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Tuesday  
4 June 2019

PARLIAMENTARY DEBATES  
(HANSARD)

# HOUSE OF LORDS

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<b>Abbreviation</b>	<b>Party/Group</b>
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
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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Viscount Younger of Leckie  
 The Rt. Hon. Lord Young of Cookham, CH §

§ *Members of the Government listed under more than one department*

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THE  
PARLIAMENTARY DEBATES

(HANSARD)

IN THE FIRST SESSION OF THE FIFTY-SEVENTH PARLIAMENT OF THE  
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
COMMENCING ON THE THIRTEENTH DAY OF JUNE IN THE  
SIXTY-SIXTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

FIFTH SERIES

VOLUME DCCXCVIII

SIXTEENTH VOLUME OF SESSION 2017-19

House of Lords

*Tuesday 4 June 2019*

2.30 pm

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

**Deaths of Members**

*Announcement*

2.36 pm

**The Lord Speaker (Lord Fowler):** My Lords, I regret to inform the House of the deaths of the noble Lord, Lord Spicer, and of the noble Lord, Lord Patel of Blackburn, both on 29 May. On behalf of the House, I extend our sincere condolences to the noble Lords' families and their friends.

**Retirement of a Member: Lord Ouseley**

*Announcement*

2.36 pm

**The Lord Speaker (Lord Fowler):** My Lords, I should also like to notify the House of the retirement, with effect from 24 May, of the noble Lord, Lord Ouseley, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I thank the noble Lord for his much-valued service to this House.

**Housing: Social Rent**

*Question*

2.37 pm

*Asked by Lord Shipley*

To ask Her Majesty's Government what plans they have to increase the number of new homes built for social rent.

**Lord Shipley (LD):** My Lords, I beg leave to ask the Question standing in my name on the Order Paper, and remind the House of my vice-presidency of the Local Government Association.

**The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con):** My Lords, in October 2017 we announced £2 billion towards the now £9 billion affordable housing programme, which will support the delivery of at least 12,500 social rent homes in areas of high affordability outside London. We have also removed the HRA borrowing caps for local authorities, announced a further £2 billion of long-term funding for housing associations, and are setting a long-term rent deal for councils in England from 2020. It is now for housing associations and local authorities to accelerate delivery and build more homes.

**Lord Shipley:** I thank the Minister for his reply. He will be aware that there is a difference between affordable and social housing. He will also be aware that this year marks the centenary of the housing Act 1919, which created council and social housing. Given the scale of homelessness today, and given that waiting lists for social housing stand at over a million households, does the Minister accept that a new generation of social housing is required, rather than just a few thousand new homes a year?

**Lord Bourne of Aberystwyth:** My Lords, I certainly agree with the noble Lord that there is a challenge. We have just had the best year of housing delivery for 30 years, bar one year, but that is not to be complacent. There is certainly a challenge; I accept that we need to build more social homes. The raising of the £2 billion budget will certainly help in that regard, as will the elimination of the HRA borrowing caps.

**Lord Best (CB):** My Lords, the Affordable Housing Commission, which I have the honour of chairing, has been looking at issues around affordability. Our evidence clearly demonstrates that rents, not just in the private sector but increasingly in the social sector, are leading people into all kinds of serious difficulties, such as debt, arrears, personal problems and indeed homelessness.

[LORD BEST]

Does the Minister agree—with the CSJ, the housing commission, Shelter and so many others—that we need more social housing but at genuinely affordable rents, which are less than the rents that housing associations are required to charge today, otherwise this will cost the Government greatly in housing benefit, homelessness, temporary accommodation and, indeed, the misery of the people affected?

**Lord Bourne of Aberystwyth:** My Lords, as always, the noble Lord makes a powerful point and speaks from great experience. He is right that the current welfare budget, excluding pensions, is £119 billion per annum—a large amount. We have to be conscious of the link between housing and welfare, so I take the point. However, I am sure he will appreciate that the affordability measure enables us to provide more housing. It is about getting that balance right.

**Lord Naseby (Con):** My Lords, is it not encouraging that shared purchase, as a concept and now as a practical arrangement, is increasing? Are the new figures for council housing, which my noble friend has mentioned, not equally encouraging? But what exactly is happening with garden towns? They are the catalyst that could help part of the problem in our great urban areas. The new towns projects—and I had the privilege of sitting for a new town—were highly successful in moving people out of conurbations so that those who had to stay could move into the vacated homes.

**Lord Bourne of Aberystwyth:** My Lords, the noble Lord is right that there are encouraging features, and about the garden towns concept. I am conscious that I owe him a letter; I checked just before leaving and it should be with him tomorrow. It is right to say that this is the successor to the new towns programme. There are many exciting features, not least the Oxford-Cambridge arc, which we will appoint a business manager to oversee. It should provide many of the homes that we need for the future.

**Baroness Blackstone (Ind Lab):** My Lords, I am sure the Minister is aware that, in recent years, local authorities have spent over £1 billion on temporary accommodation over three or four years. He talked about getting the balance right; surely this is not getting the balance right. That amount of money is going on accommodation that will not last, and children in those families will suffer hugely: their education and home life will be damaged. This is a matter of real urgency. The Government's programme is not sufficient in the funding being made available to local authorities and housing associations to solve the problem of social housing.

**Lord Bourne of Aberystwyth:** My Lords, I have already acknowledged that it is important to deal with this issue. I am sure the noble Baroness is aware that the Homelessness Reduction Act has resulted in a lowering of the number of people who are homeless. It is difficult to make the comparison with the statistics, but the evidence tends to suggest that. Yes, there is

work to be done, not least on the provision of homes at social rent. As I have indicated, that is something we are determined to do.

**Baroness Browning (Con):** Does my noble friend envisage that the solution to the need for social housing would be met by nationalising all available building land throughout the country, including presumably land owned by charitable trusts, Church Commissioners and others?

**Lord Bourne of Aberystwyth:** My Lords, I think my noble friend is referring to the policy initiative of the leader of the Opposition, and I tend to agree that that will not help solve the problem. We are intent on getting the balance right and ensuring that, in tenancies, there are the right measures to deal with disreputable landlords. However, the compulsory purchase of people's property is not the way forward.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I refer the House to my relevant interest as a vice-president of the Local Government Association. How many homes for social rent have been lost since 2015 by the conversion to the affordable rent model?

**Lord Bourne of Aberystwyth:** My Lords, I do not have that specific figure to hand, but I will write to the noble Lord with it. As I have indicated, it is important that we build more homes for social rent, and we are intent on doing that outside London. Within London, there will be provision of affordable homes at the level of social rents; that is part of the programme and we are delivering that with the Greater London Authority.

**Baroness Thornhill (LD):** My Lords, does the Minister agree that the Government's own social rent policy is a key component in creating a sustainable funding model for building social housing? As this policy is due for review in 2021, will the Government take this opportunity to provide renters, housing providers and investors, including councils, with some clarity, predictability and stability in this market, which at the moment they do not feel they have?

**Lord Bourne of Aberystwyth:** My Lords, I am a little surprised that the noble Baroness said that. As I indicated, we removed the HRA borrowing cap, which was a substantial barrier to provision of housing for social rent, as was acknowledged across the board. It has been widely welcomed, not least by her own party, and will make a real difference. I am not sure what additional clarity she is referring to, but I am happy to meet her separately if it is helpful.

## Creative Industries: Apprenticeship Levy Question

2.45 pm

*Tabled by Baroness Bonham-Carter of Yarnbury*

To ask Her Majesty's Government what steps they are taking to ensure that Apprenticeship Levy contributions from creative industries companies are invested in creative industries skills development.

**Lord Foster of Bath (LD):** On behalf of my noble friend Lady Bonham-Carter of Yarnbury and at her request, I beg leave to ask the Question standing in her name on the Order Paper.

**Viscount Younger of Leckie (Con):** My Lords, the apprenticeship levy is helping employers in all sectors to make sustainable investment in the skills that they need to grow and is driving up the quality of apprenticeships. We have acted on feedback from employers in our world-leading creative industries about how they can realise the benefits of apprenticeships. That is why, this year, we introduced additional flexibilities in how the levy can be used and continue to support employers in building their programmes.

**Lord Foster of Bath:** I thank the Minister for the response, but it is widely accepted that for the creative industries, the apprenticeship levy is simply not fit for purpose. New figures now show that unless still greater flexibilities are built in, nearly half of the creative industries' levy money will go unused. Why cannot levy-paying employers give even more of their unspent levy funds to apprenticeship training agencies or for other training purposes? Why can we not introduce an Open University-style credit scheme to help the many would-be creative industry apprentices who cannot meet the current minimum 12-month employment rule?

**Viscount Younger of Leckie:** The noble Lord alluded to the fact that we have raised the transfer percentage rate from 10% to 25%, and we believe that that is the right approach. Much work is being done regarding the creative industries. For example, the focus, as the noble Lord will know, is on standards rather than frameworks. We have already developed and put through 26 standards in the creative sector, with another 16 on the go. I recognise that the creative sector is more of a challenge, in that it is quite disparate, being made up of a number of small businesses, partnerships and single people working in that sector.

**Lord Watts (Lab):** My Lords, is it not clear that the Government do not understand the creative industries? Is it not about time that they set up a Joint Committee of all the departments of government to work with the creative industries to actually help rather than hinder them?

**Viscount Younger of Leckie:** I completely disagree with the noble Lord—we are engaged with the creative industries to understand their needs. We hear directly from the sector that it is more of a challenge because, as the noble Lord will know, it is taking on apprentices from a standing start. As I said, many people are employed freelance, so there are greater challenges. But one thing that came out of our discussions with the sector is to ask apprenticeship training agencies to employ trainees. That is quite innovative. We are taking that forward and, of course, it has to be monitored by the Institute for Apprenticeships.

**Viscount Colville of Culross (CB):** My Lords, as the noble Lord, Lord Foster, said, 50% of the apprenticeship levy money is not actually spent, but the position cannot

be clarified because there is no transparency in the way that the industry's sectors are broken down. Can the Minister tell us how the levies are spent and break that down by employment sector?

**Viscount Younger of Leckie:** Yes, I can. I will need to write to the noble Viscount to give him the detail on the last part of his question, but the indications are that the change from 10% to 25% has led to some movement. Employers are realising that there is greater flexibility in the system and they are indeed beginning to consider passing funds on, particularly to their supply chains. It makes sense to benefit their sector in terms of taking on more apprentices.

**Lord Cormack (Con):** Does my noble friend think that there is sufficient recognition of the time it takes for an apprentice carver or woodworker—the sort of person who works on Lincoln cathedral—to reach real proficiency? What recognition is there in the Government's policy?

**Viscount Younger of Leckie:** We absolutely want to take account of roles such as masons, so there are different flexibilities in the apprenticeship programme. There are the one-year and three-year schemes and 20% off-the-job training, so they get to a really good standard of apprenticeship when they come out.

**Lord Fox (LD):** My Lords, the Minister will recall that last year, Peter Bazalgette led a review on how best to frame the apprentice levy to drive the creative sector. In an Answer to my noble friend Lord Foster, the Minister undertook to read that report and perhaps take some lessons from it. Now, nearly a year on, will the Minister tell us what lessons were learned by his department from the Bazalgette report and what it is doing differently now from what it was doing nearly a year ago?

**Viscount Younger of Leckie:** There is a lot more that we are doing for the creative industries regarding the apprenticeship scheme. For example, we are working very closely with industry bodies such as the Creative Industries Council, Creative & Cultural Skills and ScreenSkills, so on the back of the Bazalgette report we are looking in greater detail at what more we can do in this important sector for the UK.

**Lord Watson of Invergowrie (Lab):** My Lords, despite what the Minister said, the Government have raised the transfer rate. According to ScreenSkills, the skills body for the screen-based part of the creative industries sector, a total of £55 million a year in creative apprentice levy payments is wasted because two-thirds of levy payers in the sector are able to use only 20% of the funds, for the reasons already outlined by noble Lords. One means of clearing that blockage would be to introduce new flexibilities, which would allow employers to pool vouchers and share apprenticeships through a specialist apprentice training agency. Will the Minister agree to press the Skills Minister to meet urgently with creative sector companies to find out how that can be achieved?

**Viscount Younger of Leckie:** Yes, I have heard about that scheme, and as the noble Lord has raised the issue I will certainly do what he has asked and take it back to the Skills Minister.

**The Earl of Clancarty (CB):** My Lords, it is very worrying that much of this levy is not being spent. Does the Minister believe that some of the viable suggestions that the industry, including ScreenSkills, has made need to be acted upon quickly, otherwise this money will be lost from the system? It is an incredible waste in a sector that is crying out for skilled workers.

**Viscount Younger of Leckie:** It is important to say that a lot of work is being done in marketing apprenticeships. For example, we had National Apprenticeship Week in March, which generated more than 25,000 visits to the GOV.UK page. My point is that there is every opportunity for employers to take up the levy that is unspent.

## Bus Services

### Question

2.52 pm

Asked by **Baroness Randerson**

To ask Her Majesty's Government what plans they have to encourage more people to use bus services.

**The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con):** My Lords, using buses can lead to less congestion, greater productivity and more connected communities. We are pioneering technology such as the bus open data digital service, which will give passengers the information they need to catch a bus with confidence. The Bus Services Act 2017 also enabled enhanced partnerships for buses. This means that local authorities and the bus operators in their area can work together to improve services.

**Baroness Randerson (LD):** My Lords, local authority funding cuts mean that they can no longer afford to subsidise many services, so we need to encourage more people to use the buses to make them commercially viable. Does the Minister agree that since young people now have to stay in school, education or training until the age of 18, it is grossly unfair to expect them to pay full fare as they have to in many areas from the age of 16? Does she agree that a nationwide scheme of concessionary fares up to and, hopefully, beyond the age of 18 would help to encourage young people to use the buses?

**Baroness Vere of Norbiton:** I have some good news for the noble Baroness. More than 50% of people use the bus twice or more a year but young people aged 17 to 20 use buses at a much higher rate—nearly 70%. I also point out that 71 of 89 travel concession areas already offer discounted fares to young people through

the operators. Other discounts are available from local authorities and, of course, it is up to them to offer discounts in their areas.

**Lord Berkeley (Lab):** My Lords, is it not time that the Government recognised that the bus service in London, which is cheap, reliable and effective should be rolled out across the whole country? That means having fares comparable with London ones, rather than about four times more. That is what it needs—money. All this new technology is wonderful but unless there is some money for services around the rest of the country, we are not going to get the changes to emissions and the pollution reductions that the Minister has referred to.

**Baroness Vere of Norbiton:** My Lords, the Government support public sector spending of £2.2 billion on buses—12% more in real terms than under the previous Labour Government. A significant amount of money is going into the buses. There is no one-size-fits-all solution—it cannot happen. For example, within the large conurbations, metro mayors can now use the franchising opportunities, and Transport for Greater Manchester will be doing that. In other areas, enhanced partnerships, where the local authority works with the bus operators, work well. In rural areas, there is also an awful lot we can do and the Government are committing funding to help them support their local bus services.

**Lord Holmes of Richmond (Con):** My Lords, how accessible does my noble friend the Minister believe the UK bus service to be for wheelchair users in terms of audio and visual announcements? What will the new technologies do to increase this accessibility?

**Baroness Vere of Norbiton:** I pay tribute to my noble friend for his long-standing interest in this area. I am pleased to be able to say that the consultation into the provision of audio and visual services, which we undertook in the summer of 2018, will report soon. We will also set out the next steps for making the regulations and publishing the guidance that will make sure that these audio and visual services are available across the country.

**The Lord Bishop of Leeds:** My Lords, can the Minister expand on what she said about rural access? There is no point trying to encourage people to use buses where there are none. In parts of my diocese in the north of Yorkshire, to suggest that there may be increased funding or increased conversations does not change the fact that many people are isolated. Buses and transport need to be part of a holistic, integrated rural strategy that sees the various matters interconnected.

**Baroness Vere of Norbiton:** I completely agree with the right reverend Prelate when he talks about transport being integrated. So often we think about one particular sort of transport system and do not think about how it integrates into the rest of the community. Turning back to his point about rural communities, it is a big challenge where you have isolated communities and it

is not commercially viable to operate regular services into them. However, the Government have allocated £43 million from the Bus Services Operators Grant to rural local authorities. A particularly interesting project is the total transport pilot. It looks at rural communities that often have coaches, which might serve schools or take people to non-emergency doctors' appointments, to see how we might also use them to help people to get around. These pilots are coming to an end and we will report on them soon.

**Baroness Jones of Moulsecoomb (GP):** My Lords, one very good way of finding a lot of money for more bus services is to do what the Welsh Government have just done and scrap all road-building schemes. They have just scrapped the M4 expansion because of cost and environmental destruction. How about taking their example and investing more in our bus services?

**Baroness Vere of Norbiton:** My Lords, I do not think that cancelling all road-building schemes would be beneficial to buses. One of the biggest barriers to entry for bus usage, which was identified by the Transport Select Committee, is reliability, and reliability is a function of congestion. For example, the Government are investing £2 billion in the Transforming Cities Fund. What these funds are trying to do with the six metro mayors and other city regions is to ease congestion, put in bus prioritisation schemes and make sure that the buses connect with other forms of transport. Cutting road building would not be beneficial but there is money available for people to improve their local infrastructure.

**Lord Rosser (Lab):** With eight areas in Wiltshire having breached harmful nitrogen dioxide levels, last week the *Gazette and Herald* local newspaper carried an editorial headed "More buses key to beating fumes". It stated:

"Priority must be given to the pollution caused by heavy traffic",

before concluding:

"A good start would be to ensure public transport is improved to such an extent that thousands upon thousands of private cars are left at home when they would otherwise have been belching fumes and contributing to an environmental disaster".

In the light of the reduction by 46%, or £171 million, in spending by local authorities in England on supported bus services since 2010-11, with over 3,000 routes being reduced, altered or withdrawn largely as a result of the severe government squeeze on local authority finances, do the Government now agree with the *Wiltshire Gazette and Herald* editorial on the need to ensure that public transport is improved for environmental reasons?

**Baroness Vere of Norbiton:** I agree with the noble Lord that public transport needs to be improved for environmental reasons. That is why we need to take a cross-modal approach and look at all possible ways of improving it. He mentioned the environment, and we are cleaning up our bus services. Since 2010, we have committed £240 million to replace or upgrade buses—that is, 7,000 cleaner buses. At the moment, local authorities that have not succeeded in this have access to specific

funds to make sure that they can get their dirty buses off the road and replace them with cleaner buses. Nowadays, nearly one in five buses is a low-emission vehicle.

## Council Funding Question

3.01 pm

Asked by **Lord Bird**

To ask Her Majesty's Government, further to the Institute for Fiscal Studies report *English council funding: what's happened and what's next?*, published on 29 May, what steps they are taking to provide additional resources to councils to enable them to (1) continue to provide, and (2) extend and improve, their existing services.

**The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con):** My Lords, the Government are committed to supporting councils and recognise their efforts to deliver critical services for communities. The 2019-20 settlement confirmed that core spending power is forecast to increase in cash terms by 2.8%—a real-terms increase in resources. This allows councils to deliver the services that residents need. The upcoming spending review is the vehicle for agreeing funding from 2020-21 onwards for the sector, and the department's preparations are well under way.

**Lord Bird (CB):** I think that any of us going around most of our communities would agree that they are being hollowed out. If you look at what is happening with homelessness, libraries and youth services, you will see that there is a lot of feeling in the community that the Government are not standing behind local authorities, so I am sorry but I have to contradict what the Minister says. Any of us walking around will see what is happening. Is it possible that we could raise taxes so that we could give more money to the local authorities, or is it possible that we could give them the right to raise the money locally so that they could improve their communities? The way things are going, the hollowing out and the problems will carry on, and we will be the recipients of very bad anti-social behaviour.

**Lord Bourne of Aberystwyth:** My Lords, the noble Lord's Question refers to the Institute for Fiscal Studies report, which I have read. The authors of the report, Neil Amin-Smith and David Phillips, are fair in acknowledging some of the things that we have done with regard to local government spending—for example, they cite a 10% increase in children's social services. But the noble Lord is right in that there has been a reduction in other areas. The report canvasses the possibility of a local income tax, but I do not think that that is the way forward, and nor does my party. However, I am sure that the noble Lord would want to acknowledge that there is much innovation. He referred to libraries—a subject which I know is close to his heart. In Warrington, for example, hubs provide library

[LORD BOURNE OF ABERYSTWYTH] services with other services, which is an innovative way of improving the service. That has also happened in Leeds and in other areas. I think that that is the way forward.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I again refer the House to my relevant registered interest. Can the noble Lord tell the House why he thinks that so many councils are struggling to deliver services, one of the most serious examples being the difficulties faced by Northamptonshire County Council?

**Lord Bourne of Aberystwyth:** My Lords, I readily acknowledge that there are challenges, but it is important to say that many facets indicate that things are improving. We know—the Chancellor has said—that we have ended austerity, and the comprehensive spending review is around the corner. It is also the case, as I am sure the noble Lord will acknowledge, that the last settlement was a good settlement. The noble Lord, Lord Porter, acknowledged as much, and other people in other parties have done the same. Innovation is a way of improving services and so too are some central government grants for such things as the Future High Streets Fund, Stronger Towns funding and so on, which do not go through local government but directly to the towns concerned.

**Lord Watts (Lab):** My Lords, the most has been taken from the poorest communities. When you look around, you will see that the poorest communities have had the biggest cuts in their local services, whether local government or health. Why are the Government pursuing this?

**Lord Bourne of Aberystwyth:** My Lords, I am sure the noble Lord would be the first to acknowledge that the fair funding formula is one way of addressing this to ensure that we get it right, so that local authorities with the greatest needs and challenges are properly funded. That is why we are progressing it.

**Baroness Pinnock (LD):** My Lords, I refer Members to my registered interests as a councillor and a vice-president of the Local Government Association. Having watched the BBC programme on social care delivery in Somerset, in which both the providers and the carers were close to tears because of the inadequacy of the service they were able to provide through lack of resources, I wonder whether the Minister agrees that this is a shocking indictment of the state of funding of local government and that the Government have a desperate responsibility to put this right—and to put it right now.

**Lord Bourne of Aberystwyth:** My Lords, I did not have the privilege of watching the programme to which the noble Baroness refers, but I have indicated the challenge we face on social care. She will acknowledge, I am sure, that £10 billion for the three-year period ending in 2020 has made a significant difference, but challenges still exist. I am sure she will also acknowledge that we have increased children's social care spending

beyond what it was in 2009. I am the first to agree that there are challenges, but I cannot comment specifically on Somerset as I did not see the programme.

**Baroness Lister of Burtersett (Lab):** Despite what the Minister has said, the IFS report says that cuts have been larger in more deprived areas than in more affluent areas. These are areas where local welfare assistance schemes to replace the national Social Fund are most needed, yet this ultimate safety net is being shredded and the Government say they have no responsibility. Will they now take responsibility, ensure that local authorities have a duty to provide such schemes, provide the funds for them to do so and ring-fence those funds?

**Lord Bourne of Aberystwyth:** My Lords, that was a pantechonicon of questions; any that I miss I will endeavour to cover in a separate letter to the noble Baroness. I am sure she would be the first to acknowledge that the IFS report is very balanced. There are certainly areas where it raises the issue of additional funding, including the possibility of local income tax. I am not sure of the noble Baroness's position on that; my own, and that of my party, is that we do not think it would be a good idea. There are challenges on funding. Some will be met, I am sure, by increased spending via the comprehensive spending review; some can be met by innovation in delivery on which the IFS has commented favourably in the past; and some will no doubt be met by the direct funding which I have referred to such as the Stronger Towns Fund, the Future High Streets Fund and so on.

### Justice and Security (Northern Ireland) Act 2007 (Extension of duration of non-jury trial provisions) Order 2019

*Motion to Approve*

3.08 pm

*Moved by Lord Duncan of Springbank*

That the draft Order laid before the House on 30 April be approved.

*Relevant document: 48th Report from the Secondary Legislation Scrutiny Committee*

**The Parliamentary Under-Secretary of State, Northern Ireland Office and Scotland Office (Lord Duncan of Springbank) (Con):** My Lords, under this order, trials without a jury can take place in Northern Ireland for a further two years from 1 August 2019. The current provisions expire on 31 July. While this is the sixth such extension of these provisions, I hope to leave noble Lords in no doubt of the continued necessity of these provisions for another two years.

It is important to note that non-jury trial provisions are available only in exceptional circumstances in Northern Ireland where a risk to the administration of justice is suspected by the Director of Public Prosecutions. This could be, for example, through jury tampering or due to jury bias. Non-jury trial provisions also protect against the risk of impairment to the administration

of justice arising from a hostile or suspicious jury—a circumstance that is more likely to occur in Northern Ireland than the rest of the UK, with Northern Ireland’s unique security situation and troubled past.

Decisions for non-jury trials are made on a case-by-case basis, taking into account the circumstances of both the offence and the defendant. The Director of Public Prosecutions for Northern Ireland must suspect that one or more of four conditions is met. The conditions are specified in the Justice and Security (Northern Ireland) Act 2007 and relate to association with proscribed organisations or offences connected with religious or political hostility. A case that falls within one of the four conditions will not automatically be tried without a jury. The DPP must also be satisfied that there is a risk that the administration of justice might be impaired if a jury trial were to be held.

Let me be clear: this is not a Diplock court system. There is a clear distinction between this system and the pre-2007 Diplock court arrangements. The Diplock system saw a presumption that all scheduled offences would be tried by a single judge. Today in Northern Ireland there is a clear presumption that a jury trial will take place in all cases. At the peak of Diplock courts in the mid-1980s, there were more than 300 such cases per year. The peace process and ceasefires saw this figure fall to an average of 64 cases in the last five years of the Diplock system, leading to their end in 2007. By contrast, the average number of non-jury trials per year is less than a third of this. Non-jury trials are used only in exceptional circumstances; they are not Diplock courts. I assure noble Lords that the Government wish to end the exceptional system of non-jury trials as soon as it is no longer necessary, but this should happen only when circumstances allow: otherwise, we risk allowing violence, fear and intimidation to undermine the criminal justice process in Northern Ireland.

Noble Lords will be aware of the lethal threat still posed by terrorists in Northern Ireland. Violent dissident republican terrorist groups continue to plan and mount attacks with the principal aim of killing or maiming those who serve the public in all communities so bravely. Police officers, prison officers and members of the Armed Forces are the main focus of these attacks. Terrorists’ continued use of firearms, explosive devices and other weaponry continues to cause death and injury. Individuals linked to paramilitary organisations also continue to undermine the rule of law and the hard-won peace in Northern Ireland through the use of violence, fear and intimidation in both republican and loyalist communities.

While many attacks have been disrupted, the security situation today regrettably remains much the same as it was in 2017, when the provisions were last extended. The current threat level for Northern Ireland-related terrorism remains “severe”, meaning that an attack is highly likely. In fact, it has been set at “severe” for nearly 10 years. This year, in 2019, three national security attacks have occurred as a result of Northern Ireland’s terrorist activities. Although there has been a reduction in the overall number of national security attacks in recent years, vigilance in the face of the continuing threat remains essential.

Noble Lords will remember the car bomb in January that exploded outside the Londonderry courthouse. It was described by the PSNI as a relatively unsophisticated, crude device. Clearly, however, as noble Lords may have seen from CCTV imagery released at the time, it could easily have caused injuries or fatalities and was wholly indiscriminate. Noble Lords will also recall the postal packages that were sent to addresses in London and Glasgow. One detonated. Thankfully, no one was injured during these first two national security incidents.

No one will forget the tragedy in Creggan on 18 April, just seven weeks ago. Lyra McKee, a young journalist, lost her life standing behind a police line when a dissident republican gunman fired shots at police. The police had been in the area searching for firearms and explosives, doing their job trying to keep people safe. The sickening events that unfolded in Creggan remind us how volatile the security situation in Northern Ireland can be.

Noble Lords may have heard subsequently that the PSNI and the Public Prosecution Service announced that every possible support, including witness anonymity, would be provided to those giving evidence as part of this murder case. This move highlights the fear and intimidation that exist in some communities in Northern Ireland. These are small, close-knit communities in which it is very easy for people to be identified. Violence, fear and intimidation are real concerns for the wider community because of the presence of violent dissident republican terrorists and paramilitary groups. A report commissioned by the Department of Justice (Northern Ireland) in March this year found that 29% of those living in mainly loyalist areas and 25% of those living in mainly republican areas think that paramilitaries create fear and intimidation, compared with 15% in Northern Ireland generally. This evidences a general fear of paramilitaries among people across Northern Ireland—but one that is exacerbated within certain communities.

We accept that having specifically designed non-jury trial provisions in Northern Ireland is not an ideal situation—but neither is the “severe” terrorist threat in Northern Ireland. We also accept that this is the sixth extension of what were designed to be temporary provisions. But the “severe” terrorist threat in Northern Ireland is a complex and enduring issue, and we must make sure that, for as long as it endures, it does not interfere with our ability to provide safe and effective justice.

3.15 pm

There is also the wider issue of paramilitarism, which has affected Northern Ireland for far too long. The Northern Ireland Executive have already made inroads through their Tackling Paramilitarism programme. We should work together across government—this Government and a devolved Northern Ireland Executive—to think creatively to overcome this complex and enduring problem. Collaboratively, we can address the societal factors allowing paramilitaries to exert control and influence. It is our collective responsibility to ensure that communities are supported to reject paramilitarism and that those being groomed and led down a dangerous path of terrorism can transition

[LORD DUNCAN OF SPRINGBANK]

away from violence so that the people of Northern Ireland can live in a peaceful, prosperous society without fear.

There is already ongoing collaborative work to address the deep-rooted societal challenges that face many communities in Northern Ireland. Government is addressing this and is working with devolved partners and security partners. This important work must continue for the people of Northern Ireland, who deserve so much better. But there are no quick fixes. In line with commitments made in Parliament to consult publicly on non-jury trials, the Northern Ireland Office launched a public consultation in December last year. The consultation concluded in February and received a total of 15 responses from a range of interested organisations and individuals across the United Kingdom. The majority of respondents supported, or at least accepted, the need for another two-year extension of non-jury trial provisions.

Questions have been raised about whether non-jury trials are fair. It is simply wrong to equate a non-jury trial with an unfair trial. Noble Lords will be interested to learn that there was a case in which it was argued that the non-jury trial provisions in the Justice and Security Act were in breach of Article 6 of the European Convention on Human Rights. In fact, the Court of Appeal held that,

“a fair trial ... can happen before a judge alone without infringing ... fair trial rights”.

It is also worth noting that some respondents supporting an extension of non-jury trial provisions were keen to point out the comparable and, in some years, favourable rates of acquittal in non-jury trials when compared with jury trials.

There have also been calls for Northern Ireland to mirror England and Wales and use only provisions in the Criminal Justice Act 2003. While appropriate for other UK jurisdictions, the provisions under the Criminal Justice Act are not adequate to deal with Northern Ireland's unique security situation. The current non-jury trial system under the Justice and Security Act was designed specifically to address the unique and ongoing challenges in Northern Ireland. It would therefore be inappropriate at this time to rely solely on the Criminal Justice Act.

We also must acknowledge some general concerns about a lack of transparency in the non-jury trial process. There is a balance to be struck between issues of national security and being as open about this process as possible. This is something that the Government will continue to explore with PSNI and the Public Prosecution Service.

The Government are listening. We have noted the consultation responses and will engage the relevant bodies to examine them more closely, particularly the concerns. We will work to address these where we can. During parliamentary passage of the last extension of non-jury trial provisions, we accepted the need for greater independent oversight of how the provisions functioned. Ongoing review of non-jury trials was included in the remit of the Independent Reviewer of the Justice and Security (Northern Ireland) Act, Mr David Seymour. This has established a further safeguard,

which I know noble Lords have welcomed, and has been vital in providing assurances that the system remains fair and effective, so that we keep it in place for only as long as is necessary and appropriate. David Seymour made a number of minor recommendations to improve Northern Ireland's non-jury trial process in his last two reports. Many of these recommendations have already been addressed, and some continue to be explored with security partners.

We must recognise that Northern Ireland remains in a unique and volatile security situation. The events in Creggan in April are a reminder of this. Non-jury trial provisions in the Justice and Security Act continue to be an important factor in supporting the effective delivery of the criminal justice process in a very small number of criminal cases. Over the last 10 years, non-jury trials have consistently accounted for less than 2% of all Crown Court cases. This figure reflects the small but consistent need for non-jury trials in Northern Ireland. It is, sadly, a reality that certain jury trials in Northern Ireland would quite simply not be safe from disruption by those involved in terrorist or paramilitary activity, from paramilitaries who make their presence known in Northern Ireland's close-knit communities, or indeed in the public galleries of the courtrooms.

In the light of all that I have told noble Lords today, it would be absolutely remiss of the Government to dispose of non-jury trial provisions at this time. The continuing “severe” threat, alongside the fear and intimidation across pockets of Northern Ireland, risks the proper delivery of criminal justice in Northern Ireland. In light of this evidence and the views before her, my right honourable friend the Secretary of State has decided to seek to renew non-jury trial provisions for a further two years and to continue to keep them under regular independent review. Noble Lords can rest assured that she has not taken this decision to seek to renew non-jury trial provisions lightly. We strongly believe, however, that the system is, on balance, a proportionate and necessary measure in light of the unique risks facing the criminal justice process in Northern Ireland. I beg to move.

**Lord Thomas of Gresford (LD):** My Lords, I have considerable experience of jury trials, and of non-jury trials in other jurisdictions, and I know which I prefer. The jury trial is superior in efficiency and fairness, and, in particular, in maintaining public confidence in the system; but it is with a heavy heart that we accept the need for these provisions and we will not object to the order that is sought.

There is still a clear danger from small groups of dissidents, as we saw on 18 April with the tragic murder of Lyra McKee in the Creggan area of Derry, and last week in the placing of a bomb under a policeman's car at a golf club in east Belfast. As Chief Constable George Hamilton said:

“Those who carried out this despicable attack have nothing to offer Northern Ireland but a return to the pain and suffering of the past”.

As the Minister has pointed out, the threat level remains at “severe”, where it has been for the last 10 years. Such actions make jury trials very difficult in a very small number of cases in Northern Ireland.

Northern Ireland is a relatively small jurisdiction, but these actions reflect the fact that it is a divided society, despite the Good Friday agreement being signed 21 years ago, and paramilitary organisations are still active in many parts of Northern Ireland. Political motivations are no longer at the forefront. Paramilitary organisations have turned to crime, and they enforce discipline through violence and intimidation in those tight-knit communities. Any residents who informed on a member of a paramilitary organisation to the police would be at risk.

The independent reviewer, Mr David Seymour, cites figures from 2016 and 2017, which show that 197 offences—my Lords, I feel that I have to resume my place.

**Lord Lexden (Con):** My Lords, the need for this order arises from continuing paramilitary activity in Northern Ireland. First, could my noble friend comment on the work being done by the Independent Reporting Commission—established by our Government in conjunction with the Republic’s Government in 2017—and its effectiveness? There was considerable debate in this House when the commission was under preparation. Its objective is,

“to monitor progress on tackling paramilitary activity”.

It would be useful to hear how this joint body set up by Dublin and London is getting on.

Secondly, could my noble friend comment on the panel set up by the Northern Ireland Executive? Its task is to provide a strategy for the disbandment of paramilitary groups. In view of the significance of paramilitary groups, a comment on the work of these two bodies would be useful.

**Lord Eames (CB):** My Lords, as the Minister emphasised in his remarks a short time ago, this order is an indication of the ongoing situation which too often is visible in Northern Ireland. We are frequently told that we have moved on some acres, compared with the situation that many of us lived through in the Troubles. We are told that there is a great improvement in the security situation, but the realistic position, as we have been reminded all too often, is that incidents can occur which remind us that so much has not changed.

It is a great pity that this order is necessary and is, in fact, a legacy of the Troubles. I am sure the Minister will agree that it gives us an opportunity to pay tribute to the judiciary in Northern Ireland: given the particular situation that we have had to contend with over the years, the pressure on individual members of the judiciary has been intense. It would be wrong if the opportunity were missed to pay tribute to that element of our society. I regret the absence from the Cross Benches, through no fault of his own, of my noble and learned friend Lord Carswell—my friend of many years and a former Lord Chief Justice of Northern Ireland. He and I were students together many years ago and for a period we lectured together in the faculty of law in Belfast. I know that were he present today, he would welcome the opportunity to pay tribute to his colleagues of those years for the professional manner in which, with integrity and loyalty to the elements of the rule of law, they carried out their duties in the circumstances of Northern Ireland.

However, for those of us who were tasked with particular jobs during that period, it is worth asking certain questions about the need for this order. First, what criteria, exercised by whom, will come into play when it is found unnecessary to implement it? The Minister has rightly told us that the situation at the moment demands a continuation of this unique way of administering criminal justice but I am a little troubled by the assumptions that public speakers are wont to use. They say, “The situation continues”, or, “The problem exists”. It is easy to make bland assumptions, so can the Minister first tell the House a little more of the methodology that the Government will exercise to reach the point of deciding that an order of this nature is no longer necessary?

Secondly, in paying tribute to the judiciary, many of whom I have had the privilege of serving with in other capacities, I believe the demands made by such an order on the judiciary and the administration of justice—albeit in a limited number of cases—means that it questions so much of the jurisprudence of the administration of justice. Are we to be continually told that the situation continues to demand such exceptional measures? That is the reason for my question: what criteria will Her Majesty’s Government utilise when, please God, the time comes that this will be a thing of the past? Where exceptional methods are necessary in cases such as the administration of criminal justice, there is constant pressure on politicians to exercise the opportunities to create a level of peaceful coexistence in which to isolate those cases where this order, and others like it, are essential.

3.30 pm

In his opening remarks, the Minister also referred to the situation of paramilitary organisations in Northern Ireland. I think he would be ready enough to agree with me that many efforts are being made to remove the subtle threat and reality of paramilitary influence in certain areas. Does he agree that credit has to be given to certain segments of the paramilitary strategy and activity in Northern Ireland for becoming a different element of society; recognising the role they have played in the past but saying they have moved on, into a new category? As someone said to me the other day, the aim is to become an “old boys’ association”, with memories of the past, which will utilise the ability and facility to play a constructive role in the Northern Ireland of the future.

For all those reasons, I welcome the way in which the Minister has introduced the order to the House today. There are underlying issues which have to be recognised. Much is happening of a positive nature, despite all our difficulties. I hope that, one day, this order will be unnecessary.

**Lord Campbell of Pittenweem (LD):** My Lords, I hesitate to intervene in a debate on Northern Ireland, but I am moved to do so by the most eloquent expressions of the noble and right reverend Lord, Lord Eames. I have personal knowledge of the extent to which the judiciary in Northern Ireland have had to accept quite severe disruption to what we would regard as ordinary family life. It is right that this House recognises that,

[LORD CAMPBELL OF PITTENWEEM]

as the noble and right reverend Lord has done. Those of us who have practised in other jurisdictions have never had the misfortune to face the stresses which necessarily arise, particularly in the prosecution of cases which raise issues of the use of explosives or things of that manner.

In his introduction of this measure, my interest was aroused by the Minister's reference to the comparison between jury and non-jury cases in relation to convictions. Is he able to provide a similar comparison in relation to appeals? It would be interesting to know how far the question of appeal was more or less reflected in the non-jury part of the system, rather than the part covered in the usual way by jury trial.

**Lord Reid of Cardowan (Lab):** My Lords, in considering these proposals, I cannot but recall that we are standing on the eve of an anniversary: 75 years ago so many young men—and some women—from the Province of Ulster gave their blood, their lives and, in many cases, members of their family, to preserve the rule of law and the freedoms which we cherish so greatly. It is therefore noteworthy that the Minister implied—indeed, made explicit—that the measures before us are unfortunate and distasteful but necessary. I am no longer privy to the analysis which would suggest that that is the case, but I accept the point of view of the Minister and the Government on this.

Since we recognise the extraordinary and unfortunate nature of these proposals, it is therefore essential that not only will there be a regular review of this but that there will be a deep and meaningful study between each review. In the context of the very eloquent and pertinent words of the noble and right reverend Lord, Lord Eames, will the Minister tell us, in summing up, a little more of the detail of the oversight and review process and the criteria that the noble and right reverend Lord asked for by which such a judgment will be made? Ultimately, it will be made by the Government, but presumably they will give great weight to the recommendations of the independent reviewer. I think it would be helpful for everyone to know just how seriously that is taken, by understanding a little more about the process.

**Lord Murphy of Torfaen (Lab):** My Lords, I am sure that noble Lords will join me in wishing the noble Lord, Lord Thomas of Gresford, all the very best.

Recalling my first visit to Northern Ireland as a youngish shadow Minister 24 years ago, the situation was hugely different from what it is today. There were Diplock courts, of course, and juries before that had been severely intimidated by paramilitaries from both sides. Extreme sectarianism meant that that you were not guaranteed, in the proper sense of the word, a fair trial if that trial was to be held with a jury. As the Minister said, Northern Ireland is a very small place and it was even smaller, in population, in those days. We had to have these necessary evils: there had to be some system which meant that justice was fair and outside the realms of intimidation. It is also fair to say that between that time and 2007, when the Diplock courts went and the new system came in, we saw an enormous difference in Northern Ireland. The landscape

changed considerably. Not least of this, of course, was that the nationalist and indeed the republican communities began to accept the criminal justice system and the police system, so that people from those communities sat on the Policing Board and involved themselves with the PSNI as well.

So there were huge changes. The Minister touched on the fact that in recent times—the last couple of years in fact—non-jury trials in Northern Ireland have become a tiny proportion of the whole. In 2016 there were only 12 non-jury trials out of 1,640. In 2017 it was nine out of 1,409. Those figures clearly indicate that there has been a huge shift in what happens in Northern Ireland. He is right, of course, to say that the security situation in Northern Ireland is still such that, at the end of the day, you cannot totally rule out a trial that would be unfair because of intimidation or extreme sectarianism. The points made by my noble friend Lord Reid and the noble and right reverend Lord, Lord Eames, are very significant in terms of working out when we will actually see the complete end of non-jury trials in Northern Ireland.

Of course, in a general sense it is about security, and if the security situation improves to such an extent that they are unnecessary, then it will change by the next time we look at this legislation, in two years' time. But we have to be a bit more scientific than that; as long as you have a system which is different from the rest of the United Kingdom—indeed, from the rest of Ireland—Parliament should be informed as to how and why it should continue, if it does. It would be helpful if the Minister could tell us how the oversight occurs and how this might eventually end.

The other issue is that, so long as there is political instability in Northern Ireland, the possibility of terrorist activity, which we have seen over the last couple of months and even in the last couple of weeks, fills the vacuum of political instability, albeit nothing like how it used to. But it is still there. In that context, I am sure the Minister can reassure the House that the talks in Northern Ireland are going well and that there is a possibility that the institutions might be brought back—bearing in mind that it is not long before the marching season and the holidays are upon us, which is always a reason why we cannot do things in Northern Ireland. The fact that there is political stability hopefully means at the end of the day that the dissident republican threat, if not evaporating, is certainly very much less and that, as a consequence, normalcy can come to Northern Ireland and all trials in Northern Ireland, where relevant, can be trials with a jury.

**Lord Duncan of Springbank:** My Lords, I begin by thanking all noble Lords for recognising the need for this extension and that it is not the choice or preference of the Government to pursue this route. Were we in different circumstances, we would not be countenancing non-jury trials in Northern Ireland. But circumstances are different and we need to be cognisant of what those differences mean for the fairness of the trials themselves.

I too wish the noble Lord, Lord Thomas, a speedy return to the Chamber. He made the important point that paramilitarism, with which we are so familiar, has

evolved. It has now become a gangsterism. It has moved from just being men wearing uniforms to being a corrosive element in so many communities in Northern Ireland. Many of these communities are close knit, and intimidation can be exercised in the most insidious and secretive of ways. That is why we need to recognise that a trial must be fair. In those circumstances, we must recognise that intimidation, tampering or any of the other means by which juries or witnesses can be affected must be taken into account in the exercise of justice.

I do not doubt for a moment—here I return to the comments made by the noble and right reverend Lord, Lord Eames—that the judiciary in Northern Ireland has borne a significant burden. Those here who have practised law, especially those who have served on various judicial Benches, will recognise what a challenge that is. To do so in Northern Ireland is to embrace a different world, where traditional family life is disrupted on a daily basis. The fact that it exercises justice in an impartial way is to its credit, and the fact that it is willing to do so under what are sometimes the most perverse and difficult of situations is a tribute to it. I join the noble and right reverend Lord in paying tribute to it for the work it does and the duty it displays in the service of its country.

It is important to touch upon two key aspects that have come through in this debate. First, while accepting that there will be an extension for two more years, by what criteria will we ever be able to establish when we have moved beyond this moment in time? This is important; when I spoke to my officials this morning, that was the very issue about which I too was concerned. It is not enough to say, “When things get better” or wave your arms and say, “We will know when it is time”. There needs to be a suite of very clear criteria.

I can set out certain criteria to your Lordships today. Clearly, the warning about security in Northern Ireland is critical. That is based upon a whole series of assessments conducted by various organisations and bodies in Northern Ireland. That is quite a delicate thing to establish, because it is very easy to use the word “severe” but very difficult to then quantify how you got there. Clearly, we need to move to a situation in which the exercise of justice can be undertaken without threat. That can be done only when we reduce the various gradations down from “severe” until we reach the “normalcy”—the very word used by the noble Lord, Lord Murphy—of everyday life in Northern Ireland.

3.45 pm

There are other elements to this issue. The various communities need to have faith in the process. That is also difficult to assess, which is why we are clear that the independence and the review that will take place need to be heard and actioned. That review needs to look at each aspect so that we can understand exactly how close we are getting to the point at which intimidation is not a factor.

The noble Lord, Lord Thomas, made the point that there were 197 cases of some form of witness or jury tampering last year. Of course, those were not in the cases we are discussing today but it is a reminder once

again of the notion of gangsters—that is, strong elements of abuse of the judicial process by individuals who seek to change the verdict. That is going on now. It is therefore important that the criteria are handled sensitively because we cannot reach a situation in which we believe that we have secured the desired outcome but we are wrong. That would be worse because it would undermine the very notion of fairness in the application of the law.

The noble Lord, Lord Lexden, made two specific points, which I will address. The Independent Reporting Commission consulted a wide range of statutory and non-statutory bodies. The first substantive IRC report acknowledges the good work carried out to date but points to the challenges of these issues in the absence of a functioning Northern Ireland Executive. We remain resolute in trying to address that matter but it is ultimately one of the bigger challenges. The IRC will continue to consult stakeholders and will report annually on progress towards ending the continuity of paramilitary activity.

That brings me to the point made by the noble and right reverend Lord, Lord Eames. A number of bodies have changed and are changing from what they once were. That must be recognised. We need to find a way of ensuring that those people with a history and a past can evolve once they are able to discard those elements of paramilitarism. Perhaps they will never quite reach the notion of an old boys’ club but we need to recognise their journey and where they have finally arrived. We cannot move forward without accepting the legacy of the past and the commitments made by those bodies seeking to embrace a new way forward. I endorse the words used by the noble and right reverend Lord; in doing so, I offer him my thanks for the work that I know he has undertaken in this area, which is not an easy one.

The noble Lord, Lord Lexden, asked a separate question about the strategy for the disbandment of paramilitary bodies—that is, the Tackling Paramilitarism Programme. Thirty commitments from the Northern Ireland Executive make up that programme; for example, £50 million has been pledged over five years—2016 to 2021—to support the programme’s delivery. The Paramilitary Crime Task Force, which consists of HMRC, the NCA and the PSNI, has prevented revenue loss of £3.4 million. The 110 young people engaging in bespoke programmes delivered by youth workers is perhaps one of the most significant ways forward. Again, when we think about how we will change the culture, this is it. We need to recognise that it will not be done simply by fiat and instruction from us, but through putting roots into the soil and them growing through. I hope that we will see greater success there in the years to come.

The noble Lord, Lord Campbell, asked a very specific question. I have a very specific answer but it is quite long. I wonder whether he will permit me to put it in a letter, which I will, of course, happily share with other noble Lords with an interest in this matter.

The noble Lord, Lord Reid, made us think, once again, of tomorrow’s anniversary: of the men of Ulster who marched off to war and of the men and women who stayed behind to work in the industries that were

[LORD DUNCAN OF SPRINGBANK]

so vital to the war effort. It is important that we remember their sacrifices; it is also important to recognise that we have an obligation to ensure that, in Northern Ireland, justice is always blind and can be served. I hope that the two-year extension will not be repeated. I would like that outcome, but we must be cautious and careful as we go forward.

The noble Lord, Lord Murphy, brings us back to perhaps the bigger issue of the moment: what is happening with the Northern Ireland talks. He will be aware that my right honourable friend in the other place is making some remarks later this evening about the progress to date in those talks. I will use the word “positive”. There have been positive steps in this direction, and that is to be welcomed. It is too early to string up the bunting, but the parties there have recognised that this is a moment they need to embrace. It will be a challenge—as they, I hope, find a way through this challenging time—to pull together an approach that will ultimately bring to them the issues of justice and those that we here are discussing.

This is a difficult issue. I appreciate the support I have had from all sides of the House today. I would rather not be seeking an extension for two years—I can assure you that it gives me no pleasure to do so—but I am afraid that on this occasion we must.

*Motion agreed.*

### **Food and Feed Hygiene and Safety (Miscellaneous Amendments) (EU Exit) Regulations 2019**

*Motion to Approve*

3.50 pm

*Moved by Baroness Blackwood of North Oxford*

That the draft Regulations laid before the House on 8 April be approved.

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con):** My Lords, consumers in the UK benefit from a high standard of food and feed safety and quality. The Government are committed to ensuring that this high standard is maintained when the UK leaves the European Union. This instrument is crucial to meeting our objective to continue to protect public health from risks that may arise in connection with the consumption of food.

This instrument, which concerns food and feed law, is made under the powers in the European Union (Withdrawal) Act 2018 to make necessary amendments to UK regulations. The UK’s priority is to ensure that the high standard of food and feed safety and consumer protection we enjoy in this country is maintained when the UK leaves the European Union. The instrument will correct deficiencies in certain regulations to ensure that the UK is prepared in the event that the UK leaves the EU without a deal.

Amendments are limited to the necessary technical amendments to ensure that the legislation is operative on EU exit day. No policy changes are made through this instrument and we have no intention of making any at this point. While we continue preparations for

an orderly withdrawal from the EU, it is the job of a responsible Government to prepare for all possible scenarios, including the potential outcome that we leave the EU without a deal. We are committed to ensuring that our legislation continues to function effectively and that public health remains protected in the event of no deal. It is for this scenario that this instrument has been laid.

This instrument will address a range of minor deficiencies in retained EU law relating to food and animal feed that have not been addressed in earlier instruments, and recent changes made to EU law that could not have been addressed in previous instruments. As in the case of previous statutory instruments recently presented to the House, I wish to make clear again that no policy changes are made through this instrument. It makes only the essential changes necessary to ensure we have an effective and fully operable statute book on exit day. Its primary purpose is to ensure that legislation continues to function effectively after exit day. These proposed amendments are critical to ensuring that there is minimal disruption to food controls in the event that we leave the EU without a deal.

This instrument also transfers powers to UK entities to support a UK regulatory regime. It will transfer responsibilities incumbent on the European Commission to Ministers in England, Wales, Scotland and the devolved authority in Northern Ireland. It also transfers responsibility for risk assessment from the European Food Safety Authority, EFSA, to the food safety authorities, the FSA and FSS. They will continue to deliver independent, open, transparent and science and evidence-based advice. In addition, this instrument changes references to the import of food and feed into the EU to references to the import of food and feed into the United Kingdom. The contents of this instrument cover several policy areas, and I will address these specific areas.

The health mark for carcasses of certain animals—such as cattle, pigs and sheep—and the identification mark for all foods of animal origin will change once the UK has left the EU, with the letters “EC” no longer used. The Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019 retain the requirement for the health and identification marks to contain either “UK” or “United Kingdom”. This instrument allows for the abbreviation “GB” to be used in the marks, as this is the International Organization for Standardization—ISO—two-letter country code for the United Kingdom.

The instrument also provides for a transitional period of 21 months after exit day during which UK food businesses can apply their current health and identification marks on carcasses and foods of animal origin respectively when placed on the UK domestic market. This transitional period will assist businesses by providing a smoother transition into the new requirements and permit them to use up existing labels and packaging.

The instrument also addresses deficiencies in retained EU law regarding trichinella testing requirements to ensure that these rules are fully enforceable, replacing references to EU institutions and bodies with appropriate UK bodies and authorities. EC regulation 2074/2005 is an EU tertiary implementing measure that provides

certain technical and administrative refinements to the EU regulations for food products of animal origin. For example, it sets out specific rules on analytical methods and rules relating to fishery products used in the production of fish oil. The instrument will assign powers and responsibilities currently incumbent on EU entities to appropriate UK entities to ensure that this diverse regulation is fully operational. The model health certificates for imports of certain products of animal origin, such as fishery products, gelatin and collagen for human consumption, are amended so they can be used solely to import foods to the UK.

This instrument also amends the definition of “imports” within the existing legislation so that it is clear any new facilities approved by EU member states in the future would no longer be automatically approved for food imported into the UK. Without this instrument there could be a lack of clarity around the status of newly approved facilities. The instrument also includes provisions to set minimum charging rates for hygiene controls for fishery products by amending the Fishery Products (Official Controls Charges) (England) Regulations 2007. It updates provisions for these charges: for example, these rates are currently set in euros with an exchange rate to British pounds. It also updates the exchange rate from 2008, as it is now somewhat out of date and would not be in line with central DExEU and HMT guidance on amending outstanding references to euros. The current regulations are national and stipulate the necessary qualifications and experience required for an official control laboratory analyst in England. This instrument will not become completely inoperable on EU exit and can continue to be used to regulate qualifications of official analysts.

The proposed amendments address minor drafting errors in the previously laid Food Additives, Flavourings, Enzymes and Extraction Solvents (Amendment etc.) (EU Exit) Regulations 2019 which were identified by the JCSI. The FSA provided an undertaking to the JCSI that this deficiency would be addressed in its response. EU authorisation decisions relating to genetically modified food and feed have also come into force since the laying of the Genetically Modified Food and Feed (Amendment etc.) (EU Exit) Regulations 2019, which will implement retained EU law on exit day. This instrument introduces amendments to make these decisions fully operable by specifying the UK entity to which the authorisation holders must submit annual reports on activities set out in their environmental monitoring plans and to remove references to the European Community in connection with the register of authorised GM food and feed.

This instrument makes equivalent changes to the relevant Northern Ireland legislation to ensure that the body of Northern Ireland food law can function properly and is enforceable once the UK leaves the EU. It also inserts a definition of “Northern Ireland devolved authority” or, where appropriate, identifies the department that is the correct and appropriate authority, replacing references to EU institutions and bodies in various EU regulations. The amendments also include naming the relevant legislature for Northern Ireland where the regulation-making procedure is provided in various EU regulations.

Let me be clear: there are no new changes for food businesses introduced into how they are regulated and how they are run. The formal public consultation was carried out by the FSA covering changes to the UK health and identification marking, which received overwhelming support for the proposal. The instrument will provide continuity for businesses and protection of consumers’ interests, and ensure that enforcement of regulations can continue in the same way. The changes will ensure the retention of a robust system of controls which underpins UK businesses’ ability to trade both domestically and internationally. Devolved Administrations have provided their consent for this instrument, and have been engaged positively. It provides the necessary controls for food to continue to function effectively after exit day.

I urge noble Lords to support the amendments proposed in this instrument to ensure the continuation of effective food and feed safety and public health controls.

4 pm

**Baroness Thornton (Lab):** My Lords, I congratulate the Minister on her explanation of this statutory instrument. We are of course back in the territory of whether there will be a deal or no deal. Even more bizarrely, this will depend on the machinations of her party over the coming weeks and on who ends up as our Prime Minister. It is a bit surreal really, much like the parliamentary world we inhabit at the moment.

Earlier this year, as we approached the Brexit deadline of 29 March, we were regularly rushing through statutory instruments. It is just as well that the Prime Minister was able to secure a Brexit extension because, if we had left on 29 March, some of the so-called minor deficiencies that emerged with regard to food and feed safeguarding, which we are discussing today, might have turned out to be major quite quickly.

Crashing out of the EU means that the regulatory framework for food and feed, which has protected us in the UK for so many years, will cease to exist. I can see that the proposed amendments are critical to ensuring minimal disruption of food controls in the event that we leave the EU without a deal, and we on these Benches will support them. The changes seek to ensure a robust system of control which will underpin UK businesses’ ability to trade both domestically and internationally.

The first question I have concerns trichinella, a parasitic nematode worm which can be extremely serious and can cause disease in people who eat raw or undercooked meat from trichinella-infected domestic animals or game. I appreciate that this instrument provides assurance that testing requirements that ensure protection will continue after EU exit. However, is the Minister confident that we have enough capacity in this country to continue testing for that worm and its associated health risk? How quickly can the Government put in place our own testing facilities? I would be grateful if the Minister could tell the House how much extra resource her department has allocated to make sure that we do not allow a loss of control in this area. I am aware that extra funding has been made available to the FSA to deal with Brexit, but the Minister could

[BARONESS THORNTON]

help the House by being specific about the amount of extra resource that would be available to ensure that those particular nematodes do not infect meat that might be imported into this country and eaten by people here. I am aware that the Minister in the Commons, Seema Kennedy, offered to write to my honourable friend Angela Eagle about this matter. Did she do so and can the letter be made available here?

The instrument states that facilities approved by EU member states would in future no longer be automatically approved for food imported from the UK. I repeat the question that my honourable friend Sharon Hodgson MP asked in the Commons: does the Minister know what impact that will have on supply and businesses? How long will the process be to approve facilities for food imported from the UK, and when will a list of approved facilities be available?

The instrument also includes provisions to set minimum charging rates for hygiene controls for fishery products by amending, as the noble Baroness said, the Fishery Products (Official Controls Charges) (England) Regulations 2007. Will the Minister outline what the charges will be and what impact any new set rates could have?

The Explanatory Memorandum for the statutory instrument states that functions currently undertaken by the European Commission in adopting some implementing regulations rendering applicable the controls on imported food will in future be the responsibility of the Secretary of State. Can the Minister provide information on how decisions on those controls will be made and managed? What will the arrangements be for collecting data monitoring the effectiveness of the regulations and for regularly reporting the findings? What bodies will be able to scrutinise performance and delivery? What assessment has been made of their capacity to take on that work, as my honourable friend Angela Eagle mentioned in the Commons?

Finally, what conversations has the Minister had with the devolved nations regarding this statutory instrument? Although the issues seem fairly technical, and potentially innocuous, they raise a few worries. This is about food safety, safety for consumers, consumer protection and food supply in general. Should we leave the European Union, a range of duties will transfer from where they have been carried out in the past for many years, in the EU, not just back to the UK but to four different bodies due to devolution, one of which is not even sitting at the moment because of what has been happening in Northern Ireland. So will the resources be available in the devolved authorities to cover these issues?

My honourable friend Angela Eagle said in the Commons:

“Despite the Minister’s attempts to engage with some of my questions, I am still not entirely sure whether this is irradiation of things such as collagen, which in specific instances is derived from animals for human consumption, or whether it is about more general irradiation of meat and vegetables that are for public consumption, which happens in the US”.—[*Official Report*, Commons, Third Delegated Legislation Committee, 13/5/19; col. 9.]

I agree that the answer the Minister in the Commons gave begged more questions, so let us have another go. That is probably appropriate today, when the President

of the United States of America has made it clear that all our regulatory regimes will be on the table and up for negotiation, along, of course, with the NHS.

It is important to remember that the horsemeat scandal was not discovered by the enforcement processes in this country, but by testing in the Irish Republic. So we are right to be concerned that, post Brexit, things could go wrong due to weaknesses that have been created in our own enforcement system. I am looking for further reassurance from the Minister that the system we have, weakened by austerity and divided by devolution, will be robust enough to take on the extra duties that the Minister is adding through this statutory instrument.

**Baroness Walmsley (LD):** My Lords, I too thank the Minister for outlining all the technical details of this SI. Of course, this instrument has been withdrawn from the Order Paper twice before. Some of the changes made since we originally saw it are small but crucial. We are lucky that they have been spotted, but that raises concerns for the industry that there may be others. Now that the leaving date has changed, are the Government planning on conducting additional scrutiny on the other SIs that are being rushed through this House to make sure that they are up to scratch? How do the Government intend to convey these changes to the relevant individuals and companies on whom they will impact?

I add my support to the question asked by the noble Baroness, Lady Thornton, about the capacity of the FSA. This is probably about the 16th time that we have asked the same question and we are still concerned about the capacity to replace all of the other measures.

Some of these changes reflect very recent EU law that has come into force, as the Minister mentioned, so what do the Government intend to do about any new EU law that might come into force between now and 31 October or whenever we happen to leave? Will this SI and the ones that preceded it have to be further amended if there are other changes to EU law?

The Minister mentioned that the system for minimum charging rates for hygiene controls of fishery products is somewhat out of date. Will the Government confirm whether they aim to change the pound-euro exchange rate from the 2008 level at which it is currently set? Although these charges, as we know, are rarely levied by local authorities, any change in the exchange rate, which could happen after Brexit, could have a big impact on the ability to pay of those against whom the charge is levied. We saw a big difference in the rate of the pound against the euro after the 2016 referendum, and the way in which we might, unfortunately, leave the EU, could have a similar serious effect on the exchange rate. What are the Government planning to do about those charges if there is such a big change in the exchange rate? Are they planning to bring it up to date from 10 or 11 years ago?

**Baroness Blackwood of North Oxford:** I thank the noble Baronesses for their important questions. We have been through a number of periods of scrutiny on FSA SIs between us, so I feel that we are old hands at this.

The noble Baronesses will know that leaving the EU does not change the FSA's top priority, which is to ensure that UK food remains safe and is what it says it is. We are working hard with the FSA to ensure that the high standard of food and feed safety and consumer protection we enjoy in this country is maintained when the UK leaves the European Union. That is one of the reasons for this SI.

The noble Baroness is right to identify that this is one of the ways that we are keeping up to date with EU changes in legislation while we remain part of the European Union, but of course once we have left we will be responsible for identifying how we want to proceed and whether we want to introduce our own legislation and additional food safety standards which mirror those in the EU or whether we want to go further. That is a commitment—excuse me, I am having a Theresa May moment—that has been made before.

I shall touch first on the issue raised by the noble Baroness, Lady Thornton, at the end of her remarks about trade. I want to nail that one if I can. We have debated this before. The UK is committed to maintaining the high standards of food and feed safety which we currently enjoy. I shall repeat a line which has been used by No. 10. We have always been clear that we will not lower our food standards as part of a future trade agreement. From day one, we are committed to having a robust and effective regulatory regime in place which will mean that business can continue as normal. For most food and feed businesses there will be no change in how they are regulated and how they manage. Leaving the EU does not affect that, regardless of comments that may have been made this week.

**Lord Davies of Stamford (Lab):** Can we be clear that that very important undertaking she has just given the House also applies to animal welfare standards in the European Union and currently in this country?

**Baroness Blackwood of North Oxford:** That is obviously not my brief, but I know that those commitments have been made from this Dispatch Box and I am very happy to give the noble Lord that commitment.

I shall move on to the important questions that were raised regarding trichinella resources. We have brought in these amendments today because we recognise the importance of maintaining standards when it comes to trichinella testing. The Food Standards Agency's spend on trichinella testing in financial year 2018-19 was £565,000, of which £275,000 was recovered through charges for official controls. The figure includes the cost of taking samples and of the UK's trichinella national reference laboratory. The figure is approximate and is a proportion of the total cost of official controls applied across the food industry. The UK will maintain the requirements of EU food safety legislation after leaving and will not only maintain the standards applicable to most domestic and imported food but will also ensure that UK food businesses can continue to apply controls that are widely accepted by other countries. The FSA has made a commitment that it will ensure that there are the resources required to maintain those standards and the level of testing for trichinella control after exit.

I know that I have given these statistics to the noble Baroness before, but I can reassure her once again that an extra £14 million was provided to the FSA for 2018 in order to ensure extra funding and capacity for EU exit and an extra £16 million was provided for 2019-20. This has translated into an extra 140 staff who have been recruited. More than 90% of them are already in place. That is supported by an expanded role for the independent scientific advisory committees on food. It covers risk assessment, for which the FSA has an outstanding international reputation. It was strengthened by recruiting new experts, establishing three new expert groups and expanding its access to scientific experts, who can provide scientific advice, and to other scientific services in order to meet the potential need for increased risk assessments in future. This is part of the wider priority of the FSA to ensure that it can maintain its current commitments to promoting robust food standards nationally and internationally, protect consumer interests and facilitate international trade and ensure that consumers can have confidence in the food that they buy—to know that the food is what it says it is. I hope that reassures the noble Baroness on that point.

The noble Baroness asked about official controls charges for fishery products. This was also raised by the noble Baroness, Lady Walmsley. She is absolutely right regarding the exchange rate, and that is why we are updating the provisions for these charges so that they are in line with the more sensitive DExEU and HMT guidance on amending outstanding references to euros. The instrument does two things. First, it adjusts for the fact that in the future European Union member states will become third countries for the purposes of these charges. Therefore, we can no longer offer the European Union differential treatment in terms of costs levied for hygiene controls performed on directly landed consignments of fishery products. Secondly, as I have said, it addresses the references to euros. The Government do not anticipate any increase in the extent to which these charges are levied by local authorities in England after the UK exits the EU. It is currently reported to be a very low rate. As such, we believe that food business operators in England are not expected to face any extra costs. We will expect local authorities to keep it under review, but we anticipate that it will remain low. I hope that reassures the noble Baronesses.

I hope that I answered the questions from the noble Baroness, Lady Walmsley, about the way in which risk assessment is done in my earlier answer about the increasing staffing that has become available through the increased investment in the FSA to prepare for EU exit and strengthen its risk assessment capability. On her question about how decisions are made, obviously there will be some ministerial involvement but it is important to say that maintaining the UK's high food standards is a top priority for the Government. Part of that is to continue the long-standing commitment to openness and transparency and evidence-based decision-making from the FSA. Food safety authorities will publish the advice they provide to Ministers as well as the evidence and analysis it is based on so that stakeholders can see the basis on which decisions are made. I hope that that reassures the noble Baroness.

[BARONESS BLACKWOOD OF NORTH OXFORD]

On the final point about devolved Administrations, raised by the noble Baroness, Lady Thornton, Scotland, Wales and Northern Ireland have provided their consent to these instruments. They have been closely involved in the development of them. The principles and rules that are set out in retained legislation and which these SIs will correct are intended to ensure the same level of food and feed safety and protection throughout the UK and the free flow of trade within it and—exactly as she said—to ensure clear lines of communication, engagement and co-operation between all four nations so we can, as has been said, pick up on any risks throughout the four nations. The FSA has a very close working relationship with the Administrations of Scotland, Wales and Northern Ireland, and we are confident that, in practice, it will be possible to make arrangements to operate a framework for food and feed safety and regulation across all four Administrations.

In conclusion, I thank noble Lords for their contributions to this debate and ask for their support.

*Motion agreed.*

## D-day: 75th Anniversary

*Motion to Take Note*

4.18 pm

*Moved by Earl Howe*

That this House takes note of the 75th anniversary of D-day.

### **The Minister of State, Ministry of Defence (Earl Howe)**

**(Con):** My Lords, 75 years ago today, military forces in the United Kingdom stood poised to embark on the largest invasion—the greatest combined operation—in the history of warfare. I say “forces in the United Kingdom” quite deliberately because these were, of course, not only British forces. The largest elements of the armies that were to land in Normandy in the following days were drawn from American, British and Canadian forces, but other allied forces—in particular, from European countries whose homelands remained under occupation—also participated.

Among the first troops to land on the eastern flank of the invasion, as part of the 1st Special Service Brigade, were commandos of the Free French Forces. Naval vessels manned by personnel of the Free French, Polish, Royal Netherlands and Royal Norwegian navies formed part of the bombardment forces supporting the landings, and airmen from France, Belgium, Poland and Czechoslovakia, as well as from Commonwealth realms, operated with the allied air forces, providing cover for the invasion.

Of course, events in Britain and France were not the sole focus of military activity at the time. In Italy, allied forces had just occupied Rome, following the hard-fought battles at Monte Cassino; on the Eastern Front, our Soviet allies were preparing to launch Operation Bagration, one of the largest operations in an area where the numbers involved far exceeded those deployed in the West; in India, the siege of Imphal was drawing

to its end; while in the Pacific theatre American forces were preparing to invade Saipan, in the Mariana Islands, as the next stage in their island-hopping campaign. This latter activity explains why the majority of the naval forces supporting the landings were operating under the White Ensign, rather than the Stars and Stripes.

However, it is of D-day itself—the landings on the coast of Normandy—that we speak today. This, despite the invasion of Italy in 1943, was the long-awaited Second Front, pinning large numbers of the enemy’s forces in western Europe and making possible a direct attack on Germany’s industrial heartland. The ultimate success of the invasion, in conjunction with the ongoing operations on the Eastern Front, is reflected in the destruction of Germany’s ability to continue the war and its end, in Europe, just 11 months later. Many noble Lords will be conversant with this history—indeed, there are Members of this House, although retired or no longer sitting, who themselves took part in those events—and I do not propose to rehearse the campaign in detail.

However, it is worth noting that there were very particular features of the campaign and the allied effort that have few, if any, parallels in our history. Although it is the anniversary of D-day itself that we are marking, preparation and training began much earlier and had a much wider impact. I will highlight just a few aspects. The accommodation and training of the large numbers of British, Canadian and American personnel meant the occupation of significant areas of the country and the evacuation of the civilian population from those areas. The most famous, perhaps, was the South Hams of Devon but many other areas became, in effect, closed, armed encampments.

The intelligence and propaganda efforts involved were remarkable. The story of Bletchley Park and Enigma, and the invaluable information that was provided to allied commanders, is well known. The tremendous effort that went into deceiving the enemy about where and when the invasion would take place, called Operation Bodyguard after a comment by Churchill that the precious truth should always be accompanied by “a bodyguard of lies”, is known in part—for instance, the story of Monty’s double—but some parts are still less familiar. The creation of a wholly fictitious First United States Army Group in southern and eastern England, commanded by the absolutely not fictitious General Patton, was intended to persuade the German high command that the real invasion was to be in the Pas-de-Calais. This deception was continued for several weeks after 6 June, until the general actually deployed into Normandy to command the American Third Army in July.

The last unusual aspect I would like to mention was the importance of weather forecasting. The invasion needed particular states of moon and tide times to offer the greatest chance of success. The original intention of General Eisenhower was that the invasion should take place on 5 June, in which case today would have been the anniversary of the start of the operation—indeed, 75 years ago today, some parts of the invasion fleet were already at sea and were recalled—but he was advised that weather on the invasion beaches would be

so bad as to prevent the operation of landing craft. However, the RAF meteorological team had analysed the forecasts and predicted that conditions on 6 June would provide a suitable window. After much discussion, Eisenhower gave the order. This was particularly fortunate as in the next suitable period for tide, two weeks later, weather conditions were again so bad that the landing would have been impossible. The storm that took place completely wrecked the Mulberry harbour at Omaha beach.

This week we should speak not only of the past but of what we are doing in the present day. This 75th anniversary of the invasion is perhaps our last opportunity to mark such a significant milestone while we have a relatively large number of veterans still with us. Five years ago, when the 70th anniversary events were held in Normandy, we had about 400 British D-day veterans in attendance. The assumption was that this represented the majority of survivors. We were therefore surprised, although delighted, when the offer in 2014 by the President of France to honour all living veterans of the liberation with the Legion d'Honneur was met, within six months, by some 3,500 applications. In the years since, they have continued to come in—they are still being received—and we have now dealt with about 5,800 cases.

This year, we have significant commemorative events where, once again, our veterans will be centre-stage. We expect to have about 600 veterans present during the national commemorative event in Portsmouth and at events in Normandy. In Portsmouth, in the presence of Her Majesty the Queen and other world and European Heads of State and Heads of Government, those veterans from the UK and allied nations will form a thread of living history. The veterans and their memories are a direct link to the events of 75 years ago, and the assembled leaders will have the opportunity to hear directly from them.

About 250 of the veterans will then travel to Normandy on the "MV Boudicca", a cruise vessel that has been chartered by the Royal British Legion, paid for by Libor funding, to take part in the events in Normandy on 6 June. I will have the honour and pleasure of joining the veterans for the crossing to Normandy, although regrettably I cannot stay for the whole week's cruise that the veterans will be enjoying.

In Normandy, we will join the annual service held at Bayeux Cathedral and an event in the Commonwealth War Graves Commission cemetery. But perhaps the most significant event of the day will be the inauguration of the new British Normandy memorial at Ver-sur-Mer, overlooking Gold beach where the 3rd Infantry Division landed. I should like to pay tribute to Members of this House, in particular the noble Lords, Lord Dannatt and Lord Ricketts, who have played a major role in organising the creation of this memorial. It will bear the names of all those who lost their lives under British command from D-day through to 31 August, when the Normandy campaign was considered to be over.

I look forward to listening to the contributions of noble Lords in today's debate, not least that of my noble friend Lord Reay, whom we welcome warmly to this Chamber. In conclusion, I should like to say to the

House that we, who are fortunate to be living at a time when, despite other difficulties, we are not faced by mass war, should never forget the debt we owe to those who faced the dangers of crossing the Channel in frail aircraft and ships, and went ashore in the face of enemy fire to free Europe from the shadow of a tyranny whose like had never been seen before and, we can hope, will never rise again.

4.29 pm

**Lord Anderson of Swansea (Lab):** My Lords, it is a privilege to follow the noble Earl, who put the Normandy landings so well in context. It is right today to mark the D-day landings and right to pay tribute to the meticulous planning of General Morgan and his team, based on Lord Mountbatten's earlier planning. It was quite a feat—apart from the soldiers, the land forces—to organise 12,000 aircraft and 7,700 ships in the greatest amphibious operation of all time. It is right to recognise the success of the measures of deception and the work of Bletchley Park. Above all, it is right to salute the bravery of our air, sea and land forces. We should remember the sacrifice of so many lives, which will be commemorated in that memorial to be unveiled on Thursday at Ver-sur-Mer. With hindsight, of course, we can see hesitations, blunders and miscalculations, as shown by Antony Beevor in his perceptive *Sunday Times* article—but this happens in any military operation. Overall, the longest day was a total success; some say now that the victory was inevitable, but that is with the benefit of hindsight with 20/20 vision.

Paris was, of course, liberated by August. Casualties were severe on all sides. We should remember that 20,000 French civilians died in the fighting. They suffered then, and many also suffered as so much of the infrastructure was destroyed, such as the Seine and Loire bridges. The SS Division Das Reich came from the Mediterranean and up through France, wreaking havoc on so many French civilians, such as those in the Martyr village at Oradour-sur-Glane, the village of Dunes, and others. They left a trail of destruction en route to Normandy. There was so much destruction of towns—Caen, Saint-Lô, Falaise and Villers-Bocage. The terrain, the bocage landscape, the Normandy farmhouses, the hedgerows and the ditches were ideal for defence. Above all, it was, as the noble Earl has said, an allied victory. Nine countries provided ships and nine provided aircrew, apart, of course, from the land forces. Perhaps President Trump should be reminded of this triumph of multi-nationalism when he visits Omaha beach and sees that magnificent US memorial at the cemetery there.

At the risk of appearing self-indulgent, I have two personal memories to recall. In 1957, after sixth form, I worked for three weeks on a farm near Caen. Everywhere, there were still memories of the war, particularly the cemeteries, maintained so well by our War Graves Commission. I recall that in my village, the annual fete was preceded by a parade to the local British cemetery, where more than 200 men were buried. What struck me as a 17 year-old was that many of the men who died were roughly the same age as myself, perhaps a year or two older. I was proud to be invited by a group of villagers to head the procession with the

[LORD ANDERSON OF SWANSEA]

French veterans, with their berets and medals. In spite of the deaths and enormous destruction in that part of Normandy, what was clear to me was that there was nothing but immense gratitude and good will among the people for the contribution of our British forces to the liberation of France.

Fast forward 50 years. I was taking a school party from my native Swansea around Parliament. Present was the head of the West Wales branch of the Normandy Veterans' Association, Doug Gausden. When he saw in the Royal Gallery the memorial to Dunkirk, he remarked, "What about us Normandy boys?" I promised to do my best to remedy the omission. A year or so later, with the help of the then Black Rod, whose father-in-law I think took part in the landings, we had a ceremony with a piper to mark the gift from the West Wales Normandy Veterans' Association of a casket made by a local woodwork teacher with sand from each of the five beaches: Omaha and Utah for the US forces, Juno for Canada, and Gold and Sword, our British beaches. That casket is still there to remind us of the 22,000 and more British men and women who died during the Normandy campaign. I hope noble Lords will visit that casket and reflect, as I have just done.

I cite these stories to give some small personal tribute to the veterans and those who took part in those Normandy landings 75 years ago.

"At the going down of the sun and in the morning  
We will remember them".

We will remember them.

4.35 pm

**Lord Stoneham of Droxford (LD):** My Lords, I declare an interest as a trustee of the Portsmouth D-day museum. I begin by thanking the British Legion for all the work it does with the surviving veterans of all our wars, and the War Graves Commission for its magnificent work maintaining the amazing cemeteries commemorating those who lost their lives on D-day and in all our recent wars.

I have lived eight miles north of Portsmouth for the past 30 years, having worked in Portsmouth for 10 of them. In the South Downs National Park, as it is now, most of the troops for Sword, Gold and Juno beaches assembled awaiting embarkation. Hardly a day passes when I am out walking in those fields and woods in my area that I do not think of the men, principally Canadians, who camped out, some for many weeks, and what kept them going. What were their aspirations and hopes? What happened to them on D-day? From looking at the graves in Normandy, as the noble Lord, Lord Anderson, just said, one realises how young they all were—18 to 20 seems to be the normal age—and how remarkable it was that they were prepared to give their lives to liberate Europe, where they now remain.

For Portsmouth, the centre of the planning and command for D-day, the anniversaries are always marked with great dignity and respect. Every principal anniversary seems to be bigger than the last. Not only do we honour those who died, we celebrate two things. We celebrate an amazing enterprise, a remarkable partnership of many nationalities, principally British, American

and Canadians but, as the noble Earl, Lord Howe, said, also many nationalities in Europe whose countries were occupied, particularly the Poles. We also should celebrate the peace that determination and partnership have brought us for the past 75 years in Europe.

Looking ahead to the debate, with its great experts and speakers, I will briefly and modestly talk about three themes. First, I will talk briefly about a meeting that took place in the village I live in, Droxford, in the preparations for D-day. Secondly, I will say something about the amazing planning and logistics of the D-day operation. Thirdly, I will talk about the important legacy of D-day and its great international partnership, which should be how the young should understand and appreciate what was done in June 1944.

Droxford was, in 1944, a small rural village, which it largely is today, with a railway station and a small freight siding. On Friday 2 June 1944, a train carrying Churchill, Ernest Bevin and Field-Marshal Smuts arrived in the station siding. It is often speculated why Churchill came. Some think he was still trying to board HMS "Belfast" to take part in the invasion, others that he wanted to be involved in the final decisions on embarkation. Personally, I think it was his way of resolving the tension, stress and worry about whether D-day would be successful or a disaster. It was better to be out among the troops than worrying about them in London. He used the two days to visit the troops, see the embarkation, meet with Eisenhower—but not with Montgomery, who was fiercely opposed to his visit—and invite de Gaulle down to be told he would neither be leading nor going on the initial invading force.

It was not a happy meeting—a fierce argument ensued. Choosing a railway carriage for a meeting with a French general was not very politic. Telling de Gaulle this news in a crowded meeting, rather than alone, was not very tactful. Eventually, the argument exploded, and Churchill said that whenever in future there was an argument between France and the USA, the UK would side with the USA. It soured relationships for years afterwards and de Gaulle's memory was one of the grounds for him refusing us entry into the EEC in the 1960s.

This was, though, very much an argument between Roosevelt and the USA and France. We were initially sidelined until it resolved in September 1944 when de Gaulle's Government were recognised. It shows that even the best partnerships are not without divisions, arguments and disagreements. Perhaps we as a country have never resolved that conundrum of whether we should be closer to France and Europe or the USA, but perhaps it is always better to be involved with both sides of the Atlantic.

D-day witnessed many heroic actions and great bravery by all those who took part. Sometimes when the history of wars is written, it understandably concentrates on the battlefield stories and the developments there, ignoring the preparation, planning and build-up that gave victory to one side. D-day took many months and years to plan. The scale and logistics were incredible. There were no computers. Everything had to be planned manually and if those plans were changed, they had to be prepared manually again.

One man should have had more recognition for what he did: Admiral Bertram Ramsay, whose HQ at Southwick House was where the decision to go, eventually, was made. Probably because he was killed at the beginning of 1945, before he could publish his memoirs, he is more remembered for Dunkirk than the landings at Sicily, Anzio and those on D-day, which he brilliantly planned and organised. His statue is in Dover, but he needs more recognition in the Navy's home in Portsmouth. We should recall Churchill's comment: you cannot achieve victory through a glorious retreat. We should do more to remember Ramsay's role in D-day and its success.

As we raise money for education at the D-day museum in Portsmouth, I try to think what D-day legacy young people should remember. It was a remarkable operation. People unselfishly gave their lives for freeing Europe; but I have to say, quietly and as unpolitically as possible, that this was a partnership where no country solely sought to follow their national interest. There was a wider international agenda and objective. America might well have sought to defeat Japan first if it had not followed Churchill's advice and had the leadership of Franklin Roosevelt. It was certainly not an example of "America first". The partnership set up for D-day succeeded and put in place the institutions that have kept the peace going in Europe for the past 75 years. As we seek to change these institutions, I hope we will make sure that we create sound and long-standing institutions before we destroy what we have. The young men who gave their lives and remain on the European mainland deserve that respect, combined with our ever-lasting gratitude.

4.43 pm

**Lord Astor of Hever (Con):** My Lords, my noble friend the Minister briefly mentioned Operation Bodyguard and the deception carried out surrounding the D-day landings. I want to say something of the small number of courageous and imaginative MI5 case officers whose work underpinned the success of D-day. My late uncle, Hugh Astor, was one of the British MI5 operators who ran a group of double agents feeding false information to the German military intelligence and who the Germans believed were spying for them. An elaborate game of deception was implemented in which the aim was to trick Hitler's generals into thinking that Normandy was not the main target, and also to try to understand the enemy's plans and intentions. One of my uncle's double agents was codenamed Brutus, who, together with Garbo, focused on this deception.

For all the Germans' preoccupation with the approaching invasion, even though the allies were furiously preparing for it, they did not actually know where or when it was coming. German forces in occupied France would greatly outnumber the invading allies but if they could be kept in the wrong place, the numbers appeared less daunting. To dupe the Germans into thinking that the attack was going to take place at the Pas de Calais—the shortest route across the Channel—the operators set out to convince them that any landings in Normandy were a large-scale diversion. As the real army mustered in the south-west to attack Normandy, the allies created a mythical American army under General Patton, which boasted 11 divisions

in Kent and was visited very publicly by King George VI. To support the deception, two fake corps headquarters maintained the constant radio traffic that would be generated by a real army. Dummy aircraft and inflatable tanks, together with 250 fake landing ships, all contributed to the illusion.

Crucially, the threat to the Pas de Calais would be maintained for as long as possible after the Normandy landings to ensure that the Germans did not send troops south to repel the real invasion, and half a million German troops remained in the Calais area until early July. Under my uncle's direction, Brutus also sought to lure the Germans into preparing for an attack on Norway. A fake army was created in Scotland for a likely raid there, successfully keeping Hitler on high alert on a second front. At no point did the Germans redeploy their 250,000 troops from there.

My uncle was also the handler for a double agent, Bronx, who focused on the south-west of France. The Germans had substantial forces deployed in the Bordeaux area, notably two Panzer divisions. Once the Normandy invasion was under way, their tanks would certainly be deployed north to try to repel the allies. Every hour that the Panzers could be detained in the south-west would save allied lives. Amazingly, two weeks after the invasion, Bronx was still hinting at a looming second invasion in the south-west. As a result one Panzer division remained in position, defending it from an attack that never came.

The deception was built from myriad tiny fragments of carefully sown misinformation for the enemy to piece together. A great lie would be built up of snippets, gleanings and hints, some of them true. The work of these spies and their operators held a fascination for Winston Churchill, who described it thus:

"Tangle within tangle, plot and counter-plot, ruse and treachery, cross and double-cross, true agent, false agent, gold and steel, the bomb, the dagger and the firing party, were interwoven in many a texture so intricate as to be incredible and yet true".

The codebreakers at Bletchley Park deciphered Nazi high command messages and revealed the confusion and disarray of the German troops before the invasion. By 1942 almost all the traffic of German intelligence services was being read, with more than 200 messages being decrypted every day.

From this trove of information, MI5 constructed a detailed picture of German intelligence; its personnel, methods, strengths and frailties. It knew who its enemies were, and what they were thinking. Amazingly, the allies controlled the German espionage network in Britain—every one of Hitler's spies. Consequently, we could reinforce the misinformation being fed to the Führer and his generals. The invasion of Normandy came as a stunning surprise to the senior German commanders, who were not only unprepared but positively relaxed. On 6 June 1944, Rommel was at home, 500 miles away, lighting the candles on his wife's birthday cake. Since this attack was assumed to be a diversion, it was not thought necessary to wake Hitler early that morning. As the Battle of Normandy raged, the Germans held fast, not to the reality, but to the illusion, so carefully planted and meticulously sustained. The failure to counterattack hastened the end of Nazi Germany. Once the allies were properly established ashore, the Germans were bound to lose in the end.

[LORD ASTOR OF HEVER]

What do we know about these MI5 operators? They had an instinct for how other people thought and reacted to situations—they possessed empathy and imagination, in addition to a superior intellect. They had to tread a fine line between passing on accurate information and not giving away too much, which would imperil British interests. Lives were at risk. Every case officer was acutely aware that a single slip could bring the entire project crashing down, with catastrophic consequences. The Germans were constantly assessing and reassessing their agents, trusting and doubting them at the same time. Just as the double agents lived double lives, so each MI5 officer had to try to inhabit the life of his agent. With the stakes so high, handling them was an emotionally demanding and highly stressful business.

These MI5 handlers were real heroes. Their ingenuity, spirit and heroism were truly remarkable, contributing in no small measure to the success of D-day. The most ambitious deception campaign ever attempted saved thousands of allied lives and helped shorten the war. Their work remained secret for many years after the war and, under the 100-year secrecy rule, many of the files will remain secret until 2044. My uncle received no public recognition for the work he did, and he never mentioned his involvement until the very end of his life.

4.53 pm

**Lord Janvrin (CB):** My Lords, I thank the Government for giving time for this debate and the Minister for introducing the subject with his customary touch and eloquence. I am also a member of the Normandy Memorial Trust, so ably led by my noble friends Lord Ricketts and Lord Dannatt. I will turn to the work of the trust in a moment, but first I will say a word about the importance of commemoration.

As someone who worked at Buckingham Palace for over 20 years, I have witnessed commemorative events large and small in every corner of the United Kingdom and in many countries overseas. I cannot recall a single one which did not strike a powerful chord of grief or loss, of loyalty or pride, of community heritage or a deep sense of national identity. These events honour historic occasions, places and people, but they do more. They set the present in the context of the past, to the benefit of us all: young and old, those with direct memories and others just trying to understand a little better the world about us. They teach and they explain a little more of what defines us.

So it is with D-day. Others in the Chamber today are more qualified than I am to remind us of how relevant the events of 75 years ago are to the world of today. I have appreciated the contributions so far and I look forward to those to come. We all need reminding, as RUSI's recent YouGov survey of public awareness of D-day so dramatically showed. The epic story of that great military operation illuminates and explains so much of today's world: the importance of the special relationship on show at Buckingham Palace last night; the importance of NATO; our endlessly difficult and complex relationship with the French and with Europe; and Putin's ambitions for post-Cold War

Russia. None of these can be properly understood without knowledge of this story. We are right to remember and to learn.

We are right also to honour the people who were there. The 75th anniversary is probably the last time that many Normandy veterans will make the pilgrimage to the beaches, honouring lost friends and recalling moments that defined their lives. It has been the ambition of many of those veterans, led by George Batts, the former secretary of the Normandy Veterans' Association, to see a national memorial built to the memory of their fallen comrades. The Americans have a national memorial above Omaha beach. The Canadians have one above Juno beach. Although there are many regimental memorials in Normandy, there is no single place which commemorates all the British forces, and all those nationalities fighting under British command, who died in the D-day campaign.

The Normandy Memorial Trust was created in 2016 to realise the dreams of those veterans to build a British national memorial. Generous initial funding has been provided from the Government's Libor fund. Help and support have been given by the Royal British Legion and the Commonwealth War Graves Commission. Land has been bought on the gently sloping hillside directly overlooking Gold beach, with the remains of the Mulberry harbour at Arromanches clearly visible on the horizon. A design for the memorial has been submitted to and approved by the French planning authorities. It will record in stone and in perpetuity the 22,442 names of all those under British command who lost their lives in the Normandy campaign. There will also be a memorial to honour the thousands of French citizens who lost their lives during the bitter fighting through the towns, villages and countryside of Normandy.

The start of the construction and the statue which will be the centrepiece of the memorial, as the Minister mentioned, will be inaugurated in a short ceremony on Thursday morning by the Prime Minister and President Macron. We hope that the memorial itself will be completed by the summer of next year, and there is then an ambition to raise funds for an education centre and other facilities. Of course, as the Prince of Wales, the trust's patron put it, the memorial is long overdue, but it is not too late. We owe it to the remaining veterans and their families to realise their dream and to honour their comrades. We owe it also to future generations to remind them of the extraordinary contribution made by the United Kingdom in 1944 to the restoration of liberty, democracy and the rule of law to Europe. We owe it to ourselves to understand better today's news agenda by learning from those momentous events of 75 years ago.

4.59 pm

**Lord Burnett (LD):** My Lords, it is a pleasure to follow the noble Lord, Lord Janvrin. I will be quoting from a book, and there is a rather fuzzy photograph of him in that book. It is an honour to speak in this debate and to pay tribute to all the people, not only from our country but from our allies and friends, who made such a mighty triumph of Operation Overlord.

The mammoth task of preparing for D-day, including training troops for amphibious operations, started well over 18 months before the invasion itself. The principal allies—ourselves, the United States and the Canadians—used all the valuable intelligence resources available to us. It is true to say, as other noble Lords have, that the code-breaking capacity at Bletchley Park was vital in helping to secure victory in the war and certainly shortened it by a considerable period of time. Our ability to gauge the Axis powers' deployments, strategy and tactics was invaluable. Furthermore, the assistance we got from the French Resistance and its ability to disrupt Axis forces was also extremely helpful.

There was so much planning and co-ordination for this huge amphibious operation. Months before the invasion we had reconnaissance troops deployed all over the north coast of France, from Calais to Brittany, engaged in beach reconnaissance in an endeavour to confuse the enemy as to the invasion destination. Nearer the time of the invasion, decoy models were parachuted into different areas. The organisation and co-ordination had to involve all the main allies, particularly, as I have said, the United States, ourselves and Canada. It also involved all branches of our Armed Forces: we had to retain air superiority to be able to bomb and strafe the enemy from the air and co-ordinate ships, naval gunfire support, landing craft commando, and glider pilot and parachute troops for the assault itself. In addition to transporting troops, tanks, armoured cars and other vehicles, fuel, ammunition, food, water and medical supplies had to be delivered. In sustaining the assault and getting reinforcements and the main body of the Army ashore, there had to be a system of landing, especially for heavy armour. The Mulberry harbours, an invention of genius, had to be towed to northern France and assembled after the invasion when the beachheads had been taken.

The House will know that the First United States Army landed at Omaha and Utah beaches, whereas the British and Canadian forces, comprising the Second Army, landed on Gold, Juno and Sword beaches. To gauge the massive scale and power of the initial result, it is instructive to look at the order of battle on D-day itself. The United States Army landed a division at Utah and two divisions, plus rangers, at Omaha. In addition to those forces, the 82nd Airborne Division and the 101st Airborne Division were dropped inland. The 3rd Canadian Division was landed at Juno beach, and the United Kingdom's 50th Division was landed at Gold, with the 47 Commando Royal Marines. The UK's 3rd Division landed at Sword with two commando brigades; the United Kingdom's 6th Airborne Division was dropped inland. Over 150,000 allied troops were landed or dropped on D-day itself. This initial assault was on a massive scale that had never before been seen. The crucial reinforcement of the bridgehead in subsequent days was also of a magnitude unsurpassed in history.

It should not be forgotten that there were large Australian, New Zealand, French, Czech, Belgian, Dutch, Greek and Polish contingents, sometimes as many as a division in strength. The success of the operation and the work of the beach-masters and others involved in this operation was a triumphant achievement.

The United Kingdom Second Army was responsible for our initial assault and subsequent land operations. The commander of the Second Army was General Sir Miles Dempsey, a quiet but highly respected and hugely admired officer. To give the House an example of the intensity of the combat and the terrifying casualties sustained by the assault troops, I have chosen General Dempsey's selection of 47 Commando's capture of Port-en-Bessin as one of two D-day actions he considered especially outstanding. He wrote:

"The capture of Port-en-Bessin was vital for two reasons: firstly, it formed a junction point between the British right flank on Gold Beach and the American V Corps landing on Omaha; secondly, it was essential as the main terminal of our petrol, petrol being the life-blood of a modern, mechanised army".

I am indebted to the late Professor John Forfar MC for his book *From Omaha to the Scheldt*, in which the noble Lord, Lord Janvrin, appears. Professor Forfar was the medical officer of 47 Commando and went on to have an equally distinguished career as a consultant paediatrician in Edinburgh. In a table in the book under the heading "Counting the cost"—this would include casualties that the unit sustained in the Scheldt some months later—63% of the fighting troop officers were killed in action and 75% of them wounded, giving a total of 138%. As to enlisted men, the total was 116%. Noble Lords might wonder how to get a figure of more than 100%; it is because the replacements and reinforcements were often killed or severely wounded as well.

One benefit of a debate of this nature is the chance to put on record our profound gratitude and indebtedness to the countless people from not only our own country but those of our allies and friends who were involved in this operation. We owe them all a debt of honour we can never repay.

Another advantage of the debate is the chance to emphasise the importance to this country of retaining and building on our amphibious capacity. In what I would loosely call the western world, the only countries with such a capacity are the United States—its amphibious capability is huge—ourselves and the French. Since World War II, the Royal Navy and the Royal Marines, often with Army and Royal Air Force ranks attached, have been involved in numerous amphibious operations, including the Korean War, Suez, Tanganyika—as it was—Limbang in Borneo, the first Kuwait threat from Saddam Hussein, the threat to Hong Kong in 1967, the Falklands campaign, operations in Sierra Leone, the invasion of Iraq and, the year before last, humanitarian operations in the Caribbean, as well as earlier operations.

In his speech at the Royal United Services Institute on 11 February this year, the then Secretary of State for Defence talked about the importance to this country of,

"increasing our global presence and building on our alliances",

both east and west of Suez. Among other things, he stated:

"The UK is a global power with truly global interests".

He talked at length about the "Littoral Strike Ship concept", and praised the success of the Royal Navy and what he rightly described as our "world-renowned Royal Marines". The point is that we need the capacity to retain these skills. Can the Minister confirm that

[LORD BURNETT]

the Government still have these aims? What exactly will they do to ensure that we continue to be able to mount amphibious operations throughout the world, with the necessary escort vessels, aircraft carriers and other vital support?

Finally, we should give thanks that we have had no western European war since 1945. I fervently believe that our membership of the European Union, with our European allies and friends, has made a great contribution to this ensuing peace.

5.09 pm

**Lord Reay (Con) (Maiden Speech):** My Lords, before I begin I offer an apology to several noble Lords, who over the past few weeks were led to believe—largely by me—that my maiden speech would address broadband connectivity in rural areas. It is an issue close to my heart, but I am happy to save that speech for another day.

I am most grateful to my noble friend Lord Howe for introducing this important debate. How great an honour it is to participate and pay tribute to the allied troops who took part in the D-day landings. I thank noble Lords from across the House, who have been most welcoming and helpful during my initial few weeks, as have the staff and doorkeepers. As Mackay clan chief, I am delighted to join my distinguished kinsman, my noble and learned friend Lord Mackay of Clashfern. Some noble Lords may recall my father Hugh, who—like my grandfather, Shimi Lovat—served this House. I am proud to follow in their footsteps.

It is almost 390 years since my ancestor Donald Mackay was raised to the peerage. His was a doughty spirit, typical of the highlanders he lived among, and he loved a battle. Charles I was wise enough to harness rather than resist Donald's energies, and he sent him and his men to fight overseas in the Thirty Years' War on the side of the Swedish King Gustavus Adolphus. Thanks to their many victories, most notably at the pass of Oldenburg, Mackay and his men became known as the "Scottish invincibles". I point out, however, that while Charles I was generous with titles, he was not so ready with his cash. The lack of payment for troops left Mackay in severe financial difficulties, from which he barely recovered. I trust a similar fate will not befall me as a result of my service to Parliament.

For several centuries the Mackay clan colonised Sutherland on the north coast of Scotland, an area of the country renowned for majestic scenery and excellent salmon rivers. It has recently become the prospective site of Britain's first international space station. Large numbers of the clan were soldiers. Since it was easier in those days to travel to Scandinavia and the Netherlands by sea than to go inland, they fought abroad. Many married into Dutch families and one member of the family, Aeneas Mackay, became Prime Minister of the Netherlands.

The Frasers of Lovat shared a similar fondness for military adventure. Shimi Lovat was integral to the establishment of the Commandos in 1940, having been given the personal blessing of not only Churchill but the highly decorated General Carton de Wiart. The latter gave approval while reclining in his bath-tub,

revealing World War I injuries including the lack of a hand and just one good eye—the other, alarmingly, uncovered. The Commandos played a key role during the Normandy landings. Lovat conducted his troops to Sword beach accompanied by his bagpiper, Bill Millin. When asked to pipe the men ashore, Millin hesitated, saying that the practice had been outlawed by the War Office. However, Lovat insisted that the Scottish war office had no such qualms. Years later Millin was to play at Shimi's funeral. Aptly, Lovat's Free French soldiers were the first to make land.

Five years ago, with about 100 Fraser relations, my family visited the Normandy beaches for the unveiling of a statue to my grandfather. Afterwards, at Pegasus Bridge, the wonderful Madame Arlette Gondrée, whose parents had played a prominent role in assisting the allied forces, hosted a magnificent lunch. It was at this scene on D-day that the Commandos achieved their primary objective of reinforcing Major John Howard's Airborne Division. Café Gondrée remains a hallowed destination for Normandy veterans to this day. Since the liberation, as a token of appreciation the veterans have not been permitted to pay for food and drink. Unfortunately this generosity does not extend to relatives.

The amphibious assault on D-day and the ensuing two and a half months of battle to secure Normandy resulted in over 200,000 allied casualties. Some 2 million crossed the channel and 20,000 French perished, as well as over 200,000 Germans. Thankfully, out of this tragedy a more peaceful Europe emerged.

It is particularly important that younger generations are reminded about the courage and selflessness that was shown during this time to preserve our freedom and independence. As a nation we owe a debt of gratitude to the United States; likewise for the sacrifices made by their nation on our behalf. Having spent over 11 years in America at university, and working in the financial sector, I feel particularly strongly that the vital role the United States played in our support during World War II should not be overlooked.

I would like to conclude with the address that Lovat made to his troops in Southampton on the eve of the landings. He spoke first in English and then French, and ended as follows: "I wish you all the very best of luck in what lies ahead: this will be the greatest military venture of all time, and the Commando Brigade has an important role to play. A hundred years from now, your children's children will say: 'They must have been giants in those days'".

Indeed, they were.

5.16 pm

**Lord Dobbs (Con):** My Lords, what a privilege to follow that delightful speech of the noble Lord, Lord Reay, and an honour to welcome him to this House. It was a delightful, dignified and delicate speech, if I may say so, which is nothing less than we would expect from a noble Lord who is the clan chief of our own noble and learned Lord, Lord Mackay of Clashfern.

I suspect it was always likely that the noble Lord would make an impact. He comes from a long line of Scottish lords, one of whom apparently was a legendary wizard who, having come out victorious from a clash

with a local witch, was rewarded with a young gang of tireless fairies who liked nothing more than to work. I am not sure whether the noble Lord has that gang of fairies still at his disposal, but on the basis of that very fine maiden speech, we can all look forward to his tireless work for us in this House.

Earlier today, I had the great pleasure of showing some American friends round our Parliament—the former US Surgeon General, Admiral Richard Carmona and his family. I think they were impressed, particularly with the Royal Gallery, the most beautiful room in the kingdom in my opinion, dominated by those extraordinary murals of Waterloo and Trafalgar—ironically and exquisitely painted by an Irishman, Daniel Maclise.

The quiet corner of the Royal Gallery that spoke to the admiral and me more than any other is where we usually keep the books of honour recording our war dead, which for the moment are not in their place. Beside them, amid the glorious Gothic extravagance of Augustus Pugin, are two simple reminders of times past that touched both his and my heart: a chunk of stout oak that formed the jetty at Dunkirk, where we were hurled off the continent at the end of the beginning, and that small box which the noble Lord, Lord Anderson of Swansea, so eloquently reminded us of earlier, that contains handfuls of sand taken from each of the five beaches of D-day, Utah, Omaha, Gold, Juno and Sword—the beginning of the end.

They are such simple but intensely powerful reminders of what our fathers and grandfathers did. The outcome was no foregone conclusion—far from it. Churchill knew, after Gallipoli, the Norwegian campaign and Dieppe. Churchill certainly knew. And everything depending on that most mischievous of allies—the weather. Disaster hovered in the wings, looking for its chance. We can still see it today, in the old newsreel footage: the fear carved in the faces of those young soldiers as they ran from their landing crafts and up those bloody beaches, not knowing if it was the last step they would ever take. Their average age was little more than 20, with many of them still teenagers barely out of school.

More than 425,000 troops were killed or wounded in the battle for Normandy: there were between 5,000 and 10,000 allied dead on 6 June alone. They were not just British, of course, but Americans, Canadians, brave Poles and others, as the noble Earl so forcefully reminded us earlier. Mostly, however, they were American; we owe them an eternal debt. Many French civilians also died in the assault to liberate their country, and we should not forget the German dead, who were mostly young men and boys. I have a suspicion and a sense that they fought not with glory glinting in their eyes but with at least as much fear gripping their hearts as our own young men. “The glorious dead” is what we call them, but they would much rather have lived and grown old, like we who are left to grow old.

That brings me to a point I fear I must make—it needs to be made gently but firmly. The US President is here to help us commemorate D-day and the extraordinary sacrifices that were made to secure our freedoms. He is here not as Donald Trump but as the elected President of the United States of America, the greatest democracy on the planet. It offered up more

of its young men on those beaches of D-day than any other country. They died for the freedoms that today we take perhaps too much for granted and which all too often we abuse. The protesters on our streets today are the same age as many of those who died on the beaches, and they of course have a right to protest—that is what their forefathers fought for. But oh how much happier I would be if that protest were conducted with dignity and thoughtfulness matching the moment we commemorate.

I am the first generation of my family for perhaps a thousand generations who has not had to face the prospect of fighting and dying on some battlefield of Europe. I have been given that most precious prize of all prizes: being able to watch my own sons grow to manhood in peace and freedom. How I would have welcomed the chance to listen to President Trump address us here in this Parliament and reflect on the ties of liberty and mutual interest that still bind us. The refusal was, I think, a mistake, and diminishes us all.

Now, more than ever, we need reminding of those links and of what price all of us, but particularly the young, have to pay for political failure. During this current political turmoil, it is often said that Britain is looking back, trying to regain lost glories. But if that was glory, let me have none of it. Let us instead take the lessons and look forward to a better world based on the liberties that so many brave young men fought and died for.

On Thursday, as old men gather on those beaches, let us honour the sacrifices that they and their comrades made for us and for future generations. In the morning—every morning—let us remember them.

5.23 pm

**Baroness Crawley (Lab):** My Lords, I too welcome the noble Lord, Lord Reay, and look forward to hearing from him many times in the future, especially on rural broadband connectivity.

We approach this 75th anniversary of D-day in sombre mood, not only for the anniversary itself, with its huge significance for the war and the scale of sacrifice involved, but because, as our own Lords Select Committee report, *UK Foreign Policy in a Shifting World*, put it:

“We are living through a time of worldwide disruption and change”.

The report, debated on 21 May, reminds us that today’s trends include populism, identity politics, nationalism, isolationism, protectionism and mass movements of people. It goes on to warn that the global balance of power is shifting and fragmenting in a way not experienced since the Second World War, undermining the rules-based international order that was so properly set up at the end of that war. Therefore, while we commemorate and reflect this week, we must also attempt to learn some of the painful lessons of the war, as the noble Lord, Lord Janvrin, said. It is my deep and personal belief—some might say heresy—that, for instance, going ahead in a cavalier fashion with Brexit is not really learning those lessons, but may be flying in the face of them.

[BARONESS CRAWLEY]

The veterans of the D-day landings and the bloody battle for Normandy that followed are in their very old age now and fewer are able to return to the beaches of Sword, Juno, Gold, Omaha and Utah. To see the 250 veterans preparing to sail from Portsmouth with their families this week was an absolute joy and I am very pleased that the Minister will be accompanying them. Our gratitude for their participation in the most ambitious military operation that the world has ever seen is boundless, as it ensured our present freedom and democratic way of life, as noble Lords said. That democratic way of life is so easily and so often taken for granted.

On the matter of veterans, I was contacted recently by the family of a surviving World War II veteran, Harold Mason, from another theatre of that war. Harold joined the Royal Navy aged 17 and is a survivor of the Arctic convoys. His extraordinary personal bravery in rescuing Norwegian men, women and children in one incident from the Arctic water is yet to be officially recognised and I am grateful to the noble Earl, Lord Howe, as Minister of State for Defence, for agreeing to discuss Mr Mason's case with me even though I am aware that a resolution would be extremely difficult and that the family's MP, Mr Philip Hollobone, has already worked on their behalf in this matter.

While we remember and honour our veterans today, it is also important to remember our war widows. I was delighted and humbled to be asked this year to become a vice-president of the War Widows' Association under the wonderful presidency of the noble Baroness, Lady Fookes, and I follow in the footsteps of the late, much-missed, Baroness Dean, who would definitely have been speaking today. The War Widows' Association is a most extraordinarily brave and feisty group of mainly women and some men, who should be considered veterans by anyone's measure. I was very moved to read the recollection of one of the war widows, Bernice Lois Bartlett, of the day the letter came to tell her that her husband Harry had been killed in 1944. She said:

"I just didn't expect it. The letter came, the ordinary blue envelope and I put it on the dresser. I didn't open it because it was the children's teatime ... and I thought, get them done, put them to bed, then I'll read my letter. Of course I didn't realise what the letter contained. You just don't think it's going to be you".

No doubt that scene was played out time and again across the country and, unfortunately, it still is.

The WWA was originally set up to fight for the rights of those widows and especially to put right the fact that their war pension was being taxed by the Inland Revenue. Once that campaign was won, there was a further push to ensure that war widows did not lose their pension if they remarried or cohabited, and that was resolved in 2015. However, those 300 or so war widows who were affected before 1 April 2015 are still cut off from their pension. Will the Minister meet me in coming weeks to discuss this unresolved and very important issue for the War Widows' Association? I am testing his patience. Like buses, he does not see me for months, and now I am asking to see him twice in one week.

Finally, I am thinking today of Bob Maloubier, a French SOE agent who I was proud to have known and call a friend. Bob died in 2015. He was awarded

the DSO in 1945. He came to lunch here in the Lords as my guest not long before his death and was a famous Anglophile. Bob was twice parachuted into France and carried out a series of daring sabotage missions with fellow SOE agents, including the courageous Violette Szabo, whose daughter Tania is a good friend, whom he attempted to rescue from the Gestapo. In the early days of the battle for Normandy, Bob Maloubier was parachuted back into France after being injured and went on to play his part in weakening the German response to D-day. Bob and all the brave SOE agents should be in our thoughts today because their fearless work as saboteurs behind enemy lines throughout the war did so much to bring about the final victory.

As the allied veterans return to the beaches of Normandy one last time this week, they will know that the gratitude of a grateful nation and indeed of the free world is with them. What is less known is whether we, who have not had to face war on such a scale, are paying proper attention to the shifting world we live in.

5.32 pm

**Lord Lexden (Con):** My Lords, how fortunate we are that my noble friend Lord Reay chose to make his maiden speech in this debate so that he could remind us of the wonderful exploits of his grandfather Lord Lovat, who was so distinguished a figure in the Second World War.

In opening this important debate my noble friend the Deputy Leader of the House reminded us powerfully of the truly breathtaking scale and extent of Operation Overlord, whose 75th anniversary we are commemorating today. By happy coincidence, it comes a few days after the 225th anniversary of the Battle of the Glorious First of June, when my noble friend's renowned forebear, the 1st Earl Howe, smashed the fleet of republican France in the Atlantic.

The noble Lord, Lord Stoneham of Droxford, referred to a fine sailor of the Second World War, Admiral Ramsay. I strongly agree that his huge contribution to victory should be more widely known and recognised.

I shall devote most of my remarks to the great man who was indispensable to victory: Winston Churchill. He agonised over the opening of a new front in northern France. He was haunted by the memory of the long, bloody, inconclusive battles of the First World War and feared their repetition. He told the King, and his indispensable Soviet ally Stalin, that he was prepared for casualties of around 10,000 on the first day alone, but as,

"the supreme climax of the war",

as he described it, drew near, the great man was in buoyant mood. His principal military adviser, General Alan Brooke, a man much given to gloom, recorded on 5 June that,

"I found him over optimistic as regards prospects of the cross Channel operation and tried to damp him down".

The doubt-ridden general did not succeed.

Churchill, who was also Minister of Defence, wanted to be associated as closely as possible with his troops as the greatest armada in human history sailed to its destination. So, too, did the monarch, King George VI. On 30 May, they agreed that they would both be present on D-day, aboard HMS "Belfast". The King

was quickly dissuaded. His Private Secretary, Alan Lascelles, asked him whether he was seriously prepared to advise Princess Elizabeth on the choice of her first Prime Minister in the event of her father and Churchill being sent to the bottom of the English Channel. The King then told Churchill that his life was far too precious to be put at serious risk. For several days his entreaties had no effect. Lascelles noted,

“the trouble is that none of those who have access to Winston can influence him once he is set on a course, not even Mrs Churchill nor, apparently, his anointed King”.

The Prime Minister eventually gave way with the utmost reluctance. He made his feelings plain later in his war memoirs:

“As a result of what I saw and learned in the First World War, I was convinced that generals and other high commanders should try from time to time to see the condition and aspect of the battle-scene themselves”.

Was it not only right and just, he added, that,

“when sending so many others to their deaths he may share in a small way their risks?”.

It was here in this Chamber, then being used by the Commons, that Churchill delivered the first official statement on the events of D-day. Harold Nicolson, a National Labour MP and a marvellous diarist, recorded the scene here on 6 June 1944:

“I go down to the House, arriving there at about ten to twelve ... Questions had ended unexpectedly early and people were just sitting there chatting, waiting for Winston. He entered the Chamber at three minutes to twelve. He looked as white as a sheet. The House noticed this at once, and we feared he was going to announce some terrible disaster”.

Two pieces of typescript were placed on the Dispatch Box. Churchill spoke first of the liberation of Rome two days earlier by General Alexander’s conquering army.

“Alexander gets a really tremendous cheer”,

Nicolson noted. Churchill took up his second sheet:

“I have also to announce to the House that during the night and the early hours of this morning the first of the series of landings in force upon the European Continent has taken place”.

He spoke for some seven minutes in confident terms:

“Everything is proceeding to plan. And what a plan! This vast operation is undoubtedly the most complicated and difficult that has ever taken place ... Complete unity prevails throughout the Allied Armies. There is a brotherhood in arms between us and our friends of the United States”.

To these stirring remarks, the House listened “in hushed awe”, in Nicolson’s words.

Does not awe remain the right emotion 75 years later—awe at the precision and attention to detail with which this vast operation was put so successfully together; and awe, mingled with gratitude, at the courage of those drawn from many different countries in Europe and around the world who served under D-day’s banner of freedom?

I was one of a small group who submitted a rough draft for Margaret Thatcher to consider as she prepared a speech for the 40th anniversary of D-day in 1984. She stressed the importance of retaining for ever the great war-time alliance that was later to be enshrined in NATO.

This is a moment above all for honouring our fellow countrymen for their valour in June 1944. My noble friend Lord Black of Brentwood, who pressed

for this debate, is sadly unable to take part in it today. He is in Normandy, accompanying one of the veterans we are still lucky to have among us. My noble friend has asked me to say this on his behalf: Corporal, later Sergeant, Les Birch of the Royal Engineers landed at Asnelles on Gold beach on D-Day+1 to begin the work of building the Mulberry harbours, commissioned personally by Churchill, which were so vital for the success of our early operations in France. In recent years he has returned faithfully on 6 June to pay a silent tribute to those of his friends who fell and to give thanks for the success of Overlord. He will be doing the same again on Thursday. On 6 June 1944 Les Birch was one of many thousands to whom General Montgomery sent this message:

“To us is given the honour of striking a blow for freedom which will live in history; and in the better days that lie ahead men will speak with pride of our doings”.

That pride will surely be safeguarded faithfully by those who follow us throughout the generations to come.

5.40 pm

**Lord Livermore (Lab):** My Lords, 75 years ago today the allied invasion of Nazi-occupied France was delayed one final time. Appropriately, it was in the face of the British weather that General Eisenhower pushed back the beginning of Operation Overlord, this time by just 24 hours, and on 6 June 1944 D-day began. Pilots and aircrew from 12 different nations led a 1,200-plane airborne assault, preceding the largest seaborne invasion in history, when nearly 7,000 vessels carried 160,000 troops across the Channel.

The historian Antony Beevor records that General Eisenhower, without telling even his closest advisors, had prepared a brief statement to be made in the event of failure. It read:

“Our landings ... have failed to gain a satisfactory foothold and I have withdrawn the troops. My decision to attack at this time and place was based on the best information available. The troops, the air and the Navy did all that bravery and devotion to duty could do. If any blame or fault attaches to the attempt it is mine alone”.

If this extraordinary undertaking on D-day had failed, the post-war map and the future of Europe would undoubtedly have been very bleak indeed; but it did not fail. The allies gained the foothold they needed and the five beachheads were connected six days later. In the course of that week, 54,000 vehicles and 105,000 tonnes of supplies were landed on the beaches of Normandy and by the end of August more than 2 million allied troops were in France.

Their sacrifice was great, with 226,000 allied casualties and nearly 40,000 killed during the three-month Battle of Normandy, but a decisive victory was achieved, one that led to the liberation of Paris and laid the foundations for the allied victory on the Western Front and—together with the Soviet Union—the defeat of Hitler. It was the end of a war that claimed 70 million lives worldwide—the greatest man-made destruction in history.

In a war that revealed the very worst of human nature, the events of D-day showed some of the very best: the courage, sacrifice and dedication make us proud to this day. We should for ever be grateful for what those men achieved—grateful for the peace in Europe they created and grateful that because of them we are free to lead the lives we lead today.

[LORD LIVERMORE]

My own grandfather played his part on the beaches of Normandy. He was a tank mechanic, helping to get the tanks out of the water and up through the sand. I do not know how common this is, but he would never talk about his own experiences. He did not want to remember. All he wanted to do was forget. There are now very few veterans of D-day left alive who can tell their stories and, with the passage of time, there will one day be none.

I do not believe my generation can even conceive of the apprehension those men, waiting to cast off in their landing craft, some on board for up to a week before departing, must have felt or even imagine their terror at the scenes that greeted them as they landed under heavy gunfire at their destination.

That those experiences are now so alien to our own way of life makes them harder for us to relate to, harder to appreciate the significance of and all too easy to grow complacent about. Commemorating the events of 75 years ago should be an opportunity to show gratitude—an opportunity for remembrance but an opportunity for education too. The question for our generation is what we want these events to be remembered for: what role should they play in our national story?

The scale of sacrifice and destruction in the Second World War led many throughout post-war Europe to say “never again” and they began to unite Europe economically and politically in order to secure a lasting peace. Arguably, without their energy and motivation, we would not be living in the sphere of peace and security that today we take for granted. Now, as Britain seeks to remove itself from those institutions, it has become commonplace to hear the battles of the war used to invoke nationalist sentiment. Yet it is surely completely wrongheaded to claim the events of 75 years ago for an isolationist cause.

Britain recognised then that we were stronger when we worked as an alliance of countries and that it was in our national interest to do so. It was the demonstration of a patriotic internationalism—a recognition that we can best succeed not by standing alone, isolated, but by co-operating and working together. This failure by some to properly comprehend our past—the nature and scale of the alliance we were part of—and to properly understand our present, with the nature of globalisation and the interdependencies it brings, is much more than just a harmless delusion. It has been harnessed to create the most profound policy failure, cutting ourselves off from our allies and diminishing internationally and economically the country those people profess to feel pride in.

D-day did not just lead to a victory for our allies, it led to a victory for our values. They defeated not just a country but an ideology, not least a virulent nationalism, the demonisation of other races and an intolerance of dissent. So it really must be said that you cannot put up a poster that says “Breaking Point” and then seek to appropriate the brave men who fought fascism.

It would of course be wrong to make the Second World War an instant reference point for all contemporary controversies, but there is a very real risk today that the ideology Britain fought against 75 years ago is not

dead, just dormant. Whether it is drawing up a list of Roma people in Italy, anti-gay purges in the Chechen Republic, or a Muslim travel ban in the US, the preservation of the values our ancestors fought for can never be taken for granted. We must never grow complacent that our way of life is somehow guaranteed.

When these threats to freedom re-emerge and where this ideology becomes resurgent, let us be clear: it will not be defeated by aping or appeasing it. We will defeat it only by confronting it. Let us hope that next time—if there is a next time—we can defeat it not with bombs and bullets but with our words and our deeds.

5.47 pm

**Lord Hannay of Chiswick (CB):** My Lords, a commemorative debate, such as we are having today, needs both to look back to the event being commemorated and to situate the lessons from that event in the context of today, never more so than in the present instance when the controversy surrounding the state visit of President Trump risks overshadowing the real and continuing significance of D-day. First and foremost, we should salute the courage and the sacrifice of those Americans, Canadians and others who joined our own Armed Forces in a truly unprecedented military operation that led a year later to the liberation of Europe. Let us face it: they saved our bacon and helped deliver a victory that we could not have delivered on our own.

Are we sufficiently grateful? I sometimes doubt it. For example, why have we not, as the French have so generously done towards our D-day veterans, honoured all those surviving? Should we not now be honouring all surviving US veterans of D-day? I think we should. In the context of today, we need to realise that the Anglo-American alliance remains as important to our continued security as it was then. This is easy to forget when the Trump Administration take a whole range of decisions contrary to our view of our national interest—for example, on policy towards Iran, on the United Nations, on climate change and on trade policy—and do so without paying much attention to our own Government’s views. But we must not let our criticisms of and our opposition to this Administration metamorphose into that ugly brand of anti-Americanism which so disfigured our politics 40 years ago. We must do our best to ensure that the NATO summit to be held in this city in December strengthens the alliance and demonstrates its continuing validity.

Then there are the lessons of D-day for our own place in Europe, of which we are an integral part, not just geographically but culturally, economically and historically. Our failure to recognise the full implications of that in the 1920s and 1930s contributed to our having to fight our way ashore in Normandy 75 years ago.

There are of course no direct analogies with the present day but we need to realise that no isolation-from-Europe option for our present predicament is available to us that will not damage our future prosperity and security. We need to remember that D-day was fought to uphold a range of values—democracy, freedom of thought and speech, and many others—that were eloquently set out in the Atlantic Charter, which was drawn up by Roosevelt and Churchill two years or so before D-day, and which then became those of the

United Nations when that organisation was founded in 1945. Among a lot of loose talk in recent months about the rebirth of nationalism, we need to recognise that our compatriots died to uphold those values and we must not desert them now.

5.51 pm

**Lord Bilimoria (CB):** My Lords, the landings of allied forces on the Normandy coast on 6 June 1944—Operation Overlord—were a combined naval, air and land attack on Nazi-occupied France. We must remember that Germany had occupied France since the spring of 1940, and in early 1943 the planning for the invasion started. There was then the 1943 Tehran Conference on opening the second front in western Europe, and, as the noble Earl, Lord Howe, said in opening the debate, Stalin agreed with the launch of his own front.

By 1944, 2 million troops from over 12 countries were in Britain preparing for the invasion. As has been mentioned right up front and throughout the debate, the allied forces consisted not just of Americans and the British but of Canadian, Belgian, Australian, Czech, Dutch, French, Greek, New Zealand, Norwegian, Rhodesian and Polish naval, air and ground support. Whenever we talk about D-day, we picture the beaches and the horror that took place, but we must also remember the 18,000 allied airborne forces who were parachuted in for the assaults on the beaches of Utah, Omaha, Gold, Juno and Sword.

In that 24-hour period, the allied air forces flew 14,000 missions in support of the landings. They had already achieved air supremacy, and the decimation of the German fighter force by US aircraft in the spring of 1944 was a key factor in the Luftwaffe's "poor showing", as it was called, over Normandy. Seven thousand naval vessels were involved. Naval forces were responsible for landing 132,000 ground troops on the beaches and providing artillery support in the bombardments. The scale and magnitude of D-day was phenomenal. In one day alone the allies landed eight divisions and three armoured brigades on German-occupied France.

Of course, the casualties were huge. By the end of August 1944, Germany was in full retreat out of France. There is no question but that D-day was an unqualified success and paved the way for the liberation of much of north-west Europe. On that one day alone, the total number of British and Commonwealth casualties—killed, wounded or missing—was approximately 4,300.

I do not think that anyone has mentioned in this debate what "D" stands for. People take it for granted that it stands for "day", because the date was not exact at the time, and "D-day" has been in parlance ever since, including in the services. It was the biggest seaborne invasion and, arguably, one of the greatest military campaigns ever. By the end of 11 June—D+5—over 325,000 troops, almost 55,000 vehicles and 104,000 tonnes of supplies had been landed on the beaches.

Nor must we forget the German numbers, although they are not well recorded. It is estimated that between 4,000 and 9,000 German troops were killed. The noble Earl, Lord Howe, said that there were almost 20,000 French civilian casualties, but that does not include

the 15,000 who had been killed during the bombardments prior to D-day. Without D-day, Adolf Hitler would have deployed many more divisions to resist the Red Army. He would have had more time to develop his weapon of terror, the V-2, and the war might have continued indefinitely.

We have heard many accounts of individual stories. It has been an excellent debate and we have also heard a superb maiden speech. I was reading one account by SLA Marshall about the epic human tragedy that unfolded when the allied troops landed. Talking about Boat No. 4, he said:

"Half of its people are lost to the fire or tide before anyone gets ashore ... Already the sea runs red. Even among some of the lightly wounded who jumped into shallow water the hits prove fatal ... Other wounded men drag themselves ashore ... and are knocked off by machine-gun fire".

There was huge bravery, but the loss of life and the casualties were tragic.

We must not forget—the noble Earl mentioned it up front—that D-day was possible only because of allied efforts elsewhere. It depended on allied control of the Atlantic. What those working at Bletchley Park did to help control the Atlantic, let alone what they did for D-day, has been mentioned time and again. The campaign in Italy directed German troops away from the Western and Eastern Fronts, and of course the Soviet Belorussian offensive, Operation Bagration, was launched just after Overlord.

I have been chair of the Memorial Gates Council—the gates that commemorate the service and sacrifice of the 5 million troops from south Asia, Africa and the Caribbean who served in the First World War and Second World War. In the Second World War, 2.5 million Indian volunteers served in north Africa, the Middle East and Italy, and they also fought the Japanese in Malaya, north-east India and Burma. They were awarded 31 Victoria Crosses. Thousands of lives were lost and thousands of casualties were incurred.

The Italian campaign was particularly important. My father's cousin, Lieutenant-General Satarawala, who was in my father's regiment, the Fifth Gurkhas, was awarded the Military Cross in that campaign. Over 5,000 Indians lost their lives. The Gustav Line was finally breached on 14 May. While the Fifth Army made a flanking attack to the south, the Eighth Army of British, Polish, Canadian and Indian troops made a frontal assault on the line at Cassino. The number of Indian casualties in the Italian campaign was huge—over 24,000. My father's own regiment, the 1st/5th Gurkhas, was in Italy from December 1943 to May 1945. One battalion suffered over 1,000 casualties during that period, including one who received the Victoria Cross.

I asked Major-General Cardozo, who wrote the book about my father's life, whether any Indians took part in D-day. He said that they were not there because they had been fighting in Italy. It needs to be understood that because the Indian army and the Gurkhas were fighting in Africa, Sicily and Italy, the Germans were not able to move their forces to hold the allies who attacked across the channel on D-day. I do not think that we should ever forget that—a point made at the beginning of the debate.

[LORD BILIMORIA]

However, the success of D-day was not enough. American, British and Canadian troops faced another two and a half months of vicious fighting in Normandy. Antony Beevor, who was quoted earlier, said:

“Normandy was martyred in its suffering, but this terrible concentration of fighting at least saved Paris and the rest of the country from destruction”.

Most importantly, as has been said, it was a bright and shining moment for liberal democracy, defeating what Churchill called a “new Dark Age” of Nazism. The historical significance of D-day can never be underestimated in terms of democracy and international collaboration overcoming totalitarianism. A point that has not been emphasised enough is that, by early 1944, Germany and the Soviet Union were beginning to take over Europe. We can only imagine what have happened had they done so; D-day helped save us from that.

This was an allied victory. As we celebrate its 70th anniversary, we thank NATO for the peace that it has brought. The noble Lord, Lord Janvrin, talked about commemoration; our youth, and future generations, must never forget. We must always be grateful to all those who fought on D-day. Today we must thank our Armed Forces, and we will always remember all those who made the ultimate sacrifice. We thank them because they gave their today for our tomorrow.

6 pm

**Lord Balfe (Con):** My Lords, I begin by congratulating the noble Lord, Lord Reay, and saying how pleased I am that he has joined us on these Benches. I am sure that he will make many valuable contributions on connectivity, as well as on many other things, and I look forward to hearing them.

Most of us in this Chamber have two things in common: we were nowhere near the Second World War, but we have benefited enormously from the international settlement that followed it. I was born just before D-day in what was very much another country. One factor in the Britain—or England—of that time was that some 20% of males between the ages of 20 and 40 were from outside the UK. They were soldiers from Canada, the United States and many countries of Europe who were in Britain as part of the build-up to help with that invasion and what followed it. I have a few figures: there were apparently almost 3 million US servicemen in this country by 1945. They had come, some had moved on—they were not necessarily here at the same time—but they had been here.

I echo the sentiments of other noble Lords that we must not confuse the personality of the President of the United States with the people and institutions of that country, to whom we owe a debt of gratitude. By coming out of isolationism under Roosevelt, the United States did more to build the western European—now European—values that we believe in than probably anyone else. By the time D-day happened, albeit a very important happening, the Germans were already on the road to defeat. It was a question of time, as in the case of Japan in the summer of 1945: it was going to be defeated, but how long would it take? The Germans were going to be defeated, but how long would it take? We needed all those troops. We should not forget the enormous contribution of General—rather than

President—Eisenhower, who pulled together the disparate politics and attitudes of many different people, and many leaders in the different contingents that made up the allied forces of the Second World War. Eisenhower was a truly inspiring politician who wore uniform; he certainly pulled everybody together.

Denis Healey—a noble Lord in this House many years ago and a leading member of the Labour Party—once said of the European Union at a small meeting that I attended: “Europe will be in trouble when there is no longer a generation that remembers the war; that remembers Anzio and why the post-war institutions were built”. He was absolutely right. The Second World War was in many ways just a continuation of the First World War, at the end of which the mistake made was the retreat of internationalism. When I lectured in history, I used to say: “You can rewrite your history, but you cannot rewrite your geography”.

I would like people to take a closer look at the history of inter-war Europe. It was not a history of flourishing democracies and a wicked Soviet Union; in the eastern part of our continent, it was a history of pretty repressive regimes. There was not much democracy to be found in the countries of central and eastern Europe, or in the countries of the rest of Europe. Southern Europe had a variety of authoritarian regimes. If we start with Ataturk in Turkey, Venizelos, Mussolini, Franco, Salazar and swing round to the country my family came from, the Republic of Ireland, they were all quite authoritarian regimes. To my mind, what we got out of the Second World War was the liberal democracy that has persevered since then.

The person we have to thank for that is largely Roosevelt, who had a vision of what could happen. Both Roosevelt and his successor, Harry Truman, had had the advantage—an unusual one among those from the United States—of spending time in Europe. Harry Truman spent this time in uniform; Roosevelt—who was from a much more privileged background—crucially spent time in Germany as a young person. We tend to forget what we owe to these people. We forget what we owe to a heroine of mine, Eleanor Roosevelt, who saved the International Labour Organization, getting it moved to Canada during the Second World War, who wrote the Universal Declaration of Human Rights, and who had an enormous impact on social issues in America as well as on the development of, for example, the principles of the Atlantic Charter.

After the war—it could not have happened without D-day—we had the Council of Europe, the European Union and the European Coal and Steel Community. All were built on the hope and belief of a generation of which I am pleased to be a member that we could build a better Europe together. The biggest lesson of D-day is the multinationalism in its endeavour to achieve an ideological objective, which was the Atlantic Charter and its principles of democracy. To me, that is what D-day was about and why we are, rightly, celebrating it now. But we would not have the institutions that we have in western Europe had it not been for the assistance of the United States. Without Marshall aid, there would have been no rebuilding; without NATO there would have been no guarantee of defence. The European Community would probably not have existed had it

not been for the way in which the Americans quite openly intervened in European elections to get the results they wanted, with Governments who would build the type of societies that they wished to see. We should remember that: the societies we live in are owed in part to the determination, thoroughness and vision of, in particular, General Marshall, President Truman and Dean Acheson, the American Secretary of State. By all means, let us be critical of the current inhabitant of the White House, but let us remember the debt we owe to the people of the United States who, in so many ways, gave so much to make Europe a civilised continent.

6.08 pm

**Lord Birt (CB):** My Lords, it is a real pleasure to follow the noble Lord, Lord Balfe, and his most eloquent speech; I will echo many of his arguments and sentiments.

D-day marked the beginning of the end of the Second World War; we should never take that subsequent victory for granted. Modern scholarship tells us that, fighter for fighter, the Germans were the most ferociously effective force in the field in that war but Hitler, thank goodness, made a number of critical errors that would hasten his demise. He took on the Soviet Union, a huge, populous country with a hostile climate. His biggest error was to declare war unilaterally on the United States two days after the Japanese attack on Pearl Harbor and thus propel America into the war.

Before Hitler's declaration of war, President Roosevelt had wanted to intervene in Europe, but the mood in Congress was isolationist and hostile—let us note the warning. The US began the war against Germany with much diminished military capacity, but it quickly swung into action and, with its industrial might, soon constructed ships faster than the Germans could build U-boats. America went on to transport vital materials and supplies to the UK.

We had begun the war strategically exposed: two-thirds of our food, one-third of our iron, 90% of our petroleum and 100% of our rubber all came from across the sea. The Battle of the Atlantic, however, would now be won: 3 million US troops and a mass of materiel would arrive in the UK before and immediately after D-day. That was possible only because we were an offshore island from which an attack on mainland Europe could be successfully launched.

Hitler's final mistake had been not to attempt to invade and conquer the UK when we were at our weakest, post Dunkirk. Without our independent island status, it is inconceivable that the US could have launched an invasion on mainland Europe direct from America. In the east, the Soviets fought Hitler to a standstill, but at a price we should never forget. Of the 50 million who died in World War II, 25 million were Russians. As my noble friend Lord Bilimoria reminded us, the invasion of Italy had begun a year earlier in 1943. By the time of D-day, Hitler was extended on every possible front, and persistent bombing from the UK by the RAF and the United States Air Force weakened his defences in Europe even further.

Therefore, let us give thanks today, as others have said, to the British men and women of my father's and my mother's generation, who fought bravely to protect

us on the land, sea and air. Let us thank the Russian people for their great sacrifice. Above all—and here I echo my noble friend Lord Hannay—let us thank the US for coming to our aid a second time and with concomitant sacrifice in this most cruel and destructive of wars. Let us recognise that, while we may not all concur with President Trump's policies and attitudes, he is the Head of State of our greatest and most important ally and should be honoured accordingly. Let us secondly recognise that if the US had not entered the war, Hitler might have ultimately vanquished the Soviets and ruled all of Europe, including—eventually and inevitably—the UK itself. Alternatively, if the Soviets had prevailed, western as well as eastern Europe might have ended up under the Soviet yoke. Either way, the UK would have tumbled into a totalitarian nightmare.

Let us finally recognise—and many have said this, as Her Majesty did last night—the genius of those after the war who created an institutional framework, including the UN, NATO and eventually the EU, which has underpinned the stability of our continent for 75 years after centuries of war and strife. D-day, 6 June, is a day for us to be intensely grateful, to proclaim that we take nothing for granted and to speak up in support of those very institutions which have underpinned our peace and prosperity for so long.

6.13 pm

**Viscount Bridgeman (Con):** My Lords, in congratulating my noble friend Lord Reay on his maiden speech, I have to add my apologies for attempting to leave the Chamber as he rose to his feet to deliver a most impressive maiden speech.

Several references have been made in this debate to the meticulous planning by the joint British, Canadian and American teams in the two years or so before D-day. There is one aspect of these preparations that, perhaps, has not had the attention it deserves: the intensive training given to all formations that were likely to be involved in the Normandy landings. I am most grateful to the Minister for highlighting this point. I pay tribute to Mr Peter Caddick-Adams, a summary of whose findings appear in this month's *BBC History* magazine. Broadly, the main areas where this training took place were, for the British forces, that surrounding Loch Fyne in the Clyde estuary; and for the American forces, south-west England, particularly Devon and Cornwall.

In order to make the training as realistic as possible, normal safety procedures had to be bypassed. Live ammunition had to be widely used. The inevitable result was that casualties were high. Among the infantry there were a number of deaths through drowning, not helped by the heavy equipment that many would have been carrying. There is a chilling account of a mistake made by a landing craft in one of those exercises: they mistook landfall, and 10 heavily armed infantrymen vanished into the sea, never to be seen again. Inevitably, casualties were also heavy among the airborne troops.

Perhaps the best known training disaster was Exercise Tiger at Slapton Sands in north Devon in April 1944, involving 30,000 US servicemen. A fleet of German

[VISCOUNT BRIDGEMAN]

E-boats came across the assault convoy and, unaware of the true purposes of the exercise, loosed several torpedoes before they made their way back to France. The torpedoes and the ensuing chaos caused the deaths of just short of 1,000 US troops. Occurring as it did close to the date of the planned invasion, the disaster was hushed up at the highest level and whole villages in north Devon were placed in quarantine, to which my noble friend has referred.

In May 1944 there was a massive rehearsal, Operation Fabius, designed to be as near as possible to real thing. Nobody below the rank of lieutenant colonel knew that it was not. Mr Caddick-Adams wrote:

“Everything possible was rehearsed and umpired: minesweepers cleared the sea; aircraft dropped ordinance; the coast was bombarded with live ammunition; command ships issued orders and monitored frequencies. Alongside swimming tanks, landing craft tanks shipped armour onto the beaches”.

Obstacles and real minefields were laid. Here again, the operation was made as realistic as possible. Casualties were regrettably high.

Mr Caddick-Adams has come to the chilling conclusion that probably more lives were lost in the preparations and training for D-day than in the first 24 hours of the battle itself. He wrote:

“The Allied servicemen who invaded northern France had experienced an incredible degree of rugged and realistic training that put them at the peak of physical fitness, acclimatised them to battle and equipped them mentally and physically to win”.

6.18 pm

**Baroness Boycott (CB):** My Lords, my father landed on Sword beach at about 8 am on 6 June. He was not in the first wave, but he arrived very soon afterwards, after a long night feeling seasick and very scared. He was finally back on French soil, soil he had left earlier in the Dunkirk retreat. He was a major in charge of a battalion with the Suffolks and their mission was to take a bunker, nicknamed Hillman after the popular car. My father's first job was to secure the small village that lay between the coast and the bunker. This he did, and it went without a hitch, the sole enemy being a sniper in a church tower, whom Dad and his men dealt with easily. The bunker, however, was another story. Hillman, as I was to discover for myself, was virtually impregnable. It was entirely underground, defended by gun turrets which peaked above the grass. My father's role was to provide covering fire for the company undertaking the assault. Shots were exchanged and time passed—time that had not been scheduled into the battle order of the day. It was, for the Suffolks, a grim time, one my father would worry about for the rest of his life, because their failure to take the bunker quickly had somewhat delayed the advance on Caen.

Seventy years later, my father long dead, I stood at the entrance to that bunker. It seemed incredibly insignificant to have caused so much trouble. I was there for the anniversary celebrations and a group of us had hired a guide. We had asked him to retrace my father's footsteps from the beaches to where he was wounded. From Hillman we walked inland, arriving at the bottom of a long hill which led up to a chateau wall. My father had been tasked with taking the

chateau, but he had no armour or artillery support. There were panzers in the chateau's grounds, concealed behind the walls, their guns pointing down the hill.

Our guide, a retired major-general, told me that my father was leading his men up this hill when he was wounded, “Somewhere round here”. He waved his hand towards a stretch of grass. “Actually,” came a voice, “it was right here. I was next to him”. We had not noticed an elderly chap coming up behind us. He told me that my father had been taken down to the field hospital—here he pointed down the hill at a barn—while he had somehow gone on up to the chateau wall. On arrival, he turned around and looked back, aghast to discover that he was the only member of C Company to have made it up to the wall. The tanks stationed behind it were spraying bullets across the hillsides. “What on earth did you do?” I asked. He grinned. “I beat it back down again and I lived to tell the tale. But this was carnage.” My father, meanwhile, was patched up and shortly afterwards returned to his regiment.

As it was the 70th anniversary year, there were re-enactments all along the Normandy coast. We went back to Hillman, where there were veterans in uniforms mingling with German officers and men in uniforms. I was introduced to the grandson of the bunker's commander, who was an Austrian. The grandson is a lawyer in Germany and a reservist in the Germany army. In fact, he had done a spell at Sandhurst, part of an army exchange. We talked. It was very sunny. We were getting on very well, remembering my father and his grandfather. I really liked him, and I suspect I would have liked his grandfather, and that my father would have done too. I told him that Dad had always been puzzled about something: why did his grandfather, when he finally surrendered from the bunker, come out carrying both his leather suitcases in his hands, his batman walking behind? The grandson was puzzled. He said, “I don't have a clue, but there is someone here who can answer this question”. He pointed me towards an elderly German soldier, dressed up in his uniform. He said, “This is the batman”. It was an extraordinary moment. The answer was translated. He was smiling. He said, “Well, the commander carried his cases because he did not want to come out with his hands up”. I stood there, feeling goose bumps on my arms, just wishing that Dad had known this. It would have made him laugh; it would have given him enormous pleasure. I shook the batman's hand and thought how immensely lucky I have been.

After that almost endless conflict was over, Europe resolved that it would do everything possible not to end up fighting each other again; that trading and co-operating could avert future wars; and that sending a young reservist in the Germany army to Sandhurst for a spell could cement ties that were very strong and durable. NATO and the UN resulted, as, of course, did the wonderful European Union. It has been fundamental to the peace, prosperity and security that I and all of us have been so privileged to enjoy.

I still have the lump of shrapnel dug out of my father's calf that day. It is a quite horrid bit of metal. It is jagged and very spiky. It is a reminder of what neighbour can do to neighbour, of what potential

friend can do to potential friend. I am extremely proud of my father, as is my daughter, and I know that he, like me and Daisy, would find the prospect of leaving this extraordinary Union both very sad and very alarming. I bet that the commander's grandson and the retired batman, if he is still with us, feel the same.

6.24 pm

**Lord Brennan (Lab):** My Lords, this and other acts of commemoration this week about the D-day landing and its aftermath are important and necessary. Memory, it has been said, is the architecture of our identity and sense of belonging, both individually and collectively. Embedded in our memory, individually and collectively, are often the powerful effects of great historical events. Some are likely never to be forgotten and continue to provide the basis for the maintenance and, I hope, development of our national character.

D-day was such an event. As has been said, it was the largest seaborne invasion in history, with landings spread over 50 kilometres of the Normandy coast. As the noble Lord, Lord Burnett, emphasised, there were over 150,000 allied troops on D-day 75 years ago. As my noble friend Lord Anderson pointed out, there were thousands of sea vessels and aircraft. These are not just numbers; they are a physical expression of national unity and determination. They impress now as, no doubt, they impressed then. The noble Lord, Lord Astor of Hever, pointed out intelligence. Some have mentioned the French Resistance. All must have felt a sense of destiny. It was marked in particular by allied co-operation, probably greater than ever before in numbers and in such a mighty conflict as began this Normandy campaign.

To illustrate at a small level numerically, but nevertheless an equal standard of bravery, there were two outposts on the Normandy coast. One at Merville, during the night before the boats left the UK, was the subject of an intended attack by 600 UK paratroopers. They landed in various parts during the night. Only 120 of the 600 reached their target. That is attrition. On the US side at Pointe du Hoc, this and Merville being places where the Germans had spread artillery and gunfire along the beaches, 200 US Rangers took on that outpost. One hundred and thirty of them were dead or wounded. That is attrition. At small and large level, they exhibited the qualities which we should be not only proud of, but grateful for.

As numbers grew after D-day, as I understand it there were pretty soon 39 divisions in Normandy—22 US, 12 UK, three Canadian, one French and one Polish. That illustrates the allied nature of the invasion. They fought as one army, commanded by General Eisenhower, an American, the commander-in-chief, and led in the field by the general in charge of the army on land, General Montgomery. With such casualties and such a determined attack, only someone with no understanding of nation, history or duty could fail to appreciate its importance, as a result of alliance. There are no better allies—not only the ones who will sign a defence treaty, but the ones who will join you on the battlefield.

As Her Majesty said last night in her speech, “we owe an immeasurable debt to the”,

United States and to our other allies. It would be helpful to be reminded, as the noble Earl, Lord Howe, pointed out, that in the Asia theatre, similar allied action was taking place—the British were in southern Asia and the Americans were attacking across the Pacific—with the same results, albeit with an entirely different enemy.

Those who died, as the noble Lord, Lord Dobbs, pointed out, were young—at the beginning of their lives, which ended. Oratorical words such as duty, honour and country come to mind, but these ordinary young men from ordinary backgrounds exhibited service, loyalty and sacrifice. I remember the day when the local British legion man in my village in the Cotswolds read out the name of every young man killed in both wars from that village—a quarter of its young men over two wars. It is very moving. None of us in this great metropolis or in our great cities should ever forget that throughout this country—in our villages, families and communities—families, friends and descendants do not forget.

Historical ignorance is an ever-present danger. It produces cultural superficiality and an unjustified belief that, in the modern world, military alliances are outdated and unnecessary—dangerous thinking. With all this in mind, on this day of remembrance, let us give respect and gratitude, especially to those who died, in this initial step towards the ultimate victory of freedom and democracy and the end of totalitarian rule in Europe.

## Post-18 Review of Education and Funding *Statement*

6.32 pm

**Viscount Younger of Leckie (Con):** My Lords, with the leave of the House, I shall now repeat a Statement made earlier today in the other place by my right honourable friend the Secretary of State for Education. The Statement is as follows:

“With permission, Mr Speaker, I would like to make a Statement on the Government's review of post-18 education and its funding—the first review since the Robbins report in 1963 to look at the totality of post-18 education. The Government will carefully consider the independent panel's recommendations before finalising our approach at the spending review.

I would like to take this opportunity to thank the independent panel, led by Philip Augar, for its exceptional work. Alongside Dr Augar on the panel were Professor Sir Ivor Crewe, Jacqueline de Rojas CBE, Professor Edward Peck, Beverley Robinson OBE and Professor the Baroness Alison Wolf. The panel consulted with a wide spectrum of experts, leaders and senior figures and received almost 400 responses to its call for evidence. I would like to also thank all those stakeholders, including colleagues from across this House, who contributed to the review. We will continue to engage with stakeholders now that the independent panel phase is complete and as we work towards the completion of the review.

A lot of the attention will be on what this report says about higher education, but the majority of students in post-18 education are not at university. The report identifies the importance of both further and higher

[VISCOUNT YOUNGER OF LECKIE]  
 education in creating a system which unlocks everyone's talents. As the Prime Minister said last week, further education and technical colleges are not just places of learning; they are vital engines of both social mobility and of economic prosperity. Colleges play an essential part in delivering the modern industrial strategy and equipping young people with knowledge and skills for the jobs of today and tomorrow. And of course, we are very conscious of the need for reskilling and upskilling at a time when we are all more likely to have multiple careers during our working lives.

We are already carrying out a major upgrade to technical and vocational education, including the introduction of new T-levels for young people and developing proposals to introduce employer-focused, higher technical qualifications at so-called levels 4 and 5. These will provide high-quality technical qualifications to rival traditional academic options, and we have overhauled apprenticeships to provide people with the skills and career paths they need for great jobs and great careers. But appropriate attention to our college sector—the backbone of technical education in this country—is required to ensure technical education is an equally valid path for a young person as a degree route. I believe that the principles set out in this report will help lay the foundation for a sector that is stronger and more robust and will help cement its reputation as being among the best in the world.

Our higher education system transforms lives and is a great contributor, both to our industrial success and to the cultural life of the nation. It can open up a whole world of opportunities and broaden horizons. Whatever decisions we make about how best to take forward recommendations in this report, it is vital that we support these institutions to continue to offer world-leading higher education to students in future.

The opportunity to study at university should be open to anyone with the talent and potential to benefit from that experience. Gaining a university degree has benefits both for individuals and for society—or, in the jargon, it has both a private return and a social return. On average, doing a degree has strong earning returns, equating to over £100,000 extra lifetime earnings per graduate after tax. So we believe it is right that contributions to the cost of higher education need to be shared between the student and the taxpayer.

The scale of the government subsidy today is in fact much larger than most people imagine—close to half the total—and it is a progressive system, where those on the highest income contribute the most and those on incomes lower than £25,725 make no contribution. As Government we believe it is essential that we provide the right support to enable people from all backgrounds to access and, most importantly, succeed at university and on other higher-level courses.

In 2018, we had record rates of 18 year-olds accepted to full-time university, up 0.4 percentage points to 33.7%. Students from the lowest-income households have access to the largest ever amounts of cash support for their living costs. Already this year, we have increased living costs support for the 2019-20 academic year to a record amount.

However, although 18 year-olds from disadvantaged backgrounds are now 52% more likely to go to university than 10 years ago, there is more progress that we need to make. Disadvantaged students are still less likely than their more advantaged peers to attend the most selective universities, have the support they need to successfully complete their degree, and are less likely to achieve a 2.1 or a First. The panel's proposals on support for disadvantaged groups are an important contribution to the debate in this area.

I very much welcome the focus that the panel has placed on making sure that all higher education is of high quality and also delivers well for students and the taxpayer. There are very high-quality courses across the full range of subjects—from creative arts to medicine—but there are also courses where students are less well served. I have also spoken in recent months of bad practices not in the student interest, such as artificial grade inflation and so-called conditional unconditional offers.

The panel's recommendations on student finance are detailed and interrelated and cannot be considered each in isolation. We will need to look carefully at each recommendation in turn and in the round to reach a view on what will best support students and the institutions they study at, and ensure value for taxpayers. In considering these recommendations, we will also have regard to students currently in the system, or about to enter it, to ensure any changes are fair to current and new cohorts of students.

I am sure the House will recognise that this comprehensive report, with detailed analysis and no fewer than 53 recommendations, gives the Government a lot to consider. We will continue to engage with stakeholders on the findings and recommendations in the panel report, and conclude the review at the spending review. But I am clear that whatever route a student chooses, and whatever their background, post-18 education should set them on a successful path for their future. With this vision, I strongly believe that the HE and FE sectors can and should continue to thrive together. I commend this Statement to the House".

6.40 pm

**Lord Bassam of Brighton (Lab):** My Lords, I thank the Minister for repeating the Secretary of State's Statement. I too am grateful to the independent panel led by Philip Augar and to the expert stakeholders, industry leaders and representatives who contributed to that review. The review's recommendations include some positive measures and we welcome the focus on encouraging more flexible learning, including support for more bite-sized learning, with improved opportunity to ensure that the most diverse range of learners can benefit from further and higher education.

The report recommends the reintroduction of maintenance grants of at least £3,000 a year for disadvantaged students. It also calls for an increase in the amount of teaching grant funding that follows disadvantaged students and a greater focus on individual level measures of disadvantage, such as free school meals and household income, in allocating funding through the student premium. I hope that the Government will accept these proposals with the commensurate levels of funding required. Although the Minister

noted that there were 53 recommendations to follow, signing up to these proposals early on would be a very positive step.

The headline-grabbing part of the report is of course on tuition fees. It was designed for that purpose by a Prime Minister panicked by the outcome for the last generation. The recommendations covering student fees, rebranded as student contributions, suggest that there should be a cut from £9,250 to £7,500. Not surprisingly, I favour Labour's policy of scrapping tuition fees completely. For those who leave university owing £50,000 or more, with an interest rate at 6%, the cumulative effect of the proposals in the Augar report could be eye-watering. The recommendations do little to address the problem of the expanding burden of student debt. On the contrary, the report recommends lowering the repayment threshold from the current £25,725 to £23,000 and extending the repayment period before the debt is written off from 30 to 40 years. This is a terrible and regressive proposal that will increase the total payments made by lower-income earners, such as teachers and nurses, while providing relief for those on higher incomes—who of course have the capacity to pay off early.

Analysis by Universities UK estimates that these changes would result in middle earners paying back more—£11,823 more over their lifetime—while higher earners would have to pay back less, saving almost £19,000 in repayments. The LSE has already highlighted that this would disproportionately impact upon female graduates, so while the Statement lauds the progressive system that the Government believe is currently in place, the report introduces a highly regressive system. Given the Minister's regard for education as a great engine of social mobility, I hope that he and his colleagues will immediately reject this recommendation and other regressive changes to the student finance system, and commit to working with whoever the new leader of his party is to ensure that there is a fair funding model for further and higher education. Perhaps he could even take this issue up with those colleagues who are running for leader, however many there may be.

I would also be grateful if the Minister could confirm whether the Government are prepared to consider the report's recommendation that graduates' lifetime repayments should be capped at 1.2 times the original capital in real terms. While it does not offer a solution to the problem of overwhelming student debt in itself, a cap is an interesting idea that deserves further consideration.

On cost and funding, this is apparently going to be a major issue, because the report recommends that the Government increase central funding. However, the fear is that these reconditions, if adopted, will be at the cost of universities. There is an implicit assumption within the Treasury that universities can and will make efficiency gains to make up for funding shortfalls, which currently stand at around £1.8 billion a year. Take that money away from universities and they will suffer. Some universities may increase their efforts to recruit more lucrative, high fee-paying international students; the reality is that without a substantial and appropriate increase in central government funding the shortfall will burgeon, to the detriment of students

and those in wider society who benefit from this country having a skilled workforce. Further shortfalls will inevitably mean reduced spending involving redundancies, recruitment freezes, smaller annual pay increases and cutting student support services—that is just for starters. This would limit opportunity, damage universities, decrease the number of highly skilled employees that business needs and reduce our international competitiveness at a time when modern Britain needs it most, not least in the post-Brexit world.

The problems that need addressing with further and higher education funding are plain to see. We hope that the next Prime Minister will commit to ensuring that the system of funding will benefit students, employers, universities and our communities across all four nations of the UK, and that political uncertainty does not mean that this review will—as so many other reviews have been under Mrs May—be kicked into the long grass.

**Baroness Garden of Frognal (LD):** My Lords, this report has been long awaited and I do not doubt that the Minister is quite relieved that he is at last able to tell us about it. We owe a debt of gratitude to Philip Augar and his team for the amount of work that they have put into it. It makes some really welcome recommendations on further education and skills, as the noble Lord, Lord Bassam, set out. Successive Governments have neglected the importance of colleges and lifelong learning, so this change of emphasis is to be commended.

Over the last 10 years colleges have had to deal with an average funding cut of 30%, while costs have increased dramatically. Further education is the only part of the education budget to have had year-on-year cuts since 2010. Funding for adult education has had a cut of 62%; in the last 10 years, we have seen total enrolments for adults drop from 5.1 million to 1.9 million; funding for students aged 16 to 18 has been cut by 8% in real terms since 2010; and colleges have been tasked with the new T-levels, which may or may not turn out to be an improvement on the well-respected vocational qualifications which are around at the moment.

We note that Augar's proposed lifelong learning loan allowance is restricted to a limited range of courses. Mature students may not want to take out a loan late in their careers and this funding model may not work for those who have financial constraints, such as a mortgage or children. Taking out a loan is unlikely to be the most effective way of triggering a revolution in lifelong learning. Will the Minister consider expanding it to cover a wider range of education and training, and to provide grants rather than loans so that no one is unable to afford the education they need to advance their careers? Giving everyone, no matter their age, the right to a free level 3 qualification—equivalent to A-levels—will ensure that no one is denied the basic skills they need to advance their career.

We welcome the recommendation that:

“The unit funding ... for economically valuable adult education courses should be increased”.

I still think it sad that the general interest programmes which colleges used to provide have gone. They were a valuable source of social mobility and improved health

[BARONESS GARDEN OF FROGNAL]  
and well-being. They encouraged adults into learning for the fun of it. I taught French and Spanish classes way back when to people who were inveterate learners, and all the better for it, but those days of happy free learning have—alas—gone.

The capital investment of at least £1 billion is well overdue, as is the recommendation that:

“Investment in the FE workforce should be a priority, allowing improvements in recruitment and retention, drawing in more expertise from industry, and strengthening professional development”.

The FE workforce has been underpaid for far too long.

As was mentioned, anyone who does not have an undergraduate degree will be entitled to a lifelong learning loan allowance. This will allow them to receive tuition fee and maintenance loans for any level 4, 5 or 6 course. It is welcome that the ELQ rules that prevent students receiving public funding for a course at the same or lower level than one they already possess should be abolished for levels 4 to 6. This rule has prevented many people retraining for fresh opportunities.

On apprenticeships, we should also like to see more emphasis on the Richard review recommendations:

“An apprentice must be new to the job or job role”,

and that the,

“upskilling of the adult workforce ... should not be bundled with apprenticeships”.

The apprenticeship levy seems to be having the reverse effect of encouraging adult upskilling at the expense of new entrants to the workforce.

It is good that universities offering degree-level courses at level 6 should award an interim qualification to students who complete their first one or two years, allowing those who drop out to still have a certificate to show for their efforts. This might in time encourage credit accumulation and transfer to enable them to take their part-qualification on in the future. This has been on the cards for years and has never found a market. Will the Government encourage a new push for credit accumulation and transfer between colleges and universities?

With many good things in these parts of the review, we do have questions over the university proposals, as the noble Lord, Lord Bassam, set out. We regret that the review has been undermined by a shoddy, regressive change to student loans, which we rather suspect has been influenced by No. 10. How much less will students now repay? This is, of course, a trick question. Graduates will now pay their loans back earlier and for 10 years longer. Most new graduates will pay about £15 a month more than under the current system. Bringing maintenance grants back will ensure that students from the poorest homes do not have the most to repay. Augar’s proposal for student loans for higher further education learners is a good start but it is not radical enough. As our economy changes rapidly, everyone will need to retrain and upskill throughout their lives.

I have some questions for the Minister. First, does he agree that the Government must compensate universities in full if the tuition fees cut goes ahead? We hear that teaching grants should be increased to reflect the loss of funding to universities that a cut in tuition fees will bring. However, the grants should be

allocated to reflect the cost of teaching the subject and the subject’s social and economic value. Where will subjects such as ancient history sit and will pure research become a thing of the past? If the funding is not made up, universities will doubtless cut their widening participation budgets and drop subjects that are too expensive to teach; I do not include ancient history in that group. Secondly, will the Government curb the sky-high interest rates put on loans after people graduate? The Government make a great deal from middle-income graduates because the interest rates bear no relation to the cost of government borrowing. Thirdly, given the crisis in NHS recruitment, will the Government bring back nurses’ bursaries?

We probably need to go further. As Martin Lewis has argued, for most graduates, the current system works a bit like a graduate tax, so why not turn it into one? All the frightening language about “fees”, “loans” and “debt” disappears overnight. Students from wealthier families, who bypass the system by paying tuition fees up front, instead pay their fair share. The system becomes more progressive and most graduates would pay a little less. There are, of course, problems with a graduate tax too. We would want to review the proposals to see what impact it would have on widening participation and on universities’ budgets. However, it seems that the Conservatives have encouraged Philip Augar to put a catchy headline on reduced fees above the truth. Does the Secretary of State realise that Augar’s positive recommendations for further education have been undermined by these regressive proposals for student loans? Has the Treasury approved an increase in teaching grants to cover the tuition fees cut? If not, the Prime Minister will have achieved the impossible: charging seven in 10 students more to go to university, but paying universities less to teach them.

Our party would be keen to create personal education and skills accounts, giving every adult over 25 the opportunity to learn for free wherever they want, whenever they want, with careers guidance in place to support them along the way. Good careers guidance is key to much of the benefit in these proposals. The more people enjoy learning and the more they learn, the more ready they are to learn more, which in the long term benefits our economy, making it easier for employers to find the higher-skilled and more creative people they will increasingly need as technology develops. We hope that the Government will support the FE proposals to the hilt, but look again at the changes to tuition fees which may well disadvantage those the Government most want to help.

**Viscount Younger of Leckie:** I thank the noble Lord, Lord Bassam, and the noble Baroness, Lady Garden, for their comments. I am pleased that he said that there were some positive measures in the review. In answer to her, I say that I am relieved that the review is now upon us at last.

The noble Lord referred to the proposed reintroduction of maintenance grants and teaching grants. The noble Baroness also spoke about this. As they would both expect, I cannot comment on these aspects now but we will certainly look at the 53 recommendations which came out of the Augar review. On teaching grants, as Augar says, many courses produce extremely good

value for money and have a high student satisfaction rate but some do not. Under his proposals, the teaching grant perhaps needs to be better targeted. I cannot comment on that, but we are going to look very carefully at what the review has said and report back at the spending review.

The noble Lord raised the subject of tuition fees. The proposed cut in tuition fees needs to be considered in the round, as I said in the Statement. It needs to be considered in conjunction with the proposals on in-study interest rates, the reduction in the threshold and the extension of the repayment period, which he referred to. These things are all related and it is essential that they are looked at with great care. He stated that the Labour Party's policy is that it would scrap tuition fees immediately. I have known that for a while but it is interesting to have it straight from him. As he will know, the panel in the Augar review set out the principle that:

"Getting the taxpayer to pay for everything is unaffordable. Getting learners to pay all their own costs is unfair to those of limited means. Getting employers to pay for the whole system would put too much emphasis on economic value alone. A shared responsibility, in our view, is the only fair and feasible solution".

The Government and the panel agree that maintaining an income-contingent repayment system is the fairest way of sharing the cost of higher education between the taxpayer and those who benefit directly. Even early in their careers, at age 29, earnings of students who attended higher education are increased by around 26% for women, and 6% for men, compared to similar students who did not attend. On average, doing a degree has strong earning returns—over £100,000 over a lifetime—as mentioned in the Statement. The repayment system is fair and progressive. Students do not need to make any repayments on their loans until they are earning £25,725 per year. However, we must remember that the 2012 fee reforms enabled the Government to lift the cap on student numbers, since when we have seen record rates of 18 year-olds entering full-time higher education. Having said that, the Government will consider the panel's recommendations carefully and conclude their review at the spending review.

I also took note of the comment made by the noble Lord on the lifetime cap. That will also be part of the mix. With great respect, I beg to differ with what the noble Baroness said about funding. We continue to engage with stakeholders to deliver a post-18 education system that is both joined up and supported by a funding system that works for students and taxpayers. I point out that since 2012 the total income for universities in England has increased by around £6 billion, and resource per student is at an historic high. The IFS estimates that the 2012 reforms increased real funding per student by almost 25%.

The noble Baroness also spoke about T-levels. The good thing about T-levels, as I have said in the Chamber before, is that they are employer-led. They are put together in conjunction with employers and it is very important that we remember that.

**Baroness Garden of Frognal:** May I just point out that all vocational qualifications have always been employer-led? That is not something new for T-levels—all vocational qualifications are led by employers.

**Viscount Younger of Leckie:** I take note of what the noble Baroness said. I suspect that it is all a matter of degree, because in addition to apprenticeships now being employer-led, more than ever has now been done to include employers in helping to set the standards for apprenticeships, for example, and to help put T-levels together.

I also note the interest the noble Baroness has often shown in further education and her comments about workforce pay. We are currently focused on listening to a wide range of feedback from many sources and are considering how effective our funding and regulatory structures are in supporting high-quality provision. We will continue to engage with stakeholders to ensure that the review delivers a post-18 education system that is joined up and supported and works for students and taxpayers.

I think I have covered all the questions and I may say a little more about T-levels later.

7 pm

**Baroness Blackstone (Ind Lab):** My Lords, I warmly welcome this report and I congratulate Dr Philip Augar and his team on many of their recommendations. There was one thing that hurt me a little in the foreword, where Dr Augar claims:

"No prior government of any persuasion has considered further education to be a priority".

I refute that. When my noble friend Lord Blunkett was Secretary of State and I was the Minister of State responsible for post-16 education we gave a great deal of priority to further education. Indeed, we increased spending on FE by 12% per annum, so I hope that that can be noted.

I am particularly glad that further education has been given so much attention by this report, because it has been greatly neglected by this Government and their predecessor. I was amazed by the Prime Minister's statement that she considers this to be a very important sector for social mobility, technical education and so on. Given that she said that fairly recently I cannot imagine what she thought she was doing in allowing the huge cuts that were implemented by the Government and by their predecessor. I want to pick up on the point about "the headline issue", as my noble friend Lord Bassam called it, of the £7,500 fee. I was always opposed to the £9,000 fee and I support this reduction; however, I very much hope that the debate about this report will not focus on higher education and what we charge students. That seems to me to be a secondary issue compared to how we restore FE to the state it needs to be in if we are to improve the productivity of our economy through higher skills of young people and adult learners in further education.

Can the noble Viscount give us some indication of a timetable for the implementation of these proposals? I fear there is a grave danger that they will sit on a back burner for many months, given the state of the Government at the moment and the lack of a new leader yet. I hope that some of these proposals can be considered for implementation as a matter of urgency, especially the funding of FE but also the outrageous level of interest of 6% charged to higher education students on their student loans.

**Viscount Younger of Leckie:** I accept what the noble Baroness said and I note her point that we are not the only Government to have focused on education. Her point is noted and I will go back and read the part of the Augar review that she pointed to. On her point about the proposed reduction in fees to £7,500, as I said before, we are going to look carefully at the proposal. Of course, what we are trying to do is create a balance between how we fund higher and further education and how we give value for money for students and more focus on courses. The quality of courses is terribly important, not just for the students but for Britain as a whole and for helping with productivity.

On the timetable, as I said earlier, the pledge is that the Government will conclude this review at the time of the spending review, which is sometime in October.

**Baroness Blackstone:** Would it be possible just to say when the spending review is likely to take place?

**Lord Cormack (Con):** My Lords, like others I welcome the review, but I have two concerns. One is that I do not believe that the quality of careers guidance is anything like as high as it should be, a point touched on by the noble Baroness, Lady Garden. Nor do I believe that citizenship education is of a quality that the country deserves and should demand. Will my noble friend agree to talk to the Secretary of State and others in his department and tell them that unless we get these two things right, many of the other admirable proposals in this report will in fact come to naught?

**Viscount Younger of Leckie:** My noble friend is absolutely right. He will know that we are working very hard on improving careers guidance, not least in schools, and we have the National Careers Service. The quality and spread of advice is also important, particularly in disadvantaged areas. He will know that, through the Baker clause, there is now a legal obligation on secondary schools to include careers guidance to pupils. As for character development and all that, that is really left up to head teachers to decide upon. More usually than not—I do not have any statistics on me—that comes under the heading of PSHE.

**Baroness Young of Old Scone (Lab):** My Lords, I declare an interest as chancellor of one university and chairman-elect of another, and commend the report for one thing—I am quite critical of many of the issues raised in it—which is the bringing together of further and higher education into one system and thinking about them together. I think that is absolutely important, but the risk is that this is a zero-sum game: if there is no further funding to bring forward that increase in priority for further education, will that reduce the funding for higher education, with catastrophic impacts not only on teaching but especially on research, as a result of the quite substantial cross-subsidy that exists between different funding and spending streams within each university? How does the Minister see that fitting with the Government's commitment to increase research funding to 2.4% of GDP, if universities are to be constrained in their very important role of taking that research increase forward?

One other issue has not yet been touched upon. Dr Philip Augar's report talks about apprenticeships for the future, and the Statement stressed the Government's consciousness of the need for reskilling and upskilling. That is particularly true of people who are mid-career. As skills and jobs change dramatically at the moment, mid-career people need upskilling just as much as others, yet the report recommends that apprenticeships at postgraduate level should not be allowed for someone who has already had a publicly funded degree qualification. I hope that the Government will reject that proposal.

**Viscount Younger of Leckie:** Yes, I take note of the feedback from the noble Baroness and I am sure it will be passed back to the department. I totally agree with her that bringing further and higher education together is a very good thing. As I said in the Statement, it is the first time since 1963, in the Robbins report, that they have been looked at together, and that is very important indeed.

The noble Baroness also made a very good point about the importance of research, the university sector and joined-up thinking. I reassure her that this is very much at the forefront of the Government's thinking. It goes back to what I was saying earlier about the importance of the UK remaining competitive in a global world and of upskilling and reskilling, as she said, to have the right skills to meet needs looking well ahead—not just five or 10 years, but 20 or 30 years. Through the industrial strategy we committed £406 million of investment into education and skills. In addition, through last year's Autumn Budget the Government invested over £1 billion to support students through their education. I hope the noble Baroness is reassured that this is very important for our economy.

**Lord O'Shaughnessy (Con):** My Lords, despite declaring an interest as a visiting professor at one university and as a former visiting fellow at another, I am delighted that the debate in this House has focused so much on further education. I agree that in some ways these are the most radical parts of the report. For me, the most shocking statement in the report is in the principles, which shows that even while access to university has increased dramatically,

“the total number of people involved in post-18 education has in fact declined”.

That is because of a decline in further education. I am in no doubt that this dreadful state of affairs is one of the key reasons behind our poor productivity as a nation. I encourage my noble friend to take back to the department, the Secretary of State and whoever will be our next leader that they should have the courage of their convictions and follow Philip Augar's very sensible advice to shift public subsidy away from low-value degrees into high-quality technical education that will deliver much better economic growth, productivity and social mobility.

**Viscount Younger of Leckie:** Again, I am happy to take the message back, but I am not in a position to make any commitments—which, admittedly, my noble friend did not ask me to do. I say again that it is so important both horizontally and vertically to have a system whereby individuals' careers are managed from

a pretty early stage and that the right guidance is given to them on whether to go up through the academic route—through university, for example—or through the vocational, technical route, using T-levels or apprenticeships. My point is that it is all joined-up thinking. It must be, because vertically, through the career path, and horizontally, in what you can actually offer, it is very important that we get it right. That is all part of our thinking. The Augar review is extremely informative to our thinking.

**Lord Liddle (Lab):** My Lords, I declare an interest as the chair of council at Lancaster University. I endorse the welcome from these Benches of the Augar review's emphasis on the improvement of further education and the integration of our further and higher education efforts. This has always been the Cinderella of our education system, and we have to correct it. However, does the Minister accept that there are dangers in the line of thinking that one can improve the further education sector by making economies and redistributing money from the university sector? I do not believe that this is a feasible course of action. Indeed, the reintroduction of maintenance grants and the cut in the fee to £7,500 proposed in Augar will require increased spending on universities if their standards are not to fall. If there is a cut in the income of universities, my noble friend is correct that the research is not fully funded by the Government, and that, therefore, there will be pressure on research budgets. Also, if the headline fee is cut without any comparable increase in the teaching grant, universities will find that they are under pressure to cut what they spend at present on wider participation and bursaries. That would be a tragedy for equal opportunities in this country.

**Viscount Younger of Leckie:** I take note of what the noble Lord, Lord Liddle, has said. I think the assumption he is making out of Augar is that there could be a skewing of funding—robbing Peter to pay Paul. That is noted, and it is perhaps understandable that it has come out of the Augar review. As I say, I cannot comment on that at all. We will need to think about it. As I said to my noble friend Lord O'Shaughnessy, we need to look at all these important institutions and at what we are trying to do as part of the industrial strategy as a whole, because they are all important. It is very important that we have a world-class technical sector and a world-class university sector. It all has to go together.

**Lord Haselhurst (Con):** Does my noble friend agree that if we are to achieve the worthwhile aim of ensuring a parity of esteem between what might be done post-18 by our young people, perhaps more work has to be done pre-18 before people get stuck in a mindset of believing that if they are not for university then they are not going for something that is an equal or better alternative?

**Viscount Younger of Leckie:** Yes, and that plays nicely into the question raised by my noble friend Lord Cormack about careers advice. My noble friend is absolutely right that it is very important that, through schools and bringing employers into schools, the right

advice and opportunities are given to all young people to suit their particular needs, talents and skills. That must be done, in my opinion, at an early age. I note that in Australia, career management or development is started as young as eight. Presumably, that is done at a pretty childish level, but it is important to get the young to think about what they might want to do and to take that as a seamless line right through their careers and onwards.

**Lord Storey (LD):** My Lords, everybody seems to be very much in support of the Augar review. I have real reservations about the funding proposals for higher education. When the noble Lord, Lord Bassam, and my noble friend Lady Garden raised the issue of how the funding model, interest charges, the extension and all the rest will favour the rich and not the poor, the Minister kept saying that we will see it in the round. What does "in the round" actually mean? I agree with the noble Lord, Lord O'Shaughnessy, but we have to be very careful, because there are degree courses that are undersubscribed. We are seeing those courses cut, but they are courses that we need to develop, such as modern foreign languages. Fewer students are doing modern foreign languages because there are fewer studying them in secondary schools. It is the same with music. Music is hugely important to the creative industries, which is one of the major growth industries in this country, and yet we are seeing music in secondary schools, because of the EBacc, being scaled back and back. That has a knock-on implication for our universities, where music degree courses are declining as well. If we took the idea of the noble Lord, Lord O'Shaughnessy, all these courses would be cut, much to the detriment of our country.

**Viscount Younger of Leckie:** I must admit, I was hoping that the noble Lord would be slightly less pessimistic about the Augar review. What I meant by "in the round" in response to questions raised by the noble Lord, Lord Bassam, was that the proposals in the review for the tuition fee cut, the in-study reduction in the interest rate, the reduction in threshold and extending the repayment period from 30 years to 40 years are all interrelated. By "in the round", I meant that they are all interrelated and that therefore it is quite right that we take the time to look at them all and come back to give our review, which we intend to do at the spending review.

## D-day: 75th Anniversary

### *Motion to Take Note (Continued)*

7.19 pm

**Lord Craig of Radley (CB):** My Lords, it is fitting to remember the 75th anniversary of D-day, not just because it was an amazing feat of arms by the allied forces involved but because it gives the nation a chance to honour those still alive who fought at the time, and to remember with everlasting gratitude the thousands who lost their lives making the supreme sacrifice or who have since died, some facing and coping with life-changing injuries.

[LORD CRAIG OF RADLEY]

It is sobering to realise that the deaths and casualties on each side were in the many thousands, each one a deeply personal tragedy for a family, a fiancée or a girlfriend. War is a brutal endeavour, no less so now than in years gone by. Today, individual families and partners still suffer and bear the same sense of grief and loss, just as much as those in World War II, but we have been saved the horrors of massive casualties because the nature of recent conflicts has been far more contained. Modern trauma treatments and rapid casualty evacuation have also saved hundreds of lives; in earlier generations, those people would not have survived. Modern medicine helps even the severely wounded to make remarkable physical recoveries. Sadly, success with mental illness is still elusive.

While it is fitting to celebrate the anniversary, it should be a celebration of an extraordinary allied effort in which all involved played their full part. It irritates me to see claims that either the Americans or the British made the greater contribution to D-day. It was not a football contest with one team scoring more than the others. All the many nations involved, including the Commonwealth, the colonies of the day, the Free French and other Europeans, were playing a team game together. To claim that more troops were put ashore, more attack missions were flown or more barrages were fired from ships as a means of arguing who did the most on D-day is ridiculous. Normandy was not the only theatre of war in 1944; all allies were engaged in fighting elsewhere as well as in France. It was a collective effort to which all contributed massively, not least in blood and treasure.

Like other noble Lords, I have been involved in events helping to mark the 75th anniversary of D-day. Last Saturday, I formally opened a special heritage event at Langham, near Blakeney, in Norfolk. A small, dome-shaped building was the centrepiece of the event. It was used to train anti-aircraft gunners in how best to shoot down enemy aircraft. Indeed, more than 40 of these secret trainers were built during World War II. After the war, they were all decommissioned and almost all were bulldozed into hardcore for new motorways or building sites. Although a listed building, the one at Langham was just left to decay. It escaped the bulldozers, slowly deteriorating as all neglected buildings will do.

Then, in 2010, a group of enthusiasts, recognising the historic value of this near-unique building, raised funds to refurbish it to its original role as an anti-aircraft trainer. However, they did much more. The building is now a speciality museum and visitor centre, recording and demonstrating not only its trainer role but a host of information and displays about the Royal Air Force, the airfield at Langham, and the Royal Australian Air Force and the Royal New Zealand Air Force squadrons of coastal command, which were based there in 1944, operating mainly against enemy shipping off the coasts of Norway and Holland. There is information there about individual Australian and New Zealand aircrew. Many had travelled from home via Canada to train before joining their national squadrons at Langham. There is information about the loss of life and the deaths of more than 150 aircrew from this one airfield. Many have no known grave but are

remembered on the memorial at Runnymede. Others lie in graves in Norway, Holland, Germany or this country. One is buried in Sweden.

All this information, and the information about the subsequent Cold War use of the airfield until it was closed in 1958, gives a most interesting and telling account of Langham's war. What particularly impresses me is the effort to tell the story of those years with contemporary touch screens and other devices in ways to interest and attract all ages. Special efforts have been made to excite and engage the interest of the younger generations. As the Friends of Langham Dome team say, they want to make it clear to all what fathers and grandfathers—indeed, mothers and grandmothers too—did then to ensure that we live in peace and freedom today. This mini-museum and visitor centre has just been awarded the exclusive and prestigious Queen's Award for Voluntary Service, and the unique facility has been much praised on social media, TripAdvisor and the like. If your Lordships are ever on a visit to Norfolk, spare an hour or two to visit the Langham Dome; you will be impressed.

Many other venues and imaginative schemes about this period in our nation's history are to be found all around the country. Their great achievement and attraction is to help to bring life to history, to explain and pass on to today's generations what their predecessors did and thought and felt. As a mark of respect for all those who fought on D-day, these efforts deserve universal praise and support.

7.26 pm

**Lord Judd (Lab):** My Lords, yesterday, I was at the celebration of the life and contribution to humanity of Kofi Annan. Tomorrow, as a freeman of Portsmouth, I will be at the D-day celebration. In my view, there is a strong connection. Within two years of D-day, the great UN international conference at which the first Secretary-General was appointed was taking place across the road in Central Hall.

I was a boy during the war, growing up in south London on the edge of the North Downs. I vividly recall the outbreak of war, the unfolding saga of Dunkirk, the Battle of Britain, which could be seen from our back garden, and the Blitz; we could clearly see St Paul's, majestically standing there amidst the smoke and flames of burning London, from our attic. I was at our local village school, barely two miles from Croydon Airport, which, as a fighter base, was constantly under attack. I can still hear the wailing sirens and the anxiously awaited all-clear in my mind. When the sirens sounded, our teachers would quickly lead us into the deep shelters. They were wonderful; they led us in singing and reciting times tables and generally distracted us from the noise of the bombardment above. Through all this, the Union Jack flew undaunted in our playground. The all-clear would come and, as I recall, we would run home for some lunch with our teachers' stern words in our ears, saying that if another siren sounded on the way home, however short the distance, we had to go into the nearest shelter.

Around all this was the constant threat of invasion. There, in the south of England, it was a matter not of if there would be an invasion but of when the invasion would come. On our local golf course and green

spaces around us, there were concrete blocks to hinder gliders. We were on the edge of the Downs and my mother—out of character, in many ways—kept an axe at the foot of the steps down to the back door. She said, “I’ll have a go if any German appears”. We all laughed after the war and found it funny that she never thought a German would have the audacity to come to the front door.

Late every night, the BBC used to play the national anthems of every occupied country in Europe. It really meant something to us all. My father had fought with the Italians in the First World War, and I remember the real joy in our family when the Italians broke with the Germans and changed sides.

Then came 1943. I remember the defiant spirit: “V for Victory” signs up everywhere. There was talk everywhere about when and where the second front would open. As we cycled around the North Downs in early 1944, we became aware of the tremendous presence—even on the North Downs—of the allied and British troops. In every copse and wood, under every gathering of trees, vehicles and equipment would be parked. The soldiers were very friendly to us and became heroes in our estimation. I remember that when the battle really started we were all terribly concerned about how many would be killed, lost or taken prisoner.

Our local mental hospital had been transformed into a military hospital and was being prepared to receive severely wounded casualties straight from the front—driven up from their point of entry in Sussex or Hampshire in converted Green Line coaches, I recall, for the attention they needed. The community used to gather outside the hospital and cheer as the coaches arrived. I can still see the nurses at the windows of the coaches waving to us.

The anticipation was intense. The relief on D-day, obviously tinged with real anxiety, was terrific. I believe those brave and courageous young men—assembling over that period and then gathered, encamped, on the beaches of Sussex and Hampshire—should be central to all our considerations in this debate and the affairs of tomorrow. Imagine their feelings, their emotions: excitement, yes, but also obviously fear, knowing that within hours thousands of them would be dead, lost or maimed. That is real courage, rooted in reality. Indeed, some of their officers—in the paratroopers, for example—had told them they had only a 50% chance of survival. We should think of them and what we owe them above all tomorrow, whatever the distractions.

There are so many other lessons, but I will mention just two. One, of course, is the need for strong, firm, courageous leadership. The other is that we always achieve more when we have a clear objective and are co-operating together selflessly in the interests of the community as a whole. That lesson came home to me clearly as a youngster and, I must admit, has done a great deal to shape my political career.

The other point that came home to me was the indispensability of international co-operation. We have heard in various speeches—there have been some very good speeches in this debate—about all the countries represented, not least the Free French but also the Poles and the rest. International co-operation was so

essential. Then, after the war, we decided that we never wanted it to happen again and that we must have the institutions to make it impossible. I have never understood why we in Britain have not overwhelmingly seen the argument that, while the European Union may have had all sorts of economic and other manifestations, it was about building peace, stability and security in Europe because we did not want these things to happen. I believe it is a tragedy that we have turned our backs on that when we remember those young men assembling on the south coast.

7.37 pm

**Lord Houghton of Richmond (CB):** My Lords, I welcome this debate, the opportunity to make a short contribution to it, and the noble Lord, Lord Judd, for getting the energy back into it. I am still getting used to the customs of the House, but I think it is a shame the debate was subject to an interruption; I am sure it was for a good reason, but it is lost on me.

As the debate so far demonstrates, many want to recall the historic importance of D-day, the scale of the endeavour, the context of the time and particularly, as we have just heard, the bravery and fortitude of those who took part. I come from an old and proud regiment, the Green Howards—now part of the Yorkshire Regiment—and we featured significantly in the D-day story. The 6th Battalion that landed on Gold beach early on D-day itself made the most progress of any unit of any nation on that day, reaching the small village of Crépon. We have a fine regimental memorial in the middle of Crépon: a statue of a soldier sitting down, looking exhausted, having a smoke. It is a great place to go. En route to Crépon, the sergeant major of B Company, Stanley Hollis, earned the only Victoria Cross awarded on the day for repeated acts of bravery. He is still remembered as probably our greatest regimental hero, as much for his humility and quiet demeanour as for his remarkable example. He is also remembered because D-day does not feel so very long ago, particularly to the officers and men I grew up with, many of whom were, or served under, Normandy veterans and could tell first-hand tales.

My thoughts today are more about the lessons that D-day holds for us—particularly, why did so many countries have to pay so much in human terms to re-establish peace, stability and freedom? Do we take peace, stability and freedom too much for granted today? My strongly held view is that the United Kingdom has become somewhat complacent about its defence—not about its security; the two are different. Indeed, as a society, if anything we have become far more sensitive to the so-called novel threats of the age, which are, in truth, largely a reflection of the relative weakness of our enemies. These novel forms of conflict—so-called—such as cyberattack, disinformation, proxy-terrorism, hybrid war, political assassination and fake news are the asymmetric tactics of the weak; they do not represent existential threats. They are not the true wars of our time; they are security challenges which breed a wholly understandable societal anxiety.

To me, the lesson of D-day is that we should guard against complacency about our national defence—a complacency borne of the forgetfulness that peace and stability are not naturally occurring. They have to

[LORD HOUGHTON OF RICHMOND]

be earned, paid for and, occasionally, fought for. People need to remember that, to a large extent, armed forces are built on an expensive paradox: the better they are at fighting wars, the less likely it is they will have to. Most importantly, as many have said, the more like-minded friends you have, the safer you are far more likely to be. Security challenges, I fear, are the natural symptoms of a restless and dynamic planet. Strong and collective defence is what keeps them in that perspective. D-day should remind us of that.

7.41 pm

**Baroness Smith of Newnham (LD):** My Lords, like other speakers this evening, I am most grateful to the noble Earl, Lord Howe, for bringing this debate and giving your Lordships the opportunity to reflect on D-day, to think about what happened in our past, where we are today and where we may go in the future.

Past, present and future are what the noble and gallant Lord, Lord Houghton, has just been talking about, and in many ways that is what is so important at a time of an anniversary. We could simply look back and be mawkish about the past; we could reflect simply on the history books; we could say that that was another country, and we did things differently then. There was a touch of that in at least one of the speeches this evening.

One of the key things to remember about this anniversary and the commemorations this week, and the anniversaries and celebrations five years ago on the 70th anniversary of D-day, as well as the four years of anniversaries we had to commemorate the First World War is that they provide us with opportunities to commemorate the acts of sacrifice of so many, so that we can live the lives we have in 2019. People can demonstrate outside the Palace of Westminster. We may not wish them to do that; we may feel that it is inappropriate to demonstrate against the President of the United States, but the sacrifice given by so many has enabled all of us to be free. For that, we can and must be grateful.

This has been an absolutely fascinating debate, and one in which if you are speaking towards the end of it, it is clearly foolish to write a speech in advance because everything could have been said, everything that I might have written would have been said and on this occasion could absolutely have been said far more eloquently by people who have been involved in the military or whose families have been deeply embedded. What we heard this evening were cases of deeply remembered sacrifice of families. We heard the noble Lord, Lord Astor of Hever, telling us about his uncle being involved in a spy ring and reminding us that, even 75 years after D-day, we do not necessarily know the full history. It is not just a 30-year rule but a 100-year rule that applies in some cases. Even in 25 years' time, when people celebrate 100 years from D-day, we will still be finding out more about the sacrifices made and about the activities undertaken at that time that are so crucial to our history.

What we learned this evening was about so much preparation. It was not just a day—people talk about D-day, and we are having a debate to commemorate it, but we already know that there were 18 months of

preparations and three months of a serious battle. It was not simply a day. The sacrifices were made by so many—by hundreds of thousands of people who all came together at a point in time for us to remember.

The noble Lord, Lord Astor, told us of his uncle. The noble Lord, Lord Livermore, told us about his grandfather who had said that he was there on D-day but did not want to talk about it. How many more have felt that they could not reflect on what they had done, but wanted to lock it away? Yet, it is so important that we talk about D-day and about what our service men and women did. If we do not commemorate it or forget it, we are destined to repeat the mistakes of the past.

It is so important that we have such debates to talk about what happened and also to commemorate not just what British service men and women did, but what we did with allied powers. As the noble Lord, Lord Balfe, pointed out, so many Americans and Canadians were in the United Kingdom and fighting on D-day—helping to liberate this continent. We forget at our peril the importance of working with allies. In 2019, it is crucial to remember the relationship with the United States and with our Commonwealth partners—with the Canadians but also, as the noble Lord, Lord Bilimoria, pointed out, with the Indians who were fighting to ensure our freedom. It is absolutely essential to retain alliances and remember that one of the key factors of D-day was not simply the United Kingdom acting but the United Kingdom acting in collaboration and co-ordinating with allied powers.

Several Members have pointed out that, in the 75 years since D-day, we have created a whole set of international institutions that have ensured that the sacrifices of hundreds of thousands of young men—and some women—were not in vain, that we have been able to work in peace, and that those patterns of co-operation have become hugely important. We must not throw that away, and we need to think through not just what people did in the past but recall that their sacrifice was to ensure our future.

The noble Baroness, Lady Boycott, pointed out that it is not just those who gave up their lives on the same side as us who matter. Some of the co-operation and collaboration that we have in the 21st century are alliances with countries that used to be on the opposite side. The European integration process has enabled us to ensure that we work with Italians and Germans now not as foes but as friends. The legacy of the past needs to be overcome.

Perhaps the most important historical aspect of today's debate, however, came from the noble Lord, Lord Reay, in his excellent and very timely maiden speech. I suspect that we may not have been listening quite so acutely if we had been hearing about rural broadband, but when he talked about his noble forebears and their important role in the Second World War, we all listened and we all pay tribute to them. We welcome him to this Chamber and look forward to his role here.

Today is about looking back to the past and to those who gave their lives, but also about paying tribute to veterans; those who will be at Portsmouth this week or travelling to Normandy thanks to the Royal British Legion and the War Graves Commission.

Like my noble friend Lord Stoneham, I think it is important that we pay tribute to those organisations that ensure we remember—that we do not simply look to the history books to remember D-day but have the opportunity to visit museums and go to the beautifully preserved war graves. They are the living testament to what has gone before, the people who have gone before and the sacrifice they have made.

The lessons we heard from the noble Earl, Lord Howe, were of timing, weather and logistics. Much of D-day may now seem inevitable, but, as we heard, the timing was contingent on the weather. Logistics were crucial, as was working effectively with our partners, day by day, from 5 June onwards. It ensured that we in the 21st century have democracy, human rights and the rule of law as of right. Those values we enjoy, we share with the United States, the Commonwealth and our European partners and allies, and we must not lose them. As the noble and gallant Lord, Lord Houghton, said, we must ensure that we are not complacent.

We must pay tribute to not just our former service men and women but, as the noble Lord, Lord Bilimoria, said, to the serving Armed Forces as well. Just as in the 1940s, so in 2019 our armed services are vital to securing the United Kingdom's peace and security.

7.51 pm

**Lord Tunnicliffe (Lab):** My Lords, I thank the noble Earl, Lord Howe, for introducing this debate, and congratulate the noble Lord, Lord Reay, on his maiden speech.

I was going to read the excellent speech that my adviser prepared for me, but I realise that it is not valid. I have no relations who were involved in the Second World War; my father was a hospital worker throughout that period. Little bits of the story have been so well told this afternoon that I will limit myself to commenting on what came out of the quite extensive reading I did in preparation for this debate. I thank the noble Baroness, Lady Smith, for reminding me how useless it is preparing speeches.

The first thing that comes across to me is particularly relevant given the present visit of the President of the United States: the role of America in the 20th century, in particular its great President, Franklin D Roosevelt, and how he managed that presidency. The decision to enter the Second World War, in a country that had been isolationist for many years after its experience in the First World War, was enormously difficult for Roosevelt, who had seen that it was going to be necessary to gradually move to that decision. Fortunately for Europe, it was aided by first the Japanese at Pearl Harbor, and then by Hitler declaring war on America two or three days after that event—a tactical and strategic error of enormous proportion.

To me, there is no obvious reason why the Americans then committed themselves to a Europe-first strategy. They had an enormous threat in their own back yard—the Pacific—but they decided that the best way to face it was to commit to Europe. That commitment, not just in the Second World War but in the peace that followed and with the Marshall plan and the creation of NATO, has been the bedrock of the very privileged peace that we—particularly our generation—have enjoyed.

When an unfortunate person, in my view, becomes President, we must not lose sight of just what western democracies owe to the commitment of Americans—both in blood and treasure—to that peace.

We also lose sight of the importance in this story of the Russians. Hitler once again helped there by not reading his history. Had he studied Bonaparte more carefully, he might have worked out that attacking Russia had never been a successful enterprise. But he did not do that, and he declared war on Russia. That drew the Russian people into the war, whether they liked it or not. One cannot do other than admire their enormous fighting retreat. The Germans got within artillery range of Moscow, but they fought back at enormous cost, in people and resources. By the time of D-day, they had stopped the advance at Stalingrad and effectively won that battle. The battle of Kursk, the biggest tank battle of all time, had taken place, and the Germans were effectively in retreat and devoting a substantial part of their military capability to the eastern front. D-day and the campaign that followed it would have been very different if the Germans had been able to focus their total military effort on the second front.

Today of course has to be a commemoration, but to a degree it also should be a celebration. D-day was one of the most brilliant pieces of logistics in all history. The bringing together of the resources—the men, the machinery, the supplies and the training, all working together to get the procedures right—was so successful; anyone who, like myself, was involved in bringing things together will know that. It was an exercise that was not, I am sure, on budget, but it was certainly on time. It is not an easy thing to assemble 2 million people, ready to attack. Things must have gone wrong, but the machine barely paused. The extremely clever, in-depth logistics had self-amending built in, so that when things went wrong they were corrected, and everything came together on time. It was also a magnificent example of co-operation, between nations and between senior people and those working at all levels of the machinery. There was interaction between the three Armed Forces—the Navy and the Air Force and the Army—and between those of different nations, coming together. It was a brilliant piece of logistics.

Sitting alongside it was an incredible deception. It started with the code breaking, but the security services were able to ensure that every spy that the Germans tried to infiltrate into this country was caught. As far as we know from the records, no German spy was successful in England. They were caught and executed or turned. The successful turning of those agents meant we were able to build this tremendous deception, which carried on many days after D-day—forces actually turned back to Calais again. The Royal Air Force made a brilliant contribution by dropping pieces of foil in its progress across to Calais which looked on the German radar as if there really was an invasion about to happen.

One of the few things that I know a bit about, having been an aviator, is the contribution of Group Captain Stagg. People do not notice how good modern weather forecasts are. If we think back, we would not

[LORD TUNNICLIFFE]

believe it. We get a very good picture now of the weather about seven days ahead with only relatively minor variations. The world was nothing like that in 1944. There was not even an agreed allied way of doing forecasts. There was a very clear difference between the American view and the British view. Because of his eloquence and his ability to explain things, Stagg's view prevailed. He and his team had one advantage. A book by John Ross states:

"The Allies had a much more robust network of weather stations in Canada, Greenland and Iceland; of weather ships and weather flights over the North Atlantic and observations by secret agreement from weather stations in the neutral Republic of Ireland ... Those weather stations, in particular one at a post office at Blacksod Point in the far west of Ireland, proved crucial in detecting the arrival of a lull in the storms that Stagg and his colleagues believed would allow for an invasion on June 6".

It had been a dreadful summer and the weather on 6 June was crucial. The invasion would have failed on 5 June or 7 June because of the weather. The next slot in terms of the moon, tide and those sorts of things was 14 June, when the worst summer storm for years destroyed one of the Mulberry harbours. The contribution of Stagg and his team would not have been easy. One has to admire Stagg, who would have had to stand up to considerable debate, and the bravery of Eisenhower backing him to go on 6 June that made it possible. I am just in awe that all these things worked. I wish things I have planned had gone so well and I bet that the Government do too—imagine if they could have done universal credit like D-day. But we put that to one side.

If I were of the age then I suppose I could have had a go at the logistics. If I had done the training I could have had a go at the meteorology. But I cannot understand the raw courage of those young men, many of them conscripts and most of whom had never been in combat before, who knew in the first wave that they may lose half of their people. I do not how they got into those boats or how they got out of the landing craft. I cannot look at myself and be sure that I could do it. There were very ordinary people who had the raw courage and selflessness to do it. It is impossible to express my awe and admiration for them and the leadership that made it a success.

We are commemorating and, as I said, in a sense celebrating D-day because it is crucial that we remember it. I am not a historian, but my vague feeling for the history of Europe is that, broadly speaking, over the last 1,000 years, Europe has either been at war, recovering from a war or preparing for a war. That may be a slight overgeneralisation, but the 70-plus years of peace that we have enjoyed since the Second World War is a very special period in European history. It is so dangerous to forget what it came from. We must remember how to avoid war. We must spend our time preaching that and of course deterring war. Commemoration is essential so I applaud the work of the Royal British Legion and of the Government in their co-operation in the commemorations. D-day and the subsequent campaign was a brilliant success. Things went wrong, but it was a brilliant success. It was born and persisted out of selflessness, courage, sacrifice and co-operation. If only we could show more of those qualities today, the world be a better place.

8.05 pm

**The Minister of State, Ministry of Defence (Earl Howe)**

**(Con):** My Lords, it is a feature of your Lordships' House that a debate of this kind is virtually certain to elicit contributions of the highest calibre from all Benches—not only for the wealth of informed comment and historical detail that noble Lords are able to lay before us, but equally for the elegance with which such contributions are delivered. So it has proved today. I thank all speakers for taking part in this debate, timed as it is to mark one of the most momentous events in the history of this country and that of many other countries around the world. The issues on which we are focused, it goes without saying, are not ones that in any sense divide us politically, and in recalling the events of June 1944 I believe that all of us have welcomed the opportunity to do one thing above all: to pay tribute to the men and women who served this country and its allies during a period of the Second World War that was so critical to Europe's successful liberation over the weeks and months that followed.

I hope that I will not be contradicted if I say that no facet of the D-day story or the lessons to be drawn from it has not been touched on today by one or more of your Lordships. That leaves me to say very little. However, it is right that I highlight the themes that have so appropriately threaded their way through this debate, whether through the personal stories that we have been privileged to hear, as from my noble friend Lord Astor or the noble Baroness, Lady Boycott, or the historical context of D-day, which many noble Lords focused on. A great many of the themes can be brigaded under one heading—the debt that we collectively owe to that extraordinary wartime generation.

We owe debts to our own forebears for their sacrifice and courage; to our friends and allies, not least the United States, as has been rightly emphasised, for its indispensable contribution to D-day and the victory that followed; to the countries of the Empire, now the Commonwealth, and to the veterans of those countries. We owe much, too, to some remarkable individuals: Churchill, of course, whose wartime leadership is today universally acknowledged, but other political leaders as well, such as Roosevelt and Truman. Inspired military leaders such as Eisenhower and Admiral Ramsay have been singled out but, of course, there are many others who have not been named today—and there are many, often, without names, such as the brave agents of the SOE and MI5. There is Stagg and the forecasters of the weather and, as was rightly said by the noble Baroness, Lady Crawley, our war widows and the families truly bore the human cost of the war.

The debate today has enabled Members of your Lordships' House to bring that whole time to life and to shine a light on those aspects of the D-day story that we should constantly remember, especially the human dimension: the men who fought and died, and their courage. Those who landed in Normandy to defend our freedom were the flower of the youth of the countries that participated. In some cases those young men were not yet 20 years old, as is evident from the age of the veterans who will be gathering in Portsmouth tomorrow and around whom the forthcoming commemorative events will be centred. These themes

have brought an elegiac flavour to our debate which I am sure will stay with us as we go back to the safety of our homes this evening.

I shall answer one or two specific questions that have been put to me. I will be happy to meet the noble Baroness, Lady Crawley. The Government recognise the unique commitment that service families make to the country, and we remain sympathetic to the circumstances of those widows who remarried or cohabited before 1 April 2015. However, as I am sure the noble Baroness recognises, this is a complex policy area and it is taking time for us to consider as carefully as we need to the potential options within the constraints that inevitably bear upon us, but I assure her that we are working across government to find a solution. I look forward to talking to her about that.

I am happy to reassure the noble Lord, Lord Burnett, about the Royal Navy's amphibious capability. While the noble Lord well knows that the Royal Navy no longer operates the same number of ships, I am sure he will acknowledge that today's modern fleet delivers a strong and versatile service, with ships that are able to deliver more fighting capability than their predecessors and are better equipped to deal with the threats we face now and those we anticipate facing in the future.

It is right that this generation should do what it can to honour and commemorate the people who paid the ultimate price in the Normandy campaign. In that context, I again emphasise how much I welcome the work of the noble Lord, Lord Janvrin, and his fellow trustees, whose efforts will lead to the creation of a most dignified memorial to the British dead from those crucial months of 1944. From the designs I have seen, I can tell noble Lords that it will be a very inspiring memorial. The Government will continue to support the efforts of the trust in completing it, and I believe the commitment by the President of France jointly to inaugurate the memorial is indicative of its special place in the consciousness of both countries.

I shall also respond briefly to the noble Lord, Lord Hannay, who suggested that we should do more to honour all living United States veterans for our freedom as well as our own veterans. I understand the sentiment that lies behind that suggestion. Britain is perhaps parsimonious with honours. It is not our way to offer honours and awards so long after the event. After the First World War, we honoured the US unknown warrior with the Victoria Cross, and that was reciprocated with an American award to our unknown soldier, but that award was intended as an acknowledgement of the sacrifice of all the US servicemen who fought for freedom.

I shall, of course, write to noble Lords to whose contributions I have not properly responded, and I hope I will be forgiven for not mentioning the majority of today's speakers by name. The noble Lord, Lord Brennan, like many other contributors, spoke warmly of the fact that the D-day landings and the Normandy campaign were an allied effort. The truth of that observation is undoubted, and it is reflected in the attendance of so many Heads of State and Government or their representatives at tomorrow's event. That is our salute to their veterans as well as ours and to their extraordinary sacrifice.

To make a personal observation, I am particularly pleased that so many D-day veterans will be congregating in Portsmouth tomorrow. The noble Lord, Lord Livermore, referred to his grandfather's reluctance to speak of his experiences. This is something that many of us have been told many times. Equally, we also hear that sometimes when anniversaries such as this occur those men and woman start to open up, often to their grandchildren or great-grandchildren, to relate their experiences.

As the noble Lords, Lord Livermore and Lord Hannay, and the noble Baroness, Lady Smith, so rightly said, the issues at stake on D-day were above all about values. We have today been speaking of a time when Europe was not divided not just by politics but by steel, concrete and barbed wire. We are now in a very different world. Germany is now our close ally rather than the enemy it was on D-day. That is highlighted by the presence of the German Chancellor at the commemorative event tomorrow. The values that were fought for on D-day are the ones that we still cherish today.

Sadly, of course, we are now divided from one of our most important wartime allies, although that situation has fluctuated over the intervening period. As many noble Lords have said, we should never forget the contribution of Soviet Russia to the eventual victory in Europe. Thankfully, Europe is not divided in the quite the way it was even 30 years ago. The barriers that our veterans fought over 75 years ago remain only as a few historic relics. The barrier that subsequently spread across the middle of the continent has gone. I think we would all agree that no matter what our views are on the future relationship with the institutions of Europe we would not wish to see any new barriers erected. That could be seen as a real and lasting memorial to the efforts of the veterans and heroes whose exploits we are remembering this week.

*Motion agreed.*

*House adjourned at 8.17 pm.*



# Grand Committee

Tuesday 4 June 2019

## Census (Return Particulars and Removal of Penalties) Bill [HL]

Committee

3.30 pm

**The Deputy Chairman of Committees (Lord Geddes) (Con):** My Lords, as my script says—although I shall go off script in a minute—if there is a Division in the Chamber while we are sitting, which I venture to say is extremely unlikely, the Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

### Clause 1: Amendment of the Census Act 1920

#### Amendment 1

Moved by **Baroness Barker**

1: Clause 1, page 1, line 6, at end insert—

“( ) In section 3 (regulations with respect to proceedings for taking census), after subsection (1)(f) insert —

“(fa) providing guidance on how the particulars relating to sex and gender identity should be answered, including —

- (i) whether this should be on the basis of self-identification;
- (ii) how intersex and non-binary people are expected to address these questions; and
- (iii) whether gender confirmation surgery or a legal gender recognition process is required.””

**Baroness Barker (LD):** My Lords, it is good to be back on this small but none the less important Bill. After Second Reading, I found myself reflecting on the importance of the census. I listened carefully to what the noble Baroness, Lady Finn, said about the fact that these days there are many more sources of data that the Government can call on to establish various aspects of citizens’ identities. She, largely I think on economic grounds, questioned whether there needed to be a census at all. That is a legitimate debate to have, and no doubt we will have it at some later stage. However, from talking to people who watched our debate, there is agreement that the simple process of the Government engaging in an exercise to establish information about their citizens is in itself important. It is an aspect and example of citizenship that has quite a lot of meaning for individuals. However we may come to do this in future, and in whatever mode, for the moment it is important to recognise that, for all citizens, having the right to engage in a meaningful exercise of registering the details of one’s existence with the state is important. That is why, for the very small group of people we are talking about today, it is important to take great care.

In the Bill we are primarily talking about making whether one registers one’s gender identity voluntary and making sure that anyone who wishes not to do so will not face a penalty, as they would for failing to

answer mandatory parts of the census. However, we are going into this new area for the census of questioning people about their gender identity, which is a sensitive matter, so we need to do so with great care.

The purpose of the amendment in my name and that of my noble friend Lord Wallace of Saltaire is, in essence, to get to the heart of what is important about the Bill—not the legislation but the guidance that will accompany it and will inform or assist people when they make their return. I should tell the Minister at this stage that I have no intention of pressing my amendment, the purpose of which is to enable us to clarify one or two points on which there may not have been sufficient understanding from our debate at Second Reading.

The first thing I want to establish is whether the question asking a person to say what their sex is will remain binary, as it has been since 1801, and whether it will be the case in 2021—as it has been for the two censuses in the past 20 years, if not before—that people answer on the basis of their lived identity: that which they present to the world. I have to say that I hope that is the case. If not, and we go for a far more limited definition, we run the risk of requiring people to give answers that would contradict those given in good faith in the censuses of 10 or 20 years ago because they have changed their gender and recognise their new gender. If we were to require them to go back to an earlier iteration of their existence, we would confuse the matter. Can the Minister confirm these things?

As I have just demonstrated that these are enormously complicated matters in practice, the second thing to ask is whether the officials testing the questions on sex and gender identity—who have, I believe, consulted civil servants in Scotland engaged in a parallel exercise—might engage quite widely with a number of different groups who have been working on these sorts of issues for some considerable time. There are questions for officials about what they have discovered during the extensive testing already done, and perhaps about the further testing that will need to be done leading up to 2021. That is the basis of my amendment; I hope the Minister will be able to clarify. I beg to move.

**Baroness Hayter of Kentish Town (Lab):** I have very little to add. I concur absolutely and reinforce the importance of the census, not just as a purely numerical thing but as rather more. I am sure the Minister will not have heeded too much the pleas of one of his predecessors, the noble Lord, Lord Maude, or the noble Baroness, Lady Finn. We should question whether we have this.

As was clear at Second Reading, we support the census and the initiative in this Bill. However, everyone agrees—this is not new—that it will be key for it to be done correctly with everyone’s confidence, particularly the populations who will now be able to answer questions deeply relevant to them. I also think it means that there should be no surprises when the census appears, either for the relevant groups, for whom this will be a welcome move forward, or for the rest of the form-fillers. There should be no surprise—or, if you like, antagonism—and I do not think there will be from the non-involved groups when these questions appear.

[BARONESS HAYTER OF KENTISH TOWN]

While we need to have the questions tested on those with a particular interest in answering them, we also need to test that they are understandable to those to whom they do not particularly apply. I am sure that the consultation on the questions will take account of this so that even those not interested in answering these questions will understand why they are there. We should not confuse people so we need to test the questions with all those who will fill in the forms.

My second point goes beyond my amendment in this group. We need to make sure that we see a very high completion rate of the census as a whole as well as on these additional questions. A lot of good PR will be needed to achieve that. Explanations and preparations need to be made well before the census form arrives, whether online or through people's letterboxes. While I realise that this is beyond the scope of the amendment before the Committee, it would be useful if the Minister could say a little about the publicity covering the questions once they have been agreed.

I want to raise only one other point, perhaps a little cheekily because again it is not part of the amendment. At Second Reading we asked about the additional question on military service. Is there any update on how the consultation on that issue is taking place?

**Lord Young of Cookham (Con):** My Lords, I begin by thanking the noble Baronesses, Lady Barker and Lady Hayter, for their amendments. I agree with what the noble Baroness, Lady Barker, said about the census. It is an important civic event and we recognise it as exactly that. The amendments relate to the guidance on how census questions on sex, sexual orientation and gender identity should be answered. I agree entirely with the noble Baroness, Lady Barker, that we need to approach this matter with sensitivity, and I think we have done so.

Before we turn to the detail of the amendments, perhaps I may clarify a point regarding the questions for Armed Forces veterans, a point just raised by the noble Baroness, Lady Hayter. At Second Reading, the noble Lord, Lord Wallace of Saltaire, pointed out the difference between a note circulated by the Royal British Legion and the proposal in the White Paper on the Armed Forces question. I said that the ONS will consult the Royal British Legion and others on the detailed question or questions. I can confirm that they have indeed been consulted during the preparation of the ONS proposals for the Armed Forces question. The RBL has confirmed that it is content with the question and the guidance proposed. It accepts that as the census is a household questionnaire, it can capture only dependants who actually live with a veteran.

Perhaps I may also take the opportunity to clarify a point raised by the noble Baroness, Lady Barker, at Second Reading on the guidance to accompany completing the sex question in the next census, an issue that she has raised again today. The guidance accompanying the 2021 census is already in development. I can confirm that draft guidance for the sex question makes it clear that people do not need to answer according to the sex on their birth certificate, and that that is case whether or not they have a gender recognition certificate. This is consistent with the guidance that

accompanied the 2011 census. The draft guidance for 2021 states that you can fill in whatever you prefer. I hope that gives the noble Baroness, Lady Barker, the reassurance she seeks on the question she posed. I have written to her to clarify the point and copies of the letter are available in the Library. I have also had the pleasure of meeting the noble Baroness and the noble Lord, Lord Stevenson, to discuss the issues. The proposed guidance for the sex, sexual orientation and gender identity questions has been shared with those noble Lords who spoke at Second Reading.

The noble Baroness, Lady Hayter, raised the importance of intelligibility. These questions must be understood by everyone. There are four key guiding factors in the terminology that the ONS is using. First, the census form must be understood by the whole of the usual resident population. Secondly, it must be inclusive of the whole of the population of interest; that is, those whose gender is different from the sex they were registered with at birth. Thirdly, it should be publicly acceptable to the whole of the usual resident population. Finally, it should allow individuals to identify as they wish and should not be limited by overarching terminology.

I turn to the probing amendments tabled by the noble Baronesses, Lady Barker and Lady Hayter. As I have just set out, the proposed guidance is already in development. This House need not wait for the Act to be passed to consider this guidance, and it can be assured that we are consulting on it. I can confirm that the ONS is in the process of sharing the proposed guidance for the sex, sexual orientation and gender identity questions with interested parties, including LGBT, equality and women's groups. These include Stonewall, the Equality and Diversity Forum, and the Equality and Human Rights Commission. In all, the ONS is consulting with over 50 organisations. The Scottish Trans Alliance is among these organisations and I can confirm, further to my meeting with the noble Baroness, Lady Barker, and the noble Lord, Lord Stevenson, that officials from the ONS have held a constructive meeting with it to discuss the research informing the questions, design and guidance. I know that officials will be happy to continue that dialogue to answer any further questions they may have. Of course, the views of noble Lords as the Bill passes through this House will also be taken on board. The ONS has offered to host dedicated sessions for noble Lords to discuss the guidance.

*3.45 pm*

Over the summer, the Office for National Statistics will also be testing the draft guidance with members of the public to ensure that it is clear and comprehensible and works well for anyone answering the questions. The guidance will be published in September, alongside the census questions, ahead of the census order and regulations being laid before Parliament. There is scope for further refinement, throughout the autumn and beyond. In particular, the ONS will be carrying out a census rehearsal in October, which may yield additional insights into how the guidance may be further improved.

I am grateful to noble Lords who spoke today and at Second Reading, for the support of the House for this measure, and for the interest shown in ensuring

that the guidance for these questions works for all those answering them. My noble friend Lady Barran and I will make ourselves available to noble Lords who wish to discuss the matter further.

I hope that, in sharing the proposed guidance in draft and setting out the process for further developing and refining this guidance, I have reassured both noble Baronesses, who will now feel able to withdraw or not press their amendments.

**Baroness Barker:** My Lords, I thank the Minister very much for that—does he wish to add a further point?

**Lord Young of Cookham:** I have received some in-flight refuelling about the pertinent question the noble Baroness asked about the campaign and publicity. She is absolutely right that we have to inform people about what is happening. The ONS will undertake a national campaign as well as local campaigns. It has been working closely with the GEO on the campaigns and it will also work closely with local authorities and the third sector to reach out to all communities to help them fill in the census and to identify as they like.

**Baroness Barker:** I thank the Minister for that; it is extremely helpful. It reflects, albeit in a condensed form, a longer and rather more detailed conversation that we had about these matters.

I stress that this is not only an important matter of civic engagement. As officials from the ONS have been at pains to point out to us in briefings, this is an opportunity to gather data not otherwise available. Therefore, it is extremely important that the data gathered is as true, full and inclusive as possible. Apart from anything else, this data will inform public policy for decades to come. It is therefore important that we enable people. The people I have talked to often struggle to know how to fill in a form. They wish to fill in forms honestly but they struggle to do so, because it is not always clear. Therefore the more that can be done to include people, the better. I agree with the noble Baroness, Lady Hayter, that it is important that, in seeking to make this as good as it can possibly be for a minority population, we do not end up confusing everyone else as well. That is not the intention. I welcome the offer to look at this in greater detail over the summer and the autumn as the census rehearsal happens—what an exciting prospect that is.

This is an important matter for us all. I thank the Minister very much and beg leave to withdraw the amendment.

*Amendment 1 withdrawn.*

#### *Amendment 2*

*Moved by Lord Judge*

2: Clause 1, page 1, line 8, at end insert—

“( ) In section 8 (penalties), after subsection (1A) insert—

“(1B) A person does not commit an offence if that person does not state any particulars with respect to sexual orientation or gender identity.””

**Lord Judge (CB):** My Lords, these are simple amendments directed to an issue of principle. The issue is very simple. It is a criminal offence to fail or refuse or neglect to complete the census form—note “to complete it”: that is, to answer every question. Over the years, it has come to be accepted that some of the answers should not be matters of obligation—in particular, in 2000, providing answers to a question relating to matters of conscience such as religion; or, now, in the current Bill, sexual orientation and gender identity, matters which are obviously intensely personal. The reasons are obvious and I support them.

It is plainly the intention of the legislation that each individual responding to the census will have a choice on these questions: you may choose to answer or you may not. If you choose not to answer, you will, in the words of the legislation, not, “be liable to a penalty”.

Even if you are prosecuted, no penalty could be imposed: you would get an absolute discharge.

What, then, is the problem? Why am I making a fuss? I am making it in the company of the Constitution Committee, of which I have the privilege to be a member, which expressed its concerns in one of those very short, simple letters. In summary, it comes to this: because no legislative provision expressly decriminalises the choice not to answer, the Bill should be amended explicitly to state that such a failure is not a crime.

By letter dated 31 May, the Minister gave a very considered, lengthy reply to a very short letter. My experience is that, on the whole, those with the best points write short letters. However, ignoring that general experience, which may not be true here, I have discovered from the letter that, based on a starting point for the legislation in 2000 relating to religion—dare I point out, before we had a Constitution Committee?—the promoters of the Bill confused, conflated or perhaps simply failed to understand that the removal of the risk of a penalty meant that answering or not those questions was voluntary, and therefore there was no criminalisation. They confused crime and penalty. They are distinct concepts. Normally, the conviction comes and the penalty follows. What we have done—what is proposed here and was proposed and carried in 2000—is to wipe out the penalty but leave the crime. At the very least, it is arguable—I would say strongly arguable—that what we have now, and will continue to have without the amendments, is a crime of not answering the question but no penalty for choosing not to do so. That does not seem very sensible.

It is obvious that the Bill’s objective is to decriminalise any such failure. That is the point of it and why it is supported. Why is conduct that carries no penalty and is not intended to represent even minute contravention of the criminal law allowed to disfigure it by remaining on the statute book? I respectfully suggest that that is wrong in principle. The Bill should be amended expressly to decriminalise any such conduct and any necessary amendments in relation to questions about religion in the 2000 Act made subject to identical amendments within the Bill. That is the purpose of the amendments.

It is not an answer that the Crown Prosecution Service would not prosecute. It is not an answer that if the Crown Prosecution Service prosecuted and someone

[LORD JUDGE]

were convicted, no penalty would be imposed by the court. I mention that in this context. We hear rather a lot about private prosecutions these days. If there were a private prosecution—I know that this is hyperbole; there would not be, but let us examine this as a matter of principle—the court would no doubt have in mind that on conviction there would inevitably have to be an order for absolute discharge. Of course it would. The court might rage in the way that old judges did but do not any more because they are much more polite than they used to be. It might rage against the absurdity of any such prosecution, but I respectfully suggest that it could not as a matter of certain law say that the failure to answer the question did not constitute a criminal offence. We really cannot have that situation; there must be certain law about this. We must do better and decriminalise a failure to answer such questions. I beg to move.

**Lord Beith (LD):** My Lords, I support the noble and learned Lord's amendment. I apologise to the Committee that I was not able to speak at Second Reading, but the discussions in the Constitution Committee, of which I am also a member, have brought to light the seriousness of this problem within what is otherwise a highly commendable and necessary Bill. I am afraid that I have form on this subject: on 25 March 1975, I moved an amendment to the census order—it was possible to move amendments to those statutory instruments unlike to almost all others—precisely to assert the principle that, so far as the procedure allowed in that case, the state should not turn people into criminals because they had some good conscientious reason for declining to answer questions in such areas as were not fundamental to the state knowing where its population was, how many people there were and in what kind of properties they lived.

I remain of the view that it is undesirable for the state to extend its reach by way of criminal offences that put people in that position. As my noble friend did in the context of the previous debate, I hope that the guidance and what is said to people by those who hand out and collect census forms will assist in reassuring them, but, like the noble and learned Lord, Lord Judge, and the Constitution Committee, I believe we are legislating unsatisfactorily. The primary reason for doing so given by the Minister in his careful and lengthy letter was that, unless we made certain further provisions to tidy up other legislation, we might create a degree of ambiguity. I found that unconvincing; I do not think any court would be in any doubt as to what Parliament had intended if it phrased this part of the legislation so as to make it quite clear that it was not creating or continuing a criminal offence of failing to answer questions relating to sexual identity and gender.

Everybody seems to agree with what we are trying to do. Let us for heaven's sake do it in a way that makes our legislation both sensible and not threatening to individuals who perhaps do not view these matters in the detail that we have been required to do today.

**Lord Lipsey (Non-Afl):** My Lords, as one would expect, the noble and learned Lord, Lord Judge, has made an extraordinarily powerful case. I really think that the Minister, as well as restating his case, which is

wide of these amendments, is obliged to expand on “why not”, preferably in words a normal person could understand and that are not deep in a complicated letter.

All sorts of people may come to us during the census period and ask, “What's my legal position if I don't want to fill this in?” Does everybody feel confident, having heard the noble and learned Lord, Lord Judge, that they could readily explain the situation to those who came in and saw them? Can they readily show that those people would understand immediately that, although they may be committing a criminal offence—though not one to which any penalty attaches—it would be perfectly all right and no future employer would ever hear about it? I am not trying here to construct a legal case, because I am not a lawyer; I am trying to reflect the reality that may exist if the Bill goes through without the amendments tabled by the noble and learned Lord, Lord Judge.

4 pm

**Lord Scriven (LD):** My Lords, I support the amendments in the name of the noble and learned Lord, Lord Judge, and apologise for being unable to speak at Second Reading. As we have said, this is a very sensitive issue. This is about people making very sensitive decisions about whether to put something on an official form that will be used by the Government. When people come to express their sexuality or gender identity, the threat of it being a potential criminal act could sway people on whether they answer that question.

I want to talk about the context of how the census will be filled in. As the noble Lord, Lord Lipsey, says, if there is ambiguity—if people do not understand the difference between a criminal offence and a penalty—there could be a social media campaign, maybe by a group that, for genuine reasons, does not want people of a particular gender identity or sexual orientation to be seen to be breaking the law. There could be a social media campaign to prevent people openly and honestly answering this question because it is perceived to be breaking the law, and people do not wish to break the law. I totally agree with the noble Lord, Lord Lipsey. I am not a lawyer, but I am somebody who understands the sensitivity of this particular question and the questions that will be posed. Any ambiguity or overarching threat that this is breaking the law, even though there is no penalty, will be counterproductive. Therefore when the Minister answers, could he do so in a way that is very clear to the ordinary man or woman in the street who will be filling in the form? Will he clearly state why it does not create ambiguity and a potential threat to answering this question openly?

**Lord Tyler (LD):** My Lords, I have a very simple point to make. On a constitutional principle, something as important as this should be in the Bill. It will not be sufficient for it to appear in guidance, in the autumn or thereafter. If it is not in the Bill, any explanation or qualification that may result from the ONS rehearsal if this turns out to be an important issue will not be satisfactory. Something as important as this should be in the Bill. I therefore strongly support the amendments in the name of the noble and learned Lord, Lord Judge.

**Baroness Hayter of Kentish Town:** I heard the noble and learned Lord, Lord Judge, talk of crime and penalty; I expected him to talk about crime and punishment—the more commonly used word.

I have two points. The secondary one is that, hearing this, I have a slight worry about the issue I raised before, about military service. Albeit that it is not in here, it is nagging at me. It is possible that some people would not want to declare that they had served in the military. I know we have not exempted that in the Bill. It does not come under the voluntary category. It will be added, and will be a compulsory question. There is something vaguely nagging at me. Maybe this is not the point at which to raise it, but perhaps a letter could be sent about what consideration was given to why that was not an area where people could choose not to declare. It is not just about old cases from Northern Ireland; there may be other reasons. I have a slight nag about that distinction, which I raised at Second Reading.

I hope that if the noble and learned Lord, Lord Judge, does not get a satisfactory answer on this issue, he will bring it back on Report. It is something we would want to support. When I walked into the room, I thought this would take just a second and assumed that the Government would accept this. Not having seen the letter, I was absolutely astonished to hear that they were not. I hope there will be a change of heart by the Government and, if not, that the amendment will be brought back on Report.

**Lord Young of Cookham:** My Lords, let me try to deal with the very serious issues raised by the amendment moved by the noble and learned Lord, Lord Judge. The noble Lord, Lord Beith, has trumped my Second Reading story of having moved the 1981 census order by going back to 1975.

I take very seriously any amendment moved by the noble and learned Lord, Lord Judge. He will not remember this, but two years ago we crossed swords on the Higher Education and Research Bill, when he tabled an amendment which it fell to me to answer. It was on a legal matter, so it was a home game for him and an away game for me. I gave what I thought was a very considered, detailed and lengthy response to his amendment. I just looked up what he said in response:

“My Lords, we have just heard an utterly reasonable argument but, with great respect, it is wrong”.—[*Official Report*, 8/3/17; col. 1419.]

With a judicial flick of the wrist, in a few sentences, my argument was disposed of; a Division was called and the Government lost. Therefore, I take this amendment very seriously and I hope to set out the reasons why we have real difficulty in accepting it.

The two amendments insert two new subsections after Clauses 1(3) and 2(3), seeking to clarify that omitting to provide particulars concerning sexual orientation or gender identity is not an offence. Amendment 2 applies to England and Wales and Amendment 3 to Northern Ireland. A similar amendment was debated in another place during the passage of the Census (Amendment) Act 2000, which noble Lords may recall added the possibility of asking a question on religion to the census Act in England and Wales, and removed the penalty for non-response. That

amendment was rejected, following reassurances from the promoters of the Bill, and I hope to provide similar reassurances to noble Lords today.

The short point is that the current drafting already achieves what these amendments aim to do. Unlike the amendments, they do so in a way consistent with the existing law. By removing the penalty attached to a failure to answer, the clear parliamentary intention is to remove the criminal offence. This reassurance was given in 2000, and I give it again today. “No person shall be liable to a penalty” is tried-and-tested legislative language. It was used in the National Insurance Act 1911 and the National Health Insurance Acts 1924 and 1936. It was used in the Census Act (Northern Ireland) 1969 in respect of religion. Most recently, it was used by this Parliament and the Scottish Parliament in the Census (Amendment) Act 2000. Its meaning is clear.

I shall quote what is in the letter, which some noble Lords may not have seen. It is an extract from *Hansard* by the then Economic Secretary to the Treasury, speaking on behalf of the Government against the amendment similar to the one we are debating now. It says:

“I can assure the House that the legal opinion that my officials have taken on this matter confirms the view ... that the removal of the penalty for anyone failing to provide particulars on religion makes the census question on religion voluntary, as only the criminal sanction in section 8 of the 1920 Act makes it statutory to comply with the census in the first place”.—[*Official Report*, Commons, 26/7/00; col. 1150.]

On the point from the noble Lord, Lord Scriven, I am not aware that there is any doubt in the public’s mind at the moment, since the 2001 or 2011 census, about the status of the voluntary nature of answering those questions.

I will go on to some other reasons why we have real difficulty with the amendments. They would—inadvertently—land a pebble in what we regard as clear water. They are limited to the questions on gender identity and sexual orientation, as required by the scope of the Bill. However, the effects would go far and wide. They would imply that where the law removes the penalty alone, the intention is to leave in place the offence. That would cast doubt on what was previously clear. In this way, they would risk the voluntary nature of the religion question being called into question, both now and historically. They would entail the same risk for the Scottish census. This risk would extend to other law, historical and current, which uses the same language.

I am grateful for the close and proper attention to and scrutiny of this measure by the House, particularly the Constitution Committee. It is right that we ensure that the law is clear and coherent, and that the public are clear, as the noble Baroness said, that in refusing or neglecting to answer questions on sexual orientation or gender identity they will not be committing an offence. The Bill, consistent with the Northern Ireland Parliament’s approach in 1969, and the approach of this Parliament and the Scottish Parliament in 2000, achieves that.

If the noble and learned Lord has doubts, I am more than happy to arrange a meeting with relevant officials and other noble Lords between now and Report, to see if we can find a way through, given the narrow scope of the Bill and therefore the limitation in

[LORD YOUNG OF COOKHAM]  
impact of any amendment such as the one we are debating. Against that background, and in good faith, I hope the noble and learned Lord feels able to withdraw his amendment.

**Lord Judge:** I am very grateful to everyone who has spoken, and to the Minister—I sometimes think of him as a sort of ministerial Hercules. Getting this right is not a Herculean task, and I should certainly welcome the opportunity to talk to him about it. I shall withdraw the amendment for the time being, on a wait-and-see basis.

*Amendment 2 withdrawn.*

*Clause 1 agreed.*

***Clause 2: Amendment of the Census Act (Northern Ireland) 1969***

*Amendment 3 not moved.*

*Clause 2 agreed.*

*Amendment 4 not moved.*

*Clause 3 agreed.*

*Bill reported without amendment.*

*Committee adjourned at 4.11 pm.*



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