other overseas jurisdictions.

We are all now aware that a policy that aimed to create a really hostile environment for illegal immigrants in fact led to the mistreatment of persons who were not illegal immigrants but were entitled to live and work in the UK. That was a shameful failure at many levels and, in particular, because it reflects a total misunderstanding of the proper approach to enforcing immigration law.

I have some direct experience of the proper application of such legislation. Many years ago, I received a travel grant from the US Fulbright Commission enabling me to travel to the US to take up a place at a graduate school. One condition of the visa that I consequently received was that, once my studies were completed, I would leave the US for at least two calendar years. This was a clear and lawful requirement, with which I complied, although by then I had both a spouse and an infant with US passports; that did not make a difference. Immigration restrictions form a proper part of a rules-based international order, and do not require the creation of hostile environments. Indeed, their enforcement is likely to be damaged by the fantasy of creating hostile environments.

If rules are to be enforced, it has to be feasible for people to obtain the documents they need in order to demonstrate their entitlements. Many of us have such documents; probably most of us in your Lordships' House have passports, and so do many of our fellow citizens. However, not everyone has a passport, and many have no other form of robust identification. We have tried in this country to do without ID cards,

which some see as an intrusion into privacy. I have to say that I find this attitude dated and quaint: many of those who object to ID cards nevertheless go around with mobile phones that systematically disseminate far more information about them—their location, contacts, payments and many other matters—which ID cards do not provide. But there are also many people who do not have passports and lack other robust identification documents, so may be unable to demonstrate their entitlements. They are at risk in ways in which some members of the Windrush generation were at risk.

This is particularly important in the context of Brexit. Discussions of the border between the Republic of Ireland and Northern Ireland have so far mainly focused on trade and customs, and have in my view often failed to address the question of demonstrating the entitlements of persons. Indeed, there is a persistent assumption that avoiding a hard border is merely a matter of avoiding checks at the Republic of Ireland/Northern Ireland border by using online technologies. That seems to me a muddled view, for at least two reasons.

First, what makes a border hard is not the technology used—whether it is a red and white pole across the road, cameras, armed customs officers or, for that matter, online technologies—but the fact that it is a demarcation at which complex discriminations between different sorts of persons or goods are enforced. Of course the technology has to be appropriate, but remote technology does not alter the fact that complex discriminations are made and enforced. Secondly, the fantasy that remote technologies are the way to avoid hard borders is currently compounded by concentrating, excessively I think, on issues that bear on the movement of goods—that is, trade—rather than of persons. Yet the movement of persons is, I think we would all agree—particularly in the light of what we now know about members of the Windrush generation—of greater importance than the movement of goods.

As we all know, the common travel area set up in the 1920s accords people from the UK, the Republic of Ireland, the Isle of Man and the Channel Islands extensive entitlements in all these jurisdictions. In particular, Irish and British citizens—I will not say more about the islands, because they are much smaller numbers—have rights to travel to, live in, work in and, if resident, register to vote in the other jurisdiction. That is of particular importance for several reasons. Not everyone has a passport and not everyone can demonstrate where they were born—it is quite common for people to not be quite certain where they were born. Many people who regularly cross the Irish Sea by boat do not have passports; they are not required to have them as they are for air travel. Some of those people would have difficulty showing what their entitlements were. Some who could get together the evidence that could demonstrate that they are entitled to a passport could not afford to obtain a passport for each family member. Those who were born, for example, in homes for unwed mothers and then placed for adoption—such as the home in Newry, County Down, which was recently the subject of considerable media attention and which distributed children for adoption in many jurisdictions with questionable consents—could probably not demonstrate their entitlements. Many other

people do not know exactly where they were born. They were, perhaps, informally adopted or grew up in extended families. Many others with complicated circumstances may not be able to prove their identity and their entitlements.

This is relevant, because it reaches far into the future. It is important to be sure that all those who are entitled to live, to work and to register to vote, if resident, throughout these islands are able to demonstrate their entitlements. So I have three questions for the Minister. First, what estimate have Her Majesty's Government made of the number of entitled persons in the UK who currently lack robust means of identification, and therefore robust means of demonstrating their entitlements? Secondly, what conversations have Her Majesty's Government had with the Irish Government about the number of persons living in the Republic of Ireland who would have parallel difficulties, but who are entitled to travel to, live in, work in and, if resident, vote in the UK? Thirdly, have the Government addressed the question of the affordability of obtaining robust means of identification and considered what needs to be done to ensure that those who are entitled to travel, live, work and, if resident, register to vote here but who lack means of identification, are able to avoid the uncertainties and ultimately, in some cases, the harassment and exclusion experienced by some of the Windrush generation by gaining access to robust identification documents? None of us wants a new, and probably larger, version of the Windrush scandal as a result of Brexit.

12.29 pm

Lord Suri (Con): My Lords, I am glad that time has been set aside for this debate, for unless something is done it is likely to affect many of those whom I care for.

Under the previous Home Secretary, now Prime Minister, the hostile environment came into effect. This brought stricter checks into many more spheres of public life to make it harder to continue to live in this country without the right to do so. The policies enacted put stricter responsibilities on a range of private sector actors. For example, universities and landlords have found themselves in the unfortunate position of having to carry out checks on their tenants and students to check that they are here legally. But this approach did not stop there.

Public sector bodies were all caught up in the net. Institutions, from schools to hospitals, found themselves having to collect and share data on individuals accessing those services. Checks are also carried out on those seeking a state pension or other benefits. The trouble is that this approach has a fundamental flaw. It has the nefarious effect of acting against people who have been here for an extended period, who have full residency and employment rights.

Take the case of the Windrush generation. Nobody disputes the legitimacy of their rights in this country. Indeed, they ought to be honoured and praised for the vital work they undertook in rebuilding a broken nation. But when they turned a certain age and found themselves eligible for the state pension, free bus passes and the winter fuel allowance, they were rebuffed, or, in extreme cases, deported.

[LORD SURI]

There are many heart-breaking stories from those affected, and to retell them would take too long, but one case sticks in my mind. Dexter Bristol, a British citizen originally from Grenada, who had lived here from the age of eight, found himself wrapped up in immigration struggles since he was fired from his job and tried to claim benefits. He died later the same year. Why was he denied his rights? It was because did not have the correct papers.

The problem was that when the Windrush migrants were invited and welcomed into this state, they were all British citizens, and had no need for official documentation to exert their rights. Indeed, the only meaningful documentation they received from the Government was their landing cards at the seaports where they arrived. But the decision was taken some years ago to destroy the records that the Government had kept of the landing cards.

The problem with the policy is that it bears most heavily on citizens who arrived many years ago without extensive documentation as soon as they start to need to rely on the state. Claiming their benefits becomes a struggle when they are suffocated by extensive bureaucratic requirements, and for the elderly to have to deal with this level of stress is unfair and unjust. A serious rethink needs to happen at the highest levels of government about this policy and its future implications. Can the Minister commit to this? In terms of the problem I have outlined, there is ample scope for a recurrence. Ugandan Asians fled their homes to escape tyranny but they fled as British citizens. Many of them will not have the correct documents. Unless there is a change in policy, we may see past mistakes repeated.

Before I finish, I will address one more point. The hostile environment is not a racist policy; it is necessary to try to curb illegal migration. However, in its operation it will overwhelmingly affect British citizens of Commonwealth backgrounds, primarily non-white citizens. The Home Secretary calls himself a moderate. I wait with interest to see his actions.

12.35 pm

Baroness McIntosh of Hudnall (Lab): My Lords, I thank my noble friend Lord Bassam for introducing this debate. It is already clear that it is raising a number of extremely difficult and very emotional points which it will be necessary for the Government to hear and to take seriously.

I want to come at this from a slightly different angle. There is an old aphorism which says, “Sticks and stones may break my bones but words can never hurt me”. However, there can be few less accurate or less helpful aphorisms available to us. Language is powerful. Everyone knows this, from those like the actors and writers among whom I have spent my life, for whom it is their professional stock in trade—which of course includes politicians—through to children taunting each other in the playground. It can galvanise and persuade, in good ways and in bad; it can terrify or pacify, enable or silence; and it can bring together or it can divide. It works on the imagination—the source of all our creativity but also of our most acute vulnerabilities. We are more aware now than perhaps we have ever been of the impact of language on

mental health—how, for example, the extended reach which the internet provides has amplified the potential for people to be attacked, threatened and demoralised just with words.

All Governments know that they must choose their words carefully, so we must assume that there has been nothing accidental about the rhetoric adopted in public discussion of immigration in the past few years or in the legislation it has given rise to. I accept, as most people do, that there must be rules about who is and is not allowed to come into this country and remain here, but the problem with the use of phrases such as “hostile environment” is that they frighten and demoralise not only those who may be in breach of those rules but, as we have already heard from my noble friend Lord Morris and the noble Baroness, Lady O’Neill, for example, those who have done nothing wrong.

More insidiously, they give licence to the expression of generalised prejudice and antagonism—sadly, never too far below the surface in any society—towards whole categories of people by emphasising their “otherness”. Recalling those grotesque “Go Home” vans a few years back, I really wonder what the Home Office, and more particularly the then Home Secretary, was thinking. Who ever thought that that was any way for a Government to address their own citizens? We should have learned from the hideous lessons of history how dangerous it is to use divisive language to stigmatise. Surely “us” is far more important than “them”.

Many years ago, one of my sisters met and married a Jamaican man who had come to the UK in the 1950s, not actually on the “Empire Windrush” but in that era. He was a delightful person—an entertainer, magician and escapologist—who in 1968 became the first Afro-Caribbean performer in the UK to receive the Inner Magic Circle Gold Star. Noble Lords might imagine what a welcome visitor he was to my house when my children were small. Shortly after they married, he and my sister returned to Jamaica, where their two children were born. They came back to the UK in 1991 in order for those children to complete their schooling.

I tell this bit of family history for two reasons. The first is to make the obvious point that my brother-in-law and his children fall exactly into the category of people about whom quite unjustified suspicion has been stirred up by recent Home Office activity. As it happens, I do not believe that either of the children, now grown up, have fallen foul of the rules, and my brother-in-law sadly died in 2006, before the current legislation. But I wonder whether he would have had the kinds of problems that have been described to us, had he lived. So I have thought a lot in recent weeks about how it must feel to wonder if, despite everything being in order, your right to be here might suddenly be called into question; if perhaps, after all, you do not really belong. Because the second, equally obvious, reason for mentioning them is that the people I am talking about are not “them” and not “other”—they are my family; they are our family; they are us.

Some noble Lords will have heard the debate on Tuesday evening about the immigration and nationality regulations concerning fees for registering citizenship. There were many powerful speeches, but I was impressed

in particular by the words of the right reverend Prelate the Bishop of Derby, who was in his place but no longer is. He said:

“Citizenship is the privilege that glues a country together and enables a Government to have a culture of law and order that people respect and work in and where they support each other”.

He later said that,

“the civic energy that we need to offer welfare, support, friendship and kindness to make human life more bearable is under stress more and more”.—[*Official Report*, 12/6/18; cols. 1663-64.]

A strong civil society encourages us to use empathy and respect in our dealings with one another. Governments should do the same. The language of hostility and suspicion should have no place in official discourse. Even difficult, unwelcome messages can be delivered humanely. To misquote an old song, “It ain’t what you say, it’s the way that you say it—that’s what gets results”.

12.42 pm

Lord Jones of Cheltenham (LD): My Lords, I too congratulate the noble Lord, Lord Bassam, on introducing this important debate and explaining so comprehensively what happened to the Windrush generation and why it was so wrong. Let me say also what a joy it is to follow the noble Baroness, Lady McIntosh, who is always worth listening to in this House.

I would like to describe another example of the effects which current government policies have on those from other countries who are here legitimately. A case came to my attention recently of someone who married a UK citizen in 2015. The appropriate spouse visa was issued, at significant cost, and a health surcharge was paid; again, not a small amount. Both husband and wife have master’s degrees—exactly the kind of people this country needs to be a success in the future.

Under current rules, a spouse visa lasts for two and a half years and then an extension spouse visa must be applied for, again at considerable cost and with another health surcharge. The extension visa lasts for another two and a half years, after which the applicant is able to apply for permanent leave to remain, again at considerable cost and with another health surcharge. This particular applicant has just been through the spouse extension visa application, which seems to me to have been a pointless but quite damaging process. Let me explain why.

The Home Office website advises that an application to extend a spouse visa should not be made more than 28 days before the existing visa runs out, yet the Home Office’s own target average processing time for such a visa is eight weeks. Therefore, on average, following all the advice of the Home Office, the applicant is likely to experience what I will call a limbo period of four weeks after the original visa has expired but before the new visa is issued. The website also says that interviews can be held at certain offices around the country to speed up the issuing of the spouse extension visa. Unfortunately, at the time of applying, no such interviews were available.

This application should have been a five-minute job for any competent civil servant, or 10 minutes at the most—allowing for a coffee break, make it half an hour. The paperwork was in order, there had been no

contact with the police, all taxes had been paid by both partners and the large fees had been paid. This application was not dealt with in half an hour but dragged on.

Consequently, the applicant fell into the limbo period, which caused a number of problems. A close family member had decided last year to get married this year on one of the Greek islands—this was arranged a long time ago—and the applicant was invited. Airline tickets and accommodation were purchased. However, because of falling into the limbo period, the applicant was unable to travel—the Home Office still had the passport and had not issued the extension visa—and so missed the wedding, where I understand a good time was had by all but there were mutterings over the visa-issuing process. Needless to say, in the week after the family wedding the passport and renewed visa arrived on the last day of the eighth week since application.

The Minister may recall that I have tabled several Parliamentary Questions recently. She is one of the best Ministers in the House for at least trying to answer the Questions posed. On 14 May I asked:

“Why an applicant for a spouse extension visa may not apply more than 28 days before the expiry of their current visa when the standard processing time ... for someone resident in the UK is eight weeks”.

The Minister replied on 22 May:

“The requirement to submit a spouse extension application no earlier than 28 days before the expiry of existing leave is advisory, not mandatory. However, an application submitted earlier may result in a shortfall in the applicant’s qualifying period when they later apply for settlement”.

I understand that. I also asked:

“what advice they give to applicants if they need to make international travel after their visa has expired but before their renewal visa has been granted”.

The Minister replied:

“Applicants are advised when applying not to make any non-urgent ... travel arrangements until their passports or travel documents are returned to them, followed by their Biometric Residence Permit if their application is successful”.

She went on to say:

“Applicants can request the urgent withdrawal of their application for international travel. They would then have to apply for entry clearance from overseas to return to the UK”.

So you go to a Greek island to attend a wedding and spend most of the time there applying for leave to come back to the UK. It does not make a great deal of sense.

On top of the disappointment over missing the wedding, the applicant had just completed a research project for one of the UK’s universities and was applying for similar work elsewhere. However, because of the “Windrush” publicity, potential employers were deterred from offering employment because the Home Office had the passport and they did not want a potential “illegal” on their books. So there was an interruption to the applicant’s contribution to the UK economy.

Out of the blue, a telephone call was made offering employment carrying out recovery work on one of the UK’s overseas territories because the applicant had the correct qualifications and experience to do the job. Noble Lords will be aware of the damage caused in some overseas territories by the Caribbean hurricanes last year. Unfortunately, that opportunity had to be

[LORD JONES OF CHELTENHAM]

turned down because under the law as it stands anyone holding a spouse visa is not allowed to spend more than a certain number of days outside the UK, otherwise a subsequent application for permanent leave to remain will be refused. This is nonsense. It feels like another example of a hostile environment towards someone who is here legitimately, has done nothing wrong—except, perhaps, to fall in love with a British citizen—and has a lot to contribute to our country.

Perhaps I may ask the Minister these questions to help with the new Home Secretary's review. Why does it take eight weeks to process a routine application for a spouse extension visa? Does she agree that no one should be left in a limbo period? I cannot believe it, but are the Government trying to discourage mixed marriages? How much of the high fee charged is actually incurred in the processing of these visas? Why is a spouse extension visa needed at all? Why cannot the applicant apply for permanent leave to remain instead of having to apply for another two-and-a-half year visa? Surely two and a half years is long enough to show that the relationship is genuine. Further, will the Minister look at the rules on the number of days an applicant can be out of the country, particularly if they have been invited to help in the UK overseas territories, which after all are technically British?

Yesterday I received an email from a project worker in the organisation Just for Kids Law. Its "Let us Learn" campaign is youth led and aims to achieve change that helps young people between the ages of 16 and 24 who were brought to the UK at a young age from over 70 different countries and consider the UK their home. The project worker points out in her email that:

"Most of us have to go through a 10-year process of applying and repeatedly renewing our immigration status. This currently costs £8,521, before we are entitled to naturalise as British citizens, costing a further £1,330. Since 2014, the limited leave to remain fees we have to pay every 30 months to keep our immigration status up-to-date have increased from £601 to £1,033 excluding NHS surcharge of £500. The government mentioned earlier this year that the surcharge is set to rise to a total of £1,000. With no legal aid ... many of us are struggling to keep our heads above water".

She goes on:

"Because of this, we are calling for a government review of the impact of spiralling fees on lawful young migrants. We would like to see an immediate freeze of limited leave to remain fees and, ultimately, a shorter and affordable route to citizenship. The recent Windrush scandal has shone a light on an immigration system that is broken".

There are many trouble spots in the world and the UK has a good record over the centuries of responding to the needs of those at risk. Unfortunately, in recent years there has been a tendency to kowtow to the racist nonsense spouted by some very unpleasant people both here and abroad. We should reject that approach. The Chicago-born actor, Mandy Patinkin, sums up the situation perfectly. When asked what was currently bugging him, he said:

"The global insensitivity to the most vulnerable people among us in the world: the refugees displaced by war, climate change, and the hatred of others. That insensitivity towards our fellow human beings is a wound to our collective soul".

My Lords, I agree with him.

12.52 pm

Baroness Flather (CB): My Lords, this is a timely debate and I thank the noble Lord, Lord Bassam, for tabling it. It is time that we looked at this issue from all our different points of view, so this is a good opportunity for us to point the finger where it should be pointed.

Before I came to your Lordships' House, I was involved in race relations as a member of the Commission for Racial Equality, as was the noble Lord, Lord Morris. Why was I involved in race relations? It was because at the time you felt that you had to be involved. If you were not a white person, things were not that good, so you wanted to be involved. If you could do something, you felt that you should do it.

The whole issue of the "Empire Windrush" is interesting. Everyone who was involved, even if we had no connection with the "Empire Windrush", knew that it was an iconic event in race relations when the ship arrived. Films were made about it and it was on the news. Everyone knew about it, regardless of whether we were old enough to understand or whether we had any connections with it.

The Home Office has a real problem. It does not know anything about historical immigration events. Immigration has gone through different phases and people are here for different reasons. Home Office staff who have to deal with these issues should have at least an inkling of what has gone before, but they do not seem to. If they did not know about the "Empire Windrush" then they did not know about Southall, where two British Army officers went to India and recruited from the men who had served with them in the war. So, the Southall community started because they brought Sikhs back with them. Immigration did not just happen; a lot of things led to different people coming to different areas.

Initially, there were three groupings for Indians: A, B and C. Group C was for totally unqualified people. Callaghan said that he would drop group C, but he gave people between a year and two years beforehand so an awful lot of category C people, who were not qualified in any way, came here. At the time, even the Indian Government said, "If you let in all these people in one go, you will have problems because you have to find them work and housing and look after them. You shouldn't do it". That is very interesting to note but I know that that is what happened. A lot of people coming at once was probably not the best idea.

There was also a feeling that once the first generation was here and the second generation went to British schools, there would be no problem; they would all adapt and become British. This does not just happen. How did the British do in other parts of the world? They never learned even the rudiments of the languages of the countries that they were in. It is amazing that the Government thought that everything would change in one generation. As your Lordships know, it did not and it still has not. A lot of things were not thought through, such as English. There was no compulsion to learn the English language but there should have been. Language is the beginning of everything. If you cannot speak or understand, you are deaf and dumb. You do not know what is going on around you, which is extremely bad.

I was elected as a councillor in Windsor and Maidenhead in 1976; I was the first minority woman councillor. Of course, everybody used to come to me with their problems. I used to go to people's houses. They had put their brown envelopes on the mantelpiece. They had not opened them because they could not read; they could not understand what was said. At first, I used to ask permission but then I stopped; I just went to the mantelpiece, opened the envelopes and told them what the letters said. They were all sorts of communications, mainly from the Government or institutions. These people did not know what the letters said or what they should be doing. That is a pretty bad way to treat immigrants. They did not know anything, so they did not do the things they needed to know about, such as look after their health, or know what sort of food to eat. There are still problems there.

We have a lot of illegal immigrants. When there is a desire to stop illegal immigrants or find them, how do legal and settled immigrants respond? It is an interesting question. They respond in two ways. Of course, they feel unsettled, especially if they have any doubts about their own position, but they also want the illegal immigrants to be found because they feel that illegal immigrants threaten their position. It is not all one-way, where they do not want anybody to find the illegal immigrants; they want them to be found.

This brings us back to the Home Office. Why are there so many illegal immigrants in this country? Is the Home Office not supposed to keep an eye on people who come to this country? It is no good starting to turf them out and so on once they are here. The Home Office should be stopping them from coming here in the first place. It is not functioning to any kind of standard. Everything takes too long. Even English people trying to get a visa do not know when their passport will come back. It is a very serious situation. The Home Office cannot function with all those responsibilities and should not be one huge department like it is. Immigration in particular needs its own department and people who know the history of migration to this country—why people have come, where they have come from and what the situation is.

It is no good saying that we do not want the illegal immigrants—clearly we do not. They should be stopped from coming, rather than being picked out once they are in this country and have merged with the rest of the population. When you start doing that you upset them and other people that they are working with. As has been said clearly, you are bound to worry people. On the other hand, if you do not do anything about illegal immigration you do not reinforce the position of those who are here legally.

As a councillor I used to get a lot of people coming to me with their problems—little problems and so on. My MP at the time was Dr Alan Glyn. He was brought up in the traditional English way and he thought that documents mattered. If you are Indian or Pakistani you do not need to spend more than £2 or £3 to get any kind of document with as many seals as you want on it. You go to the marketplace and find a man who does that. Dr Glyn would say, "But they have documents". That is not the point. We have to realise that not everybody functions like the British do.

People from other countries have other issues to worry and think about. They want to come here—why would they not?—so they do what they can to find a way to come here.

There is a huge number of illegal immigrants in this country. I do not think that there is any way now either to find them or to send them back without causing a lot of problems for people who live, have families and have made their home here. It is not the way forward, which is for the Home Office to function properly, systematically and without such great periods of time elapsing. Unless we can get the Home Office to function properly nothing can change. If the Home Office functions properly maybe not many more illegal immigrants will come.

Trying to pick out illegal immigrants in the population is not only very difficult but probably impossible. We need an efficient Home Office that can try to stop illegal immigrants coming to this country. We need Home Office staff to know the history of migration to this country. For them not to know what the "Empire Windrush" was is incredible, because it was one of the most iconic incidents. All the people who came on the "Empire Windrush" had worked here in the Air Force during the war. They went back to Jamaica, they did not like it too much and they came back. They were people who had served here during the war. There was no way that there should have been any problem later on with that generation or their descendants. If anything is to be done it should be done to the Home Office.

1.04 pm

Lord Parekh (Lab): My Lords, I thank and congratulate my noble friend Lord Bassam on securing this debate and introducing it so well. I will concentrate on a slightly different aspect of this whole thing, namely, the hostile environment: why did it get created and who created it? In so doing, I will look at the assumptions and attitudes we have brought to bear on this question of immigration.

The "Empire Windrush" story is not new. Some of the things that are now coming out had been known to us for quite a while. When I was deputy chair of the Commission for Racial Equality one heard these stories. We made some small inquiries. Nothing happened. Things moved on and went on. We hear stories of people who owed HMRC only £1 or £2 who have been deported or threatened with deportation.

Why is there this kind of attitude? Where does it spring from? From what soil does this kind of attitude to our fellow human beings, now labelled as illegal immigrants, spring? That is the question I want to address. In the course of doing so I will certainly talk about a few of the contemporary situations.

I think we will all agree that, unless there are reasons to the contrary, unlawful immigrants should not be here. They should go. The question is, how far are we prepared to go in making them go? Is there no point at which we will stop? In any liberal society there are certain human rights and basic values. Any attempt to get rid of an evil has to be balanced against those values and rights. Why, then, do we give so much importance to the evil we want to get rid of and ignore the values to which we are committed?

[LORD PAREKH]

A very particular attitude springs up in Britain from time to time. I have been here for nearly 60 years and I have seen this happen. A kind of obsession grips the nation. Then a kind of psychosis comes and overtakes the country. That becomes such a dominant passion that everything that serves that cause is to be tolerated and encouraged. That is what we have allowed to happen in the case of unlawful immigration. We convince ourselves that these illegal immigrants are a national threat, a danger to the country, an enemy within—people coming from outside taking over our country. Unless we get rid of them we will not be able to maintain our identity. How do we get rid of them? It does not matter: all ways are fair.

This needs to be looked at very carefully. This attitude that all means are fair—that all the powers that the Government and the Home Office need to secure those results are acceptable—is all part of our history over the last 30 to 40 years. If one looks at, for example, the Immigration Acts of 2014 and 2016, they give draconian powers to the Home Office that in ordinary circumstances would be unthinkable. We cannot simply talk about the “Empire Windrush” unless we are also prepared to talk about those powers of the Government.

In the course of exercising those powers there have been high-profile enforcement campaigns. Remember those boards on the buses saying “Go home or face arrest”? In the course of exercising those powers we have used schools to provide the data. We have gone to workplaces to find out what happened. The benefit system has been capped to find out illegal immigrants. Access to services, hospital doctors—at any conceivable point where we can catch them we have been trying to do so. We have set targets, although those became the subject of some controversy, and put them ahead of people. We threaten people with deportation and detention. We look at their bank accounts to see whether any illegal transactions are taking place.

In the course of using those powers to try to achieve this kind of goal, inevitably mistakes are made—they are bound to be. The Independent Chief Inspector of Borders and Immigration said that 10% of the cases have been wrongly identified. Not only that but small derelictions become very large—they get magnified in our views and become subjects for deportation. As I said earlier, one has read cases of people owing Her Majesty’s Revenue and Customs £1 or £2. Small mistakes are made, different papers presented and someone is ready to be deported or detained. This is particularly evident in the case of the “Empire Windrush” and I want to look at what happened in that context. I do not want to sound too professorial here—although that is, or has been, my job—but it is very striking that the “Empire Windrush” was not the first ship bringing West Indians here, nor was it the largest. Why has it then become so iconic? That is a story I shall have to wait for another opportunity to tell.

Something else is striking. I welcome what my noble friend Lord Bassam said about the Labour Party’s attitude; and please forgive me if I do not entirely exonerate my own party for what it did in the case of the “Empire Windrush”. When the “Empire Windrush” was ready to leave Jamaica, sadly, the

British Government of Prime Minister Attlee sent a message asking whether there was any way of preventing it sailing. A few days later a message was sent asking if it should be diverted to east Africa, which was part of our empire, where all those on the boat could be given jobs. After it landed, sadly, about 10 Labour MPs approached the Government saying “it was not a good thing for Britain to have too many blacks”, because it might damage race relations. Now, despite this dark chapter, throughout the last 40 or 50 years Labour has been very sensitive to any kind of racism, occasional mistakes apart. The Labour Party came around and followed a policy of controlling immigration and anti-racist legislation.

I should not go on too long. Let us agree that with regard to the “Empire Windrush” and other cases, we have resorted to a policy of catching illegal immigrants. The way in which we have done so has caught some illegal immigrants, but what have been the larger consequences? First, some legal immigrants have been identified and punished. Secondly, the country’s sensibility has become very coarse, such that if a man is branded as illegal, anything goes, anything can be done to him. Thirdly, because we talk about illegal immigrants, all immigrants get marked in this way and that accounts for the populist reaction that we have been witnessing, not only in Britain but everywhere else. Where people feel so possessive about the country, then the figure of the immigrant, not just the illegal immigrant, becomes a dangerous one, something to watch against. As soon as someone is identified as an immigrant, people will say, “Oh, my God, lock him up, send him away”. The psychology behind the politics has not developed in a vacuum. It has developed slowly, each step being sensible in its own right, but all collectively leading to disaster.

It is also the case that it has tarnished Britain’s reputation. Those of us who read newspapers in other countries feel deeply saddened that a country we love should be represented in this way as a country which is prepared to denigrate its own citizens, deport them and detain them. This is not the way a civilised country should behave.

What, then, should we be doing? I do not want to talk about compassion. I do not think the Conservative Party is particularly keen on compassion, so I will not say let us take a compassionate attitude to immigration; instead, let us take a realistic attitude to illegal immigration. What would a realistic attitude to illegal immigration be? First, let us recognise that it is bound to occur. Desperate people in desperate parts of the world are going to struggle to come to us. Secondly, they come here because we were there. How did we break open their societies? Did we behave? I can give accounts of what Lord Clive and others did in my own country. Did we behave more sensibly? Did we live up to the standard that we are now expecting them to conform to? Oh, come on!

The other important thing is that they come here because we have messed up their countries through our foreign policy and they are in a situation where their lives are unliveable. When I read horrible stories about Syria and Afghanistan and elsewhere, and people coming here, I ask myself why are they coming so late?

I should have expected them to come before. They come illegally because they would like to come legally but we have closed the legal door. Illegal immigration takes place because legal immigration has been blocked. So I do not think we should simply blame the villain out there, in the form of an illegal immigrant; we should also look at ourselves and our policies with some degree of modesty and humility and ask ourselves whether we are responsible for what is going on. I do not think the Minister would want to say that we have no responsibility of any kind for the illegal immigration that is taking place.

I want to alert noble Lords to something. The “Empire Windrush” story is only one, and that has resulted in so many cases. A friend came to see me the other day and I am told there are similar stories waiting to break. This man told me his life story. He cannot bring the wife he married in the Dominican Republic here and cannot bring his daughter. His mother is dying and is desperately anxious to see them. Why is a long story, but the important thing is that there are cases waiting to break and I think it is about time that the Government became proactive and seized themselves of the situation.

1.15 pm

Lord Judd (Lab): My Lords, I too thank my noble friend Lord Bassam for providing this opportunity and I hope he has been encouraged by the very thoughtful, reflective and constructive nature of the debate that has followed his own interesting and challenging introduction. We cannot get away, can we, from the issue of what sort of nation and society we want to be, because all this is part of that. What kind of values do we want to prevail in our society? For me, justice and inclusivity are crucial—a recognition of the joy, really, in humanity, provided by its diversity, and an ability and a willingness to make the most of that diversity, to make its celebration and operation central to the way we approach all our policies.

I found myself, not for the first time, as I have told her, in very strong agreement with my noble friend Lady McIntosh. Of course, language matters. Of course, the signals and the leadership provided by language is absolutely basic. That is why, when phrases such as “hostile environment” are introduced, in whatever context, they are like a cancer which begins to pervade across society as a whole. They cannot be contained within just one of the specific issues we have been discussing; they inevitably affect the whole attitude of people across society.

We all have our own personal examples and we could spend a lot of time reminiscing about those. I was at one stage very closely involved in the case of an Iranian who was seeking asylum in this country. He had been a prominent sportsman in Iran and very highly regarded. He had decided that he wanted to become a Christian and he had the traumatic experience of his own father denouncing him. He then was not only harassed but persecuted by the authorities, and he was tortured. He got here disguised as a crew member in an Iranian aircraft. What I remember is the whole process—it is difficult to pin down individuals. This man was in a very bad condition mentally. He was receiving support and therapy from people who

recognised that he had been tortured, the consequences of torture and what was involved in trying to support him effectively. It was very hard to persuade the authorities that his experiences were as relevant and central to the issue as they were. There is no doubt in my mind that the bureaucracy and insensitivity of the whole process aggravated his mental illness.

I became involved in the case when it was eventually brought to court. The judge upheld his position and, fortunately, positive action was taken to establish his standing in our society. But of course, he will never fully recover from those experiences. The court case was bizarre and almost unbelievable. The lawyer for the Home Office said that it could not possibly consider this, that or the other because it had not received the papers. Fortunately, there was a very astute and on-the-ball lawyer from a Newcastle firm, who had done a lot of work on immigration and who produced within minutes the receipt from the Home Office showing that the documents had been received. How can a case of that severity and seriousness have got to that position?

The point I want to make is that while I was emotionally and personally caught up with what was happening, I kept thinking, “But what about all the others?”. This man has been extremely fortunate to find himself among friends in the church who were determined to support him and see him through, but there are many others who do not have that kind of support—the ones who do not have the same opportunity to present their case or who do not perhaps have the same articulate capabilities. They are all our responsibility and we need to remember that. These things worry me profoundly.

The term “illegal immigrants” always intrigues me because it was not very many years ago that a leading government Minister in this country said in relation to those in deprived areas that the hero in society was the one who got on their bike and cycled off to find and build a future for their children. I have never been able to see how you can draw a distinction between that and people faced with an appalling situation in their home country who, as it were, got on their bike and cycled off to try to build a future, at whatever risk. We categorise and try to compartmentalise the whole issue of immigration in a way that is just not tenable, because all the dimensions overlap each other.

As we struggle with our own challenges in this society, we should never forget that there are between 65 million and 70 million refugees and displaced people in the world; 21.3 million are recognised as refugees. In the context of the Middle East, where we are deeply disturbed by the issues that prevail, we should remember that Lebanon has 1.1 million refugees, Turkey has 2.5 million and Jordan has between 660,000 and 700,000. It is not only the horror of the circumstances that these people experience, it is the pressure on and disruption to the host societies—poor, impoverished societies themselves—carrying this huge burden.

This challenge is global and international and that point cannot be escaped. If I was asked to take just one issue in which the imperative of international co-operation and working closely together with other Governments and countries is so important and so obvious, it is the realm of migration and immigration. There is no way in these realities that we can solve the

[LORD JUDD]

issue by ourselves. We will always be trying to stick a thumb in the dyke. In that sense, we must rebuild a sense of positive engagement with others in the world in asking how we face up to the issues of conflict and poverty, involving an effective global approach to the issue of migration.

At the other end of the reality, we have to remember that of course the pressures of migration can be very disruptive to communities which are ill-prepared to accept the numbers and the experience of a new culture coming into their midst. We need therefore to be taking far more seriously the social investment in our own society where the pressures are greatest. We ought to be looking to the importance of education as a means of helping communities cope with what is before them.

1.28 pm

Baroness Hamwee (LD): My Lords, I, too, thank the noble Lord, Lord Bassam, for asking, in essence: what does a hostile environment policy do to individuals and to our society? As we have heard, there have been many casualties. The noble Baroness, Lady O'Neill, raised the issue of proving one's entitlement; in other words, exercising one's rights. The noble Lord, Lord Parekh, if I heard him aright, referred to a national psychosis.

The policy impinges on people who never expected to be affected by immigration policy. Several noble Lords, including my noble friends, have given examples. If your son's Brazilian fiancée has not previously had a problem with renewing her visa but is not issued a new visa, reports to the Home Office as she is requested to do, and is immediately sent into immigration detention, the whole family is confused, distressed and helpless. If you are below the financial threshold to sponsor a spouse visa, your Canadian wife—who, from time to time, comes as a visitor—may one day be told, “We don't believe you'll leave”, although there has been nothing to suggest that she would break her previous pattern, so she is sent into detention and then back home, if that is where she feels home is by this stage. If you are an employer in a business or maybe in the NHS, which is about much more than doctors and nurses, you will be confronted with rather curious shortage occupation lists and with the caps—as you will be if you hope, for career reasons, to work in the UK yourself. The business community constantly reminds us that immigration really affects access to talent. If your aunt has bequeathed you her flat and you have become an accidental landlord, you will find that you are also an immigration officer and subject to sanctions as well.

Noble Lords will understand that I am using examples, all of which I have come across along with many more over some years. The Minister told the House last week that the Government are planning,

“to reconvene the landlords consultative panel”,—[*Official Report*, 6/6/18; col. 1303.]

which is to “drive up landlords' compliance” with the right-to-rent provisions. I noted that the Minister was not able at that time to answer my noble friend Lord Paddick's question about how the Government are monitoring racial and other discrimination, and what

baseline data they are using to determine whether discrimination has increased as a result of the right-to-rent scheme.

If you make a minor error in terms of your leave, or of course if the Home Office makes such an error, you may find yourself threatened and deprived of the basis of normal life. If you are a teacher or doctor, or work in another capacity in the education or health sectors, you will have come up against the issues of reporting and sharing data. I appreciate that a part of this has been dealt with recently but schools and health centres should be safe places.

Personal experiences make people see situations with new eyes, as the speeches today have demonstrated. People see what is being done by the Government in their name and, as the noble Baroness, Lady McIntosh, said, they hear language with fresh ears. We are discovering what has happened to the Windrush generation, although we do not yet know how many have been deported or detained, or about the financial and emotional cost to them. I accept, of course, that the Home Office task force is now at work. I realised recently, and was shocked to find it, how little I am surprised by what I hear from people who think that their story must be without precedent—of course, it is to them. I have realised, too, how impressed we should all be by the resilience and compassion of the third sector, which so often tackles the situations that we have heard about.

Some people take advantage of a hostile environment. I am talking about the exploitation of people who do not know their rights and think that they may be here illegally, which happens all too often in low-paid employment. That is another factor of this policy. In discussing the position of EU citizens post Brexit I have heard about the concerns of people who may not register because they are fearful that some minor infringement, such as a parking ticket which they once got, will be counted as a crime and held against them. There is a danger that hostility as a policy is reflected across the community, with ethnicity a proxy for racism.

I recently raised the apparent blanket ban on asylum seekers accessing education. The Minister gave assurances that the Home Office is taking proactive steps to contact those affected and reissue the necessary immigration bail forms without these restrictions. I was grateful for her prompt response and evident understanding but I am told by solicitors that they are still seeing asylum seekers being restricted from studying. They are also concerned that the new bail guidance does not ensure that potential victims of trafficking, individuals served with deportation orders and those with fresh claims pending will not be unlawfully or irrationally restricted from studying.

“Hostile” or “compliant”, whatever language is used there has been no change in the legislation. Has there been any change in how the Home Office handles information and documentation? It occurs to me to wonder whether the hostile environment has affected those administering the system. It must have; I suspect that officials are overloaded. In the debate two days ago the noble Lord, Lord Russell of Liverpool, used the term “institutional depression” of Home Office officials. The widely held view is that the culture which has permeated the Home Office, affecting how officials

approach decisions and deal with information, has gone very deep. I do not need to stress how this affects the public's confidence in the system, and do not like to think what we might be doing to those who administer it. It is not comfortable always to have to suspect the worst of everyone. This is not just about Home Office personnel. I was asked this morning whether victims of crime with an uncertain status are routinely referred to the Home Office for investigation. Is there an explicit policy on this?

The British Red Cross has just published a new report, subtitled *The Humanitarian Impact of the UK Immigration Detention System*. Among other things, it investigated life after detention. I am ashamed that I had never thought beyond, "Oh, X has been released". Just as being taken into detention can come out of the blue so can release, but without asylum support, accommodation or access to benefits. As the report says:

"Expecting someone to engage with their asylum case after release is unrealistic if they are battling mental health issues, receiving no ... support, and subject to enforcement-based alternatives to detention, like reporting".

As part of the Shaw review, Mary Bosworth identified some consistent findings. One of them was that there is a negative impact on mental health which persists long after detention. This is borne out by the service users interviewed by the British Red Cross. A gentleman from Pakistan said:

"When they released me, I wasn't able to cross the road, you know, at the zebra crossing. That's the huge impact on my mind. I went for counselling, six months to a private charity organisation and there she tell me the tricks how to ... cope with these things. So with that counselling, I came out of these things, but imagine I wasn't able to cross the road. When I was released, when I come outside the detention centre, I felt that my soul had been taken out from my body. I found no energy, no power".

A British Red Cross staff member is also quoted in the report:

"I wonder how someone is going to be able to manage going into a workplace and being an integrated part of society"—

we seek integration, after all—

"when ... on your arrival into the country and through the asylum process",

they experienced,

"this sense of being done to. Then you're told, 'Okay, now you have to be a productive member of society'. I wonder how people manage that transition".

We have a new Home Secretary. He has the opportunity to change policy and the culture. That is no easy task. From what I have observed, he is very open to this. Two years ago, the Independent Chief Inspector of Borders and Immigration said:

"However, in the absence of even any 'soft' indicators of impact on, for example, voluntary returns, the Home Office lays itself open to criticism about the breadth of new legislation and the cost/benefit to itself and others of implementing each measure. It is also harder for it to answer concerns about the potential damage to communities and to individuals".

That was his report following an inspection of hostile environment measures. In my view, the environment of hostility has impacted and is impacting on individuals and on our society much for the worse.

1.40 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, first I congratulate, as others have done, my noble friend Lord Bassam of Brighton on securing this debate today. This is a very topical debate focusing on the hostile environment policy towards illegal immigration impacting on those with residency and employment rights. The scandalous treatment of Windrush generation citizens from the Caribbean and other parts of the Commonwealth shames our country, has done huge reputational damage and has hurt people who have every right to be in the United Kingdom.

Illegal immigration should not be tolerated but the measures here have been applied too bluntly, and people with the legal right to be here and to work and access services are getting caught up in what can be described only as a nightmare for them. Most of what we refer to as the hostile environment was brought in through the Immigration Act 2014, which limits access to work, housing, healthcare and bank accounts, revokes driving licences and restricts rights of appeal against Home Office decisions, and which was tightened and expanded under the Immigration Act 2016.

The present Home Secretary has dropped the term "hostile" and replaced it with "compliant". That is fine, but we need more action on the part of the Government other than to change a few words, which the noble Baroness, Lady Hamwee, referred to in her remarks a moment ago. Can the Minister give us the Government's view of the success of these measures, and say what further reviews have taken place as a consequence of the Windrush scandal to make sure that these policies are not impacting on people who are lawfully in the United Kingdom? Can she also say something about the recent statistics on immigration detentions and returns and tell us the Government's estimate of the number of people who are in the United Kingdom illegally?

My noble friend Lord Bassam of Brighton helpfully tabled a Written Question about the number of individuals and families adversely affected by this policy. In addition, the Home Affairs Select Committee was told in January of this year by David Bolt, the Independent Chief Inspector of Borders and Immigration, that,

"the Home Office does not have in place measurements ... to evaluate the effectiveness",

of the hostile environment. That is very worrying. If we have no measures to look at what is happening, I think noble Lords can see how quickly a policy can start to have adverse effects, with people caught up in the system and no mechanism in place to deal with the injustices that causes.

As my noble friend Lord Bassam of Brighton said, it was shocking to read that up to 10% of the people in the 169 cases passed to banks that were inspected by the Independent Chief Inspector of Borders and Immigration had been incorrectly included on the list of disqualified persons. What has the Home Office done to improve these figures, because the consequences for people who are wrongly identified as illegal immigrants and are therefore unable to have a bank account are devastating? Can she say something about the discrimination that people lawfully here have experienced as a result of her Government's policies?

[LORD KENNEDY OF SOUTHWARK]

The Government have placed increasing burdens on banks, employers and landlords with sanctions, some of them criminal, if things go wrong. So what do people do? They play safe. The Residential Landlords Association pointed out that 42% of its respondents stated that they were less likely to rent to people who did not have a British passport because they feared the criminal sanction if they made a mistake. These are, of course, the same issues, points and risks brought to the attention of Ministers in this House during the passage of the 2014 and 2016 Acts, which the Government have not given due weight to and of which they have not taken due account.

These matters are deeply distressing and worrying for people lawfully here who are caught up in this nightmare. They are also hugely damaging to our reputation as a nation and bring the whole system into question and disrepute. There have been mistakes in the data passed to banks and the DVLA and people have been wrongly identified as illegal, with no right to services. What changes to procedures have been made to eliminate these errors?

In March this year the Independent Chief Inspector of Borders and Immigration considered right to rent. Similar problems were uncovered, with poor communication internally in the Home Office and externally to landlords. There was little or no evidence that the policy had proved effective in its aims and it had devastating consequences for people wrongly caught up in this hostile environment, who suffered racial and other discrimination, exploitation and homelessness.

The most tragic thing about this policy is that people who have the right to rent, but who have a foreign passport, limited leave to remain or the correct documents but in a foreign language are the people most likely to be discriminated against. As I pointed out last week, the Government have decided to reject the independent commissioner's recommendation and not to establish a new right-to-rent committee, but instead to reconvene the landlords' consultative panel that has lain dormant for months. Can the Minister confirm that the panel is chaired by the Immigration Minister and that the Independent Anti-Slavery Commissioner and the Joint Council for the Welfare of Immigrants are not represented?

Only last month, the UN special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, while praising some aspects of government policy, found that other policies were affecting ethnic-minority individuals with regular status,

"many who are British citizens and who have been entitled to this citizenship as far back as the colonial era".

The noble Lord, Lord Jones of Cheltenham, highlighted the fees that immigrants have to pay, and the spiralling fees for children were discussed earlier this week. The levels quoted in the House have gone beyond what is sustainable. We need to look at them carefully and reduce them. My noble friend Lord Judd described a case involving documents lost by the Home Office. That can cause individuals immense distress and be devastating for them. They find themselves in an appalling situation.

It is, of course, the Windrush scandal which has brought this to the attention of the public. It cost the previous Home Secretary—Amber Rudd MP—her job, though you could argue that others were more culpable in the scandal. The Government have acted in the face of the terrible cases that have come to light, the shameful decisions that were taken, and the people who have lost their homes and jobs and been deported from the country they have called their home. My noble friend Lord Morris of Handsworth gave shocking examples of how people were treated, with their documents not being accepted. It truly shames our country. My noble friend is a fine example of the contribution the Windrush generation have made to their country. He rose through the ranks of the T&G to become the general secretary, he served as a director of the Bank of England and has been a director the England and Wales Cricket Board. Those are just some things he has done in his wonderful life.

Swift action is welcome, but we should never have been in this place. It is a tragedy that so many people were affected by the Government's actions—people legally here in this country, with every right to be here—and treated in a most shocking and disgraceful way.

The noble Lord, Lord Taverne, highlighted an appalling case that urgently needs to be reviewed. I think he said there were another 1,000 cases in a similar position, and again I hope they will be looked at urgently. My noble friend Lady McIntosh of Hudnall made powerful points about how these injustices affected not "other people" but people who are our friends and families. I agree with her that language in official communications should always be used properly and humanely.

The noble Baroness, Lady Flather, highlighted the service in the Armed Forces by people from the "Empire Windrush". I have mentioned before Sam King; I was privileged to call him my friend. He fought in the RAF as a gunner. He then came back on the "Empire Windrush" and worked as a postman for 34 years. He became a Labour councillor in Southwark, the first black mayor of Southwark and a holder of the MBE. He was a great citizen and we were privileged to have him in our country.

I hope the Minister will take the opportunity today to apologise for the shameful actions of Theresa May's Government.

1.50 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I thank the noble Lord, Lord Bassam of Brighton, for securing this debate, and all those who have spoken for their varied and interesting contributions. I thank the noble Lord, Lord Parekh, for his particularly thoughtful contribution, and pay tribute to the noble Lord, Lord Morris—our very own Windrush Member of your Lordships' House.

It is true to say that the work of the Home Office is vast. Millions of visa, citizenship and settlement applications are granted every year, and thousands of people are provided with international protection thanks to the decisions of Home Office case workers. However, as the Home Secretary has made very clear—a number of noble Lords have alluded to this—as well as having

a fair and humane immigration system, as the noble Baroness, Lady McIntosh, said and the noble Lord, Lord Kennedy, has just mentioned, we need one that clearly distinguishes between those who are here legally and those who are here illegally, as the noble Lord, Lord Parekh, very articulately pointed out. It is important to recall that successive Governments have put in place controls to deter illegal migration and protect public services.

It remains the case that the public expect us to enforce immigration laws approved by Parliament as a matter of fairness to those who abide by the rules. A recent YouGov poll showed that 71% of the public support our policy of requiring people to show documents to prove their entitlement to be here, work, rent a flat or access services and benefits. These measures have been introduced over many years. The first NHS charges for overseas visitors were introduced in 1982. The right-to-work checks were introduced in 1987, not 2014 as the noble Lord, Lord Kennedy, said. The Immigration and Asylum Act 1999 and the Nationality, Immigration and Asylum Act 2002 introduced restrictions on accessing benefits, social housing and social services. To return to the point made by the noble Lord, Lord Parekh, we have to clamp down on people who are here illegally.

Key elements of the compliant environment policy were put in place by the Opposition when in office, and it was during that time that the policy was described by Ministers as a hostile environment against illegal immigration. I am happy to answer the question from the noble Lord, Lord Parekh: that is when it started. I am happy to confirm to the noble Lord, Lord Bassam, that Alan Johnson used the term “hostile environment” and that the term was used by the Immigration Minister Phil Woolas in 2010 in his strategy paper on immigration, following a similar strategy paper in 2005. So the term has been used, and noble Lords have made the point that we can all go back and blame various different people for it, but the current Home Secretary has made clear that it is a term that he does not want to use and that the term “compliant environment” better reflects our values as a country, ensuring that fair rules are properly upheld.

More recently, measures to prevent illegal migrants from accessing the private rented sector have been introduced to bring consistency with well-established controls on accessing social housing. Further controls on access to bank accounts and driving licences introduced in the 2014 and 2016 Acts carry on this trend. In relation to access to employment, which is one of the key draws for illegal immigration, employers have had a duty to prevent illegal working, as I have said, since 1997. Since 2008 this requirement has been underpinned by civil and criminal sanctions for non-compliant employers, which were introduced by the Opposition. If an employer is found to have employed someone illegally and they are unable to demonstrate that they have carried out the prescribed check, they may be liable to a civil penalty. There is a sliding scale of penalties and the maximum is currently £20,000 per illegal worker.

Employers comply with the law by undertaking a simple right-to-work check on new employees and repeat checks on those with time-limited status. This is

a face-value check of an original document set out in secondary legislation as being acceptable for this purpose. Employers need to contact the Home Office only in certain specified circumstances, including when a potential employee has an outstanding immigration application or appeal, during which time they may be entitled to work. Employers can also contact us if they believe that someone has the right to work but does not have the necessary documents to evidence that right. Retrospective checks on people who were employed before checks were introduced are not required.

In setting the list of documents that individuals may provide to demonstrate their right to work, we have prescribed documents that most lawful residents already have or are able to obtain at minimum cost. For example, UK citizens may use their UK passport or alternatively their national insurance number in combination with their long birth or adoption certificate. I hope that that helps the noble Baroness, Lady O’Neill, but I understand her point about the Irish question. The Home Office provides guidance for employers, an interactive tool on checking a right to work and an employer checking service for employers who are unsure whether a potential employee has the right to work. The statutory code of practice makes it clear that employers should conduct checks on all prospective employees, not just those whom they believe may not have the right to work in the UK.

Several “compliant environment” measures have been the subject of public consultations, impact assessments and policy equality statements prior to introduction. Noble Lords will be aware that the Immigration Act 2014 also introduced the right-to-rent scheme, which noble Lords have referred to today. Engagement with the sector, the Equality and Human Rights Commission, the Northern Ireland Equality Commission and housing charities had a major impact during the design of that legislation. As a result of that engagement, we incorporated exemptions for accommodation occupied by vulnerable groups and enabled individuals to demonstrate their right to rent using a broad range of commonly available documents without a passport or photo identification.

The scheme was extended to cover the whole of England in February 2016, after an evaluation of its operation in the West Midlands found no evidence of discrimination arising, no impacts on levels of homelessness, no further barriers to people with little formal documentation accessing the sector and no impacts on the availability or costs of let accommodation—to answer the question from the noble Baroness, Lady Hamwee, that was posed by the noble Lord, Lord Paddick, and the point made by the noble Lord, Lord Kennedy. The evaluation also found that, where landlords engaged with the checks required, they found them to be straightforward and easy to operate. Landlords are not asked to be immigration or forgery experts, contrary to the assertions by the noble Baroness, Lady Hamwee, and the noble Lord, Lord Kennedy. The checks do not require all tenants to have passports or immigration papers.

For example, a check can be satisfied by presenting a letter from a charity involved in the access to the private rental scheme and a letter from a professional

[BARONESS WILLIAMS OF TRAFFORD]

who can confirm that they have personally known the holder for at least three months. The scheme was modelled on the checks that many landlords have been carrying out themselves to establish the credentials of prospective tenants—for example, credit checks, which have been taking place for many years and which, for obvious reasons, landlords carry out diligently.

The noble Baroness, Lady Hamwee, asked me about immigration bail and the issue of study. As she acknowledged, I answered her very clearly on this point and I hope that she is satisfied with that. The case still stands as to what she asked me last week.

Baroness Hamwee: The problem is that in practice, practitioners are finding that it does not.

Baroness Williams of Trafford: I was about to go on to say that the Home Office is performing a check to ensure that no one is having study restrictions placed on them inappropriately. I hope that she is satisfied by that.

The noble Lords, Lord Bassam and Lord Kennedy, and the noble Baroness, Lady Hamwee, referred to the Independent Chief Inspector of Borders and Immigration's report on the right to rent. We welcome that report. It made four recommendations, and noble Lords referred to recommendation 3 on the consultative panel. It will be reconvened and we will ask the noble Lord, Lord Best, to continue to co-chair it. Somewhere in my pile of documents, I have the make-up of the panel. It will be co-chaired by the Immigration Minister and the noble Lord, Lord Best, as I said. It will be made up of Crisis, Shelter, the Equality and Human Rights Commission, bodies representing landlords, agents and local authorities—those people with housing expertise.

Lord Kennedy of Southwark: I thank the noble Baroness for giving way; it is very kind. We have raised this point before, but why are the Government not going with the right to rent committee? Instead, they have come back with the previous committee and are not going to include the Joint Council for the Welfare of Immigrants or the anti-slavery commissioner. They would be important to include for their expertise.

Baroness Williams of Trafford: Given that the noble Lord worked through the housing Bill with me, I hope that he would agree that the noble Lord, Lord Best, is a very experienced member of your Lordships house in the area of housing. Having the Immigration Minister co-chairing, as he asked, will lend great credence to the panel. I am sure he would agree that the bodies I mentioned are the type that we would want represented on the panel to ensure its housing expertise. I pay tribute to the groups that he mentioned, but they are not necessarily in and of themselves housing experts, although they have expertise in the area of immigration and slavery.

I must now turn to the Windrush generation, because I want to spend some time on that. I again pay tribute to the noble Lord, Lord Morris of Handsworth, and all those from the Windrush generation who came here quite legally to help to rebuild this country after the war. The Government, the Home Secretary and

the Prime Minister have all said that the Government deeply regret what has happened and have made it a key priority to resolve the problems that have arisen and to ensure that it does not happen again. I also join the noble Lord, Lord Kennedy, in paying tribute to his friend and all that he achieved in his life.

The Home Secretary has commissioned an independent lessons learned review, which will look at how members of the Windrush generation came to be entangled in measures designed for illegal immigrants, why it was not spotted sooner—this has been going on for decades; it is not a new thing—and why the right corrective measures will now be put in place. The review will take into account the experiences of those involved and wider reflections on Home Office culture as a whole. We have established the Windrush Scheme task force, which is working with members of the Windrush generation to resolve their status and ensure that they obtain the documents they need to evidence it.

My right honourable friend the Home Secretary also issued a call for evidence to inform consultation on a compensation scheme for members of the Windrush generation who have been wrongfully impacted by immigration measures. That call for evidence closed last Friday and we are currently analysing the responses. Simultaneously, we have strengthened the checking services provided to employers, landlords and public service providers to ensure that we are not denying work, housing, benefits or services to those who are here lawfully. We will be providing regular updates to the Home Affairs Committee on the progress of that work. Our focus now is on putting right what was so wrong in the past.

The noble Lord, Lord Bassam, asked me for an update on Windrush figures. As of 10 June, the task force has received 20,145 calls. It has referred 5,750 for call-backs and completed 5,740 call-backs and issued 1,651 documents.

We owe it to the public to ensure that we maintain effective controls on immigration and have measures in place to protect taxpayer-funded services. The compliant environment forms an important part of those measures.

The noble Lords, Lord Bassam and Lord Taverne, asked about tier 2 visas and for an update on NHS workers and doctors. As they will know, because it has been widely reported in the media this morning, the Home Secretary is currently reviewing that and he will make an announcement on it very shortly. I will be able to say more after the announcement, so I hope that the noble Lords will bear with me.

The noble Lord, Lord Taverne, talked about a specific case. He will understand that I will not discuss it on the Floor of the House, but I will write to him about it. He also talked about HMRC and people being refused resettlement on the basis of their tax returns. This is not about people making minor tax errors. We are now able to check what applicants told us in the past about their self-employment and compare it to what they have told HMRC for the same period. There is a clear pattern of abuse where, more often than not, the self-employed earnings used to claim points in the tier 1 application have been £10,000 higher than the self-employed earnings reported to HMRC.

Where employment circumstances do not add up and applicants claim to have been working in a full-time low-paid manual job while simultaneously earning very high amounts from self-employed work for which the evidence is weak, we must consider paragraph 322(5), to which the noble Lord referred, and refuse the application where the evidence shows that the individual has not played by the rules and their character and conduct is such that they should not be granted settlement in the UK.

Before the noble Lord intervenes on me, I will make just one more point, because he then may not need to intervene. I will write to him on the case he raised separately and in no way am I saying that what I am outlining is anything to do with that case.

Lord Taverne: Will the Minister deal with the point that paragraph 322(5), which is concerned with terrorists, is used in connection with mis-statements in tax returns?

Baroness Williams of Trafford: I will write the noble Lord on that when I write him on the specific case, if that is okay by him, because I am rapidly running out of time and I want to get through points that other noble Lords made.

The noble Lord, Lord Morris, talked about reduced numbers of staff. The work of the immigration system is vast, as noble Lords will appreciate. Every year, we make more than 3 million decisions on visas and have 250 million people crossing our borders. We are not complacent about this. The immigration system is constantly and continually improving, such as with ePassport gates.

The noble Baroness, Lady O'Neill, made a very important point about identity assurance. I particularly draw to noble Lords' attention, as she did, the issue of EU citizens when we leave the EU. That is why we have put in place measures to ensure a very clear process, so that what happened with Windrush will not in future years happen to EU citizens. So all EU citizens who are here lawfully when the UK exits the EU will have the opportunity to regularise their status to remain in the country by applying for settled status. On identity assurance, we have operated a new scheme for settled status from scratch. So the application system will be simplified, user-friendly, and it will draw on existing government data to minimise the burden on applicants.

Baroness O'Neill of Bengarve: My Lords—

Baroness Williams of Trafford: I will run out of time; I am pretty much out of time.

Baroness O'Neill of Bengarve: Will the noble Baroness answer the Irish citizens' question? It is quite different from that for EU citizens in general because of the common travel area legislation.

Baroness Williams of Trafford: I shall write to the noble Baroness on that, as I know it is completely different.

On the point about limbo, asked by the noble Lord, Lord Jones—and before the clock gets to “21”—when an application is made during the period of extant

leave, leave is extended by statute until the application is determined. Where the right to rent or work checks are required, the Home Office can confirm entitlement to an employer or a landlord.

I have run out of time. I am terribly sorry.

Lord Kennedy of Southwark: My Lords, I can give the Minister some clarification. The debate started at 11.39 am, and as it is a three-hour debate, there are 20 more minutes left.

Baroness Williams of Trafford: I noted from the guidance that I had 20 minutes to speak; in fact Ministers rarely get more than 20 minutes to wind up, but I will continue if the House does not object.

The noble Lord, Lord Jones, also asked about visa performance. Obviously he knows I cannot comment on an individual case, but the majority of UKVI decisions are made within the established service standards. In complicated cases it can take longer, and if so, we write to advise when a decision is likely. The noble Lord will no doubt tell me that he knows of cases where we have not written in a timely fashion. We have introduced a range of measures since 2010 to improve the quality of decision-making in UKVI, including training and mentoring programmes for new caseworkers, as well as wide quality-assurance processes. He also raised the issue of the health surcharge. Applications for indefinite leave to remain are not required to pay the health surcharge.

The noble Baroness, Lady Flather, made the point that Home Office staff should have training in race relations. There is mandatory training for Home Office staff on race relations and discrimination—and unconscious bias, for that matter. It is mandated by the Cabinet Office for all civil servants and is a core element of the Civil Service code. The noble Baroness also made a point about stopping illegal migrants coming to the UK. They are not just people coming to the UK without permission, but those who remain unlawfully when their leave expires. It is worth mentioning that people here illegally are some of the most vulnerable people in the country. They are not protected as UK taxpayers but are vulnerable to people traffickers, and endure some of the less savoury elements of exploitation.

The noble Baroness, Lady Hamwee, talked about victims of crime. There is no obligation for the police to report victims of crime to immigration authorities but they have the power to do so, and we are working closely with the police to ensure that victims of trafficking are supported. Finally, the noble Lord, Lord Kennedy, asked about statistics on illegal migrants. He will know that by their very nature, it is very difficult to produce statistics on illegal migrants.

I thank all noble lords who have taken part in the debate.

2.16 pm

Lord Bassam of Brighton: My Lords, I echo the Minister's last point, and thank everyone who has participated in what has been a fascinating discussion and debate about the Government's “hostile environment” policy. I feel particular empathy for the noble Baroness because I have sat in her seat, having been a Home

[LORD BASSAM OF BRIGHTON]

Office Minister: probably one of the least comfortable areas of policy to deal with is that of migration and asylum seeking. I know how hard it is.

I tabled the debate because I did not want the Government to get away with the fact that they had changed the language of the business of enforcement. As the noble Baroness, Lady McIntosh, said, language is incredibly important. Words in politics mean vast amounts; they are the currency, and it is the atmosphere that words create that infects how we deliver policies in our country. Somewhere around 2012-13, the Government came up with the idea of a “hostile environment” policy. Its terminology may have had an earlier genesis, but it was written then into policy practice and it changed the currency. It changed the way the Home Office and its agencies worked, with disastrous implications—in particular for the Windrush generation.

But that is not the only reason why I called for this debate. I want to see the currency of the debate about immigration, and the part that race plays in the policy’s implementation, change. There is an opportunity, within the disaster that this policy has been, for that to take place, and we should grasp it enthusiastically. I am encouraged by some of the things the Home Secretary has begun to say, and by some of the changes he has outlined and wants to make. If the news on tier 2 visas is anything to go by, there is some progress in that area.

I am grateful to all who took part, and I hope that people got the message from my speech of where I am trying to take us. I hope that we can tackle things such as discrimination, racism and exploitation within our system of immigration control. I am no “Guardianista” soft touch when it comes to recognising the value of having sound borders and firm immigration controls—this side is not that, historically—but the words “fairness” and “equity” should mean something in how we handle and manage migration. For that reason, the debate was put on the Order Paper, and I hope that colleagues and friends have found it valuable.

Motion agreed.

Scotland: European Union (Withdrawal) Bill

Statement

2.18 pm

The Parliamentary Under-Secretary of State, Northern Ireland Office and Scotland Office (Lord Duncan of Springbank) (Con): My Lords, with the leave of the House I shall now repeat a Statement made by my right honourable friend the Secretary of State for Scotland in the other place. The Statement is as follows:

“I would like to make a Statement on the operation of the Sewel convention and its application to the European Union (Withdrawal) Bill in relation to Scotland. Mr Speaker, these are serious times and serious issues. I have come to the House today with respect and ready for constructive debate, and I hope that is the spirit of all sides.

Lord Sewel set out a commitment in 1998 that there should be a parliamentary convention to recognise that when the UK Parliament legislated in a devolved area it would,

‘not normally legislate without the consent of the Scottish Parliament’.

Throughout the passage of this Bill, the Government have demonstrated their commitment to the Sewel convention and the principles that underpin our constitution. We have followed the spirit and the letter of the devolution settlement at every stage.

The European Union (Withdrawal) Bill is about ensuring that the whole of the United Kingdom has a functioning statute book on exit day. It is about providing legal certainty to businesses and individuals up and down the country. From the outset we have been clear that, as a result of the UK’s exit, we would expect to see a significant increase in the decision-making powers of the devolved institutions. We have made it clear that exit would provide the opportunity to bring powers home from Brussels, not just to the UK Parliament, but to all of the legislatures of the United Kingdom. We must remember that the powers in question were handed to the European Union through our membership in 1972, long before devolution existed in Scotland. Exit was neither anticipated nor provided for in the Scotland Act or the structure of the devolution settlement. So it is certainly fair to say, as Mike Russell, the Scottish Government’s own Brexit Minister has said, that these are not normal times.

Nevertheless, we have sought to respect the devolution settlements at every turn and recognised the strength of feeling across this House, as well as within the devolved Administrations, that the original measures set out in the Bill did not meet aspirations. No one could deny this Government have come a long way from that original position. Discussions have been conducted at multilateral level through the JMC (EN) and the JMC (P) chaired by the Prime Minister, bilaterally between Administrations, and extensive official level engagement—and we have made significant changes to the Bill. These changes enabled the Welsh Labour Government to gain approval, and to gain approval of the other place.

These changes have seen the original clause turned on its head. Now, all decision-making powers returning from the EU that intersect with devolved competence will pass directly to Cardiff, Edinburgh and Belfast, unless explicit steps are taken to temporarily preserve an existing EU framework. The intergovernmental agreement underpinning the new clause set out how those steps should be taken, with an emphasis on collaboration and agreement. Together, this means we are emphatically delivering on our commitment to give significant further powers to the Scottish Parliament. The clause also provides in certain limited cases that the current arrangements we have under the EU will remain until we have implemented our new UK-wide frameworks. I want to stress that we have already agreed with the Scottish and Welsh Governments where this temporary preservation needs to be considered. The Governments are agreed that ‘freezing’ areas is likely in just 24 of the 153 areas of powers returning to the UK from the EU.

To anyone who has sought to present this as seeking to take back powers that the Scottish Parliament already has, I repeat again here that the Bill includes a specific provision that makes it clear explicitly that no decision-making powers currently exercised by the Scottish Parliament can be taken away. These amendments strike the right balance between ensuring that exit results in increased decision-making powers for the devolved legislatures, while continuing to provide certainty about how our laws will operate and protecting our internal market, a market so vital to Scotland's businesses.

These amendments do not, and cannot, go as far as the Scottish Government want, because the Scottish Government want a veto over arrangements that will apply to the whole of the United Kingdom. However, as the noble and learned Lord, Lord Wallace, the former Deputy First Minister of Scotland set out when the Bill was being debated in the other place, that was not part of the original devolution settlement.

Our approach also helps to ensure the continued integrity of the UK internal market, which is so vital to people and businesses in Scotland. At every stage, the SNP has disregarded the need to preserve this market and ensure that there are no new barriers to working or doing business in the United Kingdom. The UK internal market is worth over four times more to businesses in Scotland than is EU trade, and we must make sure that it is preserved as we leave the EU.

We have reached a point now where, as the Welsh Labour Government have stated clearly, these arrangements reflect and respect how the devolution settlements operate. The devolved legislatures will have a formal role in considering where existing frameworks need to be temporarily preserved. That is what we have delivered. However, Scotland has two democratically elected Parliaments, and it is only this Parliament, the United Kingdom Parliament, that can speak for the United Kingdom as a whole. It is deeply regrettable that the First Minister of Scotland, Nicola Sturgeon, and her Government were unable to sign up to the compromise solution brokered by her and our officials and the officials from all the Administrations working together. However, as we all know, you can only reach agreement in a negotiation if both sides actually want to reach agreement.

The Scottish Government's position from the outset was that they would be content with nothing less than a veto. However, such an unreasonable position would fundamentally undermine the integrity of the United Kingdom internal market. This would harm business in Scotland and the rest of the UK. Despite the numerous attempts to find compromise, and the fact one was reached with the Welsh Government, the SNP position has not changed. As a result, this Government, who represent the whole of the United Kingdom, could not responsibly accept their position.

We are now therefore faced with the reality that the Scottish Parliament has not given consent for this critically important legislation that provides certainty across the United Kingdom. This is not a situation any of us would have chosen. It is not, however, a crisis; nor is it unforeseen. While the devolution settlements did not predict EU exit, they did explicitly provide that, in situations of disagreement, the United Kingdom Parliament may be required to legislate without the

consent of the devolved legislatures. In any situation, agreement is our aim, and we will continue to seek legislative consent, take on board views, and work with the Scottish Government on future legislation just as we always have done.

We on this side of the House have compromised. We have made every effort to reach agreement, and we have sought consent. Now we are legislating in line with the Sewel convention to ensure that the whole of the United Kingdom leaves the EU with as much legal certainty as possible. That is what the people and businesses in Scotland need".

My Lords, that concludes the Statement.

Lord McAvoy (Lab): My Lords, I thank the Minister for repeating the Statement. This House debated the vital issues of devolution over a number of hours and days during the passage of the EU withdrawal Bill. I pay tribute to noble Lords on all sides of the House for interrogating the Government on the issues with care and a wealth of knowledge. This House agreed a package of amendments to be sent back to the other place for their careful consideration. It is, frankly, remarkable that the Government provided less than 20 minutes for the elected House to debate the proposals in front of them on issues as fundamental to the union as devolution and the future of the Northern Irish border.

When this House gave the Bill its Third Reading, we expressed our regret at the absence of a legislative consent Motion from the Scottish Parliament and our hope that the UK Government would convene cross-party talks with the Welsh and Scottish Governments to look at ways forward. We are informed that requests for such talks, including by the shadow Secretary of State for Scotland, have been declined. This is, at the very least, disappointing.

The Government did not give enough thought to devolution in their drafting of the Bill, as in many other areas, and brought forward a flawed piece of legislation. The Government's own Ministers conceded this point. A great deal of time and debate went into trying to address problems which are in part of the Government's own making. It is unreasonable, at the next stage of that process, to claim that there is no time left for the other place to have a full debate on the new Clause 11 that it was promised.

We have repeatedly asked the Government to think more carefully about the devolution settlements, and the place they have in upholding our union and shaping the future of the Brexit negotiations. Are the Government actively considering Her Majesty's loyal Opposition's calls for the Joint Ministerial Committee to be put on a statutory footing, and have the minutes of its meetings published? We have a situation and there has to be a discussion, agreement and consensus, and I hope that the Minister can provide some hope in that quarter.

Lord Wallace of Tankerness (LD): I thank the Minister for repeating the Statement. I am not sure whether to thank him for the name check, which was a fairly broad interpretation of a somewhat more complex legal point. However, clearly, the Statement was made in the other place in response to the failure to have an

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adequate debate on the Lords amendments and following on, too, from the stunt of the SNP walking out yesterday. However, anyone with even a limited knowledge of Scottish politics knows that the SNP is a grand master at cranking up the grievance machine. Can the Minister therefore say why the Government gave them a gift-wrapped grievance to exploit?

We must also ask about the role of the Secretary of State for Scotland. Let us recall that he promised the House of Commons that amendments to Clause 11—which was, by that stage, completely discredited—would be tabled in the House of Commons on Report. That did not happen. I think there was some forbearance, when the Bill came to this House, because we took the view that, if time was needed to get these amendments right, then time should be taken. Indeed, we had good debates in Committee and on Report and even some further debate at Third Reading. But that was done on the expectation that Scotland's elected Members, not just the SNP Members but those from the Conservative Party, Labour Party and Liberal Democrats—and indeed Welsh and Northern Ireland Members, because it affects their constituents too—would have a proper and adequate opportunity to look at these amendments. They are a total recasting of the devolved situation post Brexit and the Government must really answer why they did not arrange the timetable in such a way as to allow that to happen. We are entitled to ask whether the Secretary of State for Scotland made representations for the timetable to be arranged in such a way for there to be adequate debate. If he did not, he was derelict in his duty and, if he did, I ask the Minister what conclusions can we draw about the weight he carries within government in as much as these representations were overlooked?

If one goes to the substance of the Statement, it says that:

“While the devolution settlements did not predict EU exit, they did explicitly provide that, in situations of disagreement, the United Kingdom Parliament may be required to legislate without the consent of the devolved legislatures”.

It is of course the case that, legally, Section 28(7) of the Scotland Act 1998,

“does not affect the power of the Parliament of the United Kingdom to make laws for Scotland”.

That is a statement of the sovereignty of the United Kingdom Parliament. Section 28(8) goes on to state:

“But it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament”.

As the Supreme Court found in the Miller case, it is a convention and, therefore, it is a perfectly legal position that the United Kingdom Parliament can legislate. Can the Minister indicate—it may be that he has not had time to look back at exactly what Lord Sewel said—whether Lord Sewel explicitly said, as was claimed in the Statement, that in some way this would be used as a form of dispute or disagreement resolution? I would quite like to know where this explicit reference to that came from.

We know that this particular Bill is a forerunner to agreeing frameworks. The principles of the frameworks for the United Kingdom were agreed by all parties at

the Joint Ministerial Committee on EU Negotiations back in October. Can the Minister indicate what steps have been taken to put some meat on to the frame of these frameworks? Has the position that has been taken by the Scottish Government—indeed the Scottish Parliament—in any way hampered these discussions in recent weeks, both at official level and at ministerial level?

For my final point I just return to the issue of dispute resolution because, if we are going down the road towards UK frameworks, it is important that we have a better form of dispute resolution than taking the sledgehammer to what has happened in the meantime. We want to know what thought has been given by the United Kingdom Government, in discussion with the devolved Administrations, to ensure that there is far better dispute resolution than we have had to date.

Lord Duncan of Springbank: My Lords, I thank both noble Lords for beginning what I think is a very necessary discussion on the functioning of the Sewel convention. If I may—to go in reverse order—I will address the question of the frameworks themselves and their functionality, because I think this is where we need to focus our attention. These have been the subject of extensive engagement at an official level. If we add up the number of hours that have now been spent with officials examining each of those frameworks, we are in excess of 100 hours of meetings specifically to look at the functioning of the frameworks themselves. A phrase that comes to mind is: “officials are smiling on it”, which we always widely interpret as things are going quite well—but officials smiling is not the same as Ministers themselves signing it off. One challenge that we have often had is that what appeared to be agreement at the level of the officials—where examination on the detail of the frameworks themselves appeared to be reaching consensus and agreement—did not always match and meet the next step of making sure that Ministers themselves were able to sign that off. That has been one of the greater challenges that we have experienced because, again, this is without precedent. We are trying to establish how we can repatriate laws that we have not had functional control over, and trying to do so within a devolved framework, which of course did not exist when those laws were first moved from the United Kingdom Parliament across to Brussels.

In terms of the events in the other place, time was given, but it might be argued that time was misspent. A great deal of time was spent on a number of elements in discussion, thereby precluding serious engagement on these specific aspects. There needs to be some soul-searching across a number of parties as to how it ended up that way. I do not think that we in this place—or indeed those in the other place—can legitimately say that there has not been substantive engagement on the devolved clauses, Clauses 11 and 15, on many different occasions, both here and through the various forums that exist for officials and for Ministers to examine them. There has been, I suspect, on this clause alone, more correspondence, engagement and meetings to try to bring about the necessary agreement. Clearly, we were able to secure that agreement with the Welsh Administration but not with the Scottish Administration.

The noble and learned Lord, Lord Wallace, raised the point that my right honourable friend in the other place said that he would bring agreed amendments on Report, but the key part is “agreed”. In order to achieve that, the two sides had to reach agreement. It was not for want of effort that that agreement was not found. The reality is very simple: if you are unwilling to accept that there needs to be some form of concessions to seek that agreement, then you are simply not going to get it. At each stage when we thought that we had moved far enough to change the structure of the clause in such a way that we would be able to get support, we found that the goalposts had shifted slightly further away from us. Clearly, we were able to deliver the support of the Welsh Government, but we were never able to secure the support of the Scottish Government. Even though the officials—and indeed certain Ministers in the Scottish Government—believed that we had made enough progress, unfortunately, when it came to the final sign-off, that was simply not the case.

I take the point from the noble Lord, Lord McAvoy, about the JMC and how it shall work. There are examinations now about how we shall create structures that will necessarily address the changing environment and changing reality. How that will evolve is yet to be determined, but I take on board the points that he has made; it is useful for us to be part of that engagement. There will need to be cross-party engagement on the functionality of what, in effect, is a new constitutional arrangement—one that we are still writing. That is part of the challenge that we are living through right now; we have not yet signed off the final chapter of what this will look like. It is therefore quite difficult, in one respect, to determine exactly how we, as the Government, shall address that—my word, that is very unusual handwriting on the note just passed to me; I will read and speak to it momentarily, but not right now.

To conclude my remarks on this particular point, the important thing is that the show is not over. We are trying, and continue to try, to deliver the outcome that is right, but there needs to be an acceptance of agreement, which has to be based upon at least some acceptance of a concession. At the moment, the Scottish Government’s view on this is so didactic, specific and unmoving that, in essence, we are placed in the invidious position right now of taking a journey that we did not set out to take but which is facilitated within the law. As the noble and learned Lord, Lord Wallace, has said, the Sewel convention does allow for this particular approach under not normal circumstances. We do not want to be taking this journey at all, but we are and we must, because the key thing is that, on day one after Brexit, the statute book must work, not just here in London but in Edinburgh, in Belfast and in Cardiff.

2.38 pm

Lord Forsyth of Drumlean (Con): My Lords, might I begin by saying to my noble friend the Minister, “I told you so” that, when the then Scotland Bill said that the Government would “not normally legislate”, it would become a future source of dispute? We should not be surprised that it is being used in this way by nationalists who wish to break up the United Kingdom.

Having said that, I congratulate my noble friend on the efforts that were made—which satisfied the Welsh Government but not the Scottish nationalists—in order to deal with this difficult issue. But how can we take seriously Scottish nationalists whose position is that the powers should remain in Brussels, when they say that it will be a power grab when those powers come back to the United Kingdom and in turn will be devolved to the Scottish Parliament? Indeed, when all the SNP MPs walked out of the Chamber of the House of Commons yesterday, it was symbolic. Their position is that their Members in the House of Commons should have no say on agriculture, environment, fishing and other matters, while the Government, by leaving the European Union, are creating that opportunity for Scotland to have its proper say and to maintain the United Kingdom single market.

Will my noble friend therefore perhaps get a bit on the front foot, and instead of apologising for the difficulties that have been created, make it clear to the country that what is going on here is a stunt by people who wish to break up the United Kingdom and turn everything into a constitutional crisis? In their desire to have more legislation, it might be pointed out how little legislation has gone through the Scottish Parliament. Indeed, the most recent legislation has been illegal, or certainly ultra vires, as determined by their own Presiding Officer.

What happened in the House of Commons yesterday was a stunt which was not in Britain’s or Scotland’s interest, and it was certainly not in the interests of those farmers and fishermen in Scotland who wish to have a say in how their own affairs are treated in the future through their Scottish Parliament in this United Kingdom Parliament.

Lord Duncan of Springbank: I thank my noble friend Lord Forsyth. It is fair to say that he can to a certain extent legitimately say, “I told you so”, and he forewarned that this would be an outcome. None the less, the Government did all they could, trying in every possible way to secure agreement with the Scottish and Welsh Governments.

The walkout yesterday was—daft. That is the word. It was a situation in which four SNP MPs had questions to the Prime Minister and they decided that they would walk out and not ask them. One of the poor souls had been trying since 2015 to put a question to the Prime Minister, and he walked out. It may take another three years or he may never put another question to the Prime Minister, and if you are to try to hold a Government to account, that is your opportunity to do it. At the selfsame time, it looks as if the Speaker of the other place was ready to have a debate on the very issues which the Scottish National Party was so aggrieved by, but of course that did not happen, because the members of the SNP were hotfooting it out to the television cameras to say how disgraceful it was that they were in that situation. It is regrettable and it was unhelpful to their own cause. I believe that we should have as much discussion as is required on the issues to ensure that nobody feels that they are being silenced, quietened or ignored. However, there are conventions in the other place which would have allowed for that discussion to take place, but they were

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squandered by individuals who perhaps did not believe that those opportunities were adequate for them and their purposes.

I accept the points raised by my noble friend about the powers themselves. It is difficult to reconcile the views of the Scottish National Party; it believes that Brussels can retain all the powers, but even if there is the slightest hint that the United Kingdom could in any way have any touch of these powers, that is somehow bonkers. The sanity of that is questionable—but perhaps that is not for me to question.

Lord Thomas of Gresford (LD): May I say that it is unhelpful for the Minister to use language such as “bonkers”, “daft” and so on, as was the tone of the speech of the noble Lord, Lord Forsyth? There is a problem to be addressed. The use of the word “veto” is also unhelpful. That suggests that the ultimate conclusion should be that one of the four entities that make up the United Kingdom should be able to block the other three. Can the Minister say whether any thought has been given to qualified majority voting on issues in setting up the framework? I would have thought that the people of Scotland would, even if they did not welcome it, be prepared to consider a proposal that had the support of England, Wales and Northern Ireland. For example, if it were 3:1, perhaps the Scottish people would feel that their views would be overruled by a majority. However, the problem at the base of it all is that Scotland and Wales, even though they have agreed to the settlement, and Northern Ireland, fear that they will be overruled by English interests.

I know that Wales was happy to be within the EU frameworks because they applied across the whole of Europe to all the EU countries. Therefore there was a certain parity, without the domination of English interests over Welsh or Scottish interests at that time. But when you bring it all back to the United Kingdom and consider that the United Kingdom Parliament is also the English Parliament, there is concern and fear to be addressed.

I suggest to the Minister that instead of using emotive language, even though he is supported by members of his own party, he should approach the issue much more calmly and seek a mechanism that would be acceptable. If, ultimately, other mechanisms are simply dismissed by the Scottish Government, perhaps the Sewel convention can come to the Government's aid and they can pass this legislation without the consent of the Scottish Parliament. But they are building up trouble, not merely by going ahead with this Bill without the consent of the Scottish Parliament but by using the language like “veto”, “daft” and “silly” that is being used on the Conservative Benches. I urge the Minister to be more temperate in his use of language.

Lord Duncan of Springbank: I thank the noble Lord for his words of advice, but Scots are renowned for telling it like it is, and I assure him that I moderated my language a great deal when I chose those words. What I saw yesterday was scandalous, and I think anyone who saw it would agree. It was a dereliction of

a democratic role. That level of theatrics may play its part—I do not doubt that—but there are other things that should be done in the other place.

On qualified majority voting, in the United Kingdom we have a degree of asymmetry. Attempts were made by the other party to address this through regional assemblies within England, but that was simply not supported by the public will. It is not easy to accept in such a small island archipelago such as we are, where one nation is so dominant in terms of population, that we should somehow simply divide the land into four parts and pretend that each is equal and should be considered as such. That would not be easily done. I do not think that the Government today are ruling anything out, but we have to be realistic—something else the Scots are renowned for.

Lord Wallace of Tankerness: My Lords, if no one else is rising to speak—we still have 12 minutes—I will ask a question. The Minister said in response to the questions I raised that time was taken up by Divisions, but can he confirm as a matter of fact that the Government could have arranged the timetable, given that it happened over two days, so that the issues on what became Clause 15 were taken first and were not truncated in the way they were? It is also part of the Government's own timetable that time for Divisions is taken account of. Can the Minister confirm that it was a matter of the Government's own judgment that they did not put this item in a place where it could be properly debated?

Lord Duncan of Springbank: I thank the noble and learned Lord for that point. I can confirm that the Government could have adjusted it, had they been minded to do so. However, the problem was that they did not anticipate what happened as the votes began to dominate and consume the speaking time. Part of the dilemma that was faced was therefore that by the time this was recognised, the time itself had elapsed. I do not doubt that yesterday, had the Scottish National Party not left the building and had lodged their request for a debate, there would have been a debate on that very point to allow each of these issues to be aired adequately.

Lord Forsyth of Drumlean: My Lords, as Front-Benchers are apparently allowed to use Back-Bench time, and as there does not seem to be anyone else who wants to speak, perhaps I may ask my noble friend to elaborate on the efforts made by the Government to get the Scottish nationalists on side. Would he like to comment on the press reports which suggested that the negotiators on behalf of the SNP had pretty well crossed the line but when they went back to Scotland they were told by the First Minister in no uncertain terms that this was not acceptable? Does that not underline what is going on here, which is that the First Minister of Scotland, Nicola Sturgeon, faced with declining popularity in the opinion polls and declining support for an independence referendum, and faced with a party that thinks there should be another referendum next week, is basically trying to create a grievance and a row to stir up support? Does my noble friend agree that the Scots people are wise enough to realise how much of their economy depends on the

single market of the United Kingdom and that they will have no truck with this kind of divisive behaviour on the part of the Scottish nationalists?

The noble Lord, Lord Thomas, suggested that we should use moderate language. If you are faced with people who wish to destroy your country and the economy in Scotland, which is where I live, you do not moderate your language; you speak up for the majority, whose livelihood depends on that economy. In short, will my noble friend tell the House just how unreasonable the SNP has been? Does he agree that it was never going to agree because it wanted this as a source of grievance for its wider agenda?

Lord Duncan of Springbank: I was told before I arrived in this House that we did not really do politics, but perhaps we do in this instance. I shall try to find the right way to address those very trenchant points. A number of hours were spent trying to bring about a quite challenging change—taking the devolution clause as constructed and literally inverting it. I do not think that the United Kingdom Government have had enough credit for doing something unusual, which was to take their own proposal and, before it was too old, turn it around to try to find that compromise. They did a great deal of work. The officials of all the Administrations worked tirelessly to produce what ultimately was enough to satisfy the Welsh Government. Indeed, when the Welsh Minister responsible left London at that moment, he believed he was taking back views which he could get signed off by the First Minister of Wales. It was anticipated that the Scottish Minister was doing exactly the same thing, but that was not to be.

The term “grand masters of grievance” used by the noble and learned Lord, Lord Wallace, perhaps has a certain currency. It is important here that during these difficult times we do everything we can to ensure that there is safety first—making sure that our laws work and that the laws that keep Scots within a union that functions well for them work immediately after Brexit. That is what we are trying to deliver. However, it is not wholly clear right now what the Scottish Government are trying to achieve. They are content to have the EU administer in all these areas but they are in no way content to allow even a temporary freeze to determine how a UK framework can be created to allow the same responsibilities and roles to be undertaken by the United Kingdom Government. They seem to be slightly unwilling to accept that the UK Government have any role at all in the governance of the United Kingdom, and that is an unusual position to be in.

Lord Griffiths of Burry Port (Lab): My Lords, perhaps as a Welshman I may step outside the Scottish matrix just for a moment. Certainly the laborious process that produced the intergovernmental agreement and the tireless work of officials in securing that agreement has been well alluded to and needs to be repeated from this angle, too. However, the mechanisms that were evolved to take this whole matter forward have not yet been referred to in this debate. Let us remember that we have found methods of dealing with 129 out of 153 of the contentious areas, or the areas where there will need to be a joint approach to problem solving, and that work is going on.

The remaining 24 were, at this stage, considered to need more work on them. It was anticipated that that work would take place within these frameworks, and, as I recall, a *modus agendi* has been incorporated into the way that those talks and areas of discussion will take place. It will not be a case of matters being brought to an institution that has both English and British dimensions to it; within those mechanisms small numbers of people will represent the issues one at a time for each of the devolved areas. It is hoped that with those small groups agreements can be reached and ultimately brought to our Parliament. If agreement is not reached, a Statement has to be made to the House which will be debated and decided upon at that stage.

It seems to me that everything that could have been done in areas where we have no precedent to appeal to has been done. Certainly that was the opinion of the Welsh negotiators—I was with the First Minister of Wales this morning and that is certainly his position. We went back to Cardiff feeling that this was an honourable thing. The gloves were off, although of course we did not use the word “daft”. In Wales we would not do that, as we are a temperate nation. We reserve fisticuffs for the rugby field, where due justice is given to the Scots and the English in turn. However, there are mechanisms for solving these problems. They are part of the agreements that have been reached and they now deserve to be given a chance to work.

Lord Duncan of Springbank: I thank the noble Lord, who was very helpful, very constructive and very sensible. He is absolutely right that the discussions were honourable, and the gentlemen who left those rooms believed that they carried with them agreement on issues that would resolve the very things that we are discussing.

I should also make reference to the officials from Northern Ireland, who have taken on a role far beyond their expectations and beyond what, one might argue, could sensibly be asked of them. They have done so with an extraordinary commitment, which has been very welcome in those discussions.

The frameworks will be as described and they will need to function. A lot of assertions were made. Some newspapers that I read suggest that the Scottish Government will be unable to do anything at all in the area of agriculture for seven years. But that is not even close to being accurate, and this is a time for avoiding—to use temperate language—fake news. We should be able to get to the stage where we discuss things as they are.

In those self-same groups, there will be serious discussions about the functionality of the frameworks, but we should bear in mind that the frameworks now function within an EU context. How then will they be translated, tailored, trimmed and made more effective and more efficient in a UK context? Whether it is food labelling or pesticides—issues which, by their nature, are traditionally not particularly controversial—these things will be debated and will, I hope, result in the delivery of an approach that works for everybody in the United Kingdom. That is the key thing: ensuring that everyone in the United Kingdom emerges from Brexit in a fashion that gives them opportunities to develop without risk.

Lord McNally (LD): My Lords, I rise for two reasons. First, there is every danger that the noble Lord, Lord Forsyth, will intervene again if any time is left. Secondly, I put to the Minister a saying that was beloved of an old mentor of mine, Joe Gormley of the miners' union. He said, "Don't build platforms for malcontents to stand on"—but I fear that that is exactly what the Government are doing. It has been mentioned a couple of times that there were cleverer ways of doing this than the way used by the Government. If we are to get through this properly, they have to avoid the elephant traps which those who have no wish to see this union preserved will put in their way.

Lord Duncan of Springbank: My Lords—

Lord McNally: I am still within the time limit and I think that the Minister will have time to answer, so he should take no notice of those sitting to his left. I will leave him with one thought that worries me. It is the Conservative and Unionist Party that is overseeing the greatest threat to this union—and that should give some pause for thought.

Lord Duncan of Springbank: It seems I have a wee bit of time to answer. The one thing that I will note is that it is always disturbing to go into negotiations to which people have brought with them elephant traps. You would rather hope they were going into them in a much more evolved and sensitive manner to try to reach some sort of consensus. Anybody going into negotiations packing an elephant trap is probably not there for the healthiest of outcomes. I think we have managed thus far to try as best we can to deliver an outcome that will work—indeed, we have done so for Wales. I think we did so for Scotland, too: it is the Scottish National Party and the Scottish Government who decided that that was not the case.

Trades Union Congress 150th Anniversary

Motion to Take Note

3 pm

Moved by Baroness Prosser

That this House takes note of the 150th anniversary of the first Trades Union Congress and the contribution made by trade unions to industrial, social and political reform in the United Kingdom and internationally.

Baroness Prosser (Lab): My Lords, I am pleased and proud to introduce this debate this afternoon, setting out for your Lordships the reasons why we should celebrate and welcome the continuing role of the Trades Union Congress and why we should promote the valuable role played daily, both nationally and internationally, by individual unions. I draw the attention of noble Lords to my interests as set out in the register.

We often hear people say that the unions are not what they used to be. That may be, but they are still here and, with just short of 7 million members, they are by a long way still the largest voluntary membership organisation in the United Kingdom. Back in 1994, Robert Taylor, then the labour correspondent of the *Financial Times*, wrote in his book, *The Future of the Trade Unions*:

"Over recent years it has become fashionable in many quarters to write off Britain's trade unions, to deride them as obsolete institutions, out of touch with the new realities and incapable of change. Some critics have even suggested that they have completed the historical mission that many of them began in the last century. Not so. On the contrary most of them are still very much alive as they seek, in different ways, to adapt to the severe challenges that confront them through intensive global competitiveness and the adverse social consequences of an increasingly deregulated and polarised labour market".

He went on to talk about the changed world of individual contracts, total quality management and performance-related pay schemes, and to say that these changes lead people to conclude—wrongly, in his view—that trade unions are anachronistic obstacles to the success of the market economy. In the 24 years since that was written, trade unions have not collapsed but terms and conditions for very many workers have become much more difficult. While capitalism has served those at the top of the tree very nicely, thank you, it has left many others in precarious employment with falling incomes and uncertain futures: we have zero-hours contracts; so-called self-employment; temporary and agency labour; and delivery drivers chasing their tails to keep up with the employers' demands or else find money deducted from their pay packets.

The Government crow about the UK economy being in really good shape and constantly remind us that we have the lowest level of unemployment for 40 years. That is all well and good, but the "never mind the quality, feel the width" mentality does not bring stability to people's lives, nor does it enable people to feel that they have a stake in either their employment or even the country.

The Government's recently produced industrial strategy was big on the need to improve productivity but barely mentioned the role of the workforce, and certainly not the role of trade unions. Crucially also missing was mention of the importance of trained and experienced managers, when all the evidence tells us that good management, inclusive of the workforce, is what makes the productivity difference. As well as a coherent industrial strategy, a strategy towards corporate governance would not go amiss. The Government have recently announced the likelihood that companies over a certain size will have to publish their pay ratios. In my view, that is very necessary, but it is not on its own enough. If there is to be serious action to put the brakes on the massive gap between CEO rewards and the reward of the average employee, which has increased over the last 20 years from a ratio of 47 to 120 times more, there has to be a strategy to make that happen. Publication would of course help but my educated guess is that, without a plan, nothing much will change.

It is believed to be no coincidence that the massive income gap between the top and the average employee has grown at the same time as trade union membership and organised collective bargaining has decreased. All the evidence tells us that workers in union-organised workplaces will have better salaries, better terms and conditions such as holiday and sick pay, greater access to training and upskilling, and more chances at promotion and so on. Looking back over the years, there are numerous examples of trade union-initiated rights and services which have helped many thousands of workers to either gain redress or to be kept safe and

dignified in their workplaces. Health and safety; the national minimum wage; employment protection; decent pensions; protection against sex and race discrimination; rights for part-time and temporary workers; equal pay; rights and protections when a company changes hands, the so-called TUPE regulations—the list could go on and on.

Some of these rights have come from Europe but, like TUPE and the equal pay for work of equal value regulations, they were introduced into British law only after union legal actions against the then Conservative Government. More recently, the right of a worker to have access to having his or her case heard at an employment tribunal was restored after legal action by the public sector union UNISON. Some of these actions may be irksome to government, but if we want a country at ease with itself and a population with confidence in society and in its place in society, we need our political leaders to be a bit more on the front foot in recognising the legitimacy of workers' organisations.

Neither the TUC nor individual unions expect someone else to do their organising for them. There are good examples of current imaginative work. The TUC itself has a major digital initiative designed to increase the awareness of young workers and to help them engage with relevant unions. Unions21, a trade union think tank, is scoping, with the help of a number of general secretaries, ways of increasing understanding of and access to collective bargaining. The charity arm of TU Fund Managers, a financial company established more than 40 years ago by my noble friend Lord Christopher, is working with the Child Poverty Action Group to introduce training for union reps to enable them to help low-paid members understand and claim their in-work benefits. Those in-work benefits are required by those workers, because their employers are happy to pay rates that are so low they have to be subsidised by the rest of us taxpayers. So, yes, we are getting on with it, but we expect the country's Government to provide an atmosphere of respect and a framework for the collective voices of working people to be heard by those who employ them.

This Government, however, have consistently failed to properly engage with trade unions. Not only are unions currently underrepresented on key public bodies such as the Health and Safety Executive and the Central Arbitration Committee, it appears that the Prime Minister has met Frances O'Grady, the current general secretary of the TUC, only once since she became PM. Ms O'Grady has met Angela Merkel, the President of Ireland and various other international leaders more times than she has met her own Prime Minister. The absence of any contribution to this debate from the Government Benches speaks volumes as to the interests and concern of Members of this Government in trade unions. I accept, of course, that a contribution will be made by the Minister who is here to reply, but that is a slightly different thing.

In her acceptance speech when she was elected as Prime Minister, Theresa May said:

“The government I lead will be driven not by the interests of the privileged few, but by yours. We will do everything we can to give you more control over your lives”.

Providing a legal framework to enable working people to organise together to improve their lives would be a good start.

3.10 pm

Lord Sawyer (Lab): My Lords, I draw attention to my interests as set out in the register. I thank the noble Baroness, Lady Prosser, for initiating this debate. It is a pleasure to speak on this important subject and, in doing so, to recognise the important contribution that the noble Baroness has made to the trade union movement. Her wisdom, knowledge, tenacity and sense of humour are well appreciated in this House and way beyond it as well.

By definition, we had unions before the TUC. Tom Paine's pamphlet of 1772 making the case for a pay rise for customs officers, addressed to this House, was probably the beginning of collective bargaining. Sadly, he was sacked for his efforts—the shape of things to come—but he went on to better and greater things, as we all know. It was left to others to form the TUC, which today enjoys 150 years of progress for working people the likes of which Tom Paine would never have dreamed about. It is a beautiful and moving story of ordinary men and women, often facing serious wrongs and deep injustices, who learned that they could achieve more by standing together than they could alone.

It is essential to remember that today, after 150 years, those deep injustices and serious wrongs still exist, both in the UK and throughout the world. The struggle continues and people still fight for basic trade union recognition—for example, at the present time, the workers at McDonald's are unable to get the business to recognise them and their union for collective bargaining purposes. Do not let anyone tell you that there is no need for trade unions any more.

As a romantic amateur historian, I am now tempted to speak on the area that I like best—the lessons of the Tolpuddle martyrs; why Francis Place was called the tailor of Charing Cross; who supported the matchgirls' strike; and whether Jack Jones invented the shop stewards' movement—but I will resist the temptation on the basis that most noble Lords on this side of the House already know these stories better than I do, and noble Lords in the rest of the House, however few there may be today, would be bored.

More importantly, and seriously, this is a time when the trade union movement faces difficult and complex problems, some of which have been outlined by my noble friend Lady Prosser. It is a difficult time for trade unions and we need to address some of the issues. I see these challenges to the world of work in three ways—the first being the world of work as we thought we knew it and in which we have lived for a long time. However, with the fall of the House of Fraser, New Look and Poundland, more and more companies from the world that we thought we knew—and the jobs we did not particularly like—are falling away; we are losing them. Only this week it was announced that Jaguar Land Rover is leaving the West Midlands and going to Slovakia.

Secondly, there is the world of work that we are trying to come to terms with—we are not there yet—which is characterised by short-term contracts, insecure work,

[LORD SAWYER]

no proper benefits, the gig economy and an increase in mental health issues. All these problems are mainly unchecked, continue to accelerate, and are growing at a pace.

Thirdly, there is the world around the corner, the third world—not the Third World as we know it but a new third world here—of robots, artificial intelligence, nanotechnology, quantum computing, biotechnology and automatic vehicles. I could go on and on about this world, which we read about but do not know very much about.

The collision of these three worlds presents a huge and complex challenge for all of us—trade unions, employers and the Government—and it is the big thing we need to address. How are the trade unions going to meet these challenges? Certainly we cannot meet them on our own. I will come back to this issue.

Turning briefly to the TUC, whose anniversary we are celebrating, we have an outstanding leader in Frances O’Grady, one of the best leaders that any of us has ever seen. Its annual report shows that the organisation is making serious and often successful efforts to come to terms with many of the problems that we will face in the future. I celebrate that today and thank Frances and the trade union movement for doing that important work.

However, there are a couple of areas where we could make improvements, and I would like to make a few humble and simple suggestions. The big theme in my comments is to ask how we can make a difference in this new world. For example, for more than 20 years I have thought, and others may have thought—heretically—that unions should have outside representation on their executive councils. Unions do not like to hear this but it would include people with the same values and beliefs but from different walks of life. Many of us have seen that arrangement work in other organisations and how powerful it can be to bring people in from outside who do not actually belong to the team. They can add something of value and importance in helping people to think differently.

For example, Frances said this week that the unions are having trouble recruiting young people—so put young people on to executive councils. Do not have a young people’s advisory committee or a young people’s conference—have them on the board of directors. There you will get change from the top and they will get real and lasting change. I can remember in 1975 when my union, NUPE, took the immensely bold step of reserving five seats for women on its executive council—it was revolutionary in those days—and the decision completely changed the union. It had struggled to relate to its women members but, from then on, women started to take power in the union and everything changed. It was amazing how the change happened, and it spread from there throughout much of the trade union movement. So it is important that we consider how we can effect change and do things differently.

It is also important that the unions keep up their leadership development. Trade union leaders are often too busy with the needs of the organisation to think about their own development. Many of the generation of trade union leaders taking part in today’s debate had the benefit of enhancing our abilities through the

Cranfield training programme. It was of enormous benefit to me because I learned so many new things. I was challenged by a great deal of change and issues that I did not know anything about. It was enormously beneficial. When I became general secretary of the Labour Party, the national executive went to Cranfield and there were clear benefits at that time. I do not see any mention of it in the annual report but I offer as a generous and humble suggestion the idea that perhaps the trade union movement could reinstate that initiative.

I said earlier that I would return to the three colliding worlds of work which create huge problems for unions, employers and the Government. I say to the Government that it was a big mistake to proceed with the Trade Union Act 2016—I hope that they understand that now—because its provisions are divisive and damaging in the world of work. They were given wise advice at the time by a number of people, some of whom are taking part in this debate today. I can remember the noble Lord, Lord Brooke, and the noble Baroness, Lady Prosser, advising the Government strongly from these Benches, in a packed House, about the importance of building involvement and partnership at work and not to include the damaging provisions in the Bill. Obviously, the Government failed to listen.

However, it is not too late. My second theme is that it is not too late for the Government to change their mind and start taking constructive action. During the leadership campaign—the noble Baroness, Lady Prosser, is right—the Prime Minister pledged not only fairness for working people but that she would introduce worker and consumer representatives on consumer boards. She repeated it several times. I could not believe it. I thought, “My God, the Conservative Party is waking up to the real world. It will outmanoeuvre us on this. We should have done this decades ago and now the Conservatives are going to do it”. Obviously it did not happen. It was not to be. However, I say to the government Benches that there is still time to do that.

There is still time to do things differently and still time to make a change. We have to do something different in the three colliding worlds that I have explained. We cannot go on with a community in which the general secretary of the TUC meets the German Chancellor more often than she meets her own Prime Minister. We cannot tolerate that any more. We have got to have a proper dialogue between the trade unions and the Government. It is not too late to start. It requires a leap of imagination and faith. We can talk about cultural issues, about education and schools—we do not have to go in on a hard collective bargaining agenda. The Prime Minister could call Frances in and say, “Come on, talk to me about life and some of the things we need to do—outside the collective bargaining and the hard stuff—where we can work together and do things”. That needs to happen and it is my strong message from this debate today.

3.19 pm

Lord Brooke of Alverthorpe (Lab): My Lords, I too would like to express my gratitude to my noble friend Lady Prosser for initiating this debate and I add my congratulations to the TUC on reaching the ripe young age of 150. As we have heard, the trade union movement

has gone through some difficulties in recent years. I was around when we celebrated 100 years of the TUC, when we were substantially bigger in terms of membership. It was then the largest voluntary movement in the UK, but it is interesting to note that it is still the largest voluntary movement in the UK. It is not down and out, rather it is still alive and fighting. If we take a sensible and pragmatic approach to the issues and problems we have, I am one of those who is confident that the trade union movement has a role to play in the way described by my noble friend Lord Sawyer, and indeed with changes coming in certain areas, there may be an even greater role for it to play if it is able to adapt itself to them.

Opinion polls show that the most respected and loved organisations in this country are the NHS, the Royal Family, the BBC and HM Armed Forces. I do not think that there is much of the trade union movement in the Royal Family and unfortunately forces are not allowed to organise themselves into trade unions, which is what happens in many places elsewhere in Europe. However, the NHS and the BBC are substantially populated by members of trade unions. It is interesting to note that what the public like most of all have trade unions active within them. Those trade unions are active in the TUC and play a major role in determining its policies. What is the common theme in the organisations I have just mentioned? They are not in the business of profit, of taking people over, making themselves bigger or looking to capitalise. They are in the business of serving; they endeavour to serve the public. They try to make the UK a healthier, happier and better place to live. In turn they work with the TUC which basically was formed to bring together organisations that initially were about protecting terms and conditions but saw that they had to work across a broader front.

The TUC oversaw the formulation of the Labour Party. The 1899 Congress decided that it had wider ambitions that it needed to pursue on behalf of the British populace beyond looking simply at terms and conditions, but in regard to general social, education and health developments. To do that, it formed the Labour Party, which of course has made such a major contribution to the quality of life that we now have in this country. It is not perfect—far from it—but it has made major contributions, particularly in the 1940s in the areas of health, welfare and employment. That led to the creation of the NHS, which we will be celebrating in July.

As my noble friend Lady Prosser pointed out, rather than being a narrow organisation, the TUC has broadened its outlook. It is also very much an internationalist organisation. We now have the trade unions being very clear indeed about where they see the interests of their members lie in various different countries. As regards the current big issue, that of Brexit, they are in favour of internationalism rather than narrow nationalism.

However, there is no point in denying that the trade union movement has problems. The membership is ageing and it is finding it difficult to recruit younger people. It is therefore good to see that the TUC is doing its utmost to effect a breakthrough in that area. It is particularly good these days at advancing women's causes, perhaps more than almost any other major

organisation in the country. Frances O'Grady has given a strong lead and is a very good role model indeed for women elsewhere.

The other issue which I think we have a problem with confronting is that of how to deal with multinational corporations, but governments have that problem too. We are struggling to come to grips with it. Looking further ahead, as my noble friend Lord Sawyer did, we have the issue of technological change in all its different forms. The trade union movement has changed in recent years from being active primarily in manufacturing and services and has moved into the public sector. We now have more people in trade unions in the public sector than the private sector. Looking to the future, it would appear that in many respects, manufacturing will continue to diminish as AI takes over more and more functions which are carried out using hands rather than brains. That in turn will affect the trade union movement.

In the longer term, we will continue to have a need for people to work in the public sector in health, education and security. These are areas where machines cannot do the work. When someone has a mental health problem, they need an individual working with them, not a machine. It is true that technology can help, but in education we need the presence of people around us. We do not have enough teachers, nurses and doctors. Across the public services, which are the core of providing us with a good society, there is a shortage of people rather than too many. If we look further ahead, we will see that while there may be diminishing demand on the manufacturing side, the public services and entertainment areas will need more and more people to fill more and more jobs. These are the areas to which I hope that the trade union movement will increasingly pay greater attention in the future.

I think that the unions may have to be more flexible. My noble friend Lord Sawyer has advanced ideas about how they may look at themselves and seek to make changes. All of us would endorse that and say that they must look beyond seeing themselves as being devoted to collective bargaining. Five million people are now self-employed, which reflects a massive change that has taken place in recent years. Many of them are poorly paid, which is not what we normally think about the earnings of self-employed people. This is an area in which the trade union movement could be doing more work. I think that there are greater opportunities for partnership and for the trade union movement to look to support and engage with co-operatives. I know that that is an old-fashioned term, but when we look at organisations where employees own and run the business, we can see that they are extraordinarily successful. There are many opportunities in those areas for changes to take place. I would encourage the trade union movement to look at whether it could become a leader on that front rather than a follower.

Finally, I turn to the TUC itself. It is a great institution which has made a huge contribution to the social development and well-being of our country. Many leaders from the trade union movement have moved on to roles in public life and politics, and that should continue. It is a great pity that the Prime

[LORD BROOKE OF ALVERTHORPE]

Minister does not meet with the trade union leadership in the way we have seen in the past, and I hope that the Minister will respond to the questions which have been raised about that. In this, the 150th anniversary year of the foundation of the TUC, I hope that she will do something for the organisation by meeting not only the general secretary, but perhaps have the general council come to meet her in Downing Street.

We now have a diminishing band of trade unionists in the House of Lords; in particularly the number of women trade unionists has regrettably declined due to some recent deaths. Again, while we are trying to decrease the size of the House and some changes will have to be made to ensure that new blood comes in, I suggest that the Prime Minister might look at whether we could have some women trade unionists to fill the vacancies which have arisen. I am not talking about a great number but we have not appointed many trade unionists for many years. Trade unions are an integral part of society and the way that it is has developed over the years; I believe that they will continue to be so in the future.

We see capitalism expand and socialism, on the face of things, decline. We are going in circles. We are reaching a point where there will be difficulties in the coming decade, with our so-called strong leadership, as we swing to the right. A turn to the left will come as night follows day, and the trade union movement will still be around, providing support, assistance, encouragement and direction for the people of this country. I hope that the Government might reflect on their attitude to the trade union movement and give a stronger supporting hand than they have been prepared to give in the recent past.

3.30 pm

Lord Lea of Crondall (Lab): My Lords, it gives me special pleasure to speak in support of this Motion. We are indebted to my noble friend Lady Prosser for initiating this timely debate to celebrate the TUC's 150th anniversary. I am glad to see that my noble friend and long-term colleague Lord Monks, a former TUC general secretary, will be summing up. As has been said, his successor-but-one, Frances O'Grady, has risen to the challenging task and become highly respected in the wider community.

In 1968, I was four years into my first job at the TUC and played a modest role in the organisation of the TUC's centenary in Manchester; it was 100 years since 1868, when the TUC was founded there. The first meeting was in a different building, but the centenary was in a well-known venue, Belle Vue. The climax of that celebration entailed a young member of staff being instructed to borrow a white shire cart-horse—as in Low's famous cartoon—from one of Manchester's breweries. The planned highlight of the proceedings was for the horse to be led round the amphitheatre to a standing ovation from the crowd of 5,000, with the added injunction from Mr Victor Feather, "Make sure, lad, that the 'orse don't misbehave".

I want to make a point that has not been made. For 150 years, the TUC has been the single national trade union centre in Britain. There are not many of them in the world. Some statistician will tell me that there are

three or four, but there are not many—and certainly none of them are significant. The TUC has been a national centre for all that time with voluntary affiliation—a national centre that is not white collar versus blue collar, Catholic versus Protestant or communist versus social democrat. It is the TUC and it is a very broad church. I remember a debate some years ago about whether we should accept an invitation to visit to Moscow. We had a long discussion that went round in circles. Somebody then said, "Well, I don't see what we're arguing about. We always accept an invitation to the Scottish TUC, so why shouldn't we accept an invitation to go to Moscow?" So a broad church indeed.

In 1968, two other things happened that are worth a brief mention. First, it was the year of the publication of the royal commission report on trade unions, chaired by Lord Donovan. I was involved in the follow-up to that. In contrast to where we are now, I recall people saying not that the TUC and its unions did not lack self-confidence but that they were overconfident. The central issue then, largely in the private sector, was how far the shops stewards' committees fitted into industrial or national agreements.

As my noble friend Lady Prosser said, when people say that trade unions are about usefulness, I am sure that everyone in the Chamber—and outside it, too—will accept that the need is undiminished and there are difficult practical challenges in the labour market. But the famous pendulum has swung too far. We are now in what we might call a phase of capitalism that is absurdly unbalanced, in terms of income distribution, takeovers and mergers being based only on share prices. The only stakeholders are probably algorithms—and this cannot last.

The gig economy has been mentioned. Today, that Marxist newspaper, the *Financial Times*, wrote a powerful editorial saying that the Supreme Court made a necessary decision yesterday when it ruled that someone who worked for Pimlico Plumbers was indeed a worker and that a contract of employment existed. A range of ideas to somehow undermine the labour market is developing, but that is not what people at work want. No one thinks that people like to be on a zero-hours contract; some people, such as students, may occasionally want them, but you cannot get a mortgage on a zero-hours contract. Like many other things, this requires legislation. I hope that the Minister in his reply will acknowledge that the Government will look at the merits of proposals for legislation to deal with some of these things now.

We have a fight-back in place. We have had two very useful reports in the past 10 days. One was by the TUC—*Turning the Tide: Reviving Collective Bargaining and Voice at Work*—which made some very interesting suggestions. The other was by the IPPR—*How Stronger Unions Can Deliver Economic Justice*—and made a range of proposals. The TUC believes that there is scope for doubling the coverage of collective bargaining in the private sector within five years, and describes this as challenging but achievable. We certainly have to present those challenges in concrete terms and see what it is needed. Voluntary collective bargaining remains the best way to do things. One reason is that we know that employers are always quick to complain about

trade unions being overly powerful, but if they sign an agreement, we know that they can operate it. It is not an imposition because they as well as the trade union have signed it. That is so obvious but it is often overlooked as part of collective bargaining.

Another sharp contrast with the 1940s, 1950s, 1960s and 1970s is the absence of a Ministry of Labour—a point that was picked up by the IPPR. That absence is virtually unique in the OECD. This gap has sent all the wrong signals to Whitehall about employment standards, training standards and the responsibilities of employers; because Whitehall does not have such a Ministry, it is not seen as the place to be in terms of subject matter in the hierarchies of Whitehall. That is a huge mistake that must be rectified.

I cannot go into detail about all these legislative proposals, but I will confirm what my noble friend Lord Sawyer said: the idea of representation on boards of directors is one whose time has come and is overdue. It would make sure that there is a voice in the boardroom that says it is absurd that people should keep score simply by saying, “I need 1.5 million”, and then somebody says, “Well, I’ve got 2.5 million”, and so it goes on. In some cases it is billions, not millions. This is a far cry indeed from the truism in the 1950s and 1960s, when I grew up, that the ideal is that we are all in this together and we are one happy family. No one thinks that is the model nowadays. It was always slightly dubious at the time, but it certainly is not what people even aspire to nowadays. Again, that has to change.

So I hope that we will be able to put together a Bill to cover some of the proposals that are being made. I ask the Minister: will he and the Government agree to look at the merits of proposals in this field as and when they are put forward in terms of legislation?

3.41 pm

Lord Hunt of Chesterton (Lab): My Lords, I welcome this debate, led by my noble friend Lady Prosser, on the importance of, and differing contributions to many aspects of life by, the trade union movement. Although the number of members involved in trade unions has declined since the 1960s, their role is nevertheless very important.

I personally learned about the importance of trade unions when I was a student at Cambridge University in the 1960s. Then, all engineering students were encouraged to join a student society called “Human Relations in Industry”—a very idealistic title. Its president was Professor Kirkaldy, who was the Montague Burton professor of industrial relations. We used to organise joint meetings of leading trade unionists and management. For example, one of the famous evenings was when we discussed industrial relations in the shipbuilding industry. That was particularly notorious. Interestingly, by the end of the 1960s, notwithstanding perturbations in Paris and elsewhere, the bulk of the ambitious students were moving into becoming management. Au contraire, there were some informal groups of very left-wing students.

A few years later I began to see this from a practical point of view when I was a junior research engineer in the large Central Electricity Research Laboratories of the CEGB. I was able to see how a large, successful,

science-based, nationalised industry could be a great success based on excellent collaboration between management and the staff. The staff were represented by the trade unions. I was an active member of the Electrical Power Engineers’ Association and for my final few months I was the chairman of the Guildford and Leatherhead branch.

An important role of the trade unions, as seen by then a very junior engineer, was holding meetings addressed by very senior managers coming down from London about the strategic developments of the CEGB as its technology changed and new investments had to be explained. These meetings explained the related decision-making going on in Parliament, which led to the CEGB moving to nuclear energy, as well as coal and oil. In fact, that was when I began to understand what subsequently became *Pepper v Hart*: many decisions being taken were not in the Bill, but were what the Minister said. If they said, “We are going to have nuclear power”, we had it.

Equally important for staff were the trade union-led discussions about pension schemes. That has been one of the tragedies of the last 20 to 30 years: many pension schemes have failed. The role of the trade unions has not been as strong as it should be.

Then, after returning to Cambridge University, I was involved with trade unionists in many different aspects of science and technology. In one case I worked with BALPA—the British Airline Pilots Association—on the problems of landing at Heathrow with all the wakes of the big new hangars there. That was an interesting example of the trade unions working with academia, government agencies and industry. I also learned about another important aspect of the trade union movement: collaboration at a local level. I was very interested, from the environmental point of view, in the questions of traffic and air pollution. We co-ordinated meetings with the Cambridge trades council, the city council and the chamber of commerce in developing a very early stage of pedestrianisation and traffic management. Such activity up and down the country is a very important part of trade unions’ role. In fact, the trade unions could be more visible in this aspect of their work.

Some 25 years later, when I was head of the Met Office, I met the trade unions on my first afternoon for tea. I was then responsible for charring meetings between the trade unions’ representatives and management. These meetings were organised in parallel with direct meetings between staff, the chief executive and senior management. This has always been the parallel process in companies, particularly in the public sector. It was very important to have the two. As was mentioned by my noble friend Lady Prosser, new management techniques began to be developed, from cascaded management to total quality management—even the business of social and psychological methods in management. It was very interesting. They do it slightly differently in France, but many countries have moved in that direction.

As my noble friend Lady Prosser said, we could do more to introduce these techniques, and not just become behindhand. But it is the UK’s position, and the labour movement has not been particularly strong in

[LORD HUNT OF CHESTERTON]

wanting to introduce company law so that employees have representatives on company boards. The trade unions did not particularly welcome the recent tentative statement by the Prime Minister that the UK should consider this change. As noble Lords will have read, the newspapers—the *Daily Telegraph*, in particular—realised that this was a bit too much for the Conservatives as well.

The trade unions have a big role and influence in this country, but not at the same level as in Germany and some eastern European countries, where companies have supervisory boards. The role of the trade unions there has been very strong and guided the policy of big business and industry in dealing with very difficult problems. Germany essentially avoided the disruption that UK industry experienced in the 1970s and 1980s, and its long-term social, economic and political consequences. The TUC and the trade union leaders were not able to agree on the UK moving to the German model. We had the Bullock report, but that was not unanimously agreed to, which was a great loss. But the trade unions have had a very positive role in working with organisations of the European Union, thanks to the strong guidance of Jacques Delors—of whom the famous British newspaper said, “Up yours, Delors”. It was very interesting that at this time he completely changed the attitude of the trade union movement in the UK to Europe: it became very pro-Europe.

At that time our trade unionists were working hand in glove with the organisations of the European Union—it was quite different from the situation over here in the UK. What one hopes, of course, is that with Brexit—or despite Brexit—we will have learned something from the closeness between the trade union movement and the European Commission and have the same kind of closeness in Britain. I look forward to the Minister’s comments on that, if not those of Mrs May.

One of the big questions for this debate is how the trade unions will work with the Government, industry and civil society in future. Will we be even more positive when all employees have greater information? For example, employers might, as they do in the public sector—or used to—inform all members of staff when they join that they can join a trade union and that the subscription could be organised by the management of that organisation. The TUC, of course, in the wider roles mentioned by other noble Lords, has been very effective on social and human questions—in reducing prejudice and maintaining human rights—but trade unions also need to address technical and social issues, some of which I have mentioned.

I am a member of the House of Lords Science and Technology Committee, which has discussed the extent to which we should have trade unions involved or giving evidence to our committees. I believe that more of that should happen. For example, the role of the trade unions must be very strong in the questions of data availability and the secretive use of data by employers. In the last year or two there has been serious potential malfeasance in the use of data in the construction industry, and that has to some extent been resolved.

In general, workers should have more data about their employers and about the business of their employers, and not suddenly be told, like today, of 4,000 people losing their jobs. There needs to be much more openness about the plans moving forward. Those aspects of business, especially the financial business that affects companies, need to be explained to the staff. I believe we still have a long way to go in that respect. I reiterate that there is much more we should do in terms of information to staff. Does this mean that the UK will follow other countries by introducing other methods by which much more data is available? One of the questions is, is the trade union movement in favour, as I am, of identity cards? It is quite interesting that there is a considerable move: even those who were against identity cards realise that this may be one of the most effective ways of solving security and other problems.

Finally, I look forward to the response of the Minister. I hope he will explain what view the Government take about increasing responsible trade union membership, and how they will encourage the trade unions to work with the public and private sector and to have a greater role in public decision-making, which should include meeting government leaders.

3.52 pm

Lord Fox (LD): My Lords, I too congratulate the noble Baroness, Lady Prosser, on securing this debate and I also congratulate the TUC on reaching 150 years. By the time the noble Lord, Lord Monks, sits down, we will have had the benefit of at least 150 cumulative years of trade union representation.

For my part, I can contribute only five to that sum. My period as a trade unionist coincided with another period of new technology. We have heard a number of Peers mention the implementation of new technology, but as father of the chapel, my job was to negotiate the implementation of single entry key journalism. So far, so good, but when I tell noble Lords that the person I was negotiating against was Lord Howie of Troon, they will understand that it was a challenging job. Will sadly passed from this House last week, but the fact that we managed to reach agreement and remained friends is perhaps also credit to the fact that trade unions have to be about relationships. A good trade union is about having a relationship between workers and management.

I will not be telling the noble Lord, Lord Sawyer, that trade unions are no longer needed. One of the saddest things about this debate has been the number of times people who so strongly support trade unions have had to qualify that by saying, “We still need them”. Actually, it should be taken as read that we need trade unions to represent people. The Liberal Democrats are absolutely committed to sustaining, improving and supporting the work of trade unions. We defend free speech and the right of association, and the rights and interests of employees, who should be properly represented. Obviously, the unions are a very important part of that. That said, a number of speakers, including the noble Baroness, Lady Prosser, have talked about the weakness of the unions. We need to think about how public life can embrace unions to take them forward into the next phase. As a

number of your Lordships have said, capitalism has changed. Clearly, unions are changing and must continue to change to represent that.

The noble Lords, Lord Hunt and Lord Brooke, highlighted the internationalism and Europeanism of the trade unions. Your Lordships would expect a Liberal Democrat to say that we appreciate the way in which trade unions have consistently made the case within the Labour Party for closer co-operation with the European Union, going right back to the 1980s. This really did help usher in the Social Charter and policies such as the working time directive, which have made significant improvements to the lot of many workers in this country. It is a shame that the Labour leadership continues to ignore the trade unions' urge to remain part of the single market and the customs union, but no doubt we can discuss that in another debate.

Trade unions have been under fire. We can talk about a lot of legislation. I will mention only the Trade Union Act 2016, which was a partisan measure designed to weaken the influence of trade unions. It created unusual and unique barriers to the ability of unions to make decisions. The Liberal Democrats blocked many of those provisions in coalition, which the then general secretary of the TUC acknowledged. But I ask the Minister: what has this Act achieved, other than creating even more of a "them and us" attitude? The Conservative Party is wrong to think that business does not want unions and that good business excludes unions. We know that some of the country's best businesses are the ones that have good, functioning, strong unions. It is very sad that that attitude still seems to prevail.

Looking forward, there is a lot of work to do. We have talked of some things today. As Liberal Democrats, we are happy to work with the unions to try to bring about some of the changes we think will embrace the new future that a number of your Lordships have mentioned. Worker representation and corporate governance are absolutely central. We read and talk about a crisis of confidence in big business in this country. One way of addressing that is to modify the way in which business is run, boards are constituted and the wider stakeholder group, beyond shareholders, is represented in that. Of course, employees are a major stakeholder in any business. Unions are not there to wreck the business. Trade unions have as much interest in the success of a business as the owners. I would like to think of trade unions representing the owners in the case of more employee share ownership.

Trade unions can work, and in my experience have worked, to eliminate unproductive working practices but of course the benefits of that process have to be shared equitably across the concern. A well-functioning economy is one where the stakeholders of a business are much better represented within the management of that business. Liberal Democrats support bringing management and employee interests together; for example, by promoting different models of enterprise such as mutuals or co-operatives. As we move forward into the new world, we should look at how those new models can be encouraged. Perhaps the Minister can say what the Government's position is on those kinds of business models.

At the same time, as a number of speakers have said, we have to develop new categories of workers. The Supreme Court judgment yesterday is one element of that. Again, I think there was a union involved in bringing that case. But there needs to be a categorisation of employees that recognises the nature of the gig economy. Unions, political parties and perhaps the legal system have to fight to make that real. When there is a downturn, workplaces are happier, more productive and more resilient if employees are treated as partners in those enterprises. Unions, working properly, can of course help to create that.

Strengthening worker participation is important. We strongly support staff representation on remuneration committees. We believe that has to be part of narrowing the gap mentioned just now by the noble Baroness, Lady Prosser. All UK-listed and private companies with more than 200 employees should have at least one employee representative on the board.

The noble Lord, Lord Hunt of Chesterton, pointed to the German and Dutch models of supervisory boards. I have had quite a lot of experience working in businesses that had those kinds of models, which deliver a much more considered type of management. It sometimes takes longer to make decisions, but the need for management to bring consensus into decision-making is really important. The trade unions within the supervisory boards have that important role. Perhaps the Minister can tell us what has happened to some of the proposals that the Prime Minister brought with her when she entered 10 Downing Street. She talked a good story about changing corporate governance and about worker representation. So far, we have seen none of that.

My final point is about ownership. We on these Benches are committed to giving staff in listed companies more rights to request share schemes. Worker share ownership is a liberal, pro-business response, which certainly helps address low productivity and inequality. I conclude, for the first time in my career as a Peer, by quoting John Stuart Mill, who was a passionate advocate of workers owning their own companies. In his words—not mine, please—he said that,

"the relation of masters and workpeople will be superseded by partnership",

and,

"association of the labourers with the capitalist".

There is a strong liberal tradition that runs through trade unions. We continue to support the need for trade unions and congratulate the TUC on its first 150 years.

4.02 pm

Lord Monks (Lab): My Lords, I start by declaring an interest. I am the oldest living former general secretary of the TUC, a position that I am in no hurry to relinquish. I am grateful to my noble friend Lady Prosser, a very good friend and close colleague for many years, for initiating and so skilfully introducing this debate to celebrate, as we do today, the TUC's 150th birthday and the contribution it has made to the well-being of this country in so many fields of public life.

[LORD MONKS]

My noble friend Lady Prosser has, by the way, been a doughty and effective champion of rights for women. The progress made by women in the trade union movement, so that today there are more women members than men within the TUC, is in no small measure due to the efforts of my noble friend and others who have led the way in making the TUC more equal and more representative.

I am also grateful to the other speakers. A range of views have been articulated, all of them constructive. I will not go through them all but there were plenty of ideas there, which people will look at with great interest in the trade union movement. I am sorry to say that it is a bit of a pity, but perhaps not a surprise, that apart from the Minister, who has his job to do, there were no Conservatives down to speak. I see that the noble Lord, Lord Hunt of Wirral, is now looking for an invitation, but I am afraid that no trade unionist can miss the opportunity to get off work early, as we are likely to do this afternoon.

What we have lacked in quantity, we have made up for in quality in the debate. Manchester was the TUC's birthplace all those years ago. As many noble Lords can tell, it was also my birthplace. I recall with pride that in 1968, on the occasion of the TUC's centenary when, as my noble friend Lord Lea said, the celebrations were located in Manchester, my father, a parks superintendent, designed and installed in a central city park a floral clock with the TUC logo to celebrate those first 100 years. Little did he or I know that, two years later, I would have a job with the TUC.

In its 150 years, the TUC has had its ups and downs, but it has proved pretty resilient in the face of the great economic change from the UK as the undoubted, yet-to-be-challenged workshop of the world to the predominantly service economy of today. It has stuck up for working people in slumps and booms. It has seen its membership grow, contract, grow again and contract again. It gets written off, as we have heard from other speakers, but it has always found a means to bounce back. Six million people just cannot be wrong in this day and age when voluntary organisations generally are under threat, as far as keeping going is concerned, in a more individualistic and atomistic world than was perhaps the case in the earlier years of our lives.

I am glad that the efforts and determination of the current general secretary, Frances O'Grady, have been referred to in this debate, particularly her new initiative to attract to union membership young people isolated, vulnerable, uncertain about their prospects and perhaps burdened with debts which earlier generations did not have to anything like the same extent. In this precarious labour market, setting off on your own is a pretty daunting prospect unless you have pretty unique skills that are attractive in the labour market. Frances is proving a great asset to the TUC, and on this side of the House and, I hope, more generally in the country, we are very proud of her. As a former general secretary, I am proud of the staff who support her and do a very good job.

Since the 1980s, we have seen certain features which characterised the Victorian labour market—casual working, low pay, arbitrary action and degrees of

exploitation by unscrupulous employers—coming back into today's labour market. I am not pretending that we are back in Dickensian England, but they are features of today's labour market which Dickens and the delegates to that first TUC in 1868 would recognise. I pick out one central point in particular: it is now clear that the rise in inequality since the 1980s coincided with, and was perhaps partly caused by, a decline in trade union membership and the coverage of collective bargaining. Collective bargaining now covers only about 30% of workers, and outside important exceptions, such as engineering and steel, industry-wide agreements have disappeared in the private sector. The bargaining that does take place is at the lower company and plant levels. This is obviously often very vulnerable to changes in management styles and policies, personality changes and particular changes such as outsourcing, privatisation, the use of agency labour and the rise of zero-hour contracts.

The results of that are now clear. The share of wages and salaries in the national income has been falling. Real wages have been stagnant and insecure contracts are increasingly the norm, especially for the young. I acknowledge that the flexible labour market, much lauded by many over the past 30 years, has a good side—the high level of employment has been impressive—but it has a dark side that has permitted exploitation and arbitrary treatment on a grand scale. It is also, unfortunately, linked to poor productivity and poor training, and the economic performance of this country leaves a lot to be desired. In particular, it cannot be a cause for celebration of the flexible labour market that it takes the average UK worker five days to do what a French or German worker does in four. That is a pretty damning statistic.

Meanwhile, as others have said, top executive pay continues to spew out lottery-winning sums to executives whose performance is often ordinary and in some cases downright dismal. I accept that the trade unions have not yet been able to arrest these trends. The collapse of traditional manufacturing industries, the restrictions imposed by a whole series of hostile laws from a succession of Conservative Governments—we have heard the latest one, the Trade Union Act 2016, mentioned today—and the focus of many managements on short-term shareholder value have all been factors in this weakness. In fact, it has always seemed to me that every time a Conservative Government want to cheer up their constituency associations, while at the same time not spending any money, they introduce a Trade Union Act. Give the unions a kick, we squeal and people in the constituencies think that is pretty good—a pretty unfortunate way to run the country.

I am not just talking about Conservative Governments. New Labour was very different, introducing a lot of welcome steps. I was a strong supporter of that Government on the public sector, the national minimum wage, new rights for trade union recognition and a whole raft of individual rights on maternity, paternity, time off and so on, which were very impressive. However, they were too cautious in promoting a new, fairer settlement generally at work and in arresting this trend towards greater inequality and insecurity. Maybe we thought the good economic times of the early part of

this century would run for ever, but they did not. We crashed and we are now left with this picture of insecurity and inequality.

On the question of the flexible labour market, it has been a matter of great frustration for me that we in this country have not been able to emulate other economies in northern Europe such as Germany, the Netherlands and Scandinavia and introduce European-style social partnership with extensive collective bargaining, strong consultation and a move towards decision by consensus, including having workers represented on the boards. I am sure that that remains the way forward, but too often the UK has preached deregulation to our EU partners or even bragged about the lack of protections and rules for workers and, implicitly perhaps, about the weakness of British trade unions.

My time is up. I was going to conclude by saying that it was the speech of Jacques Delors at the TUC that led the British unions to embrace the EU, as others have said. Delors outlined a powerful single market combined with a lively social dimension, with a range of rights and opportunities. It was important that that initiative should not falter but it did, and the result has been the fact that in too many working-class communities the vote to leave was a reaction against seeing a Europe that did not seem to be doing too much for workers.

Stanley Baldwin has never received rave notices for his performance as Prime Minister, derided by Winston Churchill and Lord Birkenhead, who said:

“I think Baldwin has gone mad. He simply takes one jump in the dark; looks around and then takes another”—

a bit like the Brexit negotiations at the moment, by the way. However, Baldwin was consistent in some respects. He was aware that something had to be done after the General Strike to improve matters and he encouraged collective bargaining, strengthened the new Ministry of Labour and built up joint industrial councils. Crucially, he consulted the TUC, even on the induction of King Edward VII. Baldwin’s worries about employers if left unchecked seem to me to be very contemporary. Maybe the Minister can tell us if the Government are giving any consideration to a little bit of “back to the future” and the Stanley Baldwin lesson.

4.14 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, I echo other noble Lords in offering my thanks and congratulations to the noble Baroness, Lady Prosser, on introducing the debate, and the noble Lord, Lord Sawyer, in paying tribute to her union record. I also offer my congratulations to the noble Lord, Lord Monks, on being the oldest living former general secretary of the TUC—long may he continue to be so—and thank him for welcoming my noble friend Lord Hunt to these Benches. Perhaps I may deal with the complaint that has been made that there seems to be a lack of representation on these Benches. It is worth pointing out to the House that the debate was tabled only two days ago. It is often difficult, as I am sure that representatives of the trade union movement would acknowledge, to make people available at short notice. The noble Baroness had similar problems in that two of her speakers seem to have dropped out.

I do not complain about this, but much of the debate has been spent raising and addressing points that might have been best addressed by the noble Lord, Lord Monks, as a former general secretary—or perhaps we could pass them to Frances O’Grady, the current general secretary, as much of the debate has been directed at the problems that trade unions themselves face, as suggested by the noble Lord, Lord Brooke, when he talked about technological change and the need to get people into unions. The noble Lord, Lord Sawyer, also talked about problems of recruiting. I must say that those are not problems for the Government to address, but for the unions themselves to address.

Lord Lea of Crondall: To avoid misunderstanding here, we are not asking the Government to do the job but to get rid of some of the obstacles. One example is the right of unions to go to a workplace to talk to representatives and others.

Lord Henley: My Lords, recruiting is a problem for trade unions to address; I do not believe that there are the obstacles that the noble Lord suggests.

There has also been considerable reminiscence—again, I make no objection to this. We went back to 1968 and heard about the activities of the noble Lord, Lord Lea, who was involved in the 100th anniversary. Those were the years, I seem to remember, of *In Place of Strife*. We have had much trade union legislation since then, although *In Place of Strife* did not get as far as it might have. The noble Lord, Lord Hunt of Chesterton, remembered his time as chief executive of the Met Office, negotiating with the unions there. I can add my own memories as a Defence Minister in the 1990s, chairing jointly with Jack Dromey—before he was an MP, when he was working for the unions—one of what used to be called the Whitley councils. I think it was the last one to be co-chaired by a Minister. I pay tribute to Jack Dromey for guiding me through that process in my short time there.

The debate has been useful. It gives us all, including the Government, a chance to express our appreciation of the important work that the Trades Union Congress does and to celebrate those 150 years. On behalf of the Government, I offer my congratulations to the TUC on its achievements and recognise the importance of its contribution. I restate our commitment to continue close working with the TUC and unions more generally.

My right honourable friend Greg Clark, the Secretary of State for Business, Energy and Industrial Strategy, was at the reception on 6 June to mark the 150th anniversary of the TUC. He said:

“It’s absolutely fantastic to be here this evening to celebrate 150 years of the TUC. While it’s true to say that—from the beginning—the TUC has been associated with ‘that other party’. It’s also true that the appreciation of what the TUC does transcends what side of the House we sit on or the colour of the membership card in our pocket”.

I echo the words of my right honourable friend on that occasion.

That first-ever Trades Union Congress was a historic moment. It brought together delegates representing nearly 120,000 workers to discuss issues, including working hours, apprentices and technical education. Those topics are just as relevant today, and so too, is the TUC. It has shaped our society over those 150 years.

[LORD HENLEY]

The TUC and union campaigning provided the impetus for the National Health Service. It drove the Equal Pay Act in the 1970s, and the introduction of the national minimum wage in the 1990s.

In 2007, the TUC said that smoking in public was a risk to workers' health. Whatever our view on the ban on smoking in public, it was something we strived to do, so we can be grateful for that. The TUC's arguments led to the subsequent smoking ban. In 2011, following a TUC campaign, agency workers gained the right to receive the same treatment as permanent staff carrying out the same work. The TUC, as many noble Lords said, works in international fora, and the training and assistance it provides to trade union organisations around the world has earned it international respect.

It is not just workers who have benefited from 150 years of the TUC. The Trades Union Congress has been essential to the democracy that we recognise today, particularly, as the noble Lords, Lord Lea and Lord Monks, made clear, through the founding of the Labour Party at the beginning of the last century. But democracy is not just about political parties and elections. Trade unions have represented their members and lobbied for wider changes in society. They have campaigned on other issues, such as equality for women and other groups, combating modern-day slavery or tackling child poverty—again showing how they can effect change to the benefit of us all.

Of course, since the beginning, the central focus for unions has been work and the workplace. Over the decades they have improved the working lives of their members, and—I want to make this clear—this Government hope to see that continue. I believe that unions have been most successful when they have engaged constructively with employers, the Government and other parties. For example, the success of our car industry has been built on good industrial relations. I am sure that many in this House will remember what it was like before.

Many employers and their representative bodies, such as the CBI, have also recognised the constructive role that unions have played. Throughout the country, trade union health and safety representatives have made our workplaces safer. Not only does this benefit workers, it contributes to our economy through reduced accidents. I believe that we now have an enviable safety record in which we should all take pride, and I want to thank the unions for their role in achieving that. They have also invested in people, working to develop the skills of their members.

Unionlearn, mentioned in a previous debate some years ago on this very subject, is an excellent example of this. It has helped to engage more than 50 trade unions in more than 700 workplaces. It has helped establish 600 union learning centres, where its representatives help those with low literacy and numeracy. Unionlearn projects have also helped recruit and support thousands of apprentices. For these reasons, the Government will continue to support Unionlearn with over £8 million pounds in the next two years.

Today, we continue to work closely with the TUC, and we listen to its advice on a range of issues. I want to thank the TUC, and in particular its current general secretary, Frances O'Grady, for the co-operative approach

that it has shown over the years. We should congratulate the TUC on following the Conservative Party in electing its first female general secretary. Perhaps the Labour Party could follow suit in due course; there are lessons to be learned from both the TUC and the Conservative Party. I stress that we have engaged with Frances O'Grady. The noble Baroness, Lady Prosser, complains that there has been only one meeting between my right honourable friend and Ms O'Grady, but my right honourable friend the Secretary of State for Business, Energy and Industrial Strategy met her as recently as April. My right honourable friend David Davis also met her in April, and there have been other meetings with Ministers over the course of this year.

I have to confess that I have not yet met her since I moved to that department, but I did meet her briefly in my time in the Home Office, in a previous incarnation in government, when she was assistant general secretary. I shall certainly pass on concerns that she would like—or noble Lords would prefer—another meeting with my right honourable friend. There might be slightly too many tanks parked on too many lawns at the moment, and other matters to attend to. However, we will certainly continue to engage with the TUC and the general secretary, and we are grateful for the chance to do that.

Obviously, there will continue to be disagreements, in the spirit of general debate. But in the spirit of this debate, I do not want at this stage to dwell on them. I shall move on to the TUC's significant concerns about the changing nature of the world of employment. It made significant contributions to the Matthew Taylor review and supported the work of the Low Pay Commission. Again, my right honourable friend the Secretary of State has highlighted the importance of the worker voice in the industrial strategy. The noble Baroness, Lady Prosser, regretted that there was no mention of the trade union side. We will continue to develop work on the Matthew Taylor report. As noble Lords will be aware, we made our first response to it in February, and we will continue to develop it over the course of the coming months.

Frances O'Grady has also attended the task force that has advised on the impact of Carillion's insolvency on small firms and employees, making as always very useful and insightful contributions. Again, on behalf of my department, I thank the TUC and the wider union movement for their help in putting our industrial strategy into place.

I do not want to go over all the arguments, but I appreciate that not all noble Lords in this House are happy with the Trade Union Act 2016. The noble Lord, Lord Fox, mentioned it, as did noble Lords from the Labour Benches. I do not think that now would be the right time to rehearse all those arguments again, but it has ensured that, from now on, when strikes take place they will have the support of a reasonable proportion of the workforce. It is not right that public services are disrupted by strikes that have little support from the workforce. No doubt, there will be other opportunities and moments to discuss that and other changes in due course.

Today we have celebrated the achievements of the TUC and the wider movement. As Frances O'Grady has recently said, this anniversary is not just about the

past. It was she who said that the unions themselves need to look to the future. Our economy and our society, as the noble Lord, Lord Fox, made quite clear, are constantly changing, and unions—like the rest of us—will need to adapt in order to maintain relevance in the future. I have every confidence that the TUC will adapt to the future and that the cart-horse from the Low cartoon mentioned by the noble Lord, Lord Lea, when he went out to try to find one to take part in the 100th anniversary, will be able to adapt itself into whatever type of horse is necessary to deal with the future.

I think the TUC also has the right approach. Under Frances O’Grady, the first woman general secretary of that great movement—I am sure that the noble Baroness, Lady Prosser, is very pleased that the TUC has reached that stage—the TUC has led on constructive engagement with both employers and the Government, which I believe must be the way forward for the union movement as a whole. Again, I thank the noble Baroness for introducing this debate—I do not think I have to beg to move, so I will sit down at this stage.

4.30 pm

Baroness Prosser: I thank the Minister very much indeed, and of course all contributors to the debate. I

think that I did say in my remarks that we in the trade union movement do not expect the Government—or anybody else, for that matter—to do our organising for us, but what we look for is a framework that welcomes the contribution of the trade union movement.

Despite the warm and much appreciated words of the Minister, there is an atmosphere out there that we all feel—it is not imagined; it is there. There has been enormous difficulty for the TUC in getting its representatives appointed to public bodies, despite the fact that these people come with much knowledge, experience and expertise. There is an atmosphere—to use the phrase that has become a little fashionable at the moment, there seems to be a “hostile environment”—which is something that I am sad about. It means that government departments and Ministers are missing out on being able to make use of and benefit from the vast experience and knowledge of those people who come through the trade union movement. It is a bit of a sadness but, having said that, the debate has aired a lot of knowledge and information, and I once again thank noble Lords for taking part and thank the Minister for his reply. I beg to move.

Motion agreed.

House adjourned at 4.32 pm.

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