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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
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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House of Lords

Monday 9 September 2019

2.30 pm

Prayers—read by the Lord Bishop of Winchester.

Peatlands: Commercial Exploitation Question

2.37 pm

Asked by **Lord Teverson**

To ask Her Majesty's Government what plans they have to end the commercial exploitation of peatlands.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, we have taken action to tackle domestic extraction of peat. The *National Planning Policy Framework*, published in 2012, ended the granting of new licences for peat extraction. We continue to focus on reducing demand for peat in horticulture in England, and on the uptake of alternatives. We are investing in research to overcome barriers to peat replacement. The forthcoming England peat strategy will set out our approach to speeding up progress.

Lord Teverson (LD): My Lords, I welcome some progress in this area, but the Minister will know that our peatlands hold the equivalent, or a carbon sink, of something like 20 years of industrial emissions. Although I welcome things such as the peat restoration programme, surely it is better that they are not destroyed in the first place than that they need to be reconstituted? The voluntary process for reducing the commercial use of peat is not meeting its target, so when are we going to have mandatory targets that end the use of peat for commercial reasons?

Lord Gardiner of Kimble: My Lords, I sympathise with all that the noble Lord has said. That is why we are working on recovery plans. Amateur gardeners account for two-thirds of the peat being used. We have to reduce our use of peat and go for peat-free products. I read of one that incorporates wool and bracken, for instance. We are working with industry; I am very pleased that Kingfisher, one of the big retailers, is moving towards peat-free compost. That is how we must all proceed in reducing the use of peat and restoring what we have. It is vital to our environment.

Baroness McIntosh of Hudnall (Lab): My Lords, building on that Answer, amateur gardeners find it very difficult to get high-quality compost that does not contain peat. Can the Minister expand a little on what the Government are doing to get retailers not only to stock less peat-based compost—ideally, none at all—but to be more informative about the price that the environment is paying for the quality of the compost that they are selling?

Lord Gardiner of Kimble: As an amateur gardener, I agree with what the noble Baroness has said. It is precisely why we have embarked on a £1 million project, which ends at the end of this year, co-funded by the Agriculture and Horticulture Development Board, with growing-medium manufacturers and commercial growers. It is being undertaken by ADAS and the Quadram Institute. The results so far are very promising. Some of the new mixes have proved very successful, and that must be the way forward. Clearly, we need to produce different materials if we want ericaceous compost for seeds and all the different components of agriculture, but the results so far are promising, and that is how we must proceed.

Baroness McIntosh of Pickering (Con): My Lords, will my noble friend perhaps display a greater sense of urgency, considering that it takes 200 years to create a peat bog? Since there are flood prevention schemes, such as the Pickering pilot scheme, will the Government ensure that peat bogs are created as part of such restoration schemes and will they form part of the land management system under the eventual agriculture Bill?

Lord Gardiner of Kimble: Undoubtedly, peat bogs and fens help with flood management and improve water quality. Indeed, they play a considerable part in climate regulation, which is why in the wider research beyond what I have already described we are funding research into mitigation strategies—for instance, for lowland peatland. This research is being led by the Centre for Ecology & Hydrology. One of the things, of course, is not to let peat dry out.

Lord Clark of Windermere (Lab): My Lords, the problem is much wider than compost. Flora and fauna are being drastically affected. For example, the numbers of the iconic bird of the upland in summer, the curlew, have fallen dramatically because, without the peat bogs, they find it difficult to feed, in spite of their long beaks. Will he draw that to the attention of the agricultural civil servants in his department?

Lord Gardiner of Kimble: My Lords, the noble Lord is absolutely right. The merlin, the dunlin and the golden plover are all birds that are also significant in their impact on the ecosystems and important in the peatlands. That is precisely why we want to concentrate on restoring peatlands and reducing peat extraction. Interestingly, the worst damage is being done in the lowland areas of peatland.

Lord McColl of Dulwich (Con): My Lords, why do we not go back to using manure, which was very effective?

Lord Gardiner of Kimble: My Lords, being a farmer as well as an amateur gardener, I say that manure by itself would be a little too rich for some of the seedlings which we all need to prosper, but my noble friend is absolutely right about using compost and manure. Using them in the right mix and getting the right alternatives—natural alternatives such as wool and bracken—is the way forward.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, specifically on commercial peat extraction, as my noble friend Lord Teverson said, this is causing irreversible damage to some of the most historic and vulnerable nature conservation habitats and environments, so 2030 is too late to tackle this problem. Wonderful wetland habitats are being created from previous peat workings, such as at Westhay Heath. Why are the Government not doing more to promote such schemes to preserve more wildlife habitats?

Lord Gardiner of Kimble: My Lords, I am pleased to say, as I think I may have said before, that we have already allocated £10 million to restore nearly 6,500 hectares of degraded peatland. These projects started last year and are due to complete in 2020. They are about raising the water table and re-wetting peat, along with the revegetation of bare peat. A lot of work is going on and we absolutely recognise that we need to roll these large-scale projects out more widely.

Lord Grantchester (Lab): My Lords, what work—and to what conclusion—has the Minister’s department undertaken on the application of a carbon tax on sales of peat?

Lord Gardiner of Kimble: My Lords, obviously, that is a possible action, but we want to find the alternatives that will make the use of peat redundant and unnecessary. Peat is a very important natural resource that we need for our ecosystems, which is why we want to pursue that route. However, the noble Lord is right: in the end, if we cannot get it done through this voluntary approach, we will have to look at all eventualities. That is where, with the peat strategy, we will need to be determined to improve the peatland situation.

Intersex Citizens *Question*

2.44 pm

Asked by Baroness Barker

To ask Her Majesty’s Government what steps they are taking to maintain the human rights of variations of sex characteristics (VSC) intersex citizens of all ages.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, in the 2018 LGBT Action Plan, the Government announced their intention to publish a call for evidence on the experience of people who have variations in sex characteristics. This has now closed and we are analysing the responses.

Baroness Barker (LD): My Lords, I thank the noble Baroness for her Answer. Infants are being subjected to surgery which turns out in later life to be sometimes unnecessary and often extremely harmful. Will the Government, at the earliest opportunity, change the Equality Act 2010 to include variations of sex characteristics so that these very vulnerable people have some legal protection, which they do not at the moment?

Baroness Williams of Trafford: I pay tribute to the noble Baroness and the way she has worked on this issue. She raises an important point: as she knows, we require more evidence on this issue to understand the long-term impacts of the medical interventions in children which she outlined. That is why we asked for information on this topic in the recent call for evidence and we are currently analysing the results.

Lord Winston (Lab): My Lords, there are a number of children who have had sex-change operations who later on bitterly regret it. I have seen some of these people in fertility clinics; some also have complications after surgery. The decision to undergo gender reassignment is a very grave one. Are the Government satisfied that these decisions are being taken with sufficient care?

Baroness Williams of Trafford: The noble Lord outlined the very point articulated by the noble Baroness, Lady Barker. Obviously, we would never want children to have to go through something they might later regret, or which they feel has been imposed upon them and can destroy the rest of their lives. That is why we did the call for evidence and why we will proceed carefully and responsibly in this sensitive area.

Lord Black of Brentwood (Con): My Lords, these issues are complex to understand and highly sensitive, even for those of us steeped in LGBT+ issues. One problem is that, at the moment, there is no official data on the number, frequency and types of interventions for intersex people. Would it be a good idea for the NHS to start collecting this?

Baroness Williams of Trafford: I do not know whether my noble friend knows this, but the LGBT survey we conducted had 108,000 responses—the largest of its kind ever undertaken in the world. Almost 2,000 respondents identified as intersex. However, my noble friend is right: that proportion is a snapshot of those who responded. People have been calling for the census to record this; there will be the opportunity to do just that in the next census.

Lord Cashman (Non-Aff): My Lords, intersex people face widespread discrimination. What steps are the Government taking to ensure awareness of the human rights of intersex people? Will the Government ensure appropriate training on intersex issues for health professionals and public officials, including legislators, the judiciary and policymakers?

Baroness Williams of Trafford: The noble Lord raises an issue which stems, in many cases, from ignorance. People mix up intersex with transgender: they are entirely different. Intersex is neither a sexual orientation nor a gender identity issue. He is absolutely right that more information and education on this are needed, as is more training for medical professionals—an issue which many intersex respondents brought up in the call for evidence.

Lord Wallace of Saltaire (LD): I welcome the Government's attention to this issue of minority rights. We understand that although this is a small minority it is an important one, and that early medical intervention can lead to deep unhappiness. Will the Government's consultation lead to a public education programme? The noble Lord, Lord Cashman, mentioned the need for medical professionals to be trained, but we well understand that a lot of parents will need a certain amount of background enlightenment as to these possibilities and to the dangers of giving in to pressures at an early stage to "do something about it", rather than allowing children to grow up as they are.

Baroness Williams of Trafford: It is not a consultation so much as a call for evidence, which is a more informed process, engaging with various stakeholders with expertise in this area. The noble Lord will be aware, of course, that intersex or variations in sexual characteristics can be chromosomal, gonadal, hormonal or indeed anatomical. Therefore, it is very important that whichever public services the individual comes into contact with, particularly medical practitioners, are educated and trained to be sensitive to the various issues.

Baroness Gale (Lab): My Lords, I am sure the Minister is aware that intersex people face discrimination on the grounds of sex characteristics, including in access to healthcare, education, employment and sports and in obtaining official documents. Will she consider amending our anti-discrimination laws to ensure that the situation of people with intersex traits is effectively covered, by adding sex characteristics to the list of protected characteristics under the Equality Act 2010? This would ensure that their human rights are recognised—they should be entitled to full protection under the law.

Baroness Williams of Trafford: I think that that might be putting the cart before the horse in some ways; we have to understand, through the call for evidence, precisely what the issues are. I think intersex people are covered under current discrimination laws, but I take the noble Baroness's point. Let us first be educated and informed by the call for evidence before we decide, as a Government, what the most effective way forward is.

The Earl of Listowel (CB): My Lords, in the light of what has been said about the importance of expertise in this area, it must be concerning that there has been a decline in the number of child and adolescent psychiatrists in recent years. I understand that investment and effort is being made and that that trend is perhaps beginning to be reversed. Will the Minister look very carefully to see that we are successfully recruiting and retaining more child and adolescent psychiatrists to help in this area?

Baroness Williams of Trafford: I certainly acknowledge the noble Earl's point and I shall refer his comments to my colleagues in health.

Charities: Plastic Bag Charges

Question

2.52 pm

Asked by **Lord Hayward**

To ask Her Majesty's Government, further to the answer by Lord Gardiner of Kimble on 17 July (HL Deb, col 232), how much income charities would have received since 17 July had a plastic bag charge on small and medium-sized enterprises been introduced.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, there is no legal requirement for businesses to donate the proceeds from the charge to charities; businesses are encouraged to donate. The Government's proposals are at consultation stage and have always been due to come into effect in 2020. As such, charities have not lost any income from the charge. Our initial impact assessment estimates that small and medium-sized businesses, after deducting reasonable business costs, could generate approximately £59 million for good causes in the first full year.

Lord Hayward (Con): I thank my noble friend for that Answer. Is it not the case that this charge could have been brought in much more quickly and, as a result, charities would have been beneficiaries of a substantial sum of money? At the same time, is it not the case that by delaying the introduction of this charge until 2020, under the revised figures expected under the revised impact assessment something like 1 billion plastic bags will be used in this country in the next six months which would not otherwise have been used?

Lord Gardiner of Kimble: My Lords, I have looked into this very thoroughly and I understand concerns about the time it is taking, but we are required under the Small Business, Enterprise and Employment Act 2015 to carry out regulatory measures and assess business impacts which are reviewed by the independent Regulatory Policy Committee. I know I am getting into the realms of Sir Humphrey, but it is about the detailed feedback on methodology. Given that this charge will affect every smallholder, market trader and charity shop, we are attending to the comments that have come back from the Regulatory Policy Committee. I would like to make progress, and we will do, but we have to go through the due processes. Also, the SI will be affirmative and that will take some time.

Baroness Jones of Whitchurch (Lab): My Lords, the Minister referred to the issue of regulation with regard to the Small Business, Enterprise and Employment Act 2015, but the scope of that Act applies to all devolved nations, yet Wales, Scotland and Northern Ireland have already extended the plastic bag charge to small and medium-sized enterprises. What justification can there be for this? We are waiting only for England to catch up—everybody else has done it. Wales did it

[BARONESS JONES OF WHITCHURCH]
in 2011 and Scotland did it in 2013. It is now 2019. I would have thought that the scope of that Act would have allowed England to catch up by now.

Lord Gardiner of Kimble: The magnitude and quantum of the number of businesses that will be involved in England will, as I think everyone would agree, be much more significant. As I have said, we are working through the requirements as we understand and have been informed about them. The Regulatory Policy Committee has come back to us with detailed comments on the methodology. We have to receive a positive rating feedback from the RPC. We want to do that because we think there are significant benefits from increasing the charge from 5p to 10p and applying it to all retailers.

Baroness Parminter (LD): My Lords, the Minister said that it is not compulsory for retailers to ensure that the money goes to charities. Last year, 40% of retailers did not say where the money went. Why is it not compulsory for the money to go to charities so that we can be sure that it is going to good causes?

Lord Gardiner of Kimble: My Lords, from the very outset, this was for businesses, and all businesses—taking away their business costs—were encouraged to donate to good causes. As I say, significant sums have already been given, but we should be mindful, particularly when we go on from larger to smaller business, that this will undoubtedly have to be for businesses. I was very interested to find that the House of Lords last year raised £283.21, and I am pleased to say that we are phasing out our plastic bags. This is the sort of quantum we are talking about. We will be dealing with very small retailers, which is why the noble Baroness hits on something that would be very difficult to enforce.

Nuclear Power Stations

Question

2.57 pm

Asked by *Baroness Jones of Moulsecoomb*

To ask Her Majesty's Government what assessment they have made of the impact of a warming climate on the operational risks of nuclear power stations, particularly in the light of the reduction in capacity of nuclear reactors in France in the July heatwave.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy and Northern Ireland Office (Lord Duncan of Springbank) (Con): My Lords, companies involved in the civil nuclear industry are required to meet robust standards that are overseen by independent regulators. These standards include keeping plants safe against the effects of climate change, as demonstrated by the Office for Nuclear Regulation jointly publishing guidance with the Environment Agency and Natural Resources Wales in March this year.

Baroness Jones of Moulsecoomb (GP): I thank the Minister for his Answer, but I did not hear anything about climate change. If noble Lords remember, this Parliament declared—I think it was at the end of April—a climate emergency. Every year, the Greenland ice sheet loses 300 cubic kilometres of ice on average—that is just Greenland—and we could face sea level rises. I would have liked to have heard some policies that are a little different from any standards that have gone before, because we need new, tougher standards.

Lord Duncan of Springbank: The noble Baroness raises issues about climate change, which I will address head-on. The Office for Nuclear Regulation must not only anticipate but mitigate any potential problems that might occur, which will include not only sea level rise but sea temperature rise. In every instance, it must put forward robust strategies to ensure that at all points nuclear safety is paramount.

Lord Howell of Guildford (Con): My Lords, is not the conundrum here that, while higher global temperatures may affect nuclear power, nuclear power itself can make a major contribution to combating global warming by producing massive amounts of low-carbon electricity? Can my noble friend give us an assurance that in doing so, costs can be kept down, particularly in relation to Hinkley Point, as they are rising rapidly? Could he make sure that we have a proper debate on this whole subject when we come back, as things are not going very well at present?

Lord Duncan of Springbank: My noble friend is of course absolutely correct that nuclear power itself is a means of reducing carbon emissions, and it will remain part of our electricity generation mix—necessarily so, as it is already 20% at present. When Hinkley Point comes online it will represent 7% of the overall electricity generated in the entire United Kingdom. It is therefore important that we are able to ensure that nuclear remains a component part of our offering and our energy reduction. It is also important to recognise that one of the conditions of the nuclear strategy which we have put forward—the £200 million fund—is that there is a significant reduction in the cost of the production of nuclear energy. That will represent a 20% reduction overall, which must be part of that strategy. We are alert to these issues. Again, the time is right for a proper debate on the wider questions, which I suspect my noble friend would have raised had we had more time.

Lord Fox (LD): My Lords, I welcome the new Minister to his position. He will be aware that I usually use this opportunity to conflate nuclear power with energy storage. With high-capacity energy storage, the need for nuclear becomes much less critical. There are also short-term issues around storage, which we saw on 9 August, when there were blackouts across large swathes of England. The cost of replacing that short-term storage is about £1 billion to double it to 2,000 megawatts. What is the Government's plan for storage, what money is available, and how is it being invested to deliver a robust system?

Lord Duncan of Springbank: I thank the noble Lord for his welcome. Storage must be at the heart of our strategy, because we cannot get to net zero by 2050 without it. We will need to significantly increase our investment in this type of technology to understand it well. He will of course be aware that one of the most successful forms of storage is the pumped hydro, which again we need to examine in its manifest forms.

Baroness Meacher (CB): My Lords, what action are the Government taking to develop the scientific method to withdraw CO₂ from our environment? We have passed the point when we can deal with climate change simply through reducing our emissions. One of the absolutely key answers has to be withdrawing CO₂ from the atmosphere.

Lord Duncan of Springbank: The noble Baroness asks a simple question which will get a complicated response. A number of changes must take place in greening and reducing our emissions, not least within our domestic environment. We need to move away from the gas in our homes and the hydrocarbons in our cars, and we need to do that in the short term. We need a new strategy which will address the culture. This is not just about what government can do; it has to be about what individual households can do, recognising the cost of each change. We have a strategy, which is available on our website.

Lord Wigley (PC): My Lords, the noble Lord mentioned pumped hydro. He will be aware of the role played by the Dinorwig scheme, which in its day was the largest in the world, although it is not quite that now. Are there more such schemes, and are they geared to the two-lake solution or to estuarial pumping, back up the valleys from where the rivers came?

Lord Duncan of Springbank: The noble Lord is right to rejoice in the success that Wales has had in pumped storage. There are moves afoot on the part of a number of companies to expand existing hydro plants. The future is of course dependent on how we can mitigate some of the costs involved in such large-scale projects, but they will fit into both categories if we can find the right balance of incentive to encourage these sorts of developments.

Lord Lansley (Con): My Lords, the Question relates to the resilience of nuclear electricity generation. Given the relative lack of progress beyond Hinkley in renewing the nuclear fleet and its possible contribution to that resilience, what progress are the Government making on the introduction of more small modular nuclear reactors for electricity generation?

Lord Duncan of Springbank: My noble friend is right to remind us that not all nuclear reactors need to be on a large scale. Small modular reactors certainly have a place in our strategy. We are putting forward up to £80 million to develop this kind of technology, to help us to tackle the issue. It will help us to make a substantial difference to our climate change initiatives.

Lord Whitty (Lab): My Lords, I welcome the Minister's commitment to a wider strategy and all the points that have been raised, but the Question refers to learning lessons from the reduction during the heatwave in capacity in the French nuclear power system. Is he utterly confident that the French system will share those results in view of our imminent departure from Euratom and ending all other agreements with our French partners?

Lord Duncan of Springbank: The noble Lord will be aware that the French nuclear system is based primarily on riverine cooling, whereas that in the UK is based on marine cooling. Two plants in France had to be turned off because of the situation in the rivers. We do not have any issues in that regard, but we will learn lessons because it is important to do so. The Office for Nuclear Regulation must learn lessons not only from what happens at home but from what happens abroad.

Lord Teverson (LD): My Lords, before the Summer Recess, the Government agreed that the UK should have a zero-carbon target for 2050. I cannot remember if that was from this Government or the May Government. Can the Minister confirm that that is still the Government's position, although what is more important is meeting the recommendations of the Climate Change Committee? When will we have an updated clean growth strategy?

Lord Duncan of Springbank: It was our Government. We will have an updated clean growth strategy because it is absolutely vital. We will need to be bold about taking ourselves forward to net zero by 2050, because our present initiatives are not adequate to deliver that. There will need to be a significant refresh not just of the wider clean growth strategy but of all aspects of this covering all government departments.

Lord Hamilton of Epsom (Con): My Lords, taking up the point made by the noble Baroness, Lady Meacher, on banishing CO₂ altogether, surely we will have to stop breathing out.

Lord Duncan of Springbank: I strongly encourage my noble friend not to stop breathing out.

Lord Brooke of Alverthorpe (Lab): My Lords, perhaps I may press the Minister to go back to the Question, and to the question asked by my noble friend Lord Whitty. We rely to a fair degree on electricity from nuclear power stations in France. What assessment has been made of the position whereby the French, because of climate change, should decide that they cannot maintain the same level of supply as in the past? What guarantees do we have that that will not happen, and what assessment has been made of how we will make up a shortfall?

Lord Duncan of Springbank: The simple answer is that we cannot guarantee what the French nuclear system will do. France is an independent nation in that regard. We have to make sure that our provision is adequate to ensure that the lights do not go off and

[LORD DUNCAN OF SPRINGBANK]
that the supply of electricity is absolutely maintained. That is why we rely not solely on nuclear but on a breadth of electricity generation. We will continue to do so at the safest levels possible.

Hurricane Dorian *Private Notice Question*

3.07 pm

Asked by Lord Collins of Highbury

To ask Her Majesty's Government what diplomatic support they have provided to the Government of the Bahamas in the aftermath of Hurricane Dorian and what steps they are taking to ensure the safe delivery of aid to the Bahamas.

Lord Collins of Highbury (Lab): My Lords, I beg leave to ask a Question of which I have given private notice.

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): My Lords, Hurricane Dorian has caused untold damage to the Abaco Islands and Grand Bahama. I am sure that I speak for every Member of your Lordships' House when I say that our thoughts and prayers are with those who have lost their lives or their homes or have been injured. The United Kingdom was among the first to provide support and we are pleased to see that the international response has since been ramping up. The Government have also committed up to £1.5 million, which has enabled the delivery of critical aid, and we have deployed emergency and consular teams to the Bahamas.

Lord Collins of Highbury: I thank the Minister for that response. Indeed, last Friday the noble Baroness, Lady Sugg, also kindly informed me of developments as regards what we are doing to support both the MoD and DfID. But, of course, if noble Lords listened to the "Today" programme this morning, they will have heard the local concerns about the efficiency of the Nassau distribution of aid and support, particularly to those in the cays and the small islands around Abaco. What administrative and logistical support has been given to the Government of the Bahamas to ensure that everyone in need is supported?

Lord Ahmad of Wimbledon: My Lords, I reassure the noble Lord and pay tribute to my colleagues in the Department for International Development. I am delighted that my noble friend Lady Sugg has joined me on the Front Bench. The MoD has provided support. The FCO has provided consular assistance and 13 members of its staff have been deployed to the region at the high commission in Nassau. Indeed, we are the only embassy or high commission from the EU operating in the Bahamas. DfID has also deployed a team of five humanitarian experts, with a sixth on the way.

Yesterday I spoke to the Bahamas Foreign Affairs Minister, Darren Henfield, whose constituency is Abaco, and I have been in constant liaison with both our high commissioner on the ground there and the Bahamas' high commissioner in London. I assure the noble Lord that through the support that we have provided across the three departments—and let us not forget RFA "Mounts Bay", which has been providing vital assistance to those directly hit on the two islands—we have been at the forefront of assistance to both our citizens and those of the Bahamas.

Baroness Northover (LD): My Lords, I associate these Benches with the condolences that the Minister has just expressed. Does he agree that while it is vital to help those who have been so terribly affected by the hurricane, it is important that, as lives and places are rebuilt, resilience is built in? In fact—this question follows on from the previous one—given that this is the worst hurricane to have hit the area, does this not reinforce the fact that we have to work together to tackle climate change? As the Minister knows, in the EU we were able to lead on that in the run-up to the Paris climate change conference, which was so important. How are we going to ensure that we can play any such role in the future?

Lord Ahmad of Wimbledon: My Lords, we have been recognised by the UN Secretary-General—among others—for our primary role in building resilience, both in the Caribbean post hurricanes Irma and Maria, and in the Pacific. As the noble Baroness may be aware, the United Kingdom and a number of other countries are leading on the resilience strand at the UN conference that will take place during high-level week later this month in New York.

On the specifics, I assure the noble Baroness and the noble Lord that we were there two years ago and subsequently we have expended a great deal of effort, time, energy and focus on co-ordination in the region, both with our overseas territories and with international partners, including our European partners: the Netherlands and France. It is as a result of that that we have seen the co-ordinated response on the ground.

However, I reflect on the words of the Foreign Minister of the Bahamas yesterday. He thanked the United Kingdom for our support and prayers, but he also said, poignantly, that there is little you can do when Mother Nature takes her course. I assured him that we as a House and a country stand in support of their efforts and we will continue to support the Bahamas, not just in providing immediate relief but in reconstruction.

Viscount Waverley (CB): My Lords, is the Minister aware of the fate of Bimini, a chain of islands in the Bahamas, which has been pulled apart by developers, who have destroyed the ecosystem of dolphins, whales and reefs? Will he take this into account when formulating a future development policy as a result of the hurricane?

Lord Ahmad of Wimbledon: My Lords, I assure the noble Viscount that we have been working across the Caribbean, not just on resilience but on the very issue that he raised about protecting natural habitats. That

is why the United Kingdom within our own territories has been at the forefront of introducing marine protection areas, with 4.3 million kilometres of them around key habitats, protecting them. I will take the specific issue of the Bahamas back and if there are updates I will write to the noble Viscount.

Lord Tebbit (Con): My Lords, can my noble friend assure me that since, as is usual on these occasions, the aid has been delivered by our military forces, the cost the forces incurred in delivering that aid should fall on the overseas aid budget and not the military one?

Lord Collins of Highbury: It is not eligible.

Lord Ahmad of Wimbledon: The noble Lord, Lord Collins, has partly answered my noble friend's question—this does not come under ODA eligibility. Indeed, the funds that we have allocated have been set up specifically for that reason, so I can give my noble friend that reassurance.

Lord Griffiths of Burry Port (Lab): My Lords, we have heard of admirable amounts offered by way of support to the victims of this terrible storm. However, perhaps I may ask a question about the modalities for distributing the aid and the extent to which it involves local people with local knowledge, bearing in mind that those who administer what is given might reach wiser conclusions about the distribution.

Lord Ahmad of Wimbledon: The noble Lord is absolutely right to raise that, and I refer to my response to the noble Baroness, Lady Northover. We have been working with regional partners and, most importantly, with CDEMA, the aid agency that responds to these issues in the Caribbean. We have been bolstering its responsibility and investing with our key partners. I assure the noble Lord that my conversation yesterday with the Foreign Affairs Minister of the Bahamas focused specifically on ensuring that the technical support and the reports that we are getting reflect the type and focus of the assistance that can be provided. For example, we are working with American colleagues on ensuring that the airport is functional so that more aid and support can be provided.

Lord Naseby (Con): As my noble friend will recall, lessons were learned from Hurricane Irma, one of which concerned the speed of the response. Can he assure the House that we are using the facilities at Brize Norton? If planes cannot land at Nassau, they should at least land at the Cayman Islands and be trans-shipped. Can my noble friend bring us up to date? Are we using the facilities and heavy-lift equipment at Brize Norton on the ground in the Bahamas now?

Lord Ahmad of Wimbledon: My noble friend raises an important point about lessons learned. I believe that I have already indicated the importance of staying focused after Hurricane Irma and Hurricane Maria. On the specific issues raised, RFA “Mounts Bay” was the only vessel that had the ability to access the Bahamas. As many noble Lords know, the hurricane

stayed over the Bahamas, at one point moving only at about 1 mph, so for two consecutive days the Abaco Islands, in particular, were battered quite considerably. We provided support at the first point of access. The runway needed to be cleared to allow access and the US has been leading in providing support in that respect. In terms of the wider response, my noble friend talked about the Caymans and so on. I have been pleased that, because of co-ordination, we have seen support from the British Overseas Territories—namely, the Turks and Caicos and the Cayman Islands—in alleviating the suffering of the people of the Bahamas, and that co-ordination continues.

Lord Alton of Liverpool (CB): My Lords, the Minister will have seen that the Prime Minister of the Bahamas has described Hurricane Dorian as “catastrophic and devastating”. Can he confirm that more than 70,000 people have been displaced and provide an updated figure on the number of fatalities, which is said to be 44? Will he also confirm that 3,500 evacuees have now arrived in the capital, Nassau, and can he say what truth there is in the reported suggestion that no food, medical aid or water have arrived, particularly in the destroyed shanty towns where many Haitian workers were living?

Lord Ahmad of Wimbledon: My Lords, the issue on the ground is very fluid. The noble Lord talks of various numbers—he is correct that they have been widely reported—both for the people impacted and the fatalities. However, hearing the reports, I fear that that latter number will increase. As I said, I have been in touch directly with the authorities in the Bahamas and, most importantly, with the Foreign Affairs Minister to ensure that we are kept abreast of the immediate requirements. In terms of aid being received, there have been challenges in providing access to some of the hard-to-reach areas because of the nature of the hurricane. However, it is my understanding that we have provided the support that has been required and that aid has been getting through to those who require it.

Royal Assent

3.18 pm

The following Acts were given Royal Assent:

Kew Gardens (Leases) Act

European Union (Withdrawal) (No. 2) Act.

Chair of the European Union Committee *Membership Motion*

3.20 pm

Moved by Baroness Evans of Bowes Park

That the Earl of Kinnoull be appointed Principal Deputy Chairman of Committees (to be known as Chair of the European Union Committee), in place of Lord Boswell of Aynho.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, in moving this Motion, it would be remiss of me not to say a few words about the outgoing chairman, the noble Lord, Lord Boswell, who I am delighted to see in his place. He has served the EU Committee, and in turn this House, with such distinction.

The noble Lord, Lord Boswell, has been the longest serving chairman in the history of the EU Committee. Over the seven years and three months he has spent in the role, the committee has met 229 times and published 122 reports—he is looking quite pained at the memory. Much of the committee's recent work and 42 of those reports have been related to Brexit. I suspect that the noble Lord may not have anticipated that Europe would be quite so dominant in the national debate when he took on the chairmanship. That his stewardship of the committee has been so calm and measured has enormously benefited the whole House, especially when tensions on these issues have run high.

The noble Lord's dedication to European matters is recognised way beyond this House. I was told by his daughter that his eldest granddaughters used to call him Baloo. The family naturally assumed that this was a reference to the character from *The Jungle Book*. "No", explained the noble Lord's granddaughters—it was because he wears blue jumpers and is always talking about the EU. On behalf of this House, I thank him for his service to the committee and wish him well in whatever he undertakes next.

Finally, I welcome the noble Earl, Lord Kinnoull, into the role. I have no doubt that he will prove an equally able and effective chairman, and I wish him well. I beg to move.

Baroness Smith of Basildon (Lab): My Lords, I am sure that the whole House will share the noble Baroness's confidence, and mine, that the noble Earl, Lord Kinnoull, will take on this role with enthusiasm and great skill. His expertise in science and the law are key ingredients for evidence-based policy-making and analysis; that is essential, particularly at a time when some consider opinions superior to facts. We warmly welcome him to his new position.

It is also an honour to pay tribute to the noble Lord, Lord Boswell, as he stands down. I first engaged with him many years ago when I was a newly elected MP and he was the shadow Minister leading for the then Opposition on the National Minimum Wage Bill Committee—he remembers it well. It still holds the record for the longest ever committee sitting in Parliament. I seem to recall that the noble Lord, Lord Lansley, spoke many a night in that same Committee Room. Despite some very long and late nights, then as now, he displayed his customary courtesy and good humour at all times.

At a time when the issue of our membership of the EU has fractured our politics, fragmented political parties, divided society and even split families, the work undertaken by our EU Committee and sub-committees remains essential and valuable. The noble Lord, Lord Boswell, has acted at all times in the interest of your Lordships' House to ensure that our debates would be well informed and timely. He can be proud of his record.

At times, it has been a difficult role. We hear that it has been seven years, three months—and I am sure he can tell us how many days as well. The noble Lord has always seen his work as service to this House and has been exemplary in fulfilling those responsibilities. We thank him and wish him well.

Lord Newby (LD): My Lords, the noble Lord has presided for a long period over the work of the European Union Committee, but I think that it will be the work related to Brexit for which he will be remembered. I am sure that the unprecedented volume of reports from that committee have informed a very large number of people across the country. In particular, the first tranche of reports after the referendum drew to the House's attention—and mine—a whole raft of detailed issues relating to Brexit, and although I thought I knew something about the subject, I realised that I was ignorant. I would like to thank him personally for my education—and more generally, on behalf of the House and the country, for the immensely educative job that the committee has been able to do.

I also thank him personally for his very open approach to consultation. As Chief Whip and Leader, whenever there has been a particular issue relating to my group or policy more generally facing the committee, he has been able to come and have a confidential discussion about it. I found this extremely valuable, and I believe that the approach is very much in the best traditions of the House.

We welcome the noble Earl, Lord Kinnoull, to the job and wish him well. At the same time, we look forward to the noble Lord, Lord Boswell, resuming his full voice in future debates on Europe and more generally.

Lord Hope of Craighead (CB): My Lords, on behalf of these Benches, I too welcome the noble Earl, Lord Kinnoull, to this very important post. I think we can all agree that a safe pair of hands is required in these uncertain times and he can undoubtedly provide us with exactly that quality; I too wish him well for what lies ahead. I join others in paying tribute to the work that has been done on behalf of these Benches by the noble Lord, Lord Boswell. I take particular pleasure in doing so because it was invariably from these Benches that he addressed the House when he was presenting the reports of his committee, as he felt it was appropriate to do. As has been said, he presided over his committee, to the work of which he was utterly devoted, with great skill and authority; these qualities came through time and again when he was presenting these many reports.

Behind the scenes, both at home and abroad, the noble Lord worked tirelessly and always with good humour to maintain his committee's authority and reputation. It is no exaggeration to say that, having earned the support and admiration of his colleagues, he transformed the work of the committee. He gathered so much into the committee itself, on top of what was being reported to it from its sub-committees. Instead of sitting once a month as was the position to begin with, latterly it was sitting each week and perhaps even more often than once. That is some testament to the qualities that he brought and the importance he attached to its work.

The noble Lord was particularly keen to stress—I am sure he would like me to mention this—that leaving the EU ought not to mean that his committee should cease to exist. That was his response to the challenges of Brexit, along with all the others mentioned. The House owes much to his initiative and dedication. His voice is always a pleasure to listen to and his presence always commands attention. There is so much about his chairmanship to admire and for which to be grateful. I join all those who have already spoken in extending to the noble Lord our warmest thanks and good wishes.

Motion agreed nemine dissidente.

Birmingham Commonwealth Games Bill [HL]

Motion to Resolve

3.27 pm

Moved by Baroness Barran

To resolve that it is expedient that if the Birmingham Commonwealth Games Bill [HL]—

(a) has not completed all of its stages by the end of this session of Parliament, and

(b) is reintroduced in the next session of Parliament,

the Bill as reintroduced shall, notwithstanding the provisions of Standing Order 46 (No two stages of a Bill to be taken on one day), be taken pro forma through all of the stages completed in this session.

Motion agreed.

High Speed Rail (West Midlands–Crewe) Bill *Second Reading*

3.27 pm

Moved by Baroness Vere of Norbiton

That the Bill now be read a second time.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, HS2 is a major infrastructure programme that has had substantial parliamentary support from both Houses over its development to date. The Bill before your Lordships' House relates to phase 2a of HS2, which would extend the line from the West Midlands to Crewe. Before I move on to the substance of the Bill, I want to draw attention to the Oakervee review and the recent advice received from Allan Cook, the chairman of HS2 Ltd. Noble Lords will be aware that the Government have asked Douglas Oakervee, supported by a panel with a wide range of views, to review HS2. Noble Lords will also be aware of the Statement laid last week by the Transport Secretary regarding advice recently received from Allan Cook. The Oakervee review will assemble and test all the existing evidence, including

the recent advice from Allan Cook, to allow the Government to make properly informed decisions on the future of the project.

The Transport Secretary made it clear when launching the review that the review itself should not unnecessarily delay HS2. This means continuing with preparatory work, including the enabling work for phase 1, and progressing the legislation for phase 2a. It is important to mention the review and the chairman's advice, but giving the Bill a Second Reading does not affect the conduct of the review or prejudge its outcome. Indeed, I wish to make it clear that the Bill seeks permissive powers, to be able to construct phase 2a. It does not require the railway to be built.

The focus of this Bill process is addressing the concerns of people whose homes and businesses are impacted by the route. The petitioners seek resolution of their issues and certainty about what will happen. By giving the Bill a Second Reading and allowing the Select Committee to do its work, we can enable petitioners to be heard and their concerns considered.

Lord Adonis (Lab): My Lords, can the Minister tell the House when the report of the review will be published?

Baroness Vere of Norbiton: I thank the noble Lord for his intervention, but perhaps I may pick up all the issues surrounding the review later. If he includes that question in his speech, I will cover it in my speech at the end of the debate, when we discuss all those issues.

Lord Grocott (Lab): My Lords, will the Minister also say whether part of the evidence that the review takes will include an assessment of how much has been spent already on this vital link for the West Midlands? Then we could get a clearer idea, in the light of the suggestion by some that the scheme should be scrapped—which, as well as being disastrous for the West Midlands, would be a colossal waste of money.

Baroness Vere of Norbiton: I shall indeed cover that in my closing remarks.

It is nearly 200 years since permission was given for the building of what is now the west coast main line. Those railway pioneers made history. The railways allowed goods to travel more quickly to where people wanted them, and allowed people to travel too, for work and leisure. All this truly unlocked the Industrial Revolution, and by connecting people and goods it made the United Kingdom into an economic powerhouse.

Much has changed in nearly 200 years, but I want to focus on the things that remain the same—the things that the railways can still do: the need for railway capacity to take people and freight where they should go; the need for connectivity between places to make travel easier; and the potential for economic growth through transport investment.

Turning to capacity, the vast bulk of our rail network was built more than 100 years ago. Demand has increased substantially since the 1990s, and the west coast main line is effectively full. Inevitably, this has

[BARONESS VERE OF NORBITON]

implications for the reliability and performance of our network, affecting both passengers and freight. I do not want to underestimate those implications. Disruption to freight delivery can be unseen, but the disruption to people's lives caused by late or cancelled trains regularly makes the press. The resulting huge frustration can mean that people choose not to trust trains for freight or travel, and those choices can mean more lorries and cars on our roads, with higher carbon emissions.

Capacity on, and in turn the resilience of, our railways is essential. The Government continue to invest in our existing infrastructure, but to really increase capacity and network reliability requires completely new capacity. Eking ever more out of our already full network comes with extensive disruption, leading to daily frustration with the impact on lives and businesses. Those rail users may not come back to the railways. If it proceeds, HS2 could be the best solution to capacity problems, providing much-needed space on the congested west coast main line, leading to more passengers and more freight trains on the existing network.

That brings me to connectivity. HS2 could connect many of the UK's largest cities, and passengers would not have to travel on it to feel the benefit. Estimates indicate that about 100 towns and cities across the country could benefit from HS2 through the improved connectivity that a new railway could provide. That is not just rail connectivity; it is connectivity of people to other people, to jobs, and to businesses and their customers and suppliers. This section of HS2 could join Birmingham and London to Crewe, bringing greater connectivity to the north-west and Scotland.

That leads me to my third point: investment in transport infrastructure is not just about the infrastructure itself. Investment in transport infrastructure drives economic growth. It supports productivity by enhancing the transport networks on which businesses and individuals rely, and provides thousands of jobs and training opportunities in the supply chain. Earlier this year the Government announced that HS2 was already supporting more than 9,000 jobs and that 2,000 businesses had delivered goods and services for HS2. It has been offering up exciting opportunities for young people, with over 320 apprenticeships created so far. It is enabling young people to gain the skills to build our future infrastructure. Those skills are transferable, from building railways to other construction and other economic sectors, meaning that HS2 could give the UK more skills to compete globally, generate long-term employment opportunities and become the driving force behind Northern Powerhouse Rail.

I turn to the Bill itself. Phase 2a of HS2 is approximately 36 miles of track. It will extend HS2 from the end of phase 1 at Fradley near Lichfield and onwards towards Crewe. At the northern end it will connect to the west coast main line, allowing HS2 services to join that main line and call at Crewe station. The Bill gives outline planning permission for the railway and allows for compulsory purchase powers. It affects homes, businesses and land along the way, so it is rightly subject to extensive scrutiny. A Select Committee especially convened to scrutinise the Bill in the other place

received over 300 individual petitions. During that scrutiny, the Transport Secretary offered 1,000 assurances to people who are directly and especially affected.

If the Bill receives its Second Reading today, it will pass to another specially convened Select Committee of your Lordships' House that will look again at the detail of the Bill and make sure that it meets the high standards that we expect. The committee will have the power to amend the Bill as well as to require other changes to this part of the scheme not yet covered in the Bill. Since First Reading in July, the Bill has received 35 petitions for the Select Committee to consider, and HS2 is engaging with those petitioners to try to address their needs.

Stepping back from the individual impacts, wider community and environmental impacts are also raised by the Bill. I reassure noble Lords that I understand these wider concerns but I also remind them that it is not possible to build a railway without having some impact on the wider community. We must strike the right balance between delivering and operating a railway and being sensitive to its surroundings. I believe that the Government have struck that balance.

HS2 has undertaken detailed environmental assessments to ensure adequate mitigation of the railway's impacts. These 36 miles of track have been considered through 17,000 pages of environmental statement—that is over 470 pages of assessment for every mile of track. Many thousands of consultation responses to the assessment were independently assessed and summarised in a report to Parliament. For example, an ecological survey at Colwich looked for great crested newts. The field survey confirmed the newts' presence and, to compensate for any possible losses, approximately 7.4 hectares of grassland, including eight ponds, has been proposed to provide suitable replacement refuge and foraging habitat. These assessments are not the end of our consideration of the environmental effects and impacts on communities. The Government have continued to listen to communities, environmental groups, statutory bodies and other stakeholders to try to reduce the impacts where we can.

Other changes to the scheme include the lowering of the Kings Bromley and River Trent viaducts in Staffordshire to reduce landscape impacts and the relocation of the southern portal of the Whitmore Heath tunnel, removing the need to realign a road and reducing the loss of ancient woodland. There are additional earthworks to further screen the maintenance base near Stone and to provide additional noise mitigation, such as the noise bund at Woodhouse Farm. There are assurances to protect water voles in Cheshire and to provide bird protectors along the power supplies to protect important bird species. These are just a few examples.

More than half the route is in a tunnel or cutting. The route avoids direct impacts to any grade 1 or 2* listed buildings, to scheduled monuments, to registered battlefields and to registered parks and gardens. The route does not affect any Natura 2000 sites or sites of special scientific interest, or cross any areas of outstanding natural beauty, and HS2 has been designed to withstand a "one in 1,000 years" flooding event. I know there are people who want to see more: longer tunnels, deeper

cuttings, taller noise barriers and so on. I understand that. However, our duty to protect the environment must be balanced with our duty to the taxpayer. The work to date has done that and balances these responsibilities appropriately.

Lord Snape (Lab): Does the Minister agree that those who demand longer tunnels and deeper cuttings are usually the ones who then complain about the extra costs there involved?

Baroness Vere of Norbiton: The noble Lord raises an interesting point. HS2 is intended to be greater than the sum of its parts. It is designed to provide much-needed capacity on our rail network, allowing freight and passengers more reliable services. It could reconnect our country, pumping much-needed investment into the Midlands and the north. HS2 is about potential: to create opportunities for growth, support a brighter future for the UK, improve and rebalance our economy and improve connectivity across the UK. It remains important to get these decisions right, so we look forward to hearing Douglas Oakervee's recommendations. In the meantime, I hope the Bill is allowed to proceed today. I beg to move.

3.40 pm

Lord Tunnicliffe (Lab): My Lords, the HS2 project is an initiative of the last Labour Government and one which we still support today. In the years that have passed since it was first announced, the project has steered off course from the direction we intended. The line was due to be built as a network rather than a standalone piece of infrastructure, as part of a campaign to engineer growth for the Midlands and the north of England. Throughout the route's construction, we had intended that it would be built with consideration for the economic, environmental and time sensitivities. With public confidence in the Government's ability to do this now waning, I am pleased that we can debate this Bill to enable the construction of the line between Birmingham and Crewe and that this Parliament can consider whether the project should continue.

In recent weeks, the Government announced that a review will take place to examine whether the HS2 scheme should be approved, amended or scrapped, a move which follows Labour's amendment to the Bill in the Commons calling for exactly this. However, a review in itself is not enough, and I would appreciate confirmation from the Minister that it will give particular consideration to the predicted timescale and costs, as well as the impact on the environment. Regarding the environmental implications, the impact on woodlands should be specifically analysed. HS2 remains the biggest single development threat to ancient woodland, with at least 108 ancient woods threatened along the route. Can the Minister confirm that the impact on ancient woodlands will be included in the review, and whether any further felling will take place while the report is being produced?

In addition to clarifying what will be included in the report, I would appreciate confirmation that sufficient parliamentary time will be given for both Houses to consider the published review and whether

the Government's resulting judgment is right. The Government's decision to announce a review highlights further the need for repeated review through the duration of the project. The publication of quarterly reports would make HS2 Ltd more transparent and accountable to Parliament, allowing MPs and Peers to be better equipped to identify any problems and hold both the company and the Government to account. On this side of the House, we may explore legislating for such transparency, as our Commons colleagues attempted to do during the Bill's passage through the Commons. Could the Minister clarify whether there are any non-statutory plans for periodic reports?

Returning to the specifics of the project, I mentioned earlier that the original intention was for HS2 to form a wider network rather than a standalone piece of infrastructure. Above all else, we must remember that HS2 should be to the benefit of everyone across the UK, not only the narrow number who live close to each station. In order to guarantee that the rail line benefits those near to and far from it, we must ensure sufficient accessibility and connectivity.

The section of the route which the Bill deals with begins at Birmingham and passes along the Staffordshire-Shropshire border up to Cheshire. Along this route are counties where some communities lack any kind of meaningful public transport connection to HS2. Although Oswestry, for example—North Shropshire's largest town—is only about 30 miles as the crow flies from Crewe, if you planned to leave there at 5pm on a weekday using public transport, you would not reach Crewe station until past 9pm. Oswestry is one of the many West Midlands towns without a railway station, and although the nearby Gobowen station is only a bus journey away, the buses can be hours apart and the train journey from there to Crewe requires lengthy changes. Do the Government have any plans to improve links to the line from towns such as Oswestry, and others such as Cheadle in Staffordshire?

Finally, I will touch briefly on compensation. There have rightly been changes in practice to ensure that landowners and freeholders receive compensation for the loss of their homes, but the application criteria for the various compensation schemes do not ensure that compensation is paid to tenants, including tenant farmers. Concerns have been raised that the Government have overlooked this issue and it may be necessary to explore a statutory option in the Bill's later stages. Since such concerns were debated during the Bill's passage through the Commons, can the Minister update the House as to whether a new scheme will be introduced?

HS2 is a wholly necessary project to create additional capacity and improved rail connectivity which, if carried out effectively, will increase productivity and encourage growth. In addition, it can help the UK to engineer a much-needed shift of people and goods to rail that is imperative in the light of climate change, and for air quality. However, with reports emerging of predicted delays and overspends, we need, above all, transparency and repeated reviews to consider whether the project will achieve what it intends to achieve. We must also ensure that the project is delivered to the benefit of the wider UK population, as was first intended.

3.47 pm

Lord Teverson (LD): My Lords, first, I congratulate the Minister on her enthusiasm about this project. It is good to get that positivity at the beginning of this debate and it is good to see this project gradually creeping, inch by inch, northwards out of the south-east and London. But, my goodness, the Government and other stakeholders make this argument difficult for us at a time when the forecast is for an increase in cost of between £26 billion and £33 billion and for the timetable to extend by five to seven years. In fact, I think it is now 10 years since the noble Lord, Lord Adonis, announced this project, if I have got this right.

Lord Adonis (Lab): Nine.

Lord Teverson: Nine years. If we are talking about it being completed by potentially getting up to Leeds and Manchester only, not even to Scotland, then that is going to take some three decades—the sort of time between the end of the Second World War and 1975—which puts it in a timeframe of my lifetime. That seems to me to be absolutely ridiculous.

Another difficulty is our track record. For HS1, it took 16 years from the announcement to get the line built, 14 of which were after the Eurotunnel had been completed, whereas France, strangely enough, had managed to organise it so that the railway line was open at the same time as the tunnel—something which we completely failed at in this country.

But, like the Minister, I remain optimistic. Looking internationally, in Europe—to mention a few countries—Germany, France, Spain and Italy have these networks in place. In fact, France started in 1981 with its TGV infrastructure and now has some 2,500 kilometres of track. China, of course, manages to do these things even quicker, for reasons we understand: there is not quite the level of consultation that we have in this country. It now has some 30,000 kilometres of track. I understand that the line from Beijing to Shanghai—over 1,300 kilometres—was completed in 39 months from announcement to operation. I was tempted to recommend in my speech that we open the work up again and that the Department for Transport gets some Chinese contractors to bid for it, but perhaps that might not be the way to do this. The fact is that we are a long way behind in this country. We are talking about something, although now, nine years later, it is about whether we stop or start again. We need to move this project forward.

Why do we need to do that? For me, an up-to-date, fast train infrastructure is just a part of the tools of a modern economy. I do not see how we can get away from that. Yes, we should have started some three decades ago, but we now need to proceed. It is important from an environmental point of view. There are important issues around environmental corridors and ancient woodlands that I in no way minimise, but I believe this is one of the ways that we need to tackle a clean transport strategy for the future, not just for a decarbonised rail system but for cars and automotive emissions in particular. I hope that at some point, when this railway goes north of the border, we will be able to substitute rail travel for air travel. Those are just some reasons why we need to do it.

I know that some people have said that this is an old technology. I have heard that from people in the environmental area whom I truly respect, but these lines are still being built abroad at some pace. It is still part of a new technology. Rail, which started almost 200 years ago, is still an important infrastructure. This is not an old technology. Videoconferencing will not substitute the way forward. I also believe that what the Minister said about capacity is particularly important not just for passengers but for freeing up lines for freight services.

I will take just one other area. I think the Minister said—and other contributors from the Labour Benches in particular have said this—that this railway must be open to all. My experience, not just from HS1, is that not just business customers use these lines. Yes, there are some commuters as well, but it is very much ordinary citizens who use them. HS1, particularly for south-eastern services, has been a vital way for local or semi-regional services to rejuvenate part of the south-east—in particular, coastal towns and communities. This is important for all these reasons.

The question I really want to put to the Minister is about value for money. During research for this project, I tried to look at the comparative cost per kilometre of other high-speed trains and tracks in other nations, particularly in Europe—clearly, it is far lower in China because of the geography and the lack of consultation there. Even in France, it is estimated that the cost of one of the recent lines was one-sixth per kilometre of what it is in the UK. I can understand why it could be even 50% more, but to be multiples more I do not understand. The fundamental question I ask the Minister, in order to keep the confidence of me, our Benches and the taxpayer, is: how can the Government ensure that this project, vital though it is, is delivered at the right cost and at the right time, so that we can keep a modern infrastructure in this country?

3.55 pm

Lord Birt (CB): My Lords, I shall be echoing the enthusiasm for this project of the Minister and the noble Lord, Lord Teverson.

When I worked at Number 10, I led a year-long project for the then Prime Minister on our national transport infrastructure, working with a team of officials from the Department for Transport and the Cabinet Office. We identified clearly that the UK, a pioneer of transport infrastructure in the 19th and early 20th century, had fallen way behind. In the previous 50 years, we had invested a far lower share of GDP on our infrastructure than other leading countries. Our work demonstrated that, again and again, Governments of both major parties had cut back on planned capital spend whenever a national financial difficulty arose. As a result, the UK had by far the poorest road and rail infrastructure of any developed country. Few of our decision-makers have ever worked in the real economy, I am sorry to say, and they have scant understanding of modern business and of why fit-for-purpose, globally competitive infrastructure is so essential.

Today, business relies on people with advanced professional, specialist and technical skills: financial, strategic, digital, logistical, data science skills and

many, many more. They often work for just a few months, on a project basis. Such skills are barely ever available locally in sufficient number. So many people at every level in modern business travel long distances to work, some daily and some weekly, up and out early on Monday, back late Thursday, home-working Friday. At the same time, goods, products and parts of every possible description are distributed urgently at every hour of the day, to every corner of the land. Strategic roads, lamentable though they are in the UK, are by far the most important part of our transport infrastructure. However, rail matters too, and our rail network has long been a disgrace.

We simply must create a long-term, 20 to 30-year plan, not only for effectively linking the huge metropolitan areas of the north to one another but also for linking them and the great Scottish cities to London. Beyond that, we must address lateral travel right across the UK. Manchester and Leeds are 40 miles apart, but it takes over an hour by rail to travel between them. Norwich is 206 miles from Liverpool; the train journey takes five and a half hours, travelling at a snail-rail pace of just 37 miles per hour. Someone leaving London on a Boeing 787 Dreamliner to New York at the same time that Norwich fans left for their opening match of the season against Liverpool just a few weeks ago would have arrived 17 minutes before them.

As the noble Lord, Lord Teverson, said, France opened its first HSR link from Paris to Lyon almost 40 years ago. Japan, Spain and France all have advanced HSR networks now around 1,800 miles in length. China has built an incredible 11,000 miles of high-speed rail in the last six years alone. This, my Lords, is our global competition. Currently, the UK's only high-speed rail link, from Folkestone to St Pancras, is a measly 67 miles long. How embarrassing for our nation is that?

If HS2 survives its current scrutiny, we will still lag far behind other countries, albeit with a less shaming 400-mile HSR network all of our own. Whatever the project, it must of course be run efficiently, at least possible cost and with real environmental sensitivity. We would all agree on that, but only those who have never themselves managed a large, complex project can barefacedly protest when unexpected difficulties arise or when honest attempts to identify the full cost of a project prove flawed. Beyond that, those selfsame critics often show no appreciation at all of the difference between revenue and capital spend—the latter an investment to have an impact over many decades, perhaps centuries. The Minister reminded us that the west coast line was started 200 years ago. What a return on investment that has proved; it has paid for itself over and over again.

HS2 is a vital foundation of our future rail infrastructure and should be supported wholeheartedly. We should run the project as efficiently and as cost-effectively as we can. But we should also hold our nerve and, Brexit or not, in respect of our national infrastructure we simply must regain Britain's one-time boldness and ambition from centuries past.

4.01 pm

Lord Framlingham (Con): My Lords, I am sorry to spoil the consensus but I really feel as though this is Groundhog Day. I cannot believe that we are proceeding with something so obviously discredited and which is probably about to be scrapped, with all the costs and damage involved. All my remarks apply to any HS2 scheme in its entirety.

The original concept of HS2 was built on speed. When this proved impractical, the selling point became capacity. This has now become discredited not because there is no need for extra capacity but because this railway line is clearly not where it is most needed. Costs are now completely out of control, completion dates are a joke and any idea of accountability or normal public and parliamentary scrutiny has long since been abandoned. Whistleblowers are now revealing just how bad the situation is and, despite desperate attempts to muzzle them, the truth is coming out. I understand that the whole question of fraud is now being investigated.

With little effort being made to remedy the situation, a committee of your Lordships' House suggested to HS2 that it consider reduced speed, since this makes all kinds of sensible savings. It also asked HS2 to stop the line at Old Oak Common rather than going into Euston, which has proved an intractable problem. Neither of these suggestions was taken up. HS2 carries on in its own chaotic, spendthrift way. This is not surprising since, when the previous Secretary of State for Transport was asked how much he was prepared to spend, he said, "What it takes". What saddens me and makes me resist this Second Reading is HS2's pig-headed unwillingness to listen to or take advice from anyone, no matter how qualified they are.

Nothing has changed since I put down my amendment in your Lordships' House at Third Reading of the HS2 Bill in January 2017, which would have stopped the farce once and for all. I said on that occasion:

"This House has a simple choice before it this afternoon. If it believes that the HS2 project provides good value for money and will benefit the British public, it will vote against the amendment. But if it agrees that this was an ill-conceived project from the start, which has been entirely discredited, even during the three years it has been passing through Parliament, and that if allowed to proceed, it will result in massive expenditure and huge disruption in both London and the countryside for no discernible benefit at all, the House will support the amendment and stop this scheme before any ... harm is done".—[*Official Report*, 31/1/17; col. 1099.]

Sadly, my amendment was rejected and we have since had two and a half years of wasted money and damage to homes, lives and the environment. I did have some support from people who really understood the situation: the noble Lords, Lord Macpherson and Lord Burns, both Financial Secretaries to the Treasury when HS2 was being put through. Asked to explain his vote, the noble Lord, Lord Macpherson, said that it was,

"simply on value for money grounds. In a world where capital spending is rationed, there are many road ... schemes which would give the taxpayer a better return".

Other signatories, including the noble Lord, Lord Burns, also backed the move.

[LORD FRAMLINGHAM]

Not only must the House not proceed with the Bill, but the existing work on HS2 must be stopped before any more damage is done, particularly to our environment and to people's lives, homes and businesses. It is criminal to be felling trees in preparation for something that probably is never going to be built. In a recent statement on HS2 in the other place, Jeremy Wright MP asked, "may I press the Secretary of State on the point he made about enabling works? As he knows, there is more than one kind of enabling work currently under way. Some of the enabling work is the destruction of ancient woodland sites. There are seven of them in my constituency, along with a very old and much valued pear tree in the village of Cubbington. Given that he has announced an all-options review, including the possibility that this project will be cancelled or significantly revised, surely it is possible and sensible to categorise those types of enabling work that will do irreversible damage and postpone them until the review has concluded".—[*Official Report*, Commons, 5/9/19; col. 356.]

In a similar vein, I have seen a plea from Councillor Kathy O'Donoghue concerning the section through Cheshire. She is extremely worried about what is happening in Cheshire, where there are now all sorts of problems. On 8 October, a planning application is going to be heard by Cheshire West and Chester Council to build a compound, which will have a huge effect on the area, where there are old salt mines. She is concerned that the planning application and the compulsory purchase order might go through before it has been decided that the project will proceed.

I was recently part of a judging panel in a competition to find alternative ways of spending £58 billion on our railway system. It was truly amazing to discover what a difference could be made nationwide, particularly in the north, with links east and west. In summary, we must call a halt to the existing work, particularly preparatory work, and immediately review the current position, as we are doing. We must spend every penny available for our railways on sensible, well thought out schemes. For heaven's sake, we must find a way of costing these major infrastructure projects properly and supervising their construction in a sensible and professional way.

4.08 pm

Lord Adonis: My Lords, I congratulate the Minister on her opening speech. As I will point out in a moment, there is a big problem with the conflict between that speech, which was full of enthusiasm, and the setting up of a fundamental review, which could lead to the cancellation of HS2. There is a clear left hand/right hand problem in the handling of this project at the moment, which will serve only to add to costs and delays. None the less, the noble Baroness's speech was excellent and set out the whole case against having a fundamental review of HS2. My noble friend Lord Berkeley who, to my amazement, has agreed to serve on this extraordinary review, is not in his place this afternoon. However, I will recommend that he reads that speech and ceases his work forthwith. I also note the presence in the Chamber of the noble and learned Lord, Lord Walker of Gestingthorpe, who chaired the hybrid Bill committee on the London to Birmingham Bill. With the scale of the work required and the dedication of its members, that was one of the most heroic endeavours which any noble Lord has

undertaken in recent times. It showed this House at its very best. I am looking around the Chamber to see who will be volunteering for the next hybrid Bill committee. My noble friend Lord Snape is nodding; maybe he will chair that committee. We would certainly welcome that.

The noble Lord's work played a very significant part in taking this big infrastructure project forward, as did the work of the noble Lord, Lord Birt, when I became Secretary of State for Transport and devoted myself in a serious way to looking at the case for high-speed rail. He and the noble Lord, Lord Teverson, referred to France, but of course it is 55 years, more than half a century, since the Japanese opened their first and transformational high-speed line between Tokyo and Osaka. They started construction 60 years ago, so we have been taking some to catch up, but it was the noble Lord's strategic review which put it in my mind that I should be looking very seriously at the case for a high-speed rail network in this country. This is a very good example—and we do not have many, I fear, in this terrible Brexit crisis—of constructive public policy which is factually based, learns from evidence and learns from international experience. As the noble Lord, Lord Teverson, said, almost all the rest of the industrialised world, apart from the United States, has high-speed rail, and even the US is halfway through constructing a line from San Francisco to LA.

The noble Lord mentioned China. China has more high-speed rail than the rest of the world put together and has been building a network at great speed. When I was Transport Secretary the Chinese Transport Minister offered to build our high-speed line. He said to me over a very long dinner in the Transport Ministry in Beijing that he would build it for half the cost of the Germans—I assume that he assumed we were about to give a contract to the Germans. I said, "We have this thing called Parliament, Minister, and it has to agree to all this before we can start the construction, but by all means let us have a conversation in a few years' time". I regret to tell your Lordships that that Minister is now in jail under a suspended sentence of death for corruption, so although the Chinese are able to construct these projects quickly, there are downsides in the way they conduct their affairs in Beijing. I am glad that I am with your Lordships and not currently at Her Majesty's pleasure.

The background to this is a great sense of urgency, as the noble Lord, Lord Birt, said, to see that our infrastructure matches that of other industrialised nations, all of which, apart from the United States, have been investing in high-speed rail to link their major conurbations. When the noble Lord, Lord Framlingham, said that this has been conducted without parliamentary consent and scrutiny, that is, of course, palpably untrue. There have been exhaustive debates. The work of the committee of the noble and learned Lord, Lord Walker, and that of the Select Committee in the other place was absolutely exhaustive.

Lord Framlingham: I am not sure that I said it had been conducted without parliamentary consent, did I?

Lord Adonis: The noble Lord said scrutiny.

Lord Framlingham: It is important to be accurate, with great respect to the noble Lord. He said that I said it had been done without parliamentary consent.

Lord Adonis: I did not. I said, “without proper parliamentary scrutiny”. There has been massive parliamentary scrutiny of this project. The Motion the noble Lord referred to, which he moved at Third Reading in January 2017, attracted 25 votes while there were 385 votes on the other side, so I do not think anyone can say that it is not the express will of Parliament that is leading HS2 to proceed.

The problem we have at the moment is, as I say, a left hand/right hand problem. On one hand, Parliament has given emphatic consent to this project to continue, and indeed to be authorised in the first place: not just the first phase, which passed this House by 385 votes to 25, and passed the House of Commons by 399 votes to 42—absolutely colossal majorities—but this Bill, extending HS2 from Birmingham to Crewe, was passed in the House of Commons in the middle of July by 263 votes to 17. There has been cross-party consensus and overwhelming support.

The Minister referred, and I assume that her officials were giving her very carefully crafted drafting in this respect, to the work taking place on HS2 as “preparatory work”. There is nothing preparatory about the work being done on HS2 at the moment. The line is being built; more than £5 billion has been spent and more than 1,000 people work at HS2 Ltd in Birmingham. If your Lordships go to Euston, you will see that it is not preparatory work that is leading to the virtual closure of the station, with huge tarpaulins up and big excavation works, but the construction of the railway line. It is right that this should happen, because, unless we start constructing it, it will never be there.

Parliament authorised this project to proceed two years ago. Billions of pounds have been spent, thousands of people are working on it—we expect this work to proceed. It is this that makes the review that has been set up so bizarre. At the same time as Parliament has given express and overwhelming authority for this work to proceed, thousands of people being employed and billions of pounds having been spent, what do the Government do, courtesy of the Prime Minister? They parachute in a fundamental review which is essentially conducting open-heart surgery on a moving patient, if I may mix my metaphors.

This whole project is being constructed, massive public expense is being entered into, and what do the Government do? They announce a strategic fundamental review, looking not just at the management of the project, which is absolutely appropriate to look at because it has not been good enough and is part of the reason we have the cost overruns, but the whole case for HS2, which has been approved by Parliament by majorities of more than 10 to one.

I see the clock is flashing, but I will carry on for a few more minutes because this is Second Reading.

Baroness Jones of Moulsecoomb (GP): The noble Lord, Lord Framlingham, stuck to seven minutes.

Lord Adonis: There is not a fixed time limit. I will make two more points if I may.

When the noble Lord, Lord Framlingham, said that the case for HS2 when it started was on speed and not capacity, that was completely untrue. I published the White Paper on HS2 in March 2010, the opening words of which were,

“the Government’s assessment is ... That over the next 20 to 30 years the UK will require a step-change in transport capacity between its largest and most productive conurbations ... alongside such ... capacity, there are real benefits for the economy and for passengers from”—

Lord Framlingham: Will the noble Lord give way, since he is determined to take up the time of the House that nobody else, I am sure, will take up? Does he understand that the title of this project is “High Speed Rail”?

Lord Adonis: It is a high-speed line, but from the beginning the prime case for HS2 has been additional capacity. I was reading the opening words of the White Paper, which continue,

“alongside such additional capacity, there are real benefits for the economy and for passengers from improving journey times and hence the connectivity of the UK”.

My final point is about the network effects which my noble friend on the Front Bench referred to. HS2 will be a crucial part of a new and upgraded national transport network. It will link into Crossrail in London through its junction at Old Oak Common; it will link in with three airports—Heathrow, which is close to Old Oak Common, Birmingham Airport, through Birmingham International, and Manchester Airport; it will link in with HS3 going east-west; it will free up huge capacity for freight and metropolitan commuter services into all of those three major conurbations.

The right thing for this House to do is give emphatic support to this Bill today. We cannot keep pulling up by the roots big infrastructure projects when they are being half-built. If we do it with this one, no one will ever believe that we will do something as big as this as a country again.

4.18 pm

Lord Bradshaw (LD): My Lords, the most important factor we should consider today is the impact that HS2 could have on climate change and the need to reduce emissions. Compare these figures from the Government: the emissions from a domestic flight are 254 grams, from a diesel car 171 grams—with four passengers they are 43 grams—from domestic rail 41 grams, and from a fully electrified railway 6.9 grams, a very small proportion of what comes from other places.

With these startling figures in mind, a fully electric railway such as HS2 has the potential to make a very significant contribution to making the country carbon-neutral. High-speed railways can have a dramatic effect on modal shift. Take these examples from Italy and Spain. From Rome to Milan, rail use has increased from 6% in 2008 to 74% by 2016, and in the case of Madrid to Seville, there has been an increase from 33% to 84% with the implementation of high-speed rail. Imagine the effect that such a modal shift would have on both aircraft and vehicle emissions on routes from Leeds, Newcastle and Scotland.

[LORD BRADSHAW]

The primary argument that has been stated for building HS2 is to increase railway capacity in much of the country. As the main lines on the north-south axis are at full capacity and cannot cope reliably with existing traffic levels, the need for increased capacity is almost unanswerable.

Government constrains the railway in two ways. Insufficient modern infrastructure is provided; the railway industry and Network Rail are in part responsible for this, through lack of efficiency in the fragmented organisation that was created at privatisation, when so many competent engineers left the industry. Let us not forget that the east coast electrification was delivered on time, to a very tight budget, by British Rail. The engineering side of the railway is now being rebuilt under strong professional leadership, and the railway supply industry has got the message that only the most efficient outcomes will be acceptable. But the Government, for their part, need to recognise that improving infrastructure depends on their providing a continuous strategy of development stretching years ahead. They have failed to do this over many years. HS2 and its future must be seen in this context. The objectives of the National Infrastructure Commission should be changed to putting carbon reduction at the top of its list of priorities and revising the appraisal of investment to schemes with long-lasting benefits, such as further extensions to railway electrification.

The other way in which the Government constrain the use of the railway is railway fares. Government and Opposition blame railway fare rises on the franchisees, but they are entirely the Government's decision. Commuters or business users using the railway face an annual fare increase. Car commuters are protected from that by the fuel tax freeze. What rational Government, allegedly concerned about pollution and the associated growing congestion on the roads, can defend this, particularly as it is associated with early deaths and damage to health? Other countries seek to encourage rail use to deal with these evils but in Britain, both the Conservatives and, I am sad to say, Labour, have closed their ears and listened only to the motoring lobby. There is an available solution: reduce fares and provide sufficient infrastructure.

HS2 can bring immense benefits to the north and the east Midlands—take, for example, the proposed Toton hub, which is not being decided today, which would bring together Nottingham, Derby and Leicester; Birmingham would be reached from Toton in 17 minutes, which at present takes 74 minutes by rail and 60 minutes by car—provided that the fares policy is reasonable. Similar activity is planned around Birmingham for the new railway. But can the Minister give any reassurances today about fares policy generally, and how it might affect HS2?

An important issue to address in considering the investment case for HS2 is project appraisal. Railway projects, particularly on the civil engineering side, have a very long timescale over which they may be enjoyed—the noble Lord, Lord Birt, referred to that. Tunnels and embankments last for well over a century, but current appraisal methodology has a high discount rate and does not take into account the period over which the assets will be in use. There is also the question of the

enhancement of property values and the regeneration effects, which need to be factored into the equation. Surely it cannot be right that these benefits are not credited to the investment in HS2. There is an urgent need for the Government to overhaul the WebTAG arrangements they use to calculate the value of major infrastructure projects so as to reflect the longer-term benefits to communities.

I was once asked by a former Secretary of State for Transport—I think it was the noble Lord, Lord Adonis—why road schemes always come out better in investment appraisals than rail schemes. The answer lies in the methodology that is used: road investment schemes are appraised using the “value of time”. That is the time the investment is expected to save road users multiplied by the number of users and what they say they would pay for it through stated preference techniques. No money changes hands, although it does for rail journeys. Significant factors such as the short life of many road investment schemes, as they are overtaken by inevitable traffic growth, also need to be appraised. Railways are penalised for their long-term, lasting benefits in investment by the use of the discount rate, whereas road schemes are appraised using slovenly methods which the Government have failed to face up to for a long time.

The issue of routes across the Pennines and faster journey times between Glasgow and Edinburgh, for which there are now five direct railways, needs to be considered. The HS2 route, which we are considering in the Bill before us, has been adjusted to give Liverpool a direct rapid connection to London as well as to Manchester and Manchester Airport. Progress on modernising routes across the Pennines is incomplete. What is the department's understanding—

Baroness Bloomfield of Hinton Waldrist (Con): I hope that the noble Lord has come to the end of his comments.

Lord Bradshaw: No. I have not been allowed enough time to debate this Bill because the Government of their own volition are proroguing Parliament. I am sorry, but I am not going to give way.

Baroness Bloomfield of Hinton Waldrist: Perhaps I may remind the noble Lord that the advisory speaking time is seven minutes. We can be quite flexible, but not too flexible.

Lord Bradshaw: I am aware of the advisory speaking time. It was imposed on us by the Government's edict.

Lord Adonis: My Lords, regardless of what the noble Lord has said, I think that it is quite unacceptable that speeches on a matter of such importance should be restricted in this way when in fact the House is under no time constraint whatever, except one artificially imposed by the Government.

Baroness Bloomfield of Hinton Waldrist: The advisory speaking time is in deference to colleagues because we have a number of other issues to discuss later on this evening.

Lord Bradshaw: I am sorry, but the Prorogation of Parliament has had nothing to do with me. It is entirely at the Government's behest.

Baroness Jones of Moulsecoomb (GP): Shouting at us for longer than the advisory speaking time really does not convince anyone. It does not look good and I think that we ought to have a little more courtesy.

Lord Greaves (LD): It is the Government who should have the courtesy.

Lord Bradshaw: I was going to go on to ask when progress is expected on the route across the Pennines. Do the Government constrain the activities of Transport for the North compared with the improvements made between Edinburgh and Glasgow and the plans of Midlands Connect by, for example, withholding funding from Transport for the North? The north of England should be very concerned about the slow rate of progress.

Much is made of disruption because of the noise and disturbance caused by building HS2, but measures will be introduced to minimise that. I am reminded of a conversation I had a couple of years ago with a Labour MP from Kent. I asked him whether his constituents had complained about the noise and impact of HS1. He replied, “No, but I had sackfuls of correspondence from them about the continuing noise and disturbance coming from the adjacent M20 motorway”. There is a light at the end of the tunnel for those living close to HS2. The benefits of and the green agenda for more motorway building are now seen as a totally incorrect response to the problems we face. The debate is about capacity for passengers and freight—there is no spare capacity on the railway. We want cleaner air, fewer people flying and less congestion, and to that end our railways need to be expanded.

However, this Government lack foresight. What Administration would build the east-west link from Oxford to Cambridge without electrifying it? It costs far less than coming back after the line is open. They should seek to modernise links between Southampton and the north and between Felixstowe and Nuneaton. Both schemes would remove many heavy lorries from our roads, much to the benefit of our climate change agenda.

Freight customers are lining up to use the railway. Creating an electrified rail network would reduce serious accidents. HS2 could and should reduce its costs by looking at what some regard as excessive technical standards and probably reduce the speed of operation. The extension from Old Oak Common to Euston should also be called into question. For the future, we need better and more capacity, and to that end HS2 should proceed.

4.30 pm

Lord Snape: My Lords, as a former railwayman I have never made any secret of my support for this scheme, which in my view ought to go ahead as quickly as possible. The fact that both your Lordships’ House and the other place have voted heavily in favour of HS2 ought to mean that we do not hold things up by having this review. I am not as despondent about the review as some of my noble friends and other supporters. I suspect what is happening with the review is a minor rerun of Harold Wilson’s royal commission. Those of you with long memories will remember that

he used to say 50 years ago that a royal commission takes minutes to set up and years to report, and that in the meantime the subject is buried in the long grass.

I suspect that this is a shorter version. The current Prime Minister is quite in favour of infrastructure projects. After all, he has cable cars going across the Thames as a legacy of his time as mayor. He tried to build a garden bridge at some cost—it was not a great success—and his buses, which are a tad uncomfortable in hot weather, are running around London as we speak. He has a record of being in favour of infrastructure projects.

The noble Lord, Lord Framlingham, alas, is not in his place. I am not quite sure why he needs to refer to those copious notes; he has been making that speech for so long he ought to be word perfect by now. It is a pity he fled the Chamber almost as soon as he had committed himself. I wish that he and others who criticise the scheme would come to Birmingham and see the benefit this great HS2 project has already brought to the city. Do they not care about the apprentice college that has already been set up and the number of young people employed in the railway industry as a direct result of this scheme?

I have brought with me today the current issue of *Rail* magazine. Its editorial is mild praise for the Prime Minister. It refers to “Cunning politics around HS2” and says that the “Oakervee Review is all about what’s best for Boris Johnson”. That endorses the point that I have just made that this review avoids any direct commitment, any go-ahead, before the general election—whenever that is to be held. Yet I do not believe that it is necessarily a precursor to cancellation.

My noble friend Lord Adonis was not too polite about my noble friend Lord Berkeley. I understand why he is not in his place today, given the fact that he serves on this committee. Again, I say to my noble friend Lord Adonis that perhaps he worries unduly. I have known my noble friend Lord Berkeley for 35 or 40 years. During my time in the other place, I served on committees examining two hybrid Bills to do with the Channel Tunnel. He was one of our advisers; he certainly advised us as individual members of those two committees. He is eminently well qualified as a civil engineer. Noble Lords will not be surprised to hear that the projected cost of the Channel Tunnel was originally £4.5 billion but that, neither despite of nor because of his advice, the actual bill was £12.5 billion. Therefore, he is used to cost overruns and I hope that he is not too concerned about the increase in costs.

Noble Lords said earlier that it is a pity that the costings cannot be more accurate when the projections are made for these major infrastructure projects. However, we all know that, if every single cost were taken into consideration, there might be problems with the land over which the tracks pass, or areas of the country where people are rich enough to afford the best lawyers to insist that the compensation is far higher than was first envisaged. If a project were put forward on that basis, it would never get past the Treasury’s preposterous regulations.

The noble Lord, Lord Birt, and to a certain extent the noble Lord, Lord Bradshaw, talked about road and rail infrastructure costs. It was pointed out how

[LORD SNAPE]

differently we treat these projects. Up and down the country at present, we are building what are known as smart motorways. They are not particularly smart if you break down on one of them but that is the name that they have been given. I have been in your Lordships' House for 15 years and I spent a considerable number in the other place as well, but I do not recollect us ever having any debate in either House about smart motorways. These are major infrastructure projects which, as I far as I am aware, have never been subjected to the sort of critical analysis that rail projects face at present.

We all know the outcome of smart motorways: there will be even more traffic on our motorways. It is a proven fact that the money spent on modernising our road network results in more traffic, although not just this Government but successive Governments have always talked about congestion and pollution and what we can do to combat them. What the Conservative Party has done to combat them, as well as building smart motorways, is to freeze fuel duty for the last decade or so at an estimated cost of £50 billion. Now, it is said that it will reduce fuel duty in the run-up to the election—a complete coincidence, of course—and that will generate even more traffic. For that £50 billion or £60 billion, which will be the eventual cost, we could have built the infrastructure for HS2 twice over.

I seek to make one further point before I sit down. I understand that the Liberal party—although neither of its spokespeople have mentioned this—is looking at demanding that HS2 starts in the north of England rather than where it is due to start. I do not know whether that will be official policy. I read it in a newspaper, so it cannot be right, but that is what I have heard. I just caution against that and urge the Liberal Democrats to look at it again. In the same magazine there is a long article by a gentleman by the name of Mr William Barter, a former senior railwayman. He talks about the difficulties of that approach and what it would do to the existing train service.

I end as I started. I have always believed in this great project. I wish that we could have fewer reviews, but regardless of Brexit and whether or not there is a general election, the sooner it is under way and completed, the better.

4.38 pm

Baroness Kramer (LD): My Lords, I am a strong supporter of HS2. I was before I had the privilege of becoming a Minister in the last 18 months of the coalition Government, when I became the Minister responsible for phase 2. Hours and days were spent on the ground seeing not only extraordinary challenges but huge opportunities to regenerate economies that had fallen behind and essentially to change the future direction for many people, particularly in the north. However, I do not want to use this speech to talk in a general way about HS2; I want to focus on a number of issues that genuinely concern me.

Others have said this, but I shall pick it up in a slightly different way. This is clearly an opportunity for the Department for Transport, as well as other parts of government, to look again at how large, complex projects are costed. Recognising that the

estimates cost of phase 1 had risen from £27 billion to somewhere between £36 billion and £38 billion did not happen overnight. Those who would have seen and recognised that they needed to make those changes never did so in the public arena—there was no transparency.

Frankly, I find this completely ridiculous. We should never look at a cost estimate in the early stages of a large and complex project and treat it as anything more than tentative. There should be an ongoing process of constantly updating. Having to say that the number is higher should not be treated as betrayal or failure; it is merely recognising and understanding the detail. I say to many here that this really needs a change in attitude at the Treasury and, frankly, much braver politicians in order to recognise that this will frequently be the pattern in projects of this kind.

I want to put on the record my gratitude to the whistleblowers who alerted many on the outside to the cost issues with HS2. I ask the Minister: will HS2 and the Government step in to amend some of the retaliation and harm that those whistleblowers have suffered? It was terrible and inappropriate, and it really needs to be remedied. We need that kind of honesty and integrity in this project.

I also want to look at cost-benefit analysis. My noble friend Lord Bradshaw referred to it in the more technical terms of the WebTAG. Allan Cook highlighted in his stocktaking report the inadequacies of the Government's cost-benefit tools in providing any kind of sensible answer for projects on the scale of HS2, particularly with its broad impact on regeneration.

I feel this harshly. I had such fights inside the department during my period as a Minister. I have a banking background: I understand net present values and how you look at calculating returns. It was absolutely clear that the methodology was very inappropriate. The Government's method completely fails to recognise more than very limited aspects of regeneration and economic benefit. This leads to poor decision-making on projects because, in particular, it does not recognise the uplift in land values. That would give us a much better mechanism for making decisions about these projects, as well as providing us with mechanisms to find ways to fund parts of these projects. Where there is land value uplift, we ought to be taking some of that in to pay for the project in the first place.

The current methodology is particularly hopeless for a phased project. Under its methodology, it captures all the costs of all the various phases and only includes a small part of the revenues and benefits that come from the later phases, because of the time guillotine inherent in the process. That has to be completely changed. I really think that it will take some outside pressure to get that kind of sense. It is perfectly within the department's scope to look at all of that again.

I have a question for the Minister. I am really concerned about what on earth we will do with passengers now that the opening date of phase 1 is estimated not to be 2026 but somewhere between 2028 and 2031. I went into a lot of those passenger forecast numbers closely when I was in the Government. Even then, I was terrified that we could not cope with the forecast growth in passengers on routes between London and

the Midlands with a 2026 opening. I do not know how we will cope without HS2 open until 2028 or even 2031.

I know that the industry is trying to use things such as changes in the way it manages fares to redistribute passengers through the day. Frankly, it will only make changes at the edges. In a couple of speeches, I joked about strapping passengers to the roofs of trains. It is no longer looking like a joke. We really are looking at tremendous overcrowding and over-demand. I have no idea what is being put in place now that we know that the opening of HS2 phase 1 will be delayed. This really ought to be a very urgent project.

As I said, I wanted to bring up one or two issues. Perhaps the Minister could help me with one last issue. HS2 is a project that demands sophisticated rail. I know that the whole industry has been reliant on British steel as the source of that rail. We know that the future of British Steel is in question. I hope she can explain to the House how we should respond or how she would see this set of issues. If somebody came to me and asked what major risks could further delay the project and put up costs in a way that we had not anticipated, that one would be somewhere near the top of my list.

4.45 pm

Lord Greaves (LD): My Lords, I start by saying that I agree with pretty well everything that everybody—except for one noble Lord—has said so far; I will try not to repeat those things. I say gently before beginning that I have looked in the *Companion* and I cannot find anything at all about the ability of the Government to impose arbitrary time limits on speeches beyond the normal time limits for Second Reading debates. If we are to do this in future, it is something that should be discussed.

It is nearly 10 years since all this started, and where are we? I am tempted to say that we have got as far as digging up cemeteries. I accept what the noble Lord, Lord Adonis, said that there is rather more work than that going on, but it is taking an inordinate amount of time. The proposed route for phase 2a, which we are discussing today, was first published four years ago. I compare this not with China—as a place where things can be done without asking people what they think—but with France. I go to the Pyrenees most summers and I watched the construction of the line from Tours to Bordeaux, extending the existing TGV line, which seemed to be done in a small number of years. I have travelled on it twice in the last two years; I have to say that not only does the line seem okay but so does the new TGV, which I travelled on, there and back, two or three weeks ago.

Last Friday, going home I travelled on one of the new Azuma trains from Kings Cross to Leeds. In comparison—from the point of view of the ride, the acoustics and, of course, the infamous seats—I felt that I had gone back 40 years. Then I reminded myself that the Azumas were ordered and specified by the Government themselves, which I think says something.

All we get are reviews and promises of delays. I am reminded that the Victorians effectively built the mainline network in England in less than a quarter of a century. We seem to take a very long time indeed to do these

things. A lot of the opposition to HS2 is about the competence, efficiency and effectiveness of the people doing it: the Government, HS2 Ltd and everybody else. We must distinguish between the need for the line—the project itself—and the need to improve the way these things are done. People attacking the way that it is being done—alleged efficiency, overspends or whatever—is not an argument against building the line; it is an argument to say that we need to do things better in this country.

The proposal that we are talking about today—extending to Crewe—is a relatively small part of what I hope will, in the future, become a substantial network connecting the main regional centres of the country. We need to start thinking about it in those terms. It is not a question of a line from Birmingham, Manchester or Leeds to London, with all this London-centric thinking. We should be thinking about a network that connects all the major cities in the area.

As far as extending it to Crewe is concerned, it would be a very good thing for people in Lancashire and the north-west, as well as, I would hope, people in Scotland. It would allow trains from the new HS2 line to run further north, just like the train I caught to Lourdes the other day—I have to say I was going there for the mountains and not for other purposes. That train slowed down after Bordeaux and became a normal fast express. Then, when it got past Dax, it slowed down a lot. The advantage is that people can do a lot of the journey at high speed and then continue to other places. When the new line to Crewe opens, as I hope it will, it should be the basis of Scottish services as well, not just services to the north-west.

Lord Adonis: It is integral to the plan that there will be through services to Glasgow and Edinburgh.

Lord Greaves: Absolutely—but these things need to keep being said, because people who are not served by the particular line concerned say all the time, “It’s no use to us”. People in the north-east are saying that—quite wrongly, because the proposal, especially when we get to phase 2b and so on, is to run services through to the north-east.

I live in Colne in Lancashire, at the end of the worst branch line in the north of England, and I am acutely aware that when the Prime Minister comes to the north and promises a fantastic new HS3—or HS15—or a northern power something or other, over the short distance between Manchester and Leeds, it is no use to us. There may well be merit in building a new high-speed line across the Pennines between Leeds and Manchester, but it is not the top priority for people in the north of England.

What people in the north of England want is an efficient network on the existing lines between their cities and towns. The geography of the north of England consists of a series of scattered towns and cities that need a network connecting them all, not just one line between one big city and another, which might perhaps stop at Bradford but nowhere else in between.

What we in the north of England urgently need as a priority is upgrading existing trans-Pennine routes, reopening Colne to Skipton to allow a new freight line

[LORD GREAVES]

as well as local services, reopening Woodhead to provide Sheffield and Manchester with a good service that way, and electrification of the substantial network. That is what we should be spending money on, not a short vanity project—it would not exist in the short term anyway; it would take 20 years—between Manchester and Leeds. The Bill, however, has my total support.

4.52 pm

Baroness Jones of Moulsecoomb: My Lords, I am sorry to be slow in rising to my feet to speak, but I was so fascinated by the other speeches. I agree that the Minister gave a passionate opening speech, but I was not particularly convinced by it because I have huge concerns about HS2. Saying that there were 17,000 pages of environmental assessments did not really sway me, because the crucial thing is what is in those assessments. If they are 17,000 pages of nonsense, there is not much value in them.

Greens love railways: I love railways. I do not fly, I go on holiday by rail, and my partner works on the railways. I have nothing against railways. But I do have huge problems with HS2. As a Green I have lots of different concerns, but obviously, environmental concerns head the list. The Government have decided to shut Parliament down today, which does not allow us much time to speak. But that does not mean that sticking to an advisory time is not a courtesy to the rest of us, and to other people who have business coming through later.

The Government have commissioned a review, which is an excellent thing to do. I support that wholeheartedly. But I am curious about why they think it is worth putting the Bill through. Are we simply expected to speculate on the costs and the benefits? As the cost has been rising, the benefits have supposedly been rising at the same rate, but I am very dubious about that. Perhaps that is something that particularly needs looking at in the review.

It seems plain daft to pass a Bill before the review comes out and we have a view from those conducting it. However, I am glad that the Government are doing it, and I hope that they will take a serious look not only at the spiralling costs in order to develop a more sensible budget but at the cost of HS2 to our natural world, which I do not think has been fully explained. Local people are extremely concerned about local conditions; they are the people who actually understand their areas and they can see what is happening. In view of the climate emergency that Parliament declared back on 1 May this year, will the Minister confirm that the review will also be thinking about the enormous cost that HS2 is placing on the natural world?

We are looking at this second stage after the first stage has been started, and that first stage was actually extremely damaging in environmental terms. There are horror stories of environmental destruction and failed attempts at so-called biodiversity offsetting. Ancient woodlands were mentioned earlier; once an ancient woodland is destroyed, there is no way to replace it. In the meeting that I attended which the Minister was kind enough to offer us, I asked about that and was assured that there would be no net loss of biodiversity.

I am afraid that that is absolute hokum because you cannot replace ancient woodland or the biodiversity that lives there.

At least 30% of the trees planted by HS2 have been allowed to die by neglect, and local campaigners say that the number is actually higher. The land manager of an ancient meadow has described his precious habitat as having been destroyed to create several access bridges for the purpose, ironically, of creating a biodiversity zone. Wildlife trusts have spoken out against HS2 and its plans to destroy precious habitats long before any habitat replacement is completed, leaving wildlife with nowhere to go. Will Ministers be visiting at least a few of the hundreds of wildlife habitats that will be permanently scarred or entirely destroyed by this project and listen to local people, who can explain it with as much passion as the Minister has to complete the project?

If this is how HS2 has been proceeding under legislation for the first section, where it is clear that the Bill has totally failed to protect the environment, that makes it very likely that the next section will also be hugely damaging. It is for those reasons that I will be opposing the Bill and proposing amendments that seek to protect the natural world that HS2 is destroying.

I could stand here for a further three or even six minutes and tell noble Lords about my holidays by rail, which obviously I love, but I am going to sit down.

4.58 pm

Lord Hunt of Kings Heath (Lab): My Lords, it is a great pleasure to follow the noble Baroness. I do not entirely agree with her but I thought that she put her points in a very pithy way. Clearly the trade-offs between the benefit of HS2 in environmental terms and some of the environmental defects are those that always have to be weighed. The problem that I have is that sometimes we weigh these balances for so long that in the end we make too little progress.

My frustration, which I share with other noble Lords, is that this country is so bad at major infrastructure projects, yet in HS1 we have an example of a brilliant project that I think was undertaken on time and on budget without one major health and safety victim. It is unbelievable that we are spending so many years building what is still a relatively short piece of track. There have been many reviews of major infrastructure projects in this country—my noble friend has looked into this matter on a number of occasions—but, given our economy and the challenges that we face, we cannot afford to mess around any longer with these critical infrastructure projects.

There are obviously questions to be answered about HS2. We have heard about the cost and delay overruns. The noble Lord, Lord Teverson, raised the issue of whether there was overspecification in the original project, which the review will no doubt look into. Like my noble friend Lord Adonis, I think the Minister put the case for HS2 extremely persuasively and, essentially, I want to endorse what she said. I also wanted to touch briefly on the impact on the economy of Birmingham and the West Midlands, about which I am most informed.

Just looking at the capacity crisis on our railways, it is a no-brainer that we have to increase capacity one way or another. Whatever the cost overruns on HS2, the capacity issue simply will not be washed away. If, for instance, the review suggested that HS2 should be cancelled, or in the end the Government decided to do this, they will still be left with this incredible capacity issue. What are the alternatives? One is to four-track the west coast main line between Rugby and Wolverhampton, but the cost and disruption would be enormous. The same would be said if the Chiltern line from London to Birmingham was changed to a four-track line. That is clearly another option, as is turning trains into double-deckers. This is feasible, but bridges would have to be raised and services would be disrupted for a very long time and at huge cost. So what are the alternatives? In the end, the review is bound to conclude that there is no alternative to carrying on with HS2.

My noble friends Lord Adonis and Lord Snape made the point that construction has started. A huge number of jobs have already been created in Birmingham and the West Midlands and the National College for High Speed Rail has been established. A huge amount of investment is taking place in the city of Birmingham on the strength of HS2. The West Midlands economy is fragile. The potential of Brexit and the damage it could do to our motor industry is immeasurable. Cancelling HS2 at the same time as we face these huge uncertainties would have a devastating impact on our economy. The noble Lord, Lord Greaves, rightly referred to those who are talking to the Government. Our own Select Committee looked at this and focused on the railway challenges facing the north of England. I sympathise with noble Lords who are concerned about the railway infrastructure in the north of England, but I do not think that stopping the London to Birmingham part of HS2 and starting again in the north is a rational or sensible approach to delivering this railway.

I want to thank the Minister, who has my full support for this Bill. We will attend it with great interest at some point in the future—maybe the distant future. I want to say to the Government that this was a convenient way to get HS2 off the election agenda, but in the end, they will have to make a hard decision. From all the Minister has said, I think she knows already that the only decision that can be made is to continue with HS2. I very much hope that she will do that.

5.04 pm

The Earl of Glasgow (LD): My Lords, I will make a very short speech, because most of the points I wanted to make have already been made in a much better way than I would make them, particularly by the noble Lord, Lord Adonis, and my noble friends Lord Bradshaw and Lord Teverson. I wanted to take part in this debate because I was very nervous that the escalating cost of HS2 might provide an excuse for this Government to abandon the project altogether. There was much talk of this, or of at least postponing its construction. They are also giving hope to those who have been opposed to HS2 from the start, and we have one Peer who represents that view.

It seems that all recent engineering projects, Crossrail being the most obvious example, end up costing excessively more than was down in the original budget. I can

never understand why the original planners do not include sufficient contingency for the unexpected, which by now should be classed as the “more than expected”. Going vastly over budget might well mean that heads should roll but it should not be a reason for abandoning HS2 altogether, particularly as about a quarter of that budget has already been spent. I believe that detractors of the HS2 project do not fully understand its importance or its value to the country’s infrastructure. Some even regard it as no more than a vanity project. They cannot justify its cost if it does no more than get people from Manchester to London in half the time.

I wish it had not been called “high-speed rail”, because its faster speed is not the main reason why we need it. The main reason is that it will be a brand-new railway line and, apart from HS1, the first major railway line since the 19th century. It will relieve much of the pressure on the spaghetti of existing railway lines, in the Midlands and the north in particular, and it enables them to provide more necessary capacity. So, when detractors say that money should be better spent improving those 100-year-old lines, the existence of HS2 will be a major factor in achieving just that.

There are so many other advantages too, many of which have already been pointed out. It brings London and the cities of the north closer together. It is a great boost to our engineering industries, as has already been pointed out by many. For instance, railwaymen and engineers who have been working on Crossrail can now look forward to continual employment. The arguments that say it will ruin our countryside are complete nonsense. For a short period of time earthworks and earth-moving machines may be unsightly, but how many beauty spots in Britain today are any less beautiful for having a railway line running through them? Some would say the railway line enhances the place.

The most important advantage in the medium and long term, which was well expressed by my noble friend Lord Bradshaw, is that all innovations and improvements of our railways—and HS2 is the major one—will make lorry and car traffic less essential and, I would like to think, internal flights within Britain unnecessary. Global warming is a serious threat and we are only just beginning to take the issue more seriously.

I know that many in the Minister’s party are very against HS2, and I would like to be assured that there is no way that the Government are going to turn back on this. It must go ahead, as I think most of the speakers have already said today.

5.08 pm

Baroness Young of Old Scone (Lab): My Lords, I declare my interest as chair of The Woodland Trust. There may well be benefits to HS2, such as capacity and carbon reduction, but they are worth nothing if that involves destruction and damage of irreplaceable ancient woodland habitat. It is gimmicky to say that ancient woodlands are the cathedrals of the natural world, but that is what they are. If we were going to line up 108 cathedrals along the route of HS2, I suspect your Lordships’ House would be more exercised. However, that is the reality of what we are doing.

[BARONESS YOUNG OF OLD SCONE]

HS2 poses the biggest development impact threat on ancient woodland. Phase 1 was bad enough and very little has been learned from that unhappy process, despite protestations from the HS2 company that it would learn from the first phase. Phase 2a has an impact per mile 23% greater than phase 1, the total of which, as I said, is now up to 108 across the length as currently planned. I do not see any signs of learning from the company.

Today, the Minister has boasted about the route avoiding protected areas such as areas of outstanding natural beauty, Natura 2000 sites, which are protected by European law, and SSSIs. Some of these habitats are replaceable—we could build them again—but ancient woodland is irreplaceable, cannot be built again and has not been so spared. Yet the Government have only recently given ancient woodland a level of protection similar to the more protected sites in the National Planning Policy Framework, although infrastructure projects are of course exempt from it. I will talk about that in a moment.

The Minister also talked about newt schemes. I do not know whether your Lordships are intimately aware of the UK's newt position, but we are newt central in the world. We have more newts than any other nation. This is probably a good reason why we should look after them, but on the other hand it probably means that they are not quite as precious as the few fragments of ancient woodland—that irreplaceable natural resource which cannot be recreated and is being destroyed with equanimity.

I would like some ancient woodland schemes, but that does not mean translocation. There is no evidence that moving an ancient woodland across the countryside and dumping it somewhere else works. In recent months the Government have touted their commitment to net zero carbon policies and net biodiversity gain. Ancient woodlands are hugely important to both policies. Because of the carbon stored in ancient woodlands, in its soils and its old trees, if such a scheme was enacted its level of protection would mean a considerable amount of carbon would be stored. The Government's policies are great, but their implementation seems hugely lacking. I wrote that and thought, "I wonder why I'm surprised".

HS2 should be demonstrating higher standards, particularly if it is seeking to become an exemplar of the best Britain can do. The destruction planned is not such an example, because the Government's pledge to leave the environment in a better state will fail. HS2 prided itself on a pledge to deliver no net loss to biodiversity. However, it will not achieve this because of the loss of irreplaceable ancient woodland.

HS2 should tunnel wherever possible to avoid such impacts and not hide behind the arguments raised by noble Lords today about cost. In reality, the costs of any tunnelling to avoid ancient woodland sites are utterly dwarfed by expenditure on the project overall. Yet, the habitat concerned that would be safe is irreplaceable. Let us have a tunnel to avoid the biggest damaging impact of phase 2a, at Whitmore Wood in Staffordshire. Let us consider whether a slower speed railway, as recommended by the Economic Affairs Committee, would enable cost reduction by avoiding

environmentally sensitive areas and the need for compensation and the tunnelling I have talked about. After all, this line is supposed to be about capacity rather than speed. Let us have it slower and wriggle round some of these 108 cathedrals that we have up the route.

I will finish by speaking briefly—I will stay within my seven minutes—about the Oakervee review, which is amazingly short. I have just met with its chairman, who tells me he will complete it within four or five weeks. One asks oneself, bearing in mind the degree of information on HS2, how it will be able to review everything in four weeks. Its terms of reference do not include environmental impacts and costs, only the environmental benefits. That needs to be changed. There needs to be at least one environmental expert on the panel. It does not have one; it is full of engineers and economists.

Most importantly for the review, because of the preparatory works that will come to pass in the next few weeks—in fact, they are not preparatory works but the route actually being built—many of the ancient woodlands I have been talking about will be destroyed or damaged in September and October. If this review is going to reach a view within four or five weeks and the Government, with their usual commendable alacrity, are going to come to a conclusion on it, it does not seem too much to ask the Minister that we pause those preparatory works, which would have an irreversible impact on ancient woodlands, until the results of the review and the Government's subsequent actions are known.

I share noble Lords' views about the very poor process we have for driving forward major infrastructure in this country. If I had my way, we would sweep away the hybrid Bill process; it is a nonsense. We give people hope that they may be able to influence the scheme long after the line of route has been decided, when in reality they cannot. We have not found the best of British ingenuity to avoid some of the conflicts that people are campaigning on, and I believe that we can. It is not about development versus the environment—British ingenuity should be capable of delivering both—but let us smarten up our process as well. It was invented 150 years ago and, frankly, my God, it looks like it.

5.15 pm

Lord Wallace of Saltaire (LD): My Lords, I put my name down for this debate, but withdrew it when I feared that I would have to leave before it ended. I am happy to take less time than intended, and so hope that I may be allowed to speak in the gap, in order to give a West Yorkshire—and, in particular, a Bradford—perspective on the way in which phases 2a and 2b fit in with the northern network, which we need for modernisation.

The transformation of the northern economy is what we are talking about once we start moving HS2 north of Birmingham. The eastern leg is as important as the western leg, linking Birmingham with Manchester and Liverpool, and then the second leg, linking those cities with Sheffield and linking Sheffield to Leeds. That then forms a triangle in which the new lines that

Transport for the North is talking about, between Liverpool and Manchester and between Manchester and Leeds, also provide the fast links between the northern cities as far as Newcastle and Hull, which we also desperately need.

This is a matter of capacity. I was talking to someone from Transport for the North last week, who told me that we can get freight by rail between the Humber and the Mersey, provided that we do not mind the freight trains going via Daventry, because we lack the capacity and the tunnel space across the Pennines. That is part of the case for a new line, and for modernising the existing lines across the Pennines. I speak particularly from a Bradford perspective in saying that the transformative effects of a Manchester to Leeds line which went through Bradford city centre would be transformative for the whole area. The current value-for-money analysis does not begin to take that into account. We need all of these lines, and this means a higher level of public investment in infrastructure for the north of England, after decades in which rail investment has been in the south of England.

I speak as someone who has travelled between Leeds and Manchester, and between the north and the south, for more than 50 years. I have seen how little impact any new investment has made there. We need phase 2a, phase 2b and HS3, and we need the Government to move on them all as fast as possible. This is how we begin to transform the economy of the north of England, by linking Liverpool, Manchester, Leeds, Sheffield, Newcastle and Hull so that it is easy to move between them, and so that the potential dynamic of these cities can be developed together. Successive Governments—including Labour Governments—have failed to deal with this over the last 30 or 40 years. Now is the time to have faith. Therefore, I strongly support this Bill.

5.18 pm

Baroness Randerson (LD): My Lords, I start with a reference to procedure. The Government's attempt to impose an arbitrary time limit on speeches on this Bill is a great discourtesy to the House, and in particular, to the noble Lord, Lord Adonis, and my noble friend Lord Bradshaw. The noble Lord, Lord Adonis, was the Minister who initiated this scheme, and my noble friend Lord Bradshaw has a lifetime of experience as a leader within the railway industry. We are talking about a multibillion-pound project. The Government should cease to be carried away by their attempts to stifle scrutiny of their record on Brexit by proroguing this House; they should be paying attention—proper attention—to what is said here.

The Liberal Democrats have always been, and remain, firm supporters of HS2. In our view, a high-speed spinal railway linking London to Scotland is the correct strategy, for two fundamental reasons. First, the Midlands and the north of England badly need economic regeneration and to share in the prosperity of the south-east. Improved long-distance communication is fundamental to this. Secondly, we have a moral duty to use every available initiative to reduce carbon emissions, which threaten our planet. HS2 does this by encouraging people to take the train for long journeys rather than their car, or even to fly. It is not as straightforward as

counting the number of people who will sit on HS2 trains. HS2 will take direct intercity services on to dedicated high-speed lines and hence free up capacity on existing lines for more trains on local and regional routes. That will make daily commuting to work by train a feasible option outside London; it will therefore get people out of their cars and reduce congestion on our roads. So long as the whole project goes ahead, it will remove the attractiveness of internal flights. It will free up new freight paths, taking freight off the roads. It is important to remember that freight reduces carbon emissions by 76% compared with road haulage.

The west coast main line is the busiest mixed-use railway line in Europe. We have simply run out of options to squeeze any more capacity from it. The noble Lord, Lord Adonis, and my noble friend Lord Bradshaw both made that point. We have no more rail paths available and have already used the option of longer trains. To those who say, "Just improve what we already have", I respond that that would lead to a decade or more of intense disruption to existing routes. I say this as a regular commuter on the Great Western Railway line, where for years we have been disrupted by the electrification process—a process that we welcome strongly but it is very disruptive.

The cost of HS2 is eye-watering but so are the benefits: just look at the economic growth already impacting on Birmingham. When the whole HS2 project is completed, it will link 25 towns and cities and 30 million people. The Liberal Democrats are supportive but, as the House will have heard today from my noble friends, we are very much critical friends, so unlike the noble Lord, Lord Adonis, I welcome this review. I am reassured that the panel appointed to undertake the review is sufficiently experienced and balanced in its viewpoints to ensure that it is not being used just as an excuse to cancel the project. I have to confess that that was at the top of my mind when I heard that there was to be a review. It has been a very real fear. The Prime Minister himself has sown seeds of doubt and many Tory MPs have taken political pot-shots at the project. I note that most of them represent seats in the south-east, where transport spend is three times per head of population that in the north of England. I feared that the Government could be searching for a reason to cancel it because the huge costs of a no-deal Brexit will simply swallow up funding for major projects such as this across the country.

Of course, HS2 has left itself open to criticism, with sloppy management and spiralling costs. It has 1,300 staff and, astonishingly, more than one-quarter of them earn more than £100,000 a year. Even more surprisingly, despite those pay packets, they do not seem to have the skills required at this time. Consultants were employed on 31 separate occasions in 2013, at a cost of £60 million. There are things in the management of HS2 that have to be addressed. The project was agreed in 2013 so rising costs are not a surprise, but it is clear that they are not currently under control. I refer noble Lords to the National Audit Office report, which referred to the use of,

"fragile numbers, out-of-date data and assumptions which do not reflect real life".

[BARONESS RANDEKSON]

This review gives us an opportunity to nail down these costs and to address some of the proposals to reduce costs; for instance, reducing the length of rail line that will go through tunnels. Another suggestion is the use of Old Oak Common as a terminus, at least in the early years, to avoid a decade of costly disruption at Euston. The question that has to be asked—and will, I hope, be answered—is: is this being overengineered? Would it be significantly cheaper to cut, say, 20 mph off the maximum speed? It is clear that the time advantage over road travel will be very substantial, even at a lower speed.

Concerns remain, of course. There are concerns over delays which add to our unwelcome reputation as a nation which is pretty hopeless at building major projects. My noble friend Lady Kramer referred to the impact of overcrowding on existing railways that will be caused by the delays to this project. I caution that ending up with just phase 1 of HS2 would make Birmingham an outer London suburb—a new commuter zone. That would be the worst of all worlds. I live in Wales, so I am concerned that the vision of the Crewe hub is implemented. That in itself could transform the economy of north Wales. The review must bring this project under control and satisfy the critics. It must reassure those who, like me, support the principle of HS2 but worry about efficiency, cost control, transparency, whether those who live nearby are being given a fair deal, and the environmental impact of the building process. The review must clear the air and enable a fresh start on a firmer basis. My noble friend Lord Teverson raised the issue of comparative costs with other countries and used an example from France. Will the review look as far as comparative costs with other countries? It should do so. Some £8 billion has already been spent on this, 9,000 jobs have been created and 2,000 businesses are involved.

At this time of national emergency, when we face the potential for a massive economic downturn, it should be unthinkable that we cancel HS2. Instead, the Government should redouble their efforts and their ambitions and recommit to building the whole route to Scotland. They should also announce the powers and funding for Transport for the North, so that it can plan and build the east-west rail routes—the sorts of routes that have been referred to by my noble friends Lord Wallace and Lord Greaves. These need to be created to hang on the HS2 spine, in order to maximise its success.

We understand fully that there must be no blank cheque for HS2. It must be brought under control without undermining the central scope or purpose of the project. In the long term, as a country, we simply must look again at how we approach such projects. We need to be able to look long term in order to make difficult, ambitious, big spending decisions, to support and control our long-term infrastructure vision. We have failed for decades to do this. I realise it is a bit of a forlorn hope at the moment, when the Government are consumed with short-term tactics, but as a nation, we really have to get to the basis of this.

5.31 pm

Lord Rosser (Lab): My Lords, not only does High Speed 2 get delayed but even this debate on the Government's latest High Speed 2 Bill has had to be rescheduled to today from last week. This Second Reading debate is taking place in something of a vacuum. The Government are inviting us to support the Bill, which gives statutory powers to enable the construction and maintenance of phase 2a of High Speed 2 from the West Midlands to Crewe, yet they apparently do not know whether they will be pulling the plug on the whole project in a few weeks' time. We await the outcome of the review, which is considering whether or not HS2 should still proceed, and if so on what basis, or whether it should be cancelled.

There must be a real prospect of the Government cancelling HS2, first, because the Prime Minister, as with the third runway at Heathrow, has a direct constituency interest and is neither project's number one fan, and secondly, because the Government have a noteworthy track record of cancelling projects extending railway electrification which they have previously promoted or supported. As recently as 15 July the Government were fully committed to HS2. In the Commons during the final stages of this Bill, the Minister said of HS2:

"It will be transformative not only because it will increase capacity and reduce the time it takes to reach eight of our top 10 cities, but because, along the way, it will smash the north-south divide, creating jobs and opportunities for people in the midlands and the north".—[*Official Report*, Commons, 15/7/19; col. 646.]

Earlier, in a Written Statement on 6 February this year, the Government described HS2 as,

"a transformational infrastructure project that will improve people's journeys, create jobs, generate economic growth and help to rebalance our country's economy. HS2 is more than a railway and the project's vision is to be a catalyst for economic growth. It has cross party support and support from councils, LEAs, Metro Mayors and businesses who can see the transformational potential".—[*Official Report*, Commons, 6/2/19; col. 15WS.]

Cross-party support includes us, but does that reference to HS2 having cross-party support include the Government? If it does, why was the inquiry set up with a remit that included looking at whether HS2 should proceed at all? This was a point raised by my noble friend Lord Adonis and we expect an answer from the Government when they respond to this debate.

What have the Government just found out that led them to set up the review last month, but of which they were presumably unaware when they were extolling the virtues of HS2 so enthusiastically in the Commons the month before? Will they say by when they expect to receive the findings of the review and when they expect to announce their decision on the future or otherwise of HS2? I ask that in the context of contradictory statements from the Government. On 25 July, in response to a Commons Question on constructing from the north, the Prime Minister said:

"I have asked Doug Oakervee, the former chairman of Crossrail, to conduct a brief six-week study of profiling of the spend on HS2, to discover whether such a proposal might have merit".—[*Official Report*, Commons, 25/7/19; col. 1476.]

Which is right about the purpose of this review: the Prime Minister's statement that it is,

"a brief six-week study of profiling of the spend on HS2",

or the terms of reference referring to,

"whether and how we proceed with HS2"?

What is the truth, as opposed to confusing statements, about the timescale of the review? On 25 July, the Prime Minister spoke of a “brief six-week study”. That six weeks is already up. Or is it meant to be six weeks from when the Secretary of State for Transport announced the review, on 21 August, in which case the review report will be ready at the beginning of next month? Yet the Government now say it will be completed in the autumn. Is it a six-week review, as the Prime Minister so clearly said? On the assumption that it is, when did the six-week period start?

It is to be expected in a Second Reading debate on a Bill enabling a further stage of HS2 that the Government would say something about not only the costs and benefits of the further stage, but the extent to which the quoted costs and benefits expected for the first stage were or were not still on track. On 15 July the Government told the Commons,

“there is only one budget for HS2, and it is £55.7 billion. The bit we are talking about today, phase 2a, is £3.5 billion. The benefit-cost ratio is £2.30 for every £1 spent”.—[*Official Report*, Commons, 15/7/19; col. 647.]

Recently, though, the Secretary of State for Transport said in a Written Statement that the chairman of HS2 did not believe that the current scheme design could now be delivered within the budget of £55.7 billion, set in 2015 prices. Instead, the Government said, the chairman of HS2 now estimated that the current scheme required a total budget, including contingency, of £72 billion to £78 billion, again in 2015 prices; and in 2019 prices, £81 billion to £88 billion, against a budget equivalent of £62.4 billion. On the basis of those revised figures for the cost of completing all stages of HS2, will the Government indicate what percentage of those figures is to cover contingencies?

The Government went on to say that HS2 no longer believes that the current schedule of 2026 for initial services on phase 1 was realistic, and that instead there should be a range of dates for the start of the service. The recommendation of the chairman of HS2 was now 2028 to 2031 for phase 1, with a staged opening, starting with initial services between Old Oak Common and Birmingham, followed by services to and from Euston later. HS2 Ltd now, it seems, expects that phase 2b to Manchester and Leeds will open between 2035 and 2040. Significantly for this Bill, the chairman of HS2, according to the Secretary of State, now considers that phase 2a, from the West Midlands to Crewe, should be delivered to the same timetable as phase 1. Furthermore, the chairman was now of the view that the benefits of the current scheme were substantially undervalued. All these views from the chairman of HS2 Ltd would, said the Secretary of State, be assessed by the review panel, which would provide,

“independent recommendations on whether and how we proceed with the project”.—[*Official Report*, Commons, 3/9/19; col. 7WS.]

I hope the Government can tell the House today that they had no inkling that the costs were rather higher than previously stated and that HS2 would not be delivered within previously announced timescales when, in asking for support for the Bill, they told the Commons on 15 July,

“there is only one budget for HS2, and it is £55.7 billion”.—[*Official Report*, Commons, 15/7/19; col. 647.]

Even the £3.5 billion the Government quoted for phase 2a, to which the Bill relates, is now apparently £3.6 billion to £4 billion. Will the Government indicate how much has been spent so far on HS2, including the value of contracts that have been signed but for which the work has not been completed?

In the light of the view of the chairman of HS2 that the benefits of HS2 are substantially undervalued, can the Government say what the current figures are for the benefits arising from HS2 and whether they include the potential wider economic impact of changes in land use and values as a result of HS2 and the transformative effect that it can have, both on the locations directly benefiting from the improved transport links and locations on other rail routes where capacity would be released for new or additional services?

Could the Government also say for how many years into the future are the economic benefits, including wider economic benefits, accruing from HS2 currently calculated and taken into account in assessing the overall benefit and value to the nation of the project? Are those overall benefits taken into account only for a specific fixed period—and if so, what is that period—or are they calculated and assessed as delivering effectively permanent wider economic benefits resulting in a higher overall value figure, since presumably, for example, the favourable impact HS2 already appears to be having on regeneration in Birmingham is very much of long-term value and permanent benefit to the city?

We now have the HS2 chairman’s recent report, or stocktake, on the current status of the project. It has been quite extensively redacted. In the Commons on 5 September, the Secretary of State said:

“I am unhappy about having any of that report redacted. I have read the rest of it. It is not hugely exciting. I pushed back on that with the Department, and apparently it is just that the lawyers are saying that it is commercially confidential stuff that I cannot force to be released”.—[*Official Report*, Commons, 5/9/19; col. 354.]

Could the Government say who determines whether something in a report is commercially confidential and who determines that commercial confidentiality outweighs the public interest in knowing about the information that is being withheld? Could they also say what would be the consequences, and for whom, of the Secretary of State releasing information that the lawyers had deemed commercially confidential? What contracts, if any and with whom, would be broken or breached by releasing such information as is in the HS2 chairman’s report? Who are the signatories to those contracts?

Phase 2a is the first step to delivering the whole of phase 2, which extends HS2 north from Birmingham. It is intended that the opening of phase 2a will result in further west coast main line services transferring on to the HS2 route, freeing up capacity on the existing west coast main line between Lichfield and Crewe. With the completion of phase 2a, the journey time from Crewe to London would be cut from 90 minutes today to under an hour by 2027, while HS2 journeys north of Birmingham would be up to 13 minutes faster than they will be following the construction of phase 1 of HS2.

[LORD ROSSER]

HS2 has the support of the chief executive of the South Cheshire Chamber of Commerce and Industry, who has already made clear its beneficial impacts for Crewe. It has the support of the mayors of Greater Manchester and the Liverpool City Region, local authority leaders in Leeds and Newcastle among others, and Transport for the North. It is also important for the delivery of Northern Powerhouse Rail, which requires HS2 infrastructure to provide 50% of the new lines it needs for key parts of its services in and around Leeds and Manchester.

HS2 says that it is one of the most scrutinised organisations in the country, with oversight from the Department for Transport, the Treasury, the Cabinet Office and the Infrastructure and Projects Authority. It is clear from the sudden announcement a few days ago of delay and significant increases in costs that that extensive oversight has proved less than adequate, as something major has emerged for the first time about the HS2 project which could and should have come to light much earlier.

My noble friend Lord Tunnicliffe has indicated the issues that we will be pursuing: accountability and transparency, connectivity and the quality of links between HS2 and other relevant parts of the existing network, and compensation for tenants. I do not intend to repeat them in any detail.

It was a Labour Government who were the driving force behind HS2 and it was my noble friend Lord Adonis who, as Secretary of State for Transport, got it off the ground. This Government appear to have failed to exercise proper control over the progress of the project in all its aspects and thus failed to deliver proper accountability to Parliament. Now they look as though they could be getting cold feet and are looking to the recently appointed review panel to bail them out. What we do not know is whether, for the Government and the Prime Minister, bailing out means providing a justification to proceed, a justification to emasculate, a justification to abandon or simply a case for kicking the whole matter of the future of HS2 into the long grass during the run-up to a general election.

We continue to support the HS2 project because of the extensive and wide-ranging economic and other benefits it will deliver for the nation as a whole, in addition to addressing major capacity problems on the west coast main line, which would only get worse if HS2 is abandoned. We thus support this Bill giving the statutory go-ahead to enable phase 2a to proceed. The question is whether the Government still fully support their own Bill and the project, after more than nine years of actively supporting and progressing with the construction of HS2. Or, incredibly, will today be the last we will see of this Bill or any further Bills providing for the completion of the construction and development of HS2? I hope the Government can clearly and emphatically indicate now that they intend to proceed with this project.

5.45 pm

Baroness Vere of Norbiton: I thank all noble Lords who have taken part in this wide-ranging debate. I am heartened by the amount of support that this project still has across the Chamber. I recognise that I will

never be able to make my noble friend Lord Framlingham happy on this one. I will work on the noble Baroness, Lady Jones, and might get there in the end—we are going to keep trying, because it is a very important project.

The noble Baroness, Lady Kramer, made some particularly important points about these large critical infrastructure projects and the difficulties this country faces in the way that we are set up and do our budgeting, scheduling and timetabling. Certainly, over the longer term some changes will probably happen in those areas. It is the same in rail as in roads, as mentioned by the noble Lord, Lord Birt, who spoke about roads being vital. As Roads Minister I completely agree with him. The Government are committing vast sums of money to improvements in both roads and rail, which are absolutely essential. The next RIS2 will have £25.3 billion to spend. On rail, we are spending £48 billion in the next control period, which is significantly more than we have spent on our railways for a very long time.

I agree with the noble Lord, Lord Adonis, that this has pretty much always been about capacity—it just happens to be called High Speed 2. If I could have one wish in my life, it would be to change the name of this project. Calling it High Speed 2 has caused so many problems. It is a high-speed railway, I completely get that, but it is about capacity. Although it might be possible to slow down the railway, as the noble Baroness, Lady Young of Old Scone, suggested, that would cut capacity. However, that is one of things that the Oakervee review will look at.

The noble Lord, Lord Rosser, stated that this project was transformative and mentioned many other times when Members both in the other place and in this House, from the Government and beyond, talked about its transformative nature. It is very difficult to disagree, but “transformative” can mean many different things. We must be absolutely clear—this is what Oakervee will do—that the benefits and costs are appropriate for this project. That is the reason for the review.

Lord Rosser: Can I take it then, in the light of that comment, that the Government are not prepared to rule out this project being cancelled?

Baroness Vere of Norbiton: The Prime Minister has been very clear that nothing has been taken off the table. Imagine if the numbers came out as £100 billion to build it with benefits of only £50 billion. The noble Lord might have a slight problem with saying yes to a project with numbers like that. We know that things are under review, but we have also seen the report from Allan Cook—

Lord Rosser: I would agree, if we were faced with figures such as those which appeared to completely change the situation, but I imagine that if we reached that stage there would be an immediate inquiry into how the original figures were ever produced.

Baroness Vere of Norbiton: That may well be the case, but we are now talking about hypotheticals, so I suggest that we wait until the review has finished and

look at its conclusions in the context of the report from Allan Cook. The Government will make a decision at that time.

I turn to the comment of the noble Lord, Lord Birt, about why we do not have a long-term railway strategy. That is exactly what we are doing at the moment with the Williams rail review, which is looking at the status of the rail network and the service operators to see whether and how we can improve the system for the future.

I turn to some of the more specific points raised by noble Lords. There was a bit of discussion around investment in the north and how important it is; that was brought up by the noble Lord, Lord Wallace of Saltaire, and the noble Baroness, Lady Randerson. It is of course absolutely critical, as the Government recognise. Northern Powerhouse Rail could be transformative for the north, but probably not in isolation. It needs to be part of a larger project, which is why the Government are supporting Transport for the North to develop the options for Northern Powerhouse Rail. We committed £60 million at the spending review in 2015 and £37 million in 2018, which is on top of the £300 million we have committed to make sure that HS2 infrastructure accommodates a future Northern Powerhouse Rail and Midlands services. Therefore it is part of a bigger project, and other developments are certainly being included.

On the Oakervee review and accountability, I have already mentioned that costs, timescales and benefits will all be tied up in the review. The noble Lord, Lord Tunnicliffe, spoke about accountability and HS2. I refer him to a comment made by my colleague the Transport Secretary, who was very clear that he wanted us to be as transparent as possible. That includes on costs and schedule, which is why we published the Cook report. The noble Baroness, Lady Kramer, raised that as well. Therefore, there will be more transparency and accountability. We are not minded to introduce quarterly reporting on HS2 at the moment, as it already provides reports to Parliament, as required by the framework document, and we believe that that level is proportionate and sufficient. Of course, noble Lords may request debates on HS2 at any time.

The noble Lord, Lord Adonis, claimed that it was a bit left hand/right hand, given my opening remarks and the fact that we are having a review. However, I do not see it like that. The process for HS2 is positive, and the review we are having is a sensible reconsideration of the facts. A sensible reconsideration should never be confused for a lack of support.

A number of noble Lords mentioned whether work should continue during the Oakervee review. Certainly, the Prime Minister was very clear that the fact that we are having a review should not unnecessarily delay the progress of HS2. That would be wrong, and it would mean that costs would rise. That is why limited enabling works are being undertaken by HS2, and why your Lordships are being asked to consider phase—

Lord Framlingham: Will the Minister at least acknowledge that the felling of trees and the damaging of ancient woodland when the matter is still under discussion would be a serious thing to do?

Baroness Vere of Norbiton: I will come on to the issue of ancient woodland in due course and will look into the amount of work going on. I will certainly write to my noble friend if I can get some more information in that regard.

Baroness Young of Old Scone: Perhaps I can help the Minister with that. I would be delighted to send her the list of woodland that is about to be demolished over the next six weeks.

Baroness Vere of Norbiton: I suspect that I may already have that list, but I would be delighted to receive it again.

My noble friend Lord Framlingham made what I think noble Lords will agree was an expected contribution, mentioning costs and value for money; indeed, that is what the Oakervee review will consider. He spoke about whistleblowers, as of course did the noble Baroness, Lady Kramer. We are clear that any whistleblowers are covered in the UK by the whistleblowing legislation, and absolutely nothing should stop them coming forward. The Oakervee review will of course look at all available evidence when assessing the scheme.

Baroness Kramer: Would the Minister be willing to meet on one occasion to take up that issue of whistleblowers?

Baroness Vere of Norbiton: I would be delighted to meet the noble Baroness when diaries allow.

My noble friend Lord Framlingham mentioned fraud. I would like to be clear that neither the Serious Fraud Office nor the police has contacted HS2 regarding any investigation, nor made any request for information in that regard.

The noble Lord, Lord Greaves, asked whether HS2 was competent. The Oakervee review will of course look at how we have arrived at the place we have, and at whether HS2 as it stands is able to deliver the project. We would not want to prejudge that outcome, but we have been working closely with the new chairman to ensure that HS2 has the right skills at this important stage to take the project forward.

The noble Baroness, Lady Randerson, mentioned salaries, expressing surprise at the number of people who are paid quite high salaries within HS2. I do not know that I agree with her on this one. These are very technical positions, which need quite a lot of skill and experience, and I have not yet been able to see any benchmarks which would mean that they are not reasonable salaries to pay to these highly skilled technicians and engineers.

The noble Lord, Lord Tunnicliffe, raised the important issue of connectivity. I said in my opening remarks that HS2 will be able to connect the major cities of the UK, but also described how the hub-and-spoke system then goes out to more than 100 cities and towns, which will be able to benefit. It is probably slightly early days now to think about those towns, because we need to get closer to the date of completion and services. However, I agree with him that whoever is in government at that time—I very much hope that it will be the

[BARONESS VERE OF NORBITON]

Conservatives—will work with local authorities to make sure that we have an integrated transport system so that the buses connect with the trains, and all those things happen that we all would like to see.

The issue of Old Oak Common was raised a couple of times. We published a response to the Economic Affairs Committee report in July 2019, which mentioned stopping at Old Oak Common. There are few benefits, because stopping there means that you cannot transfer on to other transport systems, but the Oakervee review will of course look at that issue.

Lord Greaves: On the basic point about connectivity, will the Minister confirm that, when 2b is built, the trains will indeed run through to Preston, Carlisle and Glasgow?

Baroness Vere of Norbiton: I am unable to confirm that just at this moment, purely because I do not know, not because that decision has gone one way or the other. My apologies.

Oakervee is looking at the costs and benefits and, as the noble Lord mentioned, the costs have increased—the envelope was originally £55.7 billion, and Allan Cook now estimates that that is between £72 billion and £78 billion.

The noble Lord, Lord Teverson, asked about similar projects in other nations. It is difficult to compare us to someone else. We have very different countryside, and various stakeholders have very different needs. That point was raised by the noble Lord, Lord Snape. If we were to keep absolutely everybody happy on the environmental side of things, we would never build anything ever again. Clearly, that is not a feasible option, and therefore we must have a balance. While Oakervee will look at this, given our landscape and our need to mitigate against justified environmental concerns that have been raised, the cost of these things becomes quite high. I mentioned at the outset that there is a significant amount of tunnelling and cutting; some of that is down to the landscape that the line is going through, but also environmental concerns there. In later debates I will give examples of where we have literally moved the route to go around a tree. Those are the sorts of things that, with respect, may not necessarily happen in other countries. On the flip side, knowing France fairly well as I do, much of the country does not look like Staffordshire, so there are differences.

Lord Teverson: I thank the noble Baroness for going through those details, but they sound like a list of excuses, if you like. I understand all of that, but the rest of Europe is not blasé about these issues. As we know, the French public can be equally awkward. While I hear the noble Baroness, I find it difficult to understand the differences in culture.

Baroness Vere of Norbiton: I would be happy to return to this issue outside the Chamber where perhaps we could have a better and more detailed conversation. I was also going to say that we should meet when the review has been published so that we can talk about

the more detailed costs and benefits assessment. That conversation is probably too lengthy to have in the Chamber today.

I turn now to a few of the environmental matters which have been raised, because of course they are very important. I think that it was the noble Lord, Lord Hunt, who referred to the noble Baroness, Lady Jones of Moulsecoomb, saying that he admired her “hippy way” of bringing things up. I thought, “No, that is not the case at all, because these issues are important”. We had a good conversation when we met, and I hope that both noble Baronesses, Lady Jones and Lady Young, along with other noble Lords will accept an invitation to a briefing by the HS2 environment team. Perhaps we can then get to the root of the issues of concern because this is a huge area. I believe that HS2 has a great deal of information on it and I hope that the team will be able to put at least some of the fears of noble Lords at rest, although I am probably resigned to the fact that the noble Baroness will not change her view.

I want to refer to the point raised by the noble Earl, Lord Glasgow. He asked whether having a railway line causes an area to become not beautiful any more. Having visited the area that phase 2a of HS2 will go through, I agree with him that it is lovely and a great part of the country which already has the west coast main line and a motorway running through it. However, it is still beautiful. I think that there are many positives. On the habitat side, again we can raise those issues with the environment director and talk about them further.

Lord Hunt of Kings Heath: I just want to clarify that I did not say that the noble Baroness was a hippy; rather, I said that she was pithy. In other words, she put her points of view across very succinctly.

Baroness Vere of Norbiton: Goodness, okay. I offer my sincere apologies to the noble Baroness and perhaps *Hansard* will go back and scrap all of that.

I shall carry on about the environmental statements, which are of course very important. I can assure the noble Baroness that they are of a high quality. However, I shall turn now to ancient woodlands because I sense that this is an issue that we may return to a number of times. I agree that ancient woodlands are very important, but there is some context here. We have some 52,000 ancient woodland sites in the UK, and of those 52,000, some 62 will be affected by HS2. It is the case that we can do things to mitigate the impact on ancient woodland. I was quite surprised to learn that not only do we have a planting regime in place, which we will learn from and improve on—and we can quiz the HS2 environment director on it—but we also propose to move the actual soil to a new place.

Baroness Young of Old Scone: The evidence for the preservation of ancient woodlands simply does not exist; it is a myth, and I do not think that we should be misleading the House in this way. While I am on my feet, I should say that I have met endlessly with the HS2 environment team. Although there may be a large number of fragments of ancient woodland so

that this looks like a comparatively small number, the reality is that most of those fragments have been very bisected and diminished by development, and we are continuing on that merry way to the point where shortly we will have little ancient woodland worthy of the name.

Baroness Vere of Norbiton: I thank the noble Baroness for her intervention. I suspect that we are not going to wholly agree on this matter, but if I can do anything at all to bring us closer together, I shall be pleased to do so. I believe that earlier the noble Baroness mentioned Whitmore Wood, which I have also had the pleasure of seeing. The Select Committee in the other place did consider whether the project should tunnel under the woodland, but it decided that that did not represent value for money. An assurance was given to reduce the impact on the ancient woodland by 0.5 of a hectare. However, the Select Committee of your Lordships' House may look at this issue again.

Lord Adonis: My Lords, can the noble Baroness answer the question put to her on precisely when the review will be published?

Baroness Vere of Norbiton: I cannot do that with great precision. I believe that the noble Lord, Lord Rosser, mentioned that the original length of the review was six weeks. We should take that period in the context of a couple of months or a month. It is not six weeks on the dot, from day one to the end, although it may well be. The point is that the panel has had to be set up and appointed and the terms of reference were published on 21 August. Given that, I will stick to the autumn of 2019. As noble Lords will be aware, it is a bit chilly outside now, so autumn is coming. However, I probably cannot go much further than that. As I say, the review will be published shortly or in due course. No doubt noble Lords will soon ask me about this again in Oral Questions. However, it is under way and it is a short review.

I want to cover briefly the issue of tenant compensation, which I realise is important to the noble Lord, Lord Tunnicliffe. There will certainly be an opportunity to discuss it further before we reach the next stage of the process. Due to the route of the proposed scheme, phase 2a affects mostly rural residents, many of whom are tenants of their properties or land. Most types of tenants who will be impacted by the scheme are already provided for under existing compensation law, but where they are not, the Government are able to use their flexible non-statutory arrangements to provide support. That is probably not sufficient detail for the noble Lord, and I agree that we will take the issue further forward.

I want to comment briefly on a comment made by the noble Baroness, Lady Kramer, about British Steel. I understand the concerns of the noble Baroness, but none the less the Crown Commercial Service steel procurement policy requires bidders to outline their steel supply plans and it will award all steel contracts through open competition.

Lord Tunnicliffe: Perhaps we may have a straightforward answer to the request that there should be a moratorium on felling in ancient woodland sites until the report is available.

Baroness Vere of Norbiton: I am not able to provide that certainty at this moment, but I will undertake to establish exactly what enabling works or felling will take place, whether that is of ancient woodland or otherwise, within the period that we anticipate the review will take to be carried out. I will write to the noble Lord and place a copy of the letter in the Library of the House.

This is the start of the proceedings on this Bill. I look forward to many further discussions both within the Chamber and without the Chamber. For now, I beg to move.

Bill read a second time and committed to a Select Committee.

High Speed Rail (West Midlands– Crewe) Bill

Motion to Agree

6.08 pm

Moved by Baroness Vere of Norbiton

That if a bill in the same terms as those in which the High Speed Rail (West Midlands–Crewe) Bill stood when it was brought to this House in this session is brought to this House from the House of Commons in the next session—

(a) the proceedings on the bill in the next session shall be pro forma in regard to every stage through which the bill has passed in this session;

(b) any petition deposited against the bill in this session shall be taken to be deposited against the bill in the next session; and

(c) the Standing Orders of the House applicable to the bill, so far as complied with or dispensed with in this session, shall be deemed to have been complied with or (as the case may be) dispensed with in the next session.

Motion agreed.

Northern Ireland (Ministerial Appointment Functions) (No. 2) Regulations 2019

Motion to Approve

6.09 pm

Moved by Lord Duncan of Springbank

That the draft Regulations laid before the House on 11 July be approved.

Relevant document: 57th Report from the Secondary Legislation Scrutiny Committee.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy and Northern Ireland Office (Lord Duncan of Springbank) (Con): My Lords, this Government are committed to the Belfast agreement. As I have said on many occasions, restoring a power-sharing Executive remains our key priority in Northern Ireland. Northern Ireland needs the fully functioning political institutions of the Belfast agreement and its successors. That being said, in the absence of devolved government, the UK Government continue to have a responsibility to ensure good governance in Northern Ireland and that public confidence is maintained.

In November last year, legislation was brought forward, which among other measures addressed the need for urgent appointments to be made to a number of public bodies. At the time, the Secretary of State gave a commitment to make further appointments that may arise in the absence of an Executive. A statutory instrument was subsequently approved by the House in February 2019 which added six further offices to the 2018 Act. This new instrument specifies further critical offices to be added.

In preparing this instrument, my officials have worked closely with the Northern Ireland Civil Service to identify those appointments that will arise between now and the end of the year. This instrument would add to the list in Section 5 of the Act, thereby enabling the Secretary of State—as the relevant UK Minister—to exercise Northern Ireland Ministers’ appointment functions in relation to the following offices: the board of the Northern Ireland Council for the Curriculum, Examinations and Assessment, the board of the Consumer Council for Northern Ireland, the board of the Northern Ireland Transport Holding Company or Translink, the Drainage Council for Northern Ireland, the Agricultural Wages Board for Northern Ireland, the board of National Museums Northern Ireland, the Historic Buildings Council for Northern Ireland and the Arts Council of Northern Ireland. The instrument would also enable the Lord Chancellor to make Queen’s Counsel appointments. These are necessary and time-critical and, on that basis, I beg to move.

Lord Hain (Lab): My Lords, all our debates, such as this one on the Northern Ireland (Ministerial Appointment Functions) (No. 2) Regulations, are in the context of the continuing absence, as the Minister acknowledged at the start, of an Assembly and the Executive. Although he has repeated his determination to get it up and running and we support him in that object, the increasing and alarming prospect is, instead, of a calamitous no-deal Brexit. In my view, that will lead inevitably to direct rule, not least to provide the necessary civil contingency and security powers which the civil servants currently administering Northern Ireland simply do not possess. That is shown by these regulations. They do not have the power, without us passing this secondary legislation, to make these appointments; they are certainly not going to have the power to deal with problems around the border of the security and civil contingency kind. Indeed, I heard the former Deputy Prime Minister David Lidington say recently on the BBC Radio 4 “Today” programme that there would have to be direct rule in advance of

31 October in order for Northern Ireland to function properly. In their own small way, these regulations are a dress rehearsal.

I believe that direct rule would be little short of disastrous for Northern Ireland and the progress that has been made since the Good Friday/Belfast agreement. One of the great achievements of that agreement was to dilute, if not completely remove, the toxicity of identity politics in Northern Ireland. It also helped cement relations between the UK and Ireland. Citizens of Northern Ireland could be Irish or British or increasingly Northern Irish as they chose and the invisible nature of the border was central to that, particularly for nationalists and, above all, for republicans. That is changing and a DUP-backed right-wing British Government exercising direct rule may not take us back to the violence of the past—I certainly hope not—but it will immeasurably damage the prospects for long-term stability and reconciliation. The notion that this can be a cosy domestic arrangement between the DUP and the Government is in itself absurd.

Effectively, you have one party out of all the parties in Northern Ireland, that does not command a majority percentage of the votes, wagging the tail of the Government in a direct rule context. If direct rule has to happen—and that is a terrible calamity in itself—then under the Good Friday agreement the Irish Government must be constantly consulted on all major policy decisions and be seen to be consulted. Perhaps the Minister can confirm whether the appointments made under these regulations will be done with full consultation with the Irish Government. The alternative with the DUP in alliance with the Government would be to undermine the Good Friday/Belfast agreement and all the progress that has been made since. After painstakingly moving to a place where both communities felt more equal, this alliance suggests that one community—or perhaps one part of one community—again has the advantage over the other.

The Good Friday agreement is an international treaty and under it the Irish Government must be consulted through the British-Irish Intergovernmental Conference or BIIGC. A formal institution of the agreement, just like the others, it must meet regularly and our Government must no longer convey the reticence and nervousness they showed around their few meetings since the summer of 2018. I hope the Minister will take that point back. They must not pander to one party in Northern Ireland which does not like this institution. Instead, they must display the “rigorous impartiality” the agreement requires. I say that not just as a former Secretary of State for Northern Ireland who had to be an “honest broker” to get Ian Paisley and Martin McGuinness—bitter old enemies—into power together to govern Northern Ireland jointly. The former Conservative Prime Minister Sir John Major said the British Government had to be an honest broker to take the peace process forward and bring everybody together. They no longer are.

6.15 pm

I say this not to make a political point but very seriously as the Secretary of State through the last period of direct rule in the 2000s. I thought I was the

last direct rule Secretary of State and said so on the record. How wrong it looks I was. It was a difficult and delicate time during which we all learned that once you go into direct rule it is very hard to come back out of it. To do otherwise would put at risk the progress that has been made since the parties and the two Governments came together in that historic agreement in 1998. I say to my friends in the DUP—and I have lots of friends in the DUP—who say that they would welcome direct rule, as I heard Jeffrey Donaldson say, again on the “Today” programme recently, they need to be careful what they wish for. They may well find that English nationalists—that is who we seem to have in power under Boris Johnson at the moment—are no more sympathetic to their cause than Irish nationalists in the long term. They must know that the proof of this came earlier this year when the then Back-Bench MPs, Boris Johnson, Jacob Rees-Mogg and Dominic Raab—now in the Cabinet—among others, broke personal promises to the DUP and voted for Theresa May’s Brexit deal the third time it was put to the other place. As the now leader of the House Jacob Rees-Mogg draped himself over the Front Bench as if he were back in the common room at Eton, you can be sure that he was not thinking about the impact of his kamikaze Brexit on sheep farmers in Fermanagh.

It is my view there is no such thing as a good Brexit, either economically or politically, for the people of Northern Ireland. However, a no-deal Brexit threatens everything that successive British Governments worked for up until the Cameron Administration foolishly decided to revert to the hands-off policy that helped get us into this catastrophic mess in the first place. I call on the Government to redouble their efforts to restore devolution, but twice of very little is not enough. It will take much more than that but the first essential step is to stop a no-deal Brexit before it is too late. I hope that the noble Lord will confirm that he will give due credence to the British-Irish Intergovernmental Conference in the event of direct rule and that regulations such as this will be consulted on through that process, and that the appointments he is going to make under these regulations will also be consulted on to ensure that there is buy in and cross-community support.

Lord Empey (UUP): My Lords, the appointments being added to the list include such things as the Drainage Council for Northern Ireland. If the noble Lord, Lord Hain, is seriously saying that the Irish Government need to be consulted about that, that amounts to joint authority. It is not a requirement of any of the treaties or the 1998 Act. The two Governments can consult at a council that can meet periodically. That is fair enough but we must be well aware of the three-stranded process. Its integrity is the core of the agreement.

I join the noble Lord, Lord Hain, in expressing concern about the direction of travel. I had been given the impression that talks were going at white-hot pace during the summer but that is not the case. If my information is correct, the last all-party meeting was on 5 July, which was before we left this place for the summer. I stand to be corrected, and if the Minister does so I will be more than happy to withdraw that point, but that is my understanding. There have been

one or two relatively casual meetings of working parties on programmes for government and so on, but certainly in the last two weeks of August there was one interaction in one week and one in the other.

It is true that there have been some bilateral talks between the DUP and Sinn Féin but I repeat that there is no proper process, although I stand to be corrected on that also by the Minister. The two meetings on 5 July and 9 September are sufficient evidence that there is a lack of urgency, drive and ambition. Although I have no particular issues with any of these appointments—I do with some of the recent appointments but that will come up in a later debate—I say to colleagues that devolution will not be restored unless there is a proper process that is organised, timetabled and properly run. This ad hoc approach—we will meet now; we will meet again; maybe we will, maybe we will not—will not deliver. During our debates before the recess on the Executive restoration Bill, a number of us said that some of the proposals in that legislation would not assist the process of restoring the Executive, and so it has proved. We are now closing up shop until the middle of October but there are two other things that need to be borne in mind.

Unusually, the leader of Sinn Féin in Northern Ireland is to be challenged for her position in November. I do not believe that Sinn Féin has the remotest intention of doing anything until Brexit is resolved, and certainly I cannot see that happening when its leader in Northern Ireland is facing a challenge from outside. Therefore, it looks as though we will arrive at the third anniversary of Stormont being closed in January, with no Government and so on.

The noble Lord, Lord Hain, referred to the wider issues of direct rule. Personally, I do not have a preference for direct rule. We worked hard to get Stormont going again and to get devolution, and the fact that people have messed it up is another matter. However, there is one issue which I keep drawing to the House’s attention. I ask the Minister, with his right honourable friend the Secretary of State, to consider our health service, which is in dire straits.

There are 7,500 vacancies in the health service in Northern Ireland for 3% of the UK’s population. Noble Lords can do the maths. That goes for nurses and doctors and applies right across the whole card. Our system has been kept going by locums—people brought in by agencies at enormous expense. One person working on a ward at night will be from an agency on X amount of money and one will be from the regular health service staff on Y amount of money, which is far less. It is unfair and unreasonable. Naturally enough, nurses are going to these banks and agencies and are being brought in as locums. Some of them are flown over from Newcastle upon Tyne and other locations. They are perfectly good people but their flights, accommodation and food have to be paid for, and of course they come into a ward and do not know anybody. This is becoming a humanitarian crisis.

With a new Session of Parliament coming up, I have asked the Public Bill Office to prepare a Bill for me, which I hope to put into the ballot. I remind noble Lords that in the last three ballots I got positions one, one and five, and I am hoping to improve on that. The

[LORD EMPEY]

Bill would transfer health, social services and public safety powers from Stormont to here, and it would have a sunset clause whereby immediately upon the establishment of the Executive those powers would revert. We did that some years ago with social security when there was a disagreement at Stormont and those powers were returned. I appeal to the Minister: the waiting lists have become absolutely ridiculous. Professor Deirdre Heenan of Ulster University was part of a Nuffield Trust study that a few weeks ago produced sobering figures, to say the least. People are hurting and I think that lives are being lost while we fiddle around with this issue. If the best effort is a meeting of the leaders of all parties on 5 July when we are in the middle of all this, there is something radically wrong. If I have missed the boat and secret talks that I am unaware of have been going on somewhere, I will be glad to hear that, but I suspect that I am not very far wrong.

Therefore, I say to the Minister that I do not have any particular difficulty with the appointments that we are talking about, but if we can bring legislation—even though this is secondary legislation—before this House to appoint the chairman of the Drainage Council, why can we not do something about the suffering of people in the health service and the fact that that service is being allowed to go down the drain? The spending priorities set by the outgoing Executive are five or six years old and no longer match the current needs and requirements of our community. Therefore, I appeal to the Minister to speak to his right honourable colleague in the other place and to seriously consider this matter. I do not want to see direct rule a day earlier than the noble Lord, Lord Hain, does—I have the same reservations—but this is a humanitarian issue; it is a matter of life and death. This Parliament has a responsibility to people for their health and safety but that is not being exercised.

Lord McCrea of Magherafelt and Cookstown (DUP): My Lords, I have listened with great care and interest to the speeches of the noble Lords, Lord Hain and Lord Empey. If either noble Lord has any magical formula to restore Stormont, I will certainly be very glad to hear it. However, there seems to be no magical formula because Sinn Féin, with the collaboration of this House, has been handed the keys of Stormont.

Let us make no mistake: same-sex marriage and abortion, as debated and legislated for recently, were two of the key demands of Sinn Féin. This House agreed to them, and if Stormont were not returned by 21 October, the legislation would be enacted. This House and the Government were warned that, in so doing, they were keeping the doors of Stormont closed because Sinn Féin has no reason to allow them to open. If Stormont returns, these issues can be debated. I know that on abortion there is a genuine desire across the political divide to see the changes in the legislation that came before the other House and this House. Rather than blame everyone else, this House has to accept part of the blame because it handed to Sinn Féin the reason for not returning to Stormont. It is therefore not good enough for people to do a pilot Act, wash their hands and suggest that the parties in Northern Ireland are responsible for the present hiatus.

The noble Lord, Lord Hain, mentioned and warned about the DUP being in cahoots with this Government, influencing and collaborating with them. I remind the noble Lord that the leader of his party collaborated with Sinn Féin—the IRA Army Council—when they were in the midst of terrorist activity, against honourable Members of this House and others in our friend and family circles who were murdered and injured. To suggest that there is somehow a great danger in the Government and the Democratic Unionist Party working together and not see the danger—what the people of Northern Ireland witnessed in their darkest days—of the then Government collaborating with Sinn Féin was certainly very hard for any democrat to take.

It certainly does not go well for some noble Lords in this House to accept what the noble Lord, Lord Hain, is saying.

6.30 pm

Lord Hain: I am very grateful to the noble Lord, with whom I worked very closely in the past as Secretary of State, as he will acknowledge. I understand the specific point he has just made. I was simply making the point that the British Government have to be an honest broker to do this job properly. I would make the same point if it were the UUP or the SDLP—if it had any representation any more—in an alliance with the Government. You cannot be an honest broker if your majority depends on one particular party. That is the point I was making—not an anti-DUP point but one about an honest broker.

Lord McCrea of Magherafelt and Cookstown: I thank the noble Lord for his remarks. However, I cannot see how this House—never mind the Government—was an honest broker when it handed two of Sinn Féin's major demands to it on a plate to ensure that the doors of Stormont would remain closed until after the deadline in October. These two major social issues were the responsibility of the elected representatives of the people of Northern Ireland. This was accepted by all, even the courts.

I certainly want to see the return of devolved government in Northern Ireland. However, I ask the Minister to confirm that the appointments to the various bodies being discussed are internal matters for the people of Northern Ireland and the Government of the United Kingdom and that the internal affairs of Northern Ireland are therefore not the responsibility of the Irish Republic. I have no doubt whatever that there should be the closest co-operation between Her Majesty's Government and the Government of the Irish Republic—I welcome it—but they should not interfere in the internal matters of the people of Northern Ireland.

Lord Dubs (Lab): I would like to say a little bit about this debate. First, I very much agree with what my noble friend Lord Hain said. I do not need to repeat it.

I have enormous sympathy with the campaigning for the health service of the noble Lord, Lord Empey. It is a really crucial issue. I give him full credit for having raised it on numerous occasions. I am not sure

that the matter is not too urgent for a Private Member's Bill in the next Session—that is the only thing I would say. It is such an important point and a sign of the political vacuum in Northern Ireland.

I turn to the noble Lord, Lord McCrea. We will have a chance to talk a bit about abortion in a later debate this evening. He says that something has been handed to Sinn Féin on a plate, but it took years before Sinn Féin came around to supporting abortion. It is a fairly recent thing. I think it did it only because it realised that public opinion in the Republic was in favour of it. I certainly never saw abortion as an issue that the Sinn Féin people from Northern Ireland were keen on. I used to talk to them about it when they came here for their many lobbying activities. I do not think it is quite as the noble Lord said, but I agree that its policy then changed and it is now in favour of abortion.

Lord McCrea of Magherafelt and Cookstown: Does the noble Lord not realise that it was one of the demands that Sinn Féin made—one of the red lines that it drew to attention—before Stormont could be returned?

Lord Dubs: I am not sure how many red lines there were. Sinn Féin must be asked somewhere else to speak for itself, I suppose. It is not for me to try to quote what I thought was wrong with its policy. All I am saying is that my sincere understanding was that it was not keen on abortion over a period of years. I used to say to the Sinn Féin people who came over, “What about your party being as progressive as it claims to be and taking a stand on abortion?”, and they did not. It has been only a fairly recent thing, since the Irish referendum got momentum. I am not sure how relevant that is to the debate here now.

We of course accept the need for these appointments to take place and regret the necessity of it being done in this way. I ask a question of the Minister which has been referred to recently. My memory of when I was a junior Minister there many years ago—it was a long time ago—was that the Government in Dublin could put forward their suggested people to be considered for public appointments in Northern Ireland. It did not mean that we took notice of it or appointed the people, but it was simply one other contribution to the mix of possible candidates we looked at for particular jobs. I wonder whether that is still the case.

Are we simply rubber-stamping reappointments of people already in posts, or are there some new appointments listed in these regulations? If so, is there an appraisal process—in other words, an equal opportunities system for interviewing and appointing people—if we are not reappointing people who would normally expect to have a second term in office?

Some of these bodies are quite important. I had involvement with several of them in my time as a Minister. I was particularly interested in the Historic Buildings Council. If I may digress slightly from the main point here, when I got to Northern Ireland, there was a mentality of, “Get rid of these old buildings. Let's just bulldoze them away and put up new ones”. This was a long time ago and I hope that I am totally out of date. I think that the people who argued like

that—some of them did—did a total disservice to Northern Ireland. It was a job to resist the pressure to get rid of listed buildings because people said, “We've got to do that. They're standing in the way of progress”. For people who support historic buildings, the skill is to say, “We'd better be clever and find a proper use for historic buildings so that they can be maintained in their historic beauty and yet are economically viable in their new situation”.

I regard some of these appointments as pretty important. I am very concerned that the people in these positions—or who will fill them, if they are new appointments—will have a real commitment to historic buildings and the other areas we are debating.

Who gets these key jobs is very important. It is so regrettable that this is where we are. It is such a massive regret that we have not been able to move forward. If I have a chance in the next debate, I would like to repeat some of the things we have said in the past about how we might move forward. In this House, saying something twice is tenable over six months but probably not in one evening. I will leave it at that.

Baroness Harris of Richmond (LD): My Lords, I thank the Minister for introducing this statutory instrument. As we have seen, with the lack of any operational Executive in Northern Ireland for the last two years, it is now necessary for Ministers here to make those key appointments to offices in Stormont and to make strategic legislative interventions to ensure good governance once again in Northern Ireland; this should have been exercised by the Executive themselves and we hope it will be again as soon as possible.

At this point, I make note of the comments of the noble Lord, Lord Empey, about the health service in Northern Ireland. It is indeed quite shocking that so many vacancies exist; we really must do something to help the situation. We have been here before. Back in February we approved the appointment functions of several key offices: the Attorney-General for Northern Ireland; the Commissioner for Children and Young People for Northern Ireland; member of the Commission for Victims and Survivors for Northern Ireland; member, chair or vice-chair of the Northern Ireland Housing Executive, et cetera. This statutory instrument adds nine other offices to those in which the appointment functions of the Northern Ireland Minister can now be exercised by the relevant UK Minister.

My noble friend Lord Bruce of Bennachie, who is unable to be present in your Lordships' House this evening, and who spoke on these matters at the time, said that,

“effectively we are going on and on in this limbo of democratic nihilism ... having to institute ad hoc measures as and when necessary to fill the gap in the absence of real political initiatives”.

He asked what practical steps the Government would take to ensure that we would not get to the end of August without having reached a position where functioning decision-making by the elected representatives of the people of Northern Ireland could return. He added that,

“a Secretary of State in a UK Government who are propped up by a hard-line unionist party in Northern Ireland is likely to find the perception of her office somewhat compromised ... is it not

[BARONESS HARRIS OF RICHMOND]

time to find some independent authority that might bring parties together and start to identify what it would take to break the deadlock and get things back to normal?"

He asked,

"what were the criteria that made these urgent, and what other appointments are coming down the track that may require us to be back here in the very near future?"

Now we know. He continued by asking,

"what assurances can we have that there is any reasonable momentum to try to ensure that we get the political process back?"

The Minister, in response, told the House that,

"the appointments have been identified by the Northern Ireland Civil Service. The principal criterion for that identification was obviously timing".

He said that on Friday 15 February, all the parties had gathered together in Northern Ireland for the first time in more than a year, in,

"an attempt to move things forward in a fashion which would ultimately lead to the creation of a sustainable Executive".—[*Official Report*, 18/2/19; cols. 2041-45.]

Yet here we are again. The Government's Brexit chaos is constantly distracting from the real issues affecting citizens across the UK, and the formation of a Northern Ireland Executive is crucial to stability in the region. We are deeply concerned about the progress being made towards restoration and urge the Minister to do all he can to stress the urgency of this to the Prime Minister, who obviously has other things on his mind at the moment.

We will discuss these issues in more detail in the debate to come later today, but can the Minister give any update on the Government's efforts to make progress on the restoration of an Executive in Northern Ireland? The last time an instrument under the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 was deployed, my noble friend Lord Bruce asked the Government to think outside the box for solutions to the issues at hand. I echo this plea. Have there been any efforts to find an independent authority to try and bring the relevant parties together?

Finally, does the Minister foresee any further appointments being made in the near future? Is he confident that Parliament can prorogue without any outstanding matters to be addressed? We very reluctantly agree to this statutory instrument going forward.

Lord Cormack (Con): My Lords, I want to speak only briefly as I hope to contribute to the later, main debate. I just want to take up the last point made by the noble Baroness, Lady Harris of Richmond. Even had we had the so-called Conference Recess, we would have been sitting throughout this week, up to and including Thursday, which would have given us time for a whole day on Northern Ireland. Would that be too much when we have the ultimate responsibility in this Parliament during the continued and deeply regrettable absence of an Executive and Assembly in Northern Ireland?

6.45 pm

I believe it is wrong, indeed positively indecent, for this Parliament to abdicate its responsibilities this week. I also believe proroguing is wrong, because it not only takes away the week before the Conference

Recess but takes away the Conference Recess itself, in a very special way. During a recess, Parliament can be recalled and Select Committees can sit. We are going into a state of suspended animation where it is virtually impossible to reassemble Parliament, other than in certain circumstances such as when there is a great national or international crisis; of course, many of us would argue that there is a great national crisis now. I am not in any sense directing one iota of criticism at my noble friend Lord Duncan, for whom I have enormous respect, but it is shameful that the Government are silencing Parliament on every issue for five weeks. I felt that I could not allow this debate to come to an end without saying that. I say it for one specific reason concerning Northern Ireland: the eloquent plea made by the noble Lord, Lord Empey, on the health service. It should not be beyond the capacity of the United Kingdom Parliament to call together perhaps a Joint Committee of both Houses—working with the committee that I had the honour of chairing for five years in another place—to put something in place that would alleviate at least some of the problems to which he referred.

I have become increasingly ashamed and embarrassed over the last few weeks; tonight does not lessen either my shame or my embarrassment.

Lord Morrow (DUP): My Lords, I will be brief but I want to say one or two things. I listened to the noble Lord, Lord Hain, extol the virtues of the Assembly. I am not going to say anything negative about it except, simply, that to date it has failed to provide a working Executive. I will say no more than that. Regarding what the noble Lord, Lord Empey, has said, I find myself generally in agreement. Perhaps he has oversimplified things but, nevertheless, I know he is sincere in what he says in relation to the health service. Our health service is in dire straits. He does not exaggerate when he says that. Furthermore, our waiting lists are growing by the day. He also said that there could even be deaths as a result of the state of our health service.

We are a devolution party. We want devolution tomorrow. We have declared no red lines over its return. Any issues announced by any party can be discussed around the Stormont table and Assembly at any time. We have not said, "This can't be discussed" or "That can't be discussed". We have said no such thing. Bring the Assembly back tomorrow and we will be there. I suspect that we would be the first through the doors, because we strongly believe in devolution as the best way forward for Northern Ireland. I ask the House to take cognisance of that.

We have heard from the Lib Dems the idea that the Conservative Party is in cahoots with a right-wing unionist party. Yet not that long ago those same Lib Dems were in cahoots with the Conservative Party—and we saw the disaster that that was. Some may point and throw stones, but those who live in glass houses should not throw stones, because they will discover that those stones will crash through their own glass house one day. My colleagues and I are a bit tired of taking lectures from a failed identity. Please restrain and refrain, and work with those of us who want devolution restored.

Lord Murphy of Torfaen (Lab): My Lords, this is a short debate and an important one. The Opposition will support the Government on the regulations, for obvious reasons, because appointments in Northern Ireland could not be made unless we did. But the Minister must be aware from the tone of the contributions made in the past hour that this debate is really about the restoration of the institutions in Northern Ireland.

In a sense this regulation is a precursor to direct rule, and we are drifting drearily and inexorably towards that. That would be calamitous. I was a direct rule Minister in Northern Ireland for five years. I enjoyed being there, and I enjoyed doing the job—but it was quite improper that I was doing it. If we have direct rule it will mean an English, Welsh or Scottish Minister, or a combination of such Ministers, taking decisions in Belfast for people who live in Northern Ireland. That is wrong, in every democratic sense.

The Minister's new boss is apparently on resignation watch, according to the newspapers this morning, on the basis that he is—quite rightly—troubled by the fact that if there is a no-deal Brexit there will be, as my noble friend Lord Hain has said, no proper Government in Northern Ireland to deal with the enormous problems that would result from the catastrophe of no deal. We cannot leave the government of Northern Ireland to civil servants in those circumstances.

When the Minister and his Secretary of State go back to Belfast, can he not make it plain to the political parties in Northern Ireland that we are now in a situation totally different from the situation two months ago, and that urgency and intensity are necessary to bring about the restoration of the institutions, because of Brexit? Brexit dominates everything, and during the past three years the Brexit negotiations in Brussels and London have been skewed because there have not been parallel negotiations regarding Northern Ireland. It is my view that, had there really been a resolution of the problems in Northern Ireland, we could have dealt with the backstop in a very different way. If that had happened—if there had been an agreement in the Assembly and the Executive on what to do about Brexit—that would have helped towards the resolution of the whole Brexit crisis. But it was not to be.

There are, of course, those on the nationalist republican side in Northern Ireland who think that continuing chaos on Brexit and no deal would make a drift towards a united Ireland more likely. There are also those on the other side of the political community there who feel that, somehow or other, they become more British if we leave the European Union. I am not saying that those ideas are right or wrong; I am simply saying that they make the resolution of the problems there much more difficult.

As my noble friends Lord Hain and Lord Empey, and the noble Baroness, Lady Harris, have said, the talks have no shape: there is no structure. Every successful talks process in Northern Ireland has had a proper structure. But now there is none. Over the past six months we have begged the Government to find an independent arbiter or chair. We have begged them to ensure that all political parties sit round the same table to talk about the future of Northern Ireland. And of

course, we have begged the Prime Ministers both of Ireland and of the United Kingdom to involve themselves much more intensely in the negotiations, as has happened historically over the last 30 years.

We are in a pretty awful mess—not just the mess of Brexit but the mess of what is how happening in Northern Ireland. I hope that the Minister, for whom I have the highest regard, and the new Secretary of State will be able to go back within days to Belfast and ensure, in their ministerial meetings, that there is a proper structure to the talks, to avoid the calamity that is on its way.

Lord Duncan of Springbank: My Lords, I have stood here many times and my words are often repeated back to me—and with each passing few months the words become less and less tenable. I said earlier that we need to be very clear that good governance must be at the heart of our ambition for Northern Ireland. I do not think it would be unfair to say that all the parties need to recognise that we are at the very stage when the opportunities for delay are falling away.

The noble Lord, Lord Empey, asked when the parties had last met as a gathering of five. The answer is: in the first week of August. I take no pride in saying that. I do not think that that is much better than the date that the noble Lord suggested. Since then, my right honourable friend the Secretary of State has been conducting bilateral discussions in an attempt to restore that Executive. One would think, I suppose, that if we cannot restore it now, when such vital issues are at stake, if, against that backdrop, those parties cannot recognise that now more than ever their voices would have been valuable—might, indeed, have been instrumental—we do begin to wonder whether those parties will ever find a way through to restore an Executive. And if those parties cannot restore that Executive, which is so needed, for the very issues raised by the noble Lord, Lord Empey, other means must be found.

Let me take up some of the points raised by noble Lords today. We are talking about appointments that are necessary, and the noble Lord, Lord Dubs, asked how they are pulled together. There is indeed a mix of appointments—both reappointments and new appointments. I can now tell your Lordships how they break down. A competition is due to be carried out for the chair of the Northern Ireland Transport Holding Company. Open competitions have been carried out to identify suitable candidates for appointment to the Northern Ireland Council for the Curriculum, Examinations and Assessment, to the General Consumer Council for Northern Ireland, to the Agricultural Wages Board for Northern Ireland, the Board of National Museums and the Historic Buildings Council. Competitions are due to be carried out to identify candidates for appointment to the Northern Ireland Drainage Council and the Arts Council of Northern Ireland.

Every effort is made to ensure that the people concerned are qualified individuals. I am aware that there may be some controversies about some of the earlier appointments; we may come on to that in our later discussions. I am aware that some remarks were

[LORD DUNCAN OF SPRINGBANK] made about the Drainage Council. In truth that is a vital body, because it looks after waterways, sea wall defences and so on. I cannot think of anything more important, as we consider climate change.

The noble Lord, Lord Hain, asked again about the role of the British-Irish Intergovernmental Conference. I believe that if we do indeed find ourselves in the darker waters of direct rule, that will be a vital component. As for the involvement of the Irish Government with these appointments at present, the noble Lords, Lord Empey and Lord McCrea, are correct: these are domestic matters and would not involve that external consultation. However, I recognise the point they are making, which is about finding the greatest consensus in the communities of Northern Ireland; I believe that is exactly where they are coming from.

The noble Lord, Lord Empey, has put forward a Bill to examine the NHS in Northern Ireland. He is right to raise that subject. Professor Deirdre Heenan has written a devastating report which is, for any noble Lord who takes the time to read it, very troubling, for obvious reasons. This is an area of fully devolved competence that is in a bad state of play. We have made every effort that we can within the constraints that we face, but at the same time we are limited in what we can do on this issue. I commend the noble Lord as he brings forward that Bill, and I hope that we are in a position to address it as a matter of some urgency.

7 pm

If I may, I will skip to the very end of the debate. I welcome the support of the noble Lord, Lord Murphy, and, I believe, the entire House for the appointments. As for the question of the talks themselves lacking a structure, the latter part of the talks has actually been quite structured. There has now been a series of what we would term break-out constructions under an independent chair, not someone drawn from the Government or indeed from the parties of Northern Ireland, who has sought to facilitate that communication. In truth, the parties are still coming together, which is a welcome improvement on discussions that we have had in the past when, as I have told the House, we could not even get them round the table. In fact, and noble Lords might even recall the occasion, the last time that I was able to stand here and say that they had gathered together was at the *PinkNews* event at Stormont, which was not a bad way of gathering but a reminder that sometimes external factors can bring them together more successfully than can the Government, which is in itself a deeply troubling reality.

My noble friend Lord Cormack said that we should have devoted a whole day to this issue. I am slightly troubled by the prospect of a whole day spent looking at this, for reasons that I hope my noble friend will appreciate, but I note his sentiment, which is that we need to be clear that these issues, which we have debated on a number of occasions, would be far better in a restored devolved Assembly that could spend not just a whole day but every day debating them because that would be its principal function.

I welcome the comments from the noble Lord, Lord McCrea, about the DUP having no red lines. Irrespective of that, I fear that we have not yet been able to find any way of brokering the ultimate agreement and there remain issues of substance. I believe that those issues can be corrected and brought together, but at the present moment that has not been done. As I said earlier, if Brexit, the situation in the NHS, the wider questions that we have touched on in this House on a number of occasions and indeed the questions of same-sex marriage and abortion are not incentive enough to bring them back together, that begs the question of what on earth would. However, we must make every effort to make that happen.

I have considered the points raised by the noble Baroness, Lady Harris, and I had a brief chat with the noble Lord, Lord Bruce, earlier today on a number of these issues. He talked to us again about thinking outside the box. I myself have used a box analogy myself many times: we appear to be trapped in a box with no light, and it is dark. That seems to be where we are right now, and until we can get through that we will continue to experience this sort of event, which I take no pride or enjoyment in doing. These are necessary steps for Northern Ireland's good governance, drawing upon a previous Act that needs to be moved forward. I welcome noble Lords' support for bringing that about.

We are approaching the point at which no doubt my words will come back to haunt me, but I must say again: this cannot go on. The people of Northern Ireland are the ones who are suffering from the lack of a devolved Government, and that cannot go on. The question is how it will come to an end, and on that point I am afraid I do not know the answer. I return to the reason why we are here today. I know we have another debate to come, but on the issue of the appointments I believe that they are necessary and timely. I would like to say that this will be the last time that this will be done—I would dearly like it to be true and I hope it will be—and I hope noble Lords will accept that I am moving this forward because it is necessary. I beg to move.

Motion agreed.

Government of Wales Act 2006 (Amendment) Order 2019

Motion to Approve

7.04 pm

Moved by Baroness Bloomfield of Hinton Waldrist

That the draft Order laid before the House on 11 July be approved.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, this draft order amends the consent requirements in Schedule 7B to the Government of Wales Act 2006 in respect of electoral registration officers. It also makes clear how this amendment interacts with the provisions in the Welsh Ministers (Transfer of Functions) Order 2018 so that functions over EROs are transferred to Welsh Ministers.

There was a drafting error on an early version of the Order Paper today. For clarity, I confirm that this SI appeared before the JCSI on 4 September and no points were raised.

The UK, Welsh and Scottish Governments have committed to reforming the annual canvass process. These reforms will improve the ability of EROs to identify those properties where household composition has changed, allowing them to target resources towards those properties. Electoral registration officers are appointed under Section 8 of the Representation of the People Act 1983, and under the Welsh devolution settlement are classed as reserved authorities. This is because, while they exercise functions in relation to Assembly and local government elections in Wales that are devolved matters, they mainly exercise functions in relation to reserved polls.

Paragraphs 8 and 10 of Schedule 7B to the Government of Wales Act 2006 place restrictions on the Assembly's ability to impose, modify or remove functions of reserved authorities without the consent of the UK Government. This means that while the National Assembly for Wales has legislative competence for Assembly and local government elections, it cannot modify the devolved functions of EROs without a Minister of the Crown's consent. I assure noble Lords that this was not the Government's intention. A small number of reserved authorities are carved out of the consent requirements because, like EROs, they exercise a mix of devolved and reserved functions. These include the Electoral Commission and the Food Standards Agency.

Article 2 of this order addresses that issue by adding EROs to the lists so that in future the Assembly can modify their devolved functions without needing the UK Government's agreement to do so. Article 3 makes clear the effect of carving out EROs from the consent requirements on the Welsh Ministers (Transfer of Functions) Order 2018.

The 2018 order sought to transfer the remaining Minister of the Crown functions in devolved areas to Welsh Ministers. This includes all the functions within the devolved competence of the Assembly contained in the main pieces of electoral legislation. However, the effect of paragraph 12 of Schedule 7B to the Government of Wales Act 2006 is that the reference to the devolved competence of the Assembly in the 2018 order does not include an Assembly provision that would require the consent of a Minister of the Crown. Because of the consent requirements relating to EROs that I have already outlined, it therefore follows that Minister of the Crown functions that relate to the devolved functions of EROs did not transfer to Welsh Ministers through the 2018 order as intended.

This order therefore provides that powers to modify the devolved functions of EROs will be treated as transferring to Welsh Ministers under the 2018 order on the date that this order comes into force. This will enable Welsh Ministers to make the necessary regulations for the canvass reforms in respect of devolved polls. I welcome the positive engagement that has taken place with the Welsh Government in developing this order, which has also been laid before the National Assembly for approval. I beg to move.

Lord Wigley (PC): My Lords, I welcome this measure. Before going into any detail, I welcome the noble Baroness to her Front-Bench post; we wish her well. We know that she has a tremendous interest in Wales, and I am sure she will stand up for Wales when there are battles that need to be fought. She has a challenging role in following the noble Lord, Lord Bourne, who undertook his responsibilities in an exemplary manner and gained the respect of the whole House. I wish her as much success as he had in fighting Wales's corner, which can sometimes be an uphill struggle.

I listened carefully to the Minister's introduction. It explained why the reaction in Wales I was getting was that these powers had already been identified as coming to us, or indeed had already come. The difficulties that have previously been experienced have been met by this order. As the presiding officer, the Welsh Government and the Assembly welcome the order, I of course support it this evening. However, the way the difficulties were addressed by the 2018 provisions underlines the complexity of the devolution model in Wales, with some things being devolved and others reserved. That mixture can lead to the sort of complications we are putting right tonight. It underlines the need for a clear-cut devolution model whereby things are either wholly with Wales or not, with no grey area that can lead to difficulties.

The 2006 Act, which the noble Lord, Lord Hain, was mainly responsible for getting through, was a very significant step forward in its day. I have previously congratulated the noble Lord on getting it through Cabinet, the House of Commons and this House. However, I think he would be the first to admit that requiring an order every time the National Assembly was going to legislate in every function—an order that could be blocked by a resolution in the House of Commons or by the unelected House of Lords—was not ideal. We have moved on from that, but we seem to have a little hangover from that period in the context of what we are discussing tonight.

Finally, that whole subject has a certain resonance for me. I am present in this Chamber only because of that model. As a party, we had never taken seats in the House of Lords. We changed that at the invitation of and under pressure from the Government of the day because, as we saw it—I think rightly at that time—it was quite invidious that the unelected House of Lords could block by order a legislative requirement of the elected Government of Wales. That is why I came here. That is why we were promised at that time that we would have three people in this Chamber—a promise that was never fulfilled by either Government. That may resonate in Wales tonight.

Lord Hain (Lab): My Lords, I very much agree with the points the noble Lord, Lord Wigley, made. I too welcome the Minister to her role. I stress that the noble Lord, Lord Bourne, leaves big shoes to fill, because he spoke on Wales with an intuitive understanding and empathy from his long political experience. Despite our party differences, he spoke with real authority and I thought he was an exceptionally good Minister in this House. I wish the noble Baroness all the best in following that model.

Baroness Humphreys (LD): My Lords, I add my voice in welcoming the noble Baroness, Lady Bloomfield, to her new position on the Government Front Bench. I look forward to working with her in the future on behalf of Wales.

I am grateful to the noble Baroness for her comments on this statutory instrument and to the Government for timing its passage through Parliament to allow it to conform with the Electoral Commission's timetable for completion of voter material in association with canvass reform in Wales. This instrument is the result of the Government's consultation towards the end of 2018 that sought responses to proposals for reform of the annual canvass and removes restrictions on the Assembly, bringing Wales in line with the rest of the UK. On these Benches, we are supportive of the devolution of further powers and responsibility to Wales and welcome this move to give the Welsh Assembly Government constitutional responsibility for their EROs.

The Welsh Government are bringing forward their own regulations to apply these reforms to their local government registers. Your Lordships will be aware that legislation is in its final stages in the Assembly to ensure that, when the next local government elections take place in Wales in 2022, 16 and 17 year-olds will be permitted to vote. These regulations will ensure that 14 year-olds and 15 year-olds, who will turn 16 during the period the register is in force, will be able to register to vote as attainers.

The overall aim of the reform is to deliver a more efficient system by which EROs maintain their electoral registers with no negative effect on citizens or the accuracy and completeness of the registers. The desire to modernise the system is understandable. The present mainly paper-based system is not an efficient use of public money with its potential for EROs needing to contact households up to four times during a canvass. Experience is showing that changes over the last few years, such as rolling registration, individual electoral registration and online registration have all had an impact on how the registers are maintained.

7.15 pm

Where I do have misgivings about these reforms is in the lack of detail on the data-sharing mechanisms required to achieve the greater efficiency these proposals aim for and the lack of guidance on data handling. My misgivings began as a little niggle in the back of my mind but grew as I read an Electoral Commission report. I am grateful to the Electoral Commission for its recent report on the feasibility studies into the reforms which it carried out. In its final comments, the Commission points out its concerns, saying:

"The feasibility studies also highlighted a number of challenges that would need to be addressed before steps were taken to implement any of the reforms. These include the importance of undertaking detailed testing of potential new data sources (which would require a legal gateway) in order to determine whether the options would deliver beneficial and cost-effective results".

Crucially, it adds:

"The reforms also raise broader public policy questions about data sharing, data protection and the limits of state intervention (particularly in relation to automatic registration) that require wider debate".

Could the noble Baroness tell me when and where that debate will take place? Data sharing, data protection and the limits of state interventions are massive public policy questions which should be debated in Parliament. Will the Government bring forward further regulations to deal with these issues?

Lord Griffiths of Burry Port (Lab): My Lords, I must add my voice to others who welcome the Minister to her position. We note that the gangway is wide enough for even the longest swords not to reach each other, so I trust that we will pursue business pertaining to all of us and for the betterment of Wales in perfect amity. I do not want to intimidate the noble Baroness with all that has been said about her predecessor, but I must add my voice to those who expressed their admiration for all that the noble Lord contributed on this and other issues. I hope she will not take that as pressure in any way, but an expression of gratitude and a real welcome to her in her new role.

This is such a simple matter, but it arises from what the noble Lord, Lord Wigley, said about the complicated model that allows some activities within a related set to be on the reserved list and some not. In Wales we have not only a word but a way of saying it; this will make everything "tidy", will it not? Presently, the right to oversee elections at local level and to the National Assembly is devolved to the Assembly, but all other elections are subject to the reserved list and they have no similar autonomy. This brings everything together and is logical.

I am glad that this has happened in response to the stimulus from similar exercises being undertaken by other devolved Governments; we wish that the devolved Government of Northern Ireland were fully party to these conversations, instead of things having to be dealt with in a different way for Northern Ireland. This electoral list exercise that is being undertaken in the hope that everything will be brought together by 2020 really puts the pressure on to get these things tidied up. The things that the noble Baroness, Lady Humphreys, referred to as needing to happen will be facilitated by this, but even more needs to happen to get some of the things that she properly alluded to.

So those powers that now come together under the authority of the devolved Government of Wales and the powers that Ministers will have in the Welsh Assembly without having to resort to Ministers and the Government here in Westminster are both welcome developments. The noble Lord, Lord Wigley, says that three Plaid Cymru Members were promised, but I cannot imagine for a moment three Lord Wigleys. One really is enough. For all that, in terms of the contribution that he makes, not just to subjects related to Wales but across the entire spectrum of considerations that are before us, it is good that his party is represented and would that it were even better represented. I will just leave that with the noble Baroness.

The Explanatory Memorandum that has come to me from Cardiff, under the considerations that relate to the policy objectives to be achieved and enhanced by the measures before us, signs off with a sentence

that I find intriguing and bewildering. It says, “The remaining provisions”, without stipulating what they might be,

“would need to be made as part of the UK legislative proposals which would see the necessary statutory changes sitting within two separate SIs”.

I have done lots of examination papers in my life. If we had the word “discuss” at the end of that sentence, I wonder what the noble Baroness would have to say. It is a bit of gobbledegook but at the heart of it there may be something that we need to take note of before we approve this statutory instrument. But in terms of the general provisions, there is no hesitation on our part from this side of the House and we wish the noble Baroness well with her first electoral triumph, which she is bound to have on this occasion.

Baroness Bloomfield of Hinton Waldrist: I thank noble Lords for their valuable contributions to the debate this afternoon and for their kind words of welcome and encouragement. I am conscious that I do indeed have very large boots to fill following the departure of my noble friend Lord Bourne. All I can say is that I shall do my best.

I am glad that we have been able to tidy up this bit of legislation through the introduction of this SI. It is right that we learn from the experience of all the devolved Governments and I will take note of the comments of the noble Lord, Lord Griffiths of Burry Port. The order adds EROs to the lists of reserved authorities which are excepted from the consent requirements in paragraphs 8 and 10 of Schedule 7B to the Government of Wales Act 2006. In doing so, it will enable the Assembly to modify the functions of EROs in devolved areas in future without needing the agreement of the UK Government to do so. In line with this, it also alters the scope of devolved competence under the Welsh Ministers (Transfer of Functions) Order 2018 so that Minister of the Crown functions in relation to devolved ERO functions will transfer to Welsh Ministers. This will enable the Welsh Ministers to implement reforms to the annual canvass process in respect of devolved polls.

I acknowledge the concerns of the noble Baroness, Lady Humphreys, on data-sharing mechanisms. The new canvass model will incorporate a data step where the electoral register will first be matched against DWP and local data sources such as council tax. The Cabinet Office has consulted the Electoral Commission on the canvass reform proposals. We welcome its positive response and we will work closely with it as the canvass reforms move forward to address any such issues. As for when and where the debate will take place, I will need to get back to noble Lords on that point.

Lastly, I too would love to see more Welsh voices on these Benches but I welcome the productive work with the Welsh Government in preparing this order and I commend it to the House.

Motion agreed.

Report Pursuant to Sections 3(1), 3(6), 3(7), 3(8), 3(9) and 3(10) the Northern Ireland (Executive Formation etc) Act 2019

Motion to Take Note

7.24 pm

Moved by Lord Duncan of Springbank

That this House takes note of *Report Pursuant to Sections 3(1), 3(6), 3(7), 3(8), 3(9) and 3(10) of the Northern Ireland (Executive Formation etc) Act 2019.*

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy and Northern Ireland Office (Lord Duncan of Springbank) (Con): My Lords, on 4 September my right honourable friend the Secretary of State for Northern Ireland laid a number of reports before Parliament in line with his obligations under the Northern Ireland (Executive Formation etc) Act 2019. These reports underscore what colleagues across this House have known for some time—that the restoration of the Executive and Assembly is vital to the people of Northern Ireland. This is our top priority as we continue to work with the Northern Ireland parties to meet that objective. Without an Executive, the people of Northern Ireland have seen the quality of their public services decline, and decisions that affect their day-to-day lives kicked into the long grass. The people of Northern Ireland deserve better.

Since his appointment in July, my right honourable friend the Secretary of State for Northern Ireland has met public servants from a range of sectors who are doing an incredible job in the absence of support from their political leaders. But they cannot, of course, take the decisions that are needed on public services or the economy. If we cannot secure the restoration of an Executive in good time, we will pursue the decision-making powers that are needed at the earliest opportunity.

In addition to the reporting requirements, the Northern Ireland (Executive Formation etc) Act 2019 requires the UK Parliament to introduce laws on same-sex marriage and opposite-sex civil partnerships, abortion and victims’ payments. I recognise that these are sensitive, devolved issues and this Government’s preference is that they are taken forward by a restored Executive and functioning Assembly. However, this House has spoken and the duty to legislate will come into effect if the Executive is not back up and running in the next six weeks.

With the permission of the House, I would like to speak to each report topic separately. In the other place each report is being debated separately but we are being slightly more expeditious and debating them all as a single whole. Let me just run through what they are and then I will go through each of them in turn: Executive formation; transparency of political donations; higher education and a Derry university; presumption on non-prosecution; Troubles prosecution guidance; abortion law review; historical institutional abuse; victims’ payments; human trafficking; and gambling.

I will begin at the beginning, with Executive formation. I am conscious now that essentially the same issues have been discussed in cross-party talks for over two

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years. There are some aspects of these talks that are close to resolution. I believe the parties could agree a programme for government, measures to increase transparency and on the sustainability of the institutions. But gaps remain between the two main parties on rights, culture and identity. Both the UK and the Irish Governments share the view that these issues are resolvable. So, the Government, working closely with the Irish Government in accordance with the three-stranded approach, will now intensify efforts to put forward compromise solutions to the parties. If that does not succeed, the Secretary of State's next update will set out next steps to ensure adequate governance in Northern Ireland and the protection of the Belfast Good Friday Agreement.

As regards transparency of political donations, we are proud that we were able to secure the agreement of Northern Ireland parties and bring forward legislation to open up all donations from July 2017 to full public scrutiny. I am aware that many would like to see that transparency go further and apply retrospectively to 2014. This remains a sensitive issue. When the donations regime was extended to the Northern Ireland parties in 2006, they were placed under the same obligation to report donations to the Electoral Commission as elsewhere in the UK. The difference before 2017 was that the commission could not publish the details. It was feared that to do so would risk intimidation of donors. The Northern Ireland (Miscellaneous Provisions) Act provides that greater transparency could be introduced from 2014 at some point in the future.

I would like to have been able to report more progress on this issue. However, as I mentioned to the House on the previous occasion, it should be instructive to see how donating patterns change in the run-up to an election. The Electoral Commission has yet to publish details for the period immediately in advance of the local and European elections. In addition, I would caution that opening up the historic record is not a straightforward matter. It is not a case simply of passing legislation. The reality is that this issue remains a sensitive one, particularly at this time, and we must be careful to take the time to properly consider the implications of retrospectively applying transparency. Donors must not face intimidation. As the Electoral Commission made clear to the parties in 2013, the point at which donations from 2014 will be made public is subject to an assessment of the security situation. We will look at this issue carefully, but that must be in the context of wider discussion and consultation between the Northern Ireland parties and the Government. However, our focus, rightly, must be on getting Stormont up and running.

On higher education and a Derry university, students from Northern Ireland benefit from two outstanding universities: Queen's and Ulster University. We also recognise that many of those who come from Ulster choose to study in other parts of the UK or indeed internationally. While the Northern Ireland Department for the Economy has policy responsibility for higher education in Northern Ireland, universities are independent of government. As such, it is for a university, whether prospective or existing, to decide where to base

any new campus. It should be noted that no application has been made from any organisation to establish a university in Derry/Londonderry.

The Government are aware that Ulster University has been for some time considering the development of a graduate medical school, to be located in Derry/Londonderry. This project proposal features heavily in the Derry City & Strabane District Council's economic regeneration plans for the region. We hope that progress may be made via this route.

On the presumption of non-prosecution, the current system for dealing with the legacy of Northern Ireland's past is not working well. This needs to change. As my right honourable friend the Prime Minister said recently, it is common ground across all Benches that it is simply not right that former soldiers should face unfair and repeated investigations, with no new evidence, many years after the events in question.

Although we want to find a better way to address these issues, to do so through the presumption of non-prosecution would pose a range of challenges and might not provide a complete solution to the issues at hand. A presumption of non-prosecution in the absence of compelling new evidence, whether in the form of a qualified statute of limitations or by some other legal mechanism, would likely need to be applied to everyone. This would essentially mean that an amnesty or statute of limitations would potentially apply to all those involved in Troubles-related incidents, including former terrorists.

Crucially, implementing these provisions would not remove the obligations under domestic criminal law to investigate serious allegations. Equally, it would also not end the UK's need to comply with its international obligations under the European Convention on Human Rights, which requires an independent body to carry out Article 2-compliant investigations. To imply that this requirement would not continue would mislead veterans.

Therefore, the Government continue to drive forward a range of proposals on how best to address the legacy of the past. As part of this, we recently carried out a consultation on a framework of proposals flowing from the Stormont House agreement on how improvements could be made. My right honourable friend the Secretary of State for Northern Ireland will continue to work with partners on all sides to reflect on this feedback and develop an improved system that is fair, balanced and proportionate. This work continues, alongside the Ministry of Defence's public consultation seeking views on proposed legal protection measures for Armed Forces personnel and veterans serving in operations outside the United Kingdom.

On Troubles prosecution guidance, the UK Government recognise that historic investigations are a complex area and the subject of a range of strongly held views. We have made it clear that the way investigations into the past are carried out needs to be reformed. However, the required reforms are about not how and by whom criminal justice decisions are taken, but rather how we can have a more effective and fairer system.

Noble Lords will of course also be aware that criminal investigations, including legacy cases of Troubles-related incidents, are carried out independently

of government. As set out in the update report, the criminal justice system in Northern Ireland is a devolved matter, as are prosecutorial decisions and the guidance that underpins them. In Northern Ireland, as elsewhere, those prosecutorial decisions are made independent of government, just as they are in England and Wales, by the Public Prosecution Service for Northern Ireland under the auspices of the Director of Public Prosecutions for Northern Ireland.

Centrally, the Director of Public Prosecutions for Northern Ireland is not under the superintendence of the Attorney-General for Northern Ireland. This means that, under existing legislation, the Director of Public Prosecutions has a consultative relationship with the Attorney-General for Northern Ireland. The former cannot be compelled by the latter. This particular feature of the relationship between these key figures is an important component of the devolution settlement in Northern Ireland and it is not within the Government's powers to direct the Attorney-General for Northern Ireland or Director of Public Prosecutions for Northern Ireland.

What is central in these legacy cases is not how an individual came to have a weapon but what they did with it, and it is of course for the courts and not the Government to determine innocence and guilt. The Government are committed to reforming the current system, but this needs a new, wider approach, with practical, sustainable and workable solutions. The Government remain committed to finding those solutions.

On the abortion law review, without the formation of a restored Executive we will implement the relevant sections of the recent Act. However, we recognise that a majority of MPs want to ensure that reform happens if we continue to see an absence of devolved government, hence placing the Section 9 Executive formation Act duty on government to regulate if an Executive is not restored by 21 October 2019. That duty requires the Government to implement the recommendations contained in paragraphs 85 and 86 of the 2018 report of the Committee on the Elimination of All Forms of Discrimination against Women—CEDAW—specific to Northern Ireland's legal framework for abortion, together with non-legislative measures around education and access to counselling services.

As set out in the update report, to meet this commitment we have been undertaking work to analyse and carefully consider the range of materials, both international and domestic, that have considered related reform issues and the sensitive policy questions that have to be worked through to deliver what is required. This process is ongoing, and I will be happy to update your Lordships on further progress in the second report to Parliament on this issue in the coming weeks.

On historical institutional abuse, the Government have made plain our commitment to introducing legislation in the absence of a Northern Ireland Executive by the end of the year. Much progress has been made by officials in the Northern Ireland Office working in concert with the Northern Ireland Civil Service to prepare all the necessary materials to do just that. The Executive Office is to be commended for the progress it has made in the absence of Northern Ireland Ministers. It prepared draft HIA legislation in 2018 and a

consultation exercise was concluded in March 2019. It is with the benefit of this progress that the Northern Ireland political parties were able to discuss in detail the implementation proposals for the commissioner for survivors of institutional child abuse and a redress scheme. The discussions between the Northern Ireland parties on the historical institutional abuse legislation and the policy decisions required to finalise it have demonstrated that there is a genuine will to reach agreement and deliver for the people of Northern Ireland.

The resultant HIA Bill was provided to the NIO by the Executive Office on 18 July and has been the focus of work in my department to make ready everything necessary to introduce the Bill at Westminster. It is a complex Bill and those documents have required significant input from legal advisers and policy officials. The UK Government's commitment to introduce this legislation by the end of the year in the absence of a restored Executive remains resolute. Following the policy and legal work carried out in August by officials, my right honourable friend the Secretary of State wrote to colleagues to seek to secure a legislate slot for introduction. On Friday 23 August, the Secretary of State for Northern Ireland held very positive meetings with representatives from victims and survivor groups, and on 30 August he met the interim advocate, Brendan McAllister. My right honourable friend the Secretary of State will continue to engage with these key Northern Ireland stakeholders to update them on progress as we seek to deliver redress for victims and survivors of this dreadful abuse.

I move on to victims' payments. We will introduce payments to victims not injured by their own hand. We have now committed under the Executive formation Act that if there is no Executive in place by 21 October the UK Government will bring forward regulations before the end of January to ensure that a victims' payments scheme can come into force in Northern Ireland by the end of May next year. As set out in the update report, to meet this commitment we have been undertaking work to develop the detailed arrangements for the scheme with factual input from the Northern Ireland Civil Service. This has included consideration of other relevant schemes, detailed design work, discussion with certain key stakeholders and making plans for future engagement, and preparing detailed advice on the proposed architecture of the scheme—its purpose and principles, levels and methods of payment, eligibility and other technical considerations, the assessment process, and wider support arrangements for scheme applicants.

We are as well placed as possible to deliver against our obligations in the Northern Ireland (Executive Formation etc) Act 2019, and we propose to engage widely on the details of the scheme ahead of the date by which the regulations must be made. The views received on our proposed approach will help inform final decisions on how the scheme will be implemented.

On human trafficking, the report contains information on a number of occasions the department has considered it necessary to provide assistance and support for victims of human trafficking for whom there has been

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a conclusive determination that the person is a victim of human trafficking. It also outlines the reasons for provision of this support.

Clearly, it is the will of Parliament that the Secretary of State should report on this issue, but I would also wish to add a caveat about the limitations on the Secretary of State's capacity to report comprehensively on matters of devolved competence. Consequently, I add that the report does not provide the immigration status of those victims who have been supported. The Northern Ireland Department of Justice does not hold that information and, while it might be possible for another competent authority to advise on immigration status, given the small number of victims involved—16 individuals over a three-year period—information on the immigration status of those individuals could make it possible to determine their identities. I trust that Members will agree that that would not be a welcome outcome. I acknowledge and commend the Northern Ireland Civil Service on its progress in these matters during the difficult circumstances that currently exist, and look forward to a time when these issues are properly considered by a returned Northern Ireland Executive.

Finally, I come to gambling. As many noble Lords will be aware, gambling legislation in Northern Ireland differs from that in Great Britain. This report recognises the challenges associated with the likes of online gambling and fixed-odds betting terminals, and notes that existing legislation has not kept pace with industry and technological changes. In addition, the report highlights the lack of specific services commissioned by the Health and Social Care Board to help those suffering from gambling addiction. A high-level strategic review of gambling policy, practice and law is currently being carried out by the Department for Communities. I would encourage the gambling operators to work alongside the Health and Social Care Board to ensure that all that can be done is being done.

I beg to move.

7.40 pm

Lord Hain (Lab): My Lords, I welcome the report on the,

“progress made towards preparing legislation implementing a pension for seriously injured victims and survivors of Troubles-related incidents”,

and I commend the officials who have been working on it. Your Lordships will recall that, in my original amendment to the legislation, I specifically and repeatedly used the words,

“severely injured through no fault of their own”.

On advice from parliamentary counsel, those words did not appear in the Bill that we passed, and I accepted that on the assurances given in this House by the Minister and in the other place that the legislation to implement the pension would be absolutely true to the spirit and intent of,

“through no fault of their own”.

When the commitment to implement a special pension for people who were severely physically or psychologically damaged through no fault of their own during the

Troubles was enshrined in statute in July, it was warmly welcomed by those who had been campaigning for many years for the proper recognition and acknowledgement of the great harm done to them. But there were those in Northern Ireland who regrettably spread alarm and confusion among victims and survivors by claiming that the pension could go to those injured by their own hand because the legislation was “weak”. That was their term. They have either misunderstood or misrepresented what is being taken forward. The detailed legislation to implement the pension cannot be described as “weak”, for the very good reason that it does not yet exist in the form of the regulations due to come into effect by the end of January 2020. I am sure that the Minister will confirm that. Parliament will have the opportunity to scrutinise these regulations, including in your Lordships' House. Therefore, I hope that the Government will take the opportunity to again give a cast-iron commitment that only those injured through no fault of their own will qualify for the pension.

There is also a report before us on the definition of a victim, which is currently set out in the 2006 Order, which was passed when I was Secretary of State for Northern Ireland. I will make two brief points about it. First, the report says:

“In the absence of consensus on this sensitive and emotive issue, the position of the UK Government is that in order to make meaningful progress, this work would be best taken forward by a newly restored Executive”.

All I can say is, “Good luck with that!”. It is precisely because it is a “sensitive and emotive issue” that there is little prospect of agreement being reached, even if the Executive were to return. I would remind the House that those campaigning for the pension dragged themselves in their wheelchairs to Stormont year after year for tea and sympathy but little else. The local political parties failed them shamefully, instead wrangling in sectarian fashion over the definition of victims, while the terrible injustice they were suffering festered on.

Secondly, the 2006 Order facilitated the setting up of the Commission for Victims and Survivors, but it also gives access to those services provided by the Victims and Survivors Service and, when it comes into operation, the mental trauma service. It is well documented that the impact of conflict can be transgenerational. Are we to say to a child—or even a grandchild—that, because of events that took place years before they were born, they will not now get access to the support services that they need because they are no longer eligible? That cannot be right. Whichever way this is taken forward, we should proceed with caution. I welcome the cool analysis that the Minister has provided. We know that his heart is in the right place on these matters and we wish him well in the progress to come.

7.44 pm

Baroness Barker (LD): My Lords, I am very pleased to be taking part in this debate in the absence of my noble friend Lord Bruce of Bannachie, who cannot be with us this evening. Although I did not know that I was going to be speaking in this debate until a few days ago, I am glad that I spent a large part of the summer watching the series of BBC programmes about

the history of the Troubles. It is important that those of us who wish to see a brighter future for Northern Ireland never forget its past. It has been salutary to be reminded of the situation in Northern Ireland. It is the wish never to return to those days that has lain behind much of this work.

I thank the Minister for producing these reports. I took part in the passing of the legislation, and it is good to be back here now debating not whether the Government are going to implement that legislation but how they are going to implement it. That is the thrust of these detailed reports. I also commend the Minister for the openness with which he has made them available to people from all sides of the House. Like others, we on these Benches remain committed to restoring the devolved Government as soon as possible, but we understand—not least because of the points made so impressively by the noble Lord, Lord Empey—that life in Northern Ireland goes on, and that the governance of Northern Ireland is under severe strain.

I want to talk first about the issues in the “Report pursuant to sections 3(1), 3(6), 3(7), 3(8), 3(9) and 3(10)” — a deadly bureaucratic title for something very important. The report mentions the progress of the working groups. It states that the Secretary of State used these groups to inform “subsequent weeks of negotiation”. It would be very helpful if the Minister could give the House a flavour of the intensity and productiveness of those negotiations. We have been concerned to hear from our colleagues in the Alliance that,

“the process has been treading water for the past few weeks at least”.

The report also states that:

“It should prove possible with intensive engagement to resolve the strands of talks on the Programme for Government, Transparency and Sustainability relatively swiftly”,

and that,

“the UK Government, working closely with the Irish Government, will now intensify its efforts to put forward compromise solutions to the parties”.

Can the Minister give us a little more detail of this “intensive engagement” and when this intensification of efforts will begin?

I particularly thank the Government for the section of the report relating to the transparency of political donations. That amendment was moved by my noble friend Lord Bruce of Bennachie. However, I am disappointed by what the report says. Clearly, there has been no progress made on backdating transparency of political donations to January 2014, as provided for by the 2014 Act. The report places much emphasis on the “broad consensus” among Northern Ireland political parties, but it does not make changes from the July 2017 date. Well, there was no consensus. The Alliance’s position remains that returns should be published from January 2014 onwards. Political parties may want secrecy, but that does not make it right or fair to the public.

Thirdly, the point made in the report about retrospectivity is not an issue. Parties were told by the Electoral Commission to inform every large donor after January 2014 that their details would eventually

be published. Donors would have known that when they made their donations. I hope that the Minister can talk more about progress on that.

Turning to the section on higher education in Northern Ireland, the question of HE sector funding is urgent. Again, we place on record our support in principle for the proposed medical school in Derry/Londonderry, but we need to know that the funding will be in place.

The report pursuant to Section 3(13) deals with the payment for victims. My noble friend Lord Bruce of Bennachie has echoed many of the points made by the noble Lord, Lord Hain, and I will not repeat them at this late hour.

On the report on Section 3(14) about the key recommendations of the Inquiry into Historical Institutional Abuse, we echo the concerns expressed on Thursday by the Lord Chief Justice of Northern Ireland, Sir Declan Morgan, that the recommendations have still not been implemented, in particular his comments that this,

“epitomises how the lack of an Assembly impacts negatively on ... Northern Ireland’s citizens”.

Given that we are expecting Parliament to prorogue today and not return until October for a Queen’s Speech, presumably that will mean yet more delay for them. These people have been waiting far too long for redress.

I want to deal with two issues in particular, and I hope that the noble Lord, Lord Hayward, might be in his place for one minute longer. I listened to the points made by the noble Lord, Lord McCrea, in the debate earlier this afternoon, in which I think he questioned the motivation of those of us who were responsible for ensuring that this legislation extends the rights of access to abortion care and to same-sex marriage to people in Northern Ireland. The noble Lord, Lord Hayward, is not due to speak and therefore I reluctantly make the point—

A noble Lord: He will speak in the gap.

Baroness Barker: Is he speaking in the gap? Okay. However, I can say with confidence that in all the work I saw him do, and all the work that he would have seen me do on abortion, there was never any question at all that we were doing so in a partisan way. We were doing it so that people who are citizens of Northern Ireland could enjoy the same human rights and access to services as people in the rest of the United Kingdom. That was all.

I want to ask the Minister one question. Can he confirm that the decriminalisation of abortion in Northern Ireland will take place on 21 October if no Assembly is formed, regardless of a general election or Prorogation? If that is so, what will happen to people who are currently facing prosecution under the existing law? I remind this House of a point that we made during the passage of the legislation. Decriminalisation does not mean that there will be no regulation of abortion in Northern Ireland. Since we passed the legislation, there have been wildly misleading statements made. Abortion in Northern Ireland, when the law changes, will be by medical professionals who will be under the same ethical constraints as their colleagues are in the

[BARONESS BARKER]

rest of the United Kingdom. It is wrong to say that there will be a period in which there will be no regulation whatever.

7.52 pm

Lord Alton of Liverpool (CB): My Lords, I have heard no voice raised this evening urging the restoration of direct rule, yet paradoxically when it comes to the question of abortion this House and another place did not hesitate to set aside devolution to impose laws in Northern Ireland on a highly sensitive and contested devolved question. I have never disguised my opposition to laws which in Great Britain have led to 9 million abortions—one every three minutes—and permit abortion up to birth in the case of disability. Let me make it clear as well that in the 30 articles in the Universal Declaration of Human Rights, there is no human right to abortion.

This is a highly contested question and the right to life is for many a paramount right. This may not be a view that all hold, but it is a respectable minority view and it is held by millions. Indeed, over the weekend in Northern Ireland thousands of people protested peacefully against the decision made here in July through the Northern Ireland (Executive Formation etc) Act—the Act we are discussing now—which imposes changes in the law on Northern Ireland. In an exemplary, dignified and united way, right across the community citizens who believe that both lives in a pregnancy matter made their voices heard. For so many living in Northern Ireland, what happened in this House and the other place made a mockery of democracy. Radical amendments, overturning devolved legislation endorsed by the democratically elected Northern Ireland Assembly as recently as 2016, were simply tagged on to an emergency Bill which had nothing to do with abortion.

This was legislation rushed through in a pell-mell way, which disconcertingly resulted in this House not amending but completely rewriting the amendment inserted in another place. The democratically elected House then had hardly any debating time for the actual text of what is now Section 9. It spent a paltry 17 minutes debating the final text of Section 9, which removes all legal protections from the unborn child in Northern Ireland until they are capable of being born alive, a point in time that is contested and in relation to which the only explicit protection applies from 28 weeks' gestation. That is four weeks later than in Great Britain and 16 weeks later than in the Republic of Ireland. There was, of course, no consultation with the people of Northern Ireland; there was not even a specific vote on the reworded Clause 9, which was rejected by all Northern Ireland MPs who take their seats at Westminster when the matter, albeit with entirely different words, was subjected to a specific vote on 9 July.

The report produced on abortion law reform required under Section 3(10) highlights the deeply flawed nature of the new legislation on abortion coming into force on 22 October unless the Northern Ireland Executive is restored. With just over six weeks to go, the Northern Ireland Office, which incidentally I sympathise with as this legislative process was not its idea, is openly stating that,

“much further work is required before we are in a place to deliver on this duty if it comes into effect”.

Considering the enormously serious nature of the issue at stake here and regardless of your views, this is deeply troubling. These surely must be seen as matters of life and death. The report goes on to say that there is no,

“clear path forward in terms of the regulations and non-legislative measures”.

By any measure, this is patently absurd. It is bad enough for the Westminster Parliament to remove a law that the democratically elected representatives of Northern Ireland voted not to change in any way as recently as 2016, on the spurious grounds that there was a legal human rights imperative for doing so, which, as the expert legal opinion of Professor Mark Hill makes plain, is without any foundation.

It is, however, utterly extraordinary and deeply wrong to remove that law five months before requiring a new law to be put in its place. That is plainly irresponsible. This in and of itself is incredible when you reflect on it. Abortion would be legalised for any reason including gender, disability and convenience up to the point of viability on 22 October, but there is to be no notification requirement on the part of medical authorities or abortion providers to say that an abortion has taken place. There will be no requirement for abortions to take place in particular places and no explicit legal protection for the rights of conscience for medical professionals who oppose abortion for ethical reasons. What would not be tolerated elsewhere in the United Kingdom is to be imposed in Northern Ireland.

The only way that this can be prevented is for the Executive and the Assembly to be restored. The decision on how and whether to provide abortion should be for the people of Northern Ireland to decide through a proper legislative process, rather than with minimal consideration in an Act that was stampeded through Parliament without any consultation with individuals who actually live in Northern Ireland. For what it is worth, I am going to Northern Ireland later this week and will be urging MLAs to do all they can to restore the Executive. Northern Ireland deserves to be governed again by those whom the people there actually elect. To prevent this direct rule, and for so many other reasons which are highlighted and have been mentioned in our earlier debates, we must see the restoration of the Assembly and the Executive. I plead with the parties in Northern Ireland to do all in their power to bring that about.

7.58 pm

Lord Morrow (DUP): My Lords, the Human Trafficking and Exploitation (Northern Ireland) Act 2015, which I steered through the Northern Ireland Assembly, gives confirmed victims of slavery a statutory 45-day “reflection and recovery” period during the process of determining their status as a victim. There is then a discretionary power to grant victims of trafficking further support if they have been given a positive conclusive grounds decision, or have not yet had a conclusive grounds decision and the 45-day period has run out.

I welcome the report before the House today, which outlines the extent to which this discretionary power has been used. The report does not outline who the numbers are referring to. Will the Minister confirm whether or not the numbers provided in the report apply only to victims with a positive conclusive grounds decision? On what basis is a decision made to grant additional support beyond the conclusive grounds decision to a confirmed victim? On what basis is it decided that another victim should receive no further support once they are a confirmed victim of modern slavery? Does the Department of Justice have guidance on the basis on which to determine whether support under Section 18(9) should be extended? Will the Minister furnish interested parties with copies of any such guidance?

Will the Minister also set out the minimum and maximum duration of discretionary support after the conclusive grounds decision has been made? Since my Bill passed, a number of victims' care providers have argued that support should be provided for at least 12 months after a positive conclusive grounds decision. In this context, noble Lords will be well aware that the noble Lord, Lord McColl, has introduced his Bill to provide comprehensive support to help a victim recover from their exploitation for up to 12 months once they have been confirmed. I spoke in favour of his Bill at its Second Reading on 8 September 2017. It is sobering that two years have passed and victims are still living without statutory support for their longer-term recovery. At the beginning of the year, the Government began offering victims 45 days' support in England and Wales, after the conclusive grounds decision. This was a step in the right direction but was rightly challenged in the courts because, for many victims, 45 days is plainly insufficient. The challenge resulted in a settlement in which the Government agreed that support should be provided on the basis of the individual's needs rather than a fixed, predetermined time.

In this context, the most sensible way forward would seem to be to provide all confirmed victims of modern slavery with the option of 12 months' support, in order to provide baseline security, but for there to be a needs assessment at 11 months to see whether that should be extended. That is certainly what I would seek by way of updating the legislation if the Northern Ireland Assembly was sitting and I was still a Member.

I was disappointed that the amendment to the Executive formation Bill put forward by the noble and learned Baroness, Lady Butler-Sloss, and the noble Lord, Lord McColl—on the progress of the implementation of independent guardians for trafficked children—was not in the final Act, despite assurances from the Minister that the Government would accept the amendment. The independent guardian service in Northern Ireland provides children who have been trafficked, and separated migrant children, with a trained advocate to support, represent and accompany them as they go through the recovery process. The service has been a real success and our model has been studied by other jurisdictions with a view to emulating it. In England and Wales, the section in the Modern Slavery Act on independent child trafficking advocates has still not been commenced and support is only

available in one-third of local authorities. Will the Minister give an update on the number of children being helped in Northern Ireland through the independent guardian service and how this service has been received by other professionals working with trafficked and separated migrant children? If not, could he please write to me and place a copy of the letter in the Library?

Finally, I cannot sit down without making some mention of the abortion report before the House today. I expressed my grave concerns about what was then Clause 9 in Committee on 15 July and about the revised clause—now in the Act—on Report on 17 July. I still find it completely staggering that Section 9 sets out that if the Executive do not reform by 21 October, and I certainly hope they do, there should be any period of time when there is no legislation in place to regulate abortions up to the point at which a child is capable of being born alive, let alone a period of five months. During this time, and quite unlike in the rest of Great Britain, abortion providers will be free to set up clinics that cannot be licensed or assessed. Moreover, abortion will be available right up to the point of viability for any reason, including if the baby is a girl. I find no reassurance in the Government's report that there is any credible plan to protect women and children during the limbo period. This is completely and utterly unacceptable. Not surprisingly, the people of Northern Ireland are outraged by this and last Friday approximately 20,000 people protested at Stormont about the change that is being proposed without their say or input.

The suggestion that there is a binding human rights imperative in international law that necessitates removing the current law on 21 October, before anything can be put in its place, is simply incorrect. The CEDAW convention does not mention abortion; only the international court has standing to read in such a right and it has not done so. Indeed, the notion that this is driven by some concern for human rights completely falls apart when one realises that repealing the current legislation dealing with abortion up until just before a baby is capable of being born alive, without putting anything in its place for up to five months, will actually make us less compliant with an aspect of international law which does mention abortion. At the moment we are compliant with Article 39 of the Istanbul convention, which prohibits coercive abortion, because our law does not provide scope for coercive abortion. However, if the Assembly is not restored on 21 October, on 22 October nothing will be put in its place and the door to coercive abortions in Northern Ireland will be flung wide open.

In this context I make a plea to Sinn Féin to return to its place in the power-sharing Administration, so we can make sensible and properly accountable laws for the people of Northern Ireland.

8.05 pm

Lord Caine (Con) (Maiden Speech): My Lords, it is a great honour and privilege to finally make my maiden speech as a Conservative and Unionist Member of this great House. I say “finally” because, despite taking my seat on 20 October 2016, I have until now been bound by a Cabinet Office rule that serving government

[LORD CAINE]

advisers can sit and vote but not speak in your Lordships' House. Following the events of 24 July, this is no longer the case for me, so it is with a sense of great relief and anticipation that I am now able to take my place as a fully functioning Member of the House.

I would at the outset like to give thanks to a number of people: noble Lords on all sides of the House for their understanding during my three years of enforced silence; the doorkeepers and other staff of the House, who carry out their responsibilities with such diligence, kindness and good cheer whatever the hour; my two supporters at my introduction in 2016, my noble friend Lord Black of Brentwood, who was my first head of section in the Conservative Research Department back in 1987, and my noble friend Lord Empey who, I am sure all noble Lords will agree, embodies all that is best in Ulster unionism; and the former Prime Minister David Cameron for giving me the opportunity to serve in this House. Leaving aside the referendum, if I may, I strongly believe that the Governments—plural—which he led achieved a great deal, particularly in restoring our economy, job creation and education reform. I was proud to have played a role in one of the seminal moments of his premiership when I helped to draft his statement on the events of Bloody Sunday.

While I join a number of former members of the Conservative Research Department and special advisers in this House, my route here—to use a phrase that will be familiar to friends from Northern Ireland—was hardly a traditional one. I was not born into the Conservative Party. In fact, I was born in a staunchly working-class area of Leeds called Harehills, where my late father was a builder and my mother a hairdresser. Yet their values were very much Conservative values, particularly those closely associated with the late Baroness Thatcher of hard work, enterprise and aspiration. It was that which led them to found a business and which allowed me, the product of a local state school in Leeds, to become the first member of our family to attend university.

That also enabled my parents to move to a relatively more prosperous part of Leeds, Temple Newsam, which forms the geographical part of my title. Temple Newsam is the ward on Leeds City Council where I was brought up and where I return most weekends. Leeds is also the part of the world where I currently pursue most of my interests outside this House, as a supporter of the Leeds Rhinos rugby league club and its charitable foundation that does such sterling work in the community to turn around young lives through sport, and as a patron of the Danny Jones Defibrillator Fund, which raises money to provide sports clubs with potentially life-saving defibrillators.

For most of my time in politics and public service, I have been deeply involved in the affairs of Northern Ireland. In the 1990s I was a special adviser to Lord Brooke of Sutton Mandeville, and then to the late Lord Mayhew of Twysden, both men of the utmost integrity whose contributions in Northern Ireland should never be underestimated. From May 2010 until July this year I advised two Prime Ministers and four successive Secretaries of State on Northern Ireland affairs. It was a period that encompassed the statement to which I have referred on Bloody Sunday, the G8 summit, the

Stormont House and fresh start agreements, the EU referendum and the confidence and supply agreement, in which I confess to having played a small part. I say with respect to some noble Lords that hands-off it certainly was not. Regrettably, it also saw us go from the longest unbroken run of devolved government in Northern Ireland since the 1960s to over two and a half deeply frustrating years of no government at all. Like noble Lords across the House, I profoundly hope that devolved government is restored and fully functioning as soon as possible.

My involvement in Northern Ireland affairs has given me a deep and enduring affection for the place and all its people. It has strengthened my unshakeable belief in the union of our United Kingdom. I am an unashamed and unapologetic unionist who believes that the best future for Northern Ireland is, and always will be, within a stronger United Kingdom. I am, though, a unionist who deeply values and respects nationalism and who wants the closest possible relationship with our friends and neighbours in the Republic of Ireland, while always respecting the constitutional proprieties. Indeed, part of the genius of the 1998 Belfast agreement is that it enables all traditions to be accommodated, through the constitutional framework it sets out, the institutions it establishes and the rights it guarantees for everyone. I remain a steadfast supporter of that agreement, in which my noble friends Lord Trimble, who was here earlier, Lord Empey and Lord Maginnis played such key roles.

Of course, I am acutely aware of the pressures created as a result of the 2016 referendum. One reason that I, as an instinctive Brexiteer, in the end voted remain was over my concern about the impact that leaving might have on the delicate and precious equilibrium established by the 1998 agreement. However, since the referendum I have been in no doubt that, for the sake of our democracy and for trust in politics, the result must be delivered and the UK must leave the EU. I remain convinced, however, that it must be done in an orderly and managed way that protects the 1998 agreement but preserves political stability on the island of Ireland and, of course, preserves the unity of our United Kingdom. I will always be a unionist before I am a Euro sceptic.

Turning briefly to the debate, I welcome the publication of the reports mentioned in the Motions of my noble friend Lord Duncan of Springbank, with whom I had the privilege of working in the Northern Ireland Office until recently. Indeed, I am pleased to see that some of my sentences have actually survived the change of administration. I wish to single out one of the reports for very quick comment: that relating to legacy cases and the prosecution of veterans. Many of my most difficult and moving meetings in Northern Ireland over many years have been with victims and survivors of the Troubles. It is clear that more needs to be done for them and I commend the work of the noble Lord, Lord Hain, and others towards a victims' payment. At the same time, as many people have said, we must ensure that there is not a disproportionate focus on former members of the security forces, to whom we own an enormous debt. This is a complex and difficult area. I have always believed that everybody should be

accountable to the law and I have a number of concerns about some of the remedies that have been suggested in this respect.

One possible way forward, which I have discussed with the Attorney-General for Northern Ireland at length, might involve modifications to Section 3 of the Criminal Law Act (Northern Ireland) 1967 around what constitutes reasonable self-defence. The purpose would be to give clearer legal meaning to the moral distinction between somebody who commits a split-second error of law while carrying out their duty and somebody who sets out with the clear and deliberate intention to commit murder. Now is not the appropriate time to pursue this in detail, but I hope to return to this matter on a future occasion and I hope that my noble friend the Minister will undertake to look at this option seriously. For now, however, conscious of the clock, I am grateful for the opportunity to open my account, so to speak, in your Lordships' House and I look forward to playing a much fuller role from now on.

8.15 pm

Lord Empey (UUP): My Lords, if we needed any evidence of the importance of the arrival of the noble Lord, Lord Caine, in a position in which he can address your Lordships and turn his mind, in a public way, to our important issues, the speech that has just been delivered confirms what I believe many of us have long believed—his ability and knowledge of a wide range of subjects. Someone coming to these Benches with his many years of experience in Northern Ireland is a wonderful asset that we will warmly welcome across all these Benches and on all sides. The role of adviser is very important and he has not only given us commitment but done so with discretion, with dignity and without turning the focus on to himself rather than the Ministers he has been privileged to serve.

Just to illustrate my point, there is a small quotation in today's *Sun*—if it is here it must be true—attributed to Mr Dominic Cummings of this parish, where he says, allegedly:

“I don't care if Northern Ireland falls into the f***ing sea”.

The melodic prose of that comment lends some credibility to the possibility that he might have said something like it, but no such comments were ever or will ever be made by the noble Lord, Lord Caine, who has conducted his business and kept relations with all sides in our troubled Province. Having a strongly committed unionist on these Benches is most welcome. I wish him every success in your Lordships' House and have little doubt that he will distinguish himself now that he is able and free to talk.

Turning to the business on the Order Paper, there is one small matter on which I would like clarification from the Minister, which was also mentioned by the noble Lord, Lord Caine: the definition of a victim. Neither that report nor the one relating to the Armed Forces covenant appears to be mentioned on the Order Paper. I am not quite clear why.

We have just touched on the Executive formation. I said that if my dates were inaccurate I would happily correct them; yes, it was probably 5 August instead of 5 July, but it is the same difference, because the talks have not had the momentum required.

On donations, I agree with the noble Baroness, Lady Barker. I have come to the conclusion that there is not a consensus in Northern Ireland on the dates for these donations. I believe that the 2014 date should be applied and made that comment when the legislation was going through in the summer.

As a former Higher Education Minister in Northern Ireland I am very conscious of the potential, having visited the Magee campus of Ulster University in Londonderry and with the city deals coming forward for that local authority area. Given the shortages in our health service, there is also great potential, particularly concerning the proposed graduate medical school, to combine a number of policies and not leave things purely to the universities. I accept that universities are independent, but only in so far as it is the public who in large measure pay for them. There is a huge social, economic and political issue here and we should pursue it rigorously.

On the issue of the abortion law review, I am conscious that on Friday there were huge demonstrations in Belfast which had very little time to get organised and build momentum. I know that a lot of people are very concerned at the haphazard way in which this has been done. There will be no regulations in place on 22 October, no matter what anybody says. While people will argue, “Well, the medical profession will do this and that”, why should we have to rely on them? We are a legislature. If we have something to say, we should say it and do it, instead of this back-to-front process that has been adopted, which, I have to say, has annoyed and deeply upset many very sincere people. I hope we will return to that and that we will be able to get in place something in law that is just, proper and democratically endorsed by the people it affects most. That has been sadly lacking.

I remain strongly opposed to the proposals on legacy that came out of Stormont House. The proposal for a historical investigations unit will be a torture chamber, particularly for former members of the security services, for at least a decade and will enable republicans to set up a whole industry of people who will take legal action, make claims and try to rewrite history in the process. It is a profoundly bad idea and I sincerely hope that those who invented and support it will withdraw their support.

On historical institutional abuse, I strongly support the fact that people are trying hard to get this done, but, as we have pointed out in this House many times before, people have been moving on in age and it is becoming an increasing challenge. I hope that every effort will be made to move as fast as possible.

The report on the definition of a victim, which is not mentioned on the Order Paper today, does not even cover two sides of paper. On such an important issue, this is almost an insult to Parliament. It is so critical and so controversial, and to say that handing the thing back over to the Executive is the way forward is absolute nonsense—it is only a way of avoiding it. That is what I fear is happening and I deeply regret it.

In conclusion I will address the victims' pensions, which were mentioned by the noble Lord, Lord Hain. Can the Minister give an absolutely categorical assurance to the House tonight that under no circumstances will

[LORD EMPEY]

a person who was injured by their own hand and their own actions be eligible for any payment from the state as a result of this activity? That has got the reappointed victims commissioner into serious trouble and has caused victims great distress over what has happened to them. I sincerely hope that we get a clear, unambiguous confirmation tonight that this will not happen. Whenever you see in a report mentions of working parties and looking at other examples around the world, it begins to make people nervous. I sincerely hope that the Minister can give us an assurance that does lack not any clarity whatever.

8.23 pm

Lord Dubs (Lab): I have noticed over the years that a debate about any topic in Northern Ireland becomes a debate about everything in Northern Ireland. That is just how things are. I very much welcome the maiden speech by the noble Lord, Lord Caine. I realise that he had been muted politically for a long time, so I welcome him to the world of political freedom. It is therefore gratifying that we have, for a debate about everything in Northern Ireland, the DUP in some reasonable force, and other good representatives from Northern Ireland who are independent of political party. I would like other political parties in Northern Ireland also to be represented here, as that would add strength to our debates—I refer to the Alliance and the SDLP in particular.

I spent last weekend at the British-Irish Association annual get-together in Cambridge. Few politicians were present, but we had Simon Coveney, Michael Gove and the Secretary of State speak to us, and it was a pretty good occasion. Noble Lords may be wondering about the badge I am wearing; it is the badge of the campaign for Ireland to have a place on the Security Council, which is looking for British support. I mention that in passing. Obviously, the Minister could not possibly comment on that—but he will probably not comment on many other things.

Noble Lords: Oh!

Lord Dubs: That goes with the job description.

With the lack of an Executive, we are in a dangerous situation. There is a vacuum, and vacuums get filled in an unfortunate manner. I can only add my plea that we have to make progress. I repeat the plea for an independent facilitator of talks, which is surely long overdue. It would be much better to have somebody who could put the parties together. It is difficult for the Government, simply because they are in coalition with one of the main parties in Northern Ireland. I would have thought that we could make progress.

May I anticipate something the noble Lord, Lord Cormack, will say? I will thank him for it before he says it. That is, we should make use of the existing Members of the Legislative Assembly and use the committee structure. Surely the civil servants, who are having to make difficult decisions, need some political backing. Although it would not be official political backing, it would surely be helpful to them if we have some of the Assembly committees up and running and giving at least their views on the whole range of issues that we are discussing today. It cannot be difficult to

achieve that. Members of the Legislative Assembly can do some constituency casework, but they are not able to function as proper politicians. That is awful, and the danger is that some of them will drift away with frustration, and then we will lose the core of what we want to re-establish when direct rule is there. It is not just a matter of saying that it would be a nice thing to do; it is urgent that we do it, and I thank the noble Lord, Lord Cormack, for all that he will say about that later today.

I will mention some specific issues. I always make a plea about child refugees. People in Northern Ireland would welcome child refugees—I was encouraged by the response I got when I mentioned this at the British-Irish Association get-together in Cambridge between Friday and Sunday—and they are frustrated that there is no way in which the willingness of local people in Northern Ireland to accommodate child refugees can be brought into effect. I know that the Minister is probably fed up with my mentioning it so often, but we have to do something about it. I hope that if we talk enough about it, word will get through to the civil servants and others to move forward.

I welcome the initiative of the noble Lord, Lord Morrow, on trafficking. Trafficking is of course partly linked to refugees, although not entirely, but it is a serious issue and we cannot do enough to tackle it and support its victims.

I also make a plea that if we had a functioning Executive, maybe we could also get more impetus behind integrated education, which I believe is still an important feature of education in Northern Ireland, but too small a feature. I would like to see more of it happen.

I am chair of a committee of the British-Irish Parliamentary Assembly, and we have been studying abortion, taking evidence in Liverpool, London, Belfast and Dublin. It is very detailed evidence from a range of opinions, on all sides of the argument. We would have published our report some time ago but the DUP member of the committee—a very effective member—said that he did not agree with its thrust, so we said that we would hold it and give the DUP time to give us a statement of its position. I hope we can then incorporate that into the report, which will go public at the next plenary. That will come too late for this debate, but it is right that we should give the DUP a full chance to state its views, even though the majority of committee members took a different view.

Noble Lords from the DUP have said that, under changes being made to abortion practice in Northern Ireland, there is no time limit. I am not aware of that and I would certainly be very unhappy if that was the case. We have a time limit in Britain and there is a time limit in Dublin. Surely, we cannot proceed without some form of sensible limit for any practice in Northern Ireland.

Finally, I welcome what my noble friend Lord Hain has been doing about the victims of crime and the stand he has taken on that very important issue. In my last few moments I shall repeat my plea to the Minister: can we make progress on bringing back something of the political system in Northern Ireland? If we had an independent facilitator, we could bring the parties

together. Senator George Mitchell did that brilliantly. Without his skill and adroit handling of the political parties, we would not have got to where we are. It is still one of the great success stories of United Kingdom politics over the past half century or longer. We need to make progress, so let us use the elected Members of the Assembly in order that they can play a part and have their views put forward and listened to in order to influence other debates.

8.31 pm

Lord Bew (CB): My Lords, I will focus my remarks solely on the issues of legacy, which have already been touched on, as well as on the issue of the proper treatment of the victims of the Troubles. These matters have been central to our discussion, and I want to focus on one of the key phrases of the noble Lord, Lord Hain. He said that people had become victims “through no fault of their own”. In my opinion, that phrase contains the possible key to unlocking the great mess of meanings around this subject. It is an enormously complicated one and the Government have struggled with it for reasons that everyone understands. However, the speech of the noble Lord, Lord Hain, in this debate, along with all his other interventions in this House on the subject, was very valuable indeed.

I turn to the very important maiden speech made by the noble Lord, Lord Caine. I can do nothing but pay tribute to the noble Lord for the role that he has played in the Northern Ireland Office. I can say quite simply that the noble Lord has made a major contribution to the stability of Northern Ireland—I am absolutely sure of that. His sense of balance, his affection for the place and his respect for both traditions has had the effect of ensuring that the advice he has given, some of it on extremely poisonous issues, has always been driven by a concern for the stability of and the maintenance of peace in Northern Ireland. Those of us who live there owe him a great debt.

The other thing I am pleased about is that the noble Lord’s speech indicated that he is going to be bringing new ideas to this House. He talked about his discussions with the Attorney-General on the Criminal Law Act (Northern Ireland) 1967. He uttered another key phrase which should be heard alongside that of the noble Lord, Lord Hain: “reasonable self-defence”. Again, that is a phrase which could unlock this poisonous debate.

When the noble Lord, Lord Caine, referred to his concerns about the disproportionate nature of our inquiry culture, you have to understand what disproportionate means in this context. During the long years of the Troubles, I think that the police killed some 54 people. Many of those cases were uncontroversial and in some instances they were accidents, such as the killing of other policemen who were carrying heavy weapons. However, some other incidents were highly controversial. Against that minority of cases, more than 300 policemen were murdered during the Troubles, which means that they were six times more likely to be killed than to kill. However, the exact opposite is the case with the paramilitary groups. Republicans, who carried out the lion’s share of the killings, were several times more likely—something in

the regions of four times more likely although it depends on which faction of republicans you want to talk about—to kill than be killed.

Let us think about the number of inquiries we have had in recent years and what the focus has been on. Some of them have been entirely justified. The noble Lord, Lord Caine, referred proudly to his work helping David Cameron draw up his address to the Bloody Sunday tribunal, which was a very important moment. I was one of the historical advisers to that tribunal and I am perfectly proud of that. However, we have an inquiry culture that bears no relation to the main facts of violence during the conflict.

Therefore, it is important that in the report that has been placed before the House today—I think it is on page 18—the Secretary of State undertakes to carry on a dialogue with stakeholders and Members of Parliament. I certainly hope that one of the stakeholders will be the Attorney-General of Northern Ireland, who has always put forward very interesting and thought-provoking ideas in this area.

When the House of Lords debated this subject some months ago, we were more or less of one mind that we must find a way of drawing a line under this. It might be a painful way and it cannot be one-sided but I see little sense that the Northern Ireland Office really registered that. I also believe that would be the view if there were a free vote in the House of Commons. Debates show that there is a hunger to find a way to draw a line under this.

It is also very important that the UK Parliament’s view is heard because ultimately the Government of the United Kingdom pay for the maintenance of this culture, not just financially but in living with the emotional effects of constantly replaying the Troubles in Northern Ireland. There is no question that 20 years after their formal end, the Troubles live on in the discourse of the community in a way that the Second World War did not live on in the discourse of London, for example—although, of course, people did talk about it from time to time.

To conclude on a slightly happier note, the noble Lord, Lord Dubs, mentioned the representation of the communities and the political traditions of Northern Ireland in this House and how that could always be broadened. As chair of the House of Lords Appointments Committee, I have been thinking about this for some time, along with my committee and I have got the message.

8.37 pm

Lord Cormack (Con): My Lords, I am sure that we all delighted that the noble Lord, Lord Bew, has got the message and we hope to see the results of this in due course.

I add my brief congratulations to my noble friend Lord Caine for a wise, perceptive and thoughtful speech, indicative, I am sure, of many that he will give in your Lordships’ House—not just on Northern Ireland—in the years to come. My only regret is that he had three years of, I think, unnecessary purdah. He has been—the noble Lord, Lord Empey, referred to this—a wonderful demonstration of a prudent adviser. I sometimes wish that I could whip up the money to

[LORD CORMACK]

buy two tickets on Richard Branson's spaceship and give one to Mr Cummings and one to Mr Seamus Milne.

We are talking about a very serious subject tonight and I am delighted and grateful that my noble friend Lord Duncan has introduced these reports. Every word of them underlines the shameful situation of not having an operating Assembly and Executive. The noble Lord, Lord Dubs, is obviously a mind reader because I wish to stress this yet again. As I indicated in an earlier debate, I am ashamed of the fact that we are going into Prorogation later today. I think it is shameful. However, even out of the most shameful situations, good can be rescued, and I say to my noble friend Lord Duncan that he will not be required to come to Parliament. I ask him, please, with his colleagues, to devote all his time over the next four or five weeks to trying to bring people in Northern Ireland together; to set up a scheme whereby the Assembly can be summoned; to create a system in which committees can meet; and, above all, with the Secretary of State to choose a moderator and mediator who can bring the parties together.

However honest and good the intentions of the Government—in respect of my noble friend Lord Duncan they are exemplary—the fact is that it is perceived that the Government are on the side of one particular party in Northern Ireland. I do not believe that they are behaving in a partisan way but that is the perception, and perceptions are important. Therefore, it is crucial that during these coming weeks we do not waste time but get on with trying to ensure that the parties are brought together so that by the end of the year at the latest, and before the third anniversary, we have an operating Executive and an Assembly that meets.

In the preceding debate, the noble Lord, Lord Murphy, talked about the inexorable drift towards direct rule. It would be a condemnation of us all if that were the result. I was in Northern Ireland at the start of the remarkable partnership of Ian Paisley—the late Lord Bannside—and the late Martin McGuinness. That was the stuff of which political miracles are made. I well remember many conversations with the noble and right reverend Lord, Lord Eames, who is justifiably held in the highest repute in Northern Ireland. He and Denis Bradley conducted their inquiries and we discussed them, and many of us felt that we really were on the way to the consummation of a remarkable transformation.

Then, we had the sad and unfortunate events at the beginning of 2016, since when there has been no real progress at all. My noble friend Lord Duncan has had to come to the House time and again, going through the mantra, “The parties are going to come together” and “We're doing our best”. Of course he has done his best, but it has not yet worked and it is crucial that it does work.

We are in the middle of a great national crisis—one in which Northern Ireland is the most vulnerable part of our United Kingdom. I had thought that the whole Brexit scene would be transformed had we had an operating Assembly and Executive. Therefore, I say to my noble friend: please try to get people together

during the next few weeks so that, as we move towards what I hope is a deal—no deal would be particularly catastrophic for Northern Ireland—we have an operating Assembly and Executive that are ready to come in from the wings to play their part in the crucial governance of a beautiful part of our United Kingdom but one that could so easily be lost, as could Scotland, from the country that we all love.

8.44 pm

Lord Browne of Belmont (DUP): My Lords, I welcome the maiden speech by the noble Lord, Lord Caine. I am sure that your Lordships' House will benefit greatly from his wisdom and expertise. Because of the time limit, I will confine my remarks mainly to the gambling report.

If we are to have a sensible and informed discussion about gambling in Northern Ireland, we have to recognise a very important fact from the outset. Northern Ireland has a significantly higher problem gambling prevalence rate than the rest of the United Kingdom. At 2.3%, it is more than four times that of England, where the problem gambling prevalence figure at the time of the survey in Northern Ireland was 0.5%. It is three times that of Scotland and more than twice that of Wales. This means that there are in the region of 30,000 to 40,000 problem gamblers in Northern Ireland, which means that the current shortfalls in our law and funding arrangements really matter.

As the report before us today recognises, the last dedicated piece of gambling legislation for Northern Ireland was passed in 1985. In this context, I have three main areas of concern. In the first instance, while the maximum stake on a fixed-odds betting terminal in Great Britain was set at £2 per spin on 1 April this year, no such legislation was introduced in Northern Ireland. I applaud the fact that some industry providers—Ladbrokes, William Hill, Paddy Power, Betfair, Toals and McLeans—announced that they would voluntarily reduce the stake from £100 to £2 in Northern Ireland on 1 April. However, not every bookmaker operating in Northern Ireland has followed suit. Northern Ireland's citizens should not have to rely on the good will of betting companies to determine the stake on FOBTs, nor should they be left in a situation where there is inconsistency as some betting shops voluntarily act responsibly while others do not. This is a recipe for confusion.

I turn to online gambling, a topic on which I was fortunate enough to secure a two and a half hour debate in your Lordships' House in November 2017. As I said at the time, while a huge amount of concern had been expressed then about FOBTs, there had not been much specific focus on problem gambling in relation to the online space. Since then, I am pleased to say that there seems to have been an increased awareness regarding the dangers associated with online gambling. Unlike betting shops, online gambling is available 24/7 without the player having to leave their house. Not surprisingly, it is associated with a higher problem gambling prevalence figure than gambling per se.

My concern in this debate is that the last dedicated piece of Northern Ireland gambling legislation makes no reference to online gambling—on account of the

fact that there was no internet in 1985. The only other statutory provision of which I am aware is found in the UK Gambling (Licensing and Advertising) Act 2014, again acknowledged by today's report. Section 5 of the 2014 Act makes it illegal for an online gambling provider to advertise in Northern Ireland unless it has received a licence from the Gambling Commission.

Courtesy of Section 5, are gambling operators who advertise legally in Northern Ireland required to provide all the responsible gambling protections to Northern Ireland gamblers that they are required to provide to gamblers in Great Britain under the commission's licence conditions? These provisions include the need for age verification of anyone wanting to gamble, the requirement to promote self-exclusion, policies and procedures for customer interaction where an operator has concerns that a customer's behaviour may indicate problem gambling, and prohibitions on advertising to individuals who have chosen to self-exclude.

In asking this question, I note that the Section 3(11) report before us today talks about industry groups "implementing social responsibility measures" and adhering to,

"industry codes of practice and protocols",

to protect people who may be experiencing problem gambling. What is not clear from the report, however, is whether this action is taking place because some providers are voluntarily taking these steps or because all online providers to the Northern Ireland market are having to take this action as a requirement of a Gambling Commission remote operating licence brought to bear on online providers to Northern Ireland through Section 5, even while the remit of the commission is Great Britain and not the United Kingdom.

This, in turn, leads to another very important question for the Minister. If the answer is that the legal protections for online problem gamblers in Northern Ireland are the same as those for problem gamblers in Great Britain, courtesy of Section 5, can the Minister confirm that a problem gambler in Northern Ireland has the same recourse in law as a problem gambler in Great Britain if he or she feels that gambling operators have not afforded them their due protection under the terms of their Gambling Commission licence?

In 2014, the Government opposed the idea of statutory financial transaction blocking to prevent unlicensed gambling providers—be they based in Great Britain, Northern Ireland or a foreign jurisdiction—from accessing the GB market. Mindful of this, and given the demands of Section 5, I would be interested to know what level of resources the Gambling Commission invests in monitoring who accesses the Northern Ireland market and how many unlicensed online providers they have detected trying to access the Northern Ireland market illegally.

One aspect of player protection that I welcome, and which I know applies fully to Northern Ireland, is GamStop. During early 2014, I was very pleased to work with the noble Baroness, Lady Howe, and the noble Lord, Lord Stevenson of Balmacara, on an amendment to the Gambling (Licensing and Advertising) Bill to introduce a multi-operator self-exclusion scheme for online gamblers. Although the Government would not accept the amendment, they agreed to ask the

Gambling Commission to introduce such a scheme. GAMSTOP indeed had a soft launch last year and, as of last Friday, I understand that 97,000 people have used GAMSTOP to self-exclude themselves from online gambling. This service relates to the whole United Kingdom and thus to Northern Ireland, although it is not yet possible to disaggregate the figures to know how many of the 97,000 are from Northern Ireland.

Can the Minister inform the House of the total financial contribution by the gambling industry to help problem gamblers in Northern Ireland? This leads me to the fact that, in a Great Britain context, five of the biggest gambling companies have just committed to giving £100 million over a four-year period to funding treatment and support for problem gamblers. This is welcome news, but what about Northern Ireland, which has the highest problem gambling prevalence figures in the United Kingdom and needs investment to help problem gamblers the most?

My Lords, I regret the time limits on this debate. I had many more words to say but my time is up.

8.52 pm

Lord McColl of Dulwich (Con): My Lords, I too would like to congratulate the noble Lord, Lord Caine, on this splendid speech. The Northern Ireland Assembly was the first legislature in the UK to pass new legislation on human trafficking in 2015. That legislation was rather more comprehensive than the Modern Slavery Act here because it included the provision of support and assistance to victims.

I pay special tribute to the noble Lord, Lord Morrow, for the wonderful work he did in bringing his Private Member's Bill through the Assembly. It is a fine example of how the Assembly can work effectively, leading the way within the UK.

In passing the human trafficking and exploitation Act, the Assembly had the foresight to include a discretionary power in Section 18(9) for the Department of Justice to continue providing support to victims after the NRM process was complete. Many of those who receive a short period of support become, when it concludes, destitute and homeless and are at very high risk of being re-trafficked. By providing discretionary support to those at risk in such circumstances, victims are able to rebuild their lives and avoid the heinous injustice of falling back into the hands of their evil traffickers.

The report published under Section 3(12) of the Northern Ireland (Executive Formation etc) Act 2019 outlines the number of people who have been rewarded discretionary support over the past three years. It states that 16 victims have been awarded further support. According to figures from the national referral mechanism, 83 adult victims have been referred in Northern Ireland, and it is estimated that about 29 to 40 of those victims will have been granted a positive conclusive grounds decision. The report does not give much detail as to why these 16 individuals got further support, rather than the other victims who also received a conclusive grounds decision. Will the Minister tell us whether officials have guidance on how to make decisions about extending support? If so, would he kindly make copies available to noble Lords?

[LORD McCOLL OF DULWICH]

Noble Lords will be aware of the debate and developments over recent years regarding what support should be provided following a conclusive grounds decision. They will also know of my own efforts through my Private Member's Bill to increase support available to victims in England and Wales. I introduced the Modern Slavery (Victim Support) Bill partly to address the gap in the Modern Slavery Act, which did not include clear protection for victims. It was especially designed to remedy the significant problems that victims face in England and Wales after being granted a positive conclusive grounds decision. This is because they have no legally guaranteed access to ongoing support or services.

We will rob victims of their recovery if we fail to help them on the road towards long-term rehabilitation. Unless we provide them with secure long-term support, guaranteed by law, we will create uncertainty, which makes it more likely that they will fall right back into the vulnerable state that made them a target for traffickers in the first place.

Supporting victims towards recovery is also central to a successful criminal justice response. We know that if we are going to see more successful investigations and convictions for these offences, we need to help victims feel safe and secure enough to tell police what they know, and even perhaps to give evidence in court. This is unlikely to be the case if they are destitute, homeless and prey to the evil traffickers yet again. This is a desperate and appalling situation, which must be put right forthwith.

My Bill proposes 12 months' support for victims of modern slavery after a conclusive grounds decision, with leave to remain in the UK during that time. The University of Nottingham conducted a cost-benefit analysis of my Bill and found that it had the potential to save government money. A longer period of support would enable victims to get back into work, supporting themselves and contributing to the economy and the country through tax. Also, the cost of rescuing victims from crises such as homelessness and re-trafficking is high, and a longer period of support would reduce the scope for these situations.

The discretionary power in the excellent Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) is paving the way forward for longer-term help for victims. England and Wales must continue this progressive trend on victim support, and I believe my Bill not only catches Northern Ireland up, but goes rather further, so I hope the noble Lord, Lord Morrow, feels that, on victim support—if the Bill becomes law—Northern Ireland might seek to follow England and Wales.

In passing, I pay tribute to Theresa May, who took my Private Member's anti-slavery Bill through the Commons. It has been such a great success not only in this country but in many other parts of the world. All credit to her.

8.59 pm

Lord Hay of Ballyore (DUP): My Lords, I congratulate the noble Lord, Lord Caine, on his maiden speech. I wish him well in his work here in the House.

Much has been said today about the return of devolution to Northern Ireland. Yes, it is essential that devolved government returns in Northern Ireland sooner rather than later. I suggest that that will not be an easy task but I hope that all the parties have entered into the talks process in good faith and that they continue to work to see Stormont back up and working. This was certainly the objective with which we, the Democratic Unionist Party, entered into the talks: to see the success of the talks. We said as a party that whatever agreement came out of the talks must be fair and balanced and command broad support and agreement across the communities in Northern Ireland.

The political vacuum cannot be allowed to continue. Dissident republicans are now targeting police officers on a nightly basis. Just last night we had a pipe bomb in Strabane. There are daily instances of bombs being made by dissident republicans. The worry in Northern Ireland is that someone else will fill the vacuum if we cannot get the institutions up and running. There is no doubt about that. Do we really want to bring another generation in Northern Ireland through what we all went through? I think not, so the stakes are high for getting the Assembly up and running.

The noble Lord, Lord Empey, talked about health. I shall say a few words about education. Education in Northern Ireland is in a mess. You have only to speak to teachers, and to school principals in particular. The budgets are under terrible pressure. When it comes to the impact of the funding crisis in the classroom, principals, governors and parents continually bend over backwards to make sure that the cuts do not impact on the children, but it is only a matter of time.

The noble Lord spoke of our health service and the waiting list that grows continually for appointments for routine surgery, with people waiting for two years or more in agony awaiting hip replacements. We see projects that are shovel-ready in Northern Ireland, with the funding in place, that are not able to begin because there are no Ministers in place. That is right across the Province, where a number of major projects could get the go-ahead in the morning if we had Ministers in place in the Assembly.

I want to address the question of the sustainability of the Assembly and the institutions. It is completely unfair for any party to be able to walk away from the institutions over a particular issue and say, "We're not going back into government", and the whole house of cards comes down around us. If the Assembly ever gets back, and I hope it does, then we need to bring sustainability to the institutions and the Assembly itself.

I turn to the expansion of Ulster University and especially of the Magee campus in Londonderry. There have been proposals for a scaled expansion of the university at Magee to raise the student numbers to 9,000 from the current number of around 4,000. The problem has been the business case. We are looking at funding of around £300 million over a period of time to do what needs to be done. The noble Lord, Lord Empey, when he was a Minister, raised the issue, as did previous Ministers, of how the expansion of Magee at the University of Ulster could be resolved. There is some talk of trying to get this issue into the city deal. I see it is very much part of the city deal, and

£105 million has already been announced for that deal within the city. However, it is sitting there at the moment. It is going nowhere. Once again, we need a Minister and to have an Executive up and running to push the whole thing forward. There is great talk about an independent university in Londonderry. This has been floated since 2012-13, but no firm proposals have come forward.

I want to speak very quickly about a medical school for the city. In 2016, following cross-party political support, the university continued to develop the project, working closely with the department and all relevant parties. Ulster University's proposal is designed to address the current health crisis and future-proof care positions across Northern Ireland. The graduate entry medical school business case was submitted to the Department of Health at the start of July, following close engagement with the department and all relevant partners. The proposed first academic year of enrolments outlined in the updated business case is 2020-21. The department has worked with Ulster University on the completion of the business case, so the whole issue of the medical school has moved forward. However, once again, we are in limbo because we have no Minister to give direction on the funding. The funding is very important to move the whole project on.

I will finish by saying that we must not have a repeat in future of what we have had over the past few years, so that never again can one single party hold Northern Ireland to ransom and leave us without a Government. We need to see the institutions restored in a sustainable way. I believe that with good will and good work that can happen.

9.06 pm

Baroness O'Loan (CB): My Lords, I would like to express my congratulations to the noble Lord, Lord Caine, on his very fine maiden speech.

During the passage of the Bill that led to this Act, I asked what abortion law would look like in Northern Ireland after the passing of the Act. I asked whether it would be the European norm of 12 weeks or follow the Abortion Act 1967 which allows abortion up to 24 weeks and abortion of people with a disability right up to birth. That Bill passed 50 years ago and has no cognisance of modern obstetric knowledge and practice. Two months later, I am no clearer; nor it appears is the Northern Ireland Office, since it says that, "much further work is required".

We do know that if the Executive does not re-form by 21 October—I sincerely hope that it does—the legal framework will disappear. Six weeks tomorrow, there will be no regulation of abortion in Northern Ireland up to the point of viability. The presumption, which is rebuttable in law, is that viability occurs at 28 weeks. We will be back to the position we were in in the mid-19th century before the Offences against the Person Act 1861. I do not know how the Government got themselves into this position. They had agreed that matters would be dealt with only by or with the consent of the devolved Assembly. We have an Assembly, even if we do not have an Executive, and the Members of the Legislative Assembly were not consulted at all.

The careful planning which normally applies and which is being done for the organ donation Act, for example, has not applied to this, so I have further questions for the Minister. When will details of the new law be available for consultation? Will your Lordships' House be consulted or has Parliament written a blank cheque for abortion in Northern Ireland? How will the Government seek the views of the people of Northern Ireland and their elected representatives? It will not be enough to consult only the medical profession or its professional bodies. Have the Government started to consult the medical profession? If so, when did that consultation start and with whom is it occurring? Can the Minister confirm that, in the interim period, subject to the provision about viability, it will be possible to abort a baby up to 28 weeks for any reason whatever, including if the baby is the "wrong" sex or has a minor disability? Is the guidance or consultative paper in draft form now? If so, will he place it in the Library so that we can consider it? If it is not in draft form, can it be placed in the Library as soon as it is ready?

There was no human rights deficit before this Act, but the passing of the Act will mean that in terms of the Istanbul convention, Northern Ireland will become less compliant in human rights terms. Therefore, the UK as a whole will be failing in its obligations under the Istanbul convention to protect women against coercive abortion from 22 October. The Government cannot rely on the proposed domestic violence Bill to address this deficit in the current volatile political situation. It has been said that professional bodies will regulate the matter and ensure that services are provided only in a proper manner. Professional bodies regulate conduct, not the law. That is why the Act provides for regulations.

If such an arrangement involving a complete limbo of over five months were imposed on England and Wales, there would be an outcry. There is an outcry in Northern Ireland. The necessity for the regulation of abortion has been shown by repeated CQC inspection reports on abortion clinics showing failed abortions, emergency transfers to NHS hospitals, most recently in BPAS Merseyside, and failings in the safety of services. We need a regime of inspection regulation.

We cannot know how widely abortion services will be available from 22 October. Will the drugs to induce early abortion be made available from that date? Will patients have a right to demand such a prescription? Will doctors be able to refuse an immediate prescription if they do not want to prescribe? Will women be self-administering in the absence of medical help, with the attendant risks? How will medical professionals' rights to freedom of conscience be provided for?

Your Lordships know that this Act undermines the devolution settlement. People in Northern Ireland feel very, very strongly about this. I was among the 20,000 who went to Stormont on Friday night to protest, as was the noble Lord, Lord Morrow, and again on Saturday I was out in the centre of Belfast with the many thousands who demonstrated against this change, a change in which we have had no say and still do not know what it is really going to mean. The regulations required under Section 9 must, under Section 12, be agreed after they come into effect. The

[BARONESS O'LOAN]

regulations cease to have effect after 28 days unless approved. But the 28 days takes no account of any time in which Parliament is dissolved or prorogued or both Houses are adjourned for more than four days. We cannot predict what is going to happen in the days to come. If we go to an election, as seems highly likely, it could be months before we have any clarity, but we will have no regulation of abortion from 22 October.

The Northern Ireland parties must make their return to the Assembly a priority. Government must do more to facilitate proper talks. That we should still be in bilateral talks at this stage of the proceedings is quite distressing. At the end of the day, the parties could come back into Stormont, form an Executive and then walk away again. The Act could not then come into effect. I say to Sinn Féin and the DUP that this is what they should do at the very least to remedy this unprecedented democratic deficit. In the interim, if that does not happen, there should be no limbo period at all. Government have the responsibility in this matter, having assumed it by enabling the Act. Government should pass emergency legislation to remove the limbo period, bringing the legislation into effect only after the regulations are passed or Stormont meets again. The UK would then be compliant with its Istanbul convention obligations. We need emergency legislation to cover the period from 22 October and we need any new regulations to be the subject of consultation with our MLAs so that there is some respect for the democratic rights of the ordinary people of Northern Ireland.

9.14 pm

Lord McCrea of Magherafelt and Cookstown (DUP):

I join other noble Lords in congratulating the noble Lord, Lord Caine, on an excellent speech and on the passion he shows in the interests of the people of Northern Ireland. When Sinn Féin MLAs brought the Executive down they did so under the disguise that they had a concern about the RHI scheme. I have an abiding concern about the financial viability of many of our farmers and those who participated in this scheme in good faith, yet they are being penalised with terms and tariffs different from the mainland or those that will be enjoyed by people in the Irish Republic. That must be rectified with extreme urgency, but it is not mentioned in any of the reports we are debating.

I agree with the report pursuant to Section 3(1) that there is considerable frustration in Northern Ireland at the ongoing absence of an Executive and a large number of pressing public policy issues have gone unresolved because of that. In fact, in Northern Ireland one in 16 people are on waiting lists for a year. In England it is one in 48,524, meaning that you are 3,000 times more likely to wait over a year for treatment than in our counterparts in the rest of the kingdom. If Sinn Féin is unwilling to let the Executive be restored, then the people of Northern Ireland must be governed.

On the issue of victims' payments, without a proper system in place in many instances families are still being denied the justice they deserve. However, there can be no equivalence between the bomber and the innocent victim. The definition of a victim must be

changed; it is immoral. According to the dictionary definition, a victim is someone who has been hurt, damaged or killed or has suffered because of the actions of someone else. Those who deliberately set out to murder and those innocents who were injured or slain as a result of terrorist actions cannot be looked on as the same. To equate those who are direct victims of terrorism to those who are injured as a result of their own actions while perpetrating atrocities is insulting. We are seeking a new United Kingdom-wide definition that would exclude terrorists injured in their actions.

On 22 July, the DUP deputy leader Nigel Dodds raised the lack of confidence in the victims' commissioner during Questions in the other place. On 24 July the Belfast South MP Emma Little-Pengelly wrote to the commissioner to explain the loss of confidence among victims, urging her to change course. Although the commissioner operated under a definition, this does not mean that she cannot recommend legislative change. This is particularly the case for the special pension proposed, which would require new legislative criteria. The fact that she has not done so has disappointed and dismayed many innocent victims. The Government need to work for healing among victims, rather than causing further hurt.

Without apology, the DUP has consistently advocated a strong pro-life position. Abortion is one issue where I believe alliances have developed across the main traditions in the community and the political parties. The extension of the 1967 Act has been opposed by many in all the main parties. The sheer scale of protests in Northern Ireland at the weekend shows the strength of feeling, and research by the Both Lives Matter campaign indicated that at least 100,000 people are alive in Northern Ireland today who would not be alive if the 1967 Act had been extended to Northern Ireland. The drastic approach envisaged in the Northern Ireland (Executive Formation etc) Act would be unacceptable for Northern Ireland and leave no effective legal framework in place. Northern Ireland's existing position has been considered down the years to offer an appropriate balance and it should be for the elected representatives in Northern Ireland, representing the electorate who voted for them, to decide this vital issue of life and death.

Another issue of considerable concern is the understandable frustration among those long-suffering victims of historical abuse. Sir Anthony Hart's report put forward recommendations for financial recognition of the horrible crimes perpetrated against some of the most fragile and helpless young people in our society. Delay is a shame and a disgrace, and only serves to heighten the injustice against them. A lack of devolution has been a barrier to this matter being progressed. In the absence of devolution, the Government have a moral duty to meet their financial commitment, but ultimately the institutions that closed their eyes to the abuse must be prepared to make their contribution to this compensation, as has happened elsewhere.

Justice demands that we address the vitally important issue of the military covenant and the treatment of our armed forces veterans. A significant proportion of veterans who served on Operation Banner currently

reside in Northern Ireland. In addition, armed forces personnel from Northern Ireland have been deployed in Iraq, Afghanistan and many other countries. The armed forces covenant is not about giving preferential treatment. It is a commitment of care to the servicemen and women who gave so much for our nation. It ensures that those who have served us do not suffer disadvantage by virtue of their service when it comes to provision of housing, education and healthcare.

In Northern Ireland, the covenant does not apply fully; it does elsewhere in the United Kingdom. It is a sad reality that veterans in Northern Ireland are disadvantaged at present by virtue of their service. We have the opportunity, here and in the other place, to reflect on this situation and do something about the rights of veterans in Northern Ireland. I hope the Minister agrees that a clear legislative underpinning of the military covenant throughout the nation would be a logical and sensible step.

9.21 pm

Lord Maginnis of Drumglass (Ind UU): My Lords, I pay tribute to the noble Lord, Lord Caine. I knew him first when he was at the Northern Ireland office in Washington, and he was most helpful to me in my early days as a Member of Parliament.

I am grateful to be able to intervene in the gap. When I had this fistful of papers thrust upon me at the end of last week, I had thought to ignore what is little more than an egotistical NIO exercise with little historical reality or future prospects. What I say is no reflection on the Minister, who has always sought to be helpful to me, but it has not gone unnoticed that at a time when both the Commons, and to some considerable degree, this House, has abandoned any responsibility to reflect the democratic will of the electorate, we are experiencing this egocentric Northern Ireland exercise, which has little historical reality and few concrete prospects. I ask the Minister: has the long-promised retrievable heat initiative independent assessor, promised some considerable time ago in this House, been appointed yet?

On 10 July, I had to reveal the scandal relating to Lee Hegarty and his £10,000 buy off for being offended by a portrait of Her Majesty. Mr Hegarty having been at the NIO in London for several years before being offended in Northern Ireland is unimportant; the then Secretary of State, on the advice of the manipulative current head of the Northern Ireland Office, Sir Jonathan Stephens, authorised a below-the-counter payment. Is his ill judgment to go unpunished for its deviousness? In respect of appointment functions that are mentioned in the papers that we have received, is that biased individual to exercise his current role? Is he to have the privilege of endorsing his placemen? Impartiality, my Lords—I ask you. Can anyone tell me why no has sought to tell us from where this £10,000 under-the-counter payment was extracted? That cannot be answered by this irrelevant mish-mash.

Left as we have been without any tangible support in Northern Ireland, I have to ask in the face of this: are we still considered to be a meaningful part of the United Kingdom? Since Northern Ireland has been neglected by three successive Secretaries of State and

by two past Prime Ministers, I cannot accept that this nonsense we are debating is anything other than a trivial and dangerous bluff. If I were a Shinner—a Sinn Féiner—I would never get myself back to the Northern Ireland Assembly and, given their continuous buy-off, they will not. I caution this House that this has to stop. When are we to rid ourselves of this endemic treachery?

9.25 pm

Lord Eames (CB): My Lords, it is a privilege to join the welcome and tribute to the noble Lord, Lord Caine, on his maiden speech. I have had occasion to see him at work in Stormont House in Belfast but, more important than that, to know something of the influence he has had over the years in that role. I too welcome him.

How much repetition can this House take when it comes to Northern Ireland? How much can we yearn for something new? We talk of the definition of a victim; we need a victims' definition that covers the entire United Kingdom, in which the difference between self-inflicted wrong and innocent suffering is clearly defined. We need some recognition in Northern Ireland, and in the United Kingdom generally, of the evil in the ongoing hunt of veterans who gave so much during our Troubles; for it is the legacy of those years that still reaches out to my generation, which came through so much during them. That legacy will constantly dominate all discussions on Northern Ireland as long as we allow it to dictate how people view Northern Ireland.

It is for that reason that we must state that in the sense of victimhood, suffering, enduring and, above all, coming through the situation, everyone who lived in Northern Ireland suffered change in their lives because of the experience of the Troubles. I speak as one who has tried to serve Northern Ireland over the years in a pastoral capacity. It is when we come to recognise the special nature of victimhood—the sort of definition that Denis Bradley and I looked at all those years ago—and get to the truth of the element of what “victimhood” really means that we can clearly define the difference that society desperately needs.

The people who the reports we are considering address tonight are utterly disillusioned by the failure of the body politic. They see it in terms of their local Assembly; they are also asking questions about the nature of devolution and about who cares. So often when they look to the mother of Parliaments, they do not get a clear answer. For that reason, in my limited contribution tonight, may I simply make the plea again for realism towards what is happening in Northern Ireland, as Brexit comes down the track on to a part of the United Kingdom which will feel the full force of Brexit without an agreement?

9.29 pm

Lord Hayward (Con): My Lords, I add my comments to all the others about my noble friend Lord Caine's maiden speech. In the interest of brevity, I hope he will accept the mere word, “congratulations”. Much of the debate this evening has been, quite rightly, about problems. However, when I last spoke in this House we

[LORD HAYWARD]

passed the legislation on same-sex marriage. On the first weekend in August I had the pleasure of marching, in my rugby club colours, with the Taoiseach at the head of Belfast's Pride march, with literally tens of thousands of people on the streets. For somebody who had not been to Belfast for a number of years, it was a truly joyous occasion. The city has changed and its attitudes are also, in some ways, changing.

Since then I have had the opportunity of meeting, with other people, the Minister and the Minister in the Commons to talk about the implementation of same-sex marriage legislation. I have three questions to put on the record. I know the Minister will answer these in writing at a later stage; he does not need to comment. First, will he identify the steps being taken to ensure that the deadline of 13 January for the regulations to come into effect is met? Secondly, will he identify the timeline and nature of any consultation on regulations to allow same-sex marriage in Northern Ireland from 13 January? Thirdly, what advice can the Minister give to same-sex couples in Northern Ireland who are planning a wedding in the new year? When I spoke at Queen's University prior to the march, a number of couples were genuinely celebrating the achievement of this legislation.

In conclusion, I refer to a comment made by the noble Baroness, Lady Smith, when she intervened in a speech I was making. She said that she hoped she would be invited to my rugby club's next party. Since then, as the noble Baroness knows, the RFU gave my club its national team of the year award at its annual dinner some 10 days ago. I guarantee that when we celebrate—some of the members are still celebrating from two Thursdays ago—the noble Baroness will be invited.

9.32 pm

Baroness Smith of Basildon (Lab): My Lords, what better way is there to get towards the end of the debate than with such an invitation? I gladly accept it.

We are grateful to the Minister for his introduction to this debate and to the earlier SI. He is always candid and honest with your Lordships' House. We understand the frustration he feels in negotiations. We have perhaps not made as much progress as he would like. Speaking of frustration, it is worth placing on record that the only reason we are here is that there is no sitting Assembly and Executive to take the decisions we would all prefer they took. As my noble friends Lord Dubs and Lord Hain—former direct-rule Ministers in Northern Ireland—said, we are 100% committed and will work towards the end of getting the Assembly up and running and local Ministers in place.

I understand from the comments of our colleagues in the DUP that they share that objective, but if the other side of the community were represented here, they would probably lay the blame on the DUP in the same way that the DUP lays all the blame on Sinn Féin. It is only when both sides come together, saying that they need to work together and taking a step back to find the way forward, that we can get to the position we need to be in. It is wrong to apportion all the blame to one side or the other. That is certainly not the role

of this House. We—and the Government—want to see discussions taking place that lead to genuine progress for the people of Northern Ireland.

The frustrations are also felt by the Civil Service, which is having to implement and act on decisions that it would rather Ministers were taking. They want ministerial guidance throughout their work. Talking to friends who work in the Northern Ireland Civil Service, it is a frustration for them that they have no Ministers to guide the work they do.

I take issue with just one comment the Minister made, which I rarely do, I have to say. He said he would be happy to update your Lordships' House in the coming weeks. I am sure he would be happy to, but his Prime Minister is going to prevent him doing so when the House prorogues for five very long weeks later today.

It is right to pay tribute to the noble Lord, Lord Caine, and what was a thoughtful speech that showed both his expertise and his commitment. I wish other advisers in government had the self-discipline he displayed, even though he described the frustrations he felt over the past few years at not being able to speak. I am pleased that he now can, and I hope we will hear more from him, not just on this issue, where he adds value, but on other issues; we will welcome the contribution he has to make.

What we have in these reports is a compilation of issues that have not been dealt with because of the absence of devolved government. There are issues that need urgent action. We have heard about a whole range tonight: out-of-date gambling legislation; lack of medical staff and problems in the health service; sustainable funding for higher education; through to those critical issues affecting victims. Of course, we have heard many other contributions on the issues relating to abortion. I would be very interested in the Minister's response to the comments of my noble friend Lord Dubs—which he has made many times before—about a facilitator engaging in the discussions to help them along. The noble Lord, Lord Cormack, also raised this issue. I know the Minister does his best, but he will also know that I have been quite critical of the Government at this Dispatch Box for a number of years for not engaging more. I think we are in a better place than we were, but I think a facilitator would be very helpful.

I was the Victims Minister for about two years in Northern Ireland and I was deeply affected by those I spoke to and engaged with and the stories they had to tell me. It is all very well for us to sit here and talk, but the noble and right reverend Lord, Lord Eames, made the point that unless you have actually lived through that time it is very hard to understand the depth of the impact it has on individuals. The cost of failing to have an Assembly to deal with such issues constitutes a very high price for victims and their families; they are the ones who will pay for any further delays. I welcome the Minister's comments tonight and I am sure my noble friend Lord Hain, who has pushed so very hard on the issue of pensions, with other noble Lords, will also welcome them. I hope the Minister will say a little more about the progress made; any timescales would be helpful.

On the question of victims, I was disappointed not to see in the reports an issue I have raised with the Minister before, and I am sure he anticipated my raising it: the hyponatraemia report I commissioned some 18 years ago. It took many years to finalise and the families whose children died still feel very aggrieved that the recommendations in the report have not been implemented because political decisions are required. It is worth reflecting on that as an example. In how many areas are the lives of ordinary members of the public in Northern Ireland impacted by the failure to have an Assembly? Although that was not mentioned, can he say something about it? Perhaps he could write to me, but I think we owe it to those families to say that we care about this issue and it will not be forgotten.

The key issue in all this is the gap in governance in Northern Ireland, in the face of what we regard as an irresponsible Prorogation. I will not be taking part in any Prorogation service this evening. Exit day is upcoming and as the noble and right reverend Lord, Lord Eames, and others have said, the risk of no deal to Northern Ireland will be felt acutely. My noble friend Lord Hain mentioned this as well: the impact of no deal on Northern Ireland would be huge and I hope that the Minister's colleagues in the House of Commons will not help to facilitate that by supporting Boris Johnson in pursuing it.

The outgoing Secretary of State for Work and Pensions told some truths on behalf of the Prime Minister this weekend. She commented that there is an absence of work going on under his leadership to actually try to get a deal. She estimated that 80% to 90% of government action is preparing for a no-deal Brexit. Surely, 80% to 90% of government action should be preparing for getting a deal and avoiding no deal. There is now immense time pressure, and it would be useful if the Prime Minister were to show his commitment to the future of Northern Ireland. That time could be more wisely used to avoid a damaging no-deal Brexit.

We have already heard today my noble friend Lord Murphy refer to the resignation watch that the Secretary of State for Northern Ireland is being placed under; such are his concerns about a no-deal Brexit for Northern Ireland—he feels it is so grave—that other members of the Government are concerned about him.

The thread that runs through these reports, and which has been raised today, is the need to restore devolved government. The reports talk about the need for renewed determination and “intensive engagement.” What does that intensive engagement actually look like? What engagement does the Minister expect to take place during Prorogation? If that is a hiatus in any discussions taking place, we are allowing Northern Ireland to hurtle towards an unmitigated disaster. Who will be involved? Can he say anything today about considerations for an external facilitator? I assure him that this side of the House will fully co-operate with him in helping to identify and support the role of such a facilitator.

I turn to a couple of other issues. One is the unanimous support of all Northern Ireland parties for compensation for victims of historical abuse. I welcome that support; a lot of work has been undertaken. We

understand the Secretary of State will bring forward legislation at “the earliest possible opportunity”. Can the Minister confirm tonight that that means the legislation will be in the Queen's Speech? There are five more weeks to work on it—quite a long time—and I hope he can confirm that, or at least say that it has not been ruled out, because it is very important.

There are a number of issues in respect of which Parliament set a deadline that action must be taken if an Executive were not in place by 21 October. These include victims' payments, which the Minister has said something about, same-sex marriage and abortion provision. I must say I was slightly concerned when noble Lords said that there was no human rights deficit prior to this. Yes, there was, and it has been identified. I will not rehearse the long arguments we had in Committee and on Report, but the fact remains that in Northern Ireland a woman who has had an abortion, having been the victim of a violent rape, faces a greater penalty than the rapist. That can never be acceptable. We have to consider this; if that is not abuse of human rights, it is hard to identify what is. I know the Minister took those comments on board at the time but, in the light of Prorogation, we need an assurance from him that these issues are not on the back-burner and will be actively progressed. The fact that this House is not sitting does not mean that Ministers will not be doing the work they need to do to ensure that these issues are addressed.

9.43 pm

Lord Duncan of Springbank: My Lords, it has been, as is often the case, quite an odyssey this evening. As the noble Lord, Lord Dubs, has mentioned, in these debates you tend to mention not just anything but everything.

I pay tribute to my noble friend Lord Caine, who gave his maiden speech this evening. I have been privileged to have his forthright advice on a number of occasions; he has always been very clear when I am wrong and when I am right. I have always appreciated his candour and I know the House will appreciate it as well. He has forgotten more about Northern Ireland than some of us will ever know, and we will all benefit from his wise words, careful counsel and forthright language. I know, from listening to his maiden speech, that his father would be immeasurably proud. I will respond directly to the point he raised on the legacy issue; he raises interesting points regarding how we might define them, and I will look at them with some great care. We need to do that, there is merit in doing so, and I will arrange a time to sit with him when we may raise a glass and talk further about that to see what resolution we can reach.

I will try my best in the time available to address all the issues as best I can, in sequential order. I will begin with the concept of victims' pensions; the noble Lord, Lord Hain, has been assiduous on this matter. The clear issue must be that no payments will be made to anyone who is injured by their own hand. That is a cast-iron statement; I have made it before and will make it again. I am happy to emphasise that; this is not for terrorists to claim funds but for those who have been seriously injured to ensure that they are able to

[LORD DUNCAN OF SPRINGBANK]

secure recompense for the remainder of their lives. I hope that that money does some good and that it arrives as quickly as possible. My team is working actively to meet the timescale. The noble Lord and others will be aware that we have to arrange a number of elements of this to make sure that it is fair and transparent. However, we will do so, and it will be done within the timescale—that is a necessary element.

I know that a number of noble Lords have been concerned about the definition of a victim; that is a broader question than the question before us on victims' pensions. I do not want to be drawn too much on that; I know that in answering questions the victims' commissioner herself has made reference to her original terms of reference, which are on a broader base than we are talking about here. However, the broader question of a victims' definition needs to be addressed not just in Northern Ireland but across the United Kingdom, and with some haste, because it has been too long. I would like to see that moving forward as quickly as I can make it so.

The noble Baroness, Lady Barker, asked a series of questions—I pay tribute to the noble Lord, Lord Bruce, who has been helpful in all matters regarding Northern Ireland. They were primarily around the restoration of an Executive, and some of them touched on the questions raised at the very end by the noble Baroness, Lady Smith, on what happens during a period of Prorogation. Several things must happen. The first is that we are not on leave. The whole point of this is that the Secretary of State will now be doubling and trebling those efforts; he will have more time away from the other place to do that. At that point, there needs to be an intensification of that engagement. At present, we have been seeking to do so on the basis of a series of round-table discussions, each tasked with certain elements. Progress has been made, as I said before in my remarks in the earlier speech. Many of these are around issues of transparency and the coming together of some of the institutional elements. We are still stumbling—there is no point denying it—on the question of culture and identity as these parts fit together. I just cannot believe that we cannot solve that. That is why I believe that my right honourable friend in the other place will do everything he can during this period of Prorogation, and with the support of every Member of this House.

It is important again to recognise that moving this forward with intensity will require a greater effort from the other parties as well. The noble Lord, Lord Empey, was right to remind me that we have not had a five-party meeting since that period in August; we need to see that five-party gathering again, and there needs to be an intensification to deliver that. As I said on previous occasions today and in the past, there has never been a greater need than now to have the voice of Northern Ireland recognised throughout.

I will delve straight into the question of abortion, which a number of noble Lords raised. There are several things to put into context. If an Executive are restored, that will be a matter for that restored Executive. If that Executive are not restored, then on 22 October we will move into a period during which there will be the various elements necessary to deliver a new regime for abortion in Northern Ireland. The noble Baroness,

Lady O'Loan, raised a number of points on some detailed questions, which I noted down and which I will go through. Until we reach 22 October, we cannot publish any documents, because at present we have to assume that we can restore the Executive. After we have reached that point, all documents will be produced and lodged in the Library, and noble Lords will have access to those. There will be no attempt to try to cover them up—they will be entirely transparent.

Again, it is our intention to focus primarily on consultation with professional bodies to ensure that we are aware of the reservations and concerns as well as to ensure that we learn from their experience. That will not just be professional bodies in Northern Ireland but also those which have gone through the system elsewhere in Scotland, England and Wales. We will draw on that knowledge to ensure that we have that information available as we go forward. Of course, the consultation will continue only after we have reached that point. As I have said, a consultative paper will be launched. It will be clearly put out and it will be transparent.

The noble Baroness, Lady O'Loan, raised the Istanbul convention, and I want to address that head on. The UK Government have signed that convention but they have not yet ratified it. This means that it has not yet been incorporated into domestic law. This is consistent with the dual approach that the UK takes in relation to international law. Further domestic legislative changes are required in order to be fully compliant with the commitments in the convention ahead of the UK's ratification. These include some measures which the Government have brought forward in the domestic abuse Bill, including extending extra-territorial jurisdiction for the criminal courts in relation to violent and sexual offences. Therefore, no part of the United Kingdom will be bound by the Istanbul convention until we have completed the ratification process.

On the question of what will happen during the period after 22 October, any cases which are in the courts will fall. I am thinking of one particular case where the mother purchased the appropriate pills; that case will lapse. I believe that it was to happen half way through November, but it will not be taken forward. On the question of the responsibility of doctors during the period, one of the greater challenges facing this country is the purchase of drugs online. It is easy to purchase them and it is difficult to monitor. I do not doubt that there are methods that we as a Government need to consider how to address. At the moment, doctors themselves will be bound by what I would hope will be their code of ethics. That code should help to ensure that this is not a free-for-all going forward, and nor should it be. Moreover, that code of ethics needs a sound base. We also have to recognise that there is a morality clause within this. Those who feel that they are unable to move forward in this regard will not be compelled to do so and we will consult on how that clause is to work in Northern Ireland. It will necessarily draw on the experience elsewhere in England, Wales and Scotland. There will be no compulsion on any individual to be put into a situation where their faith or any other beliefs are in contradiction with the acts which they are expected to perform.

The issue that we are going to face thereafter will be a more challenging one. The noble Baroness said that this undermines the devolution settlement. Much of what we are doing right now unfortunately does indeed clearly undermine the settlement. It can be realised only when the devolved Assembly is working and the Executive are functioning. Until that happens, everything we do here undermines the devolved settlement. That is a sad admission to make, but it is true.

Perhaps I may continue by turning to some of the other points raised in the debate. I am always pleased to respond to the noble Lord, Lord Dubs. He raised the question of the responsiveness of those in Northern Ireland to child refugees. I think that we need to make some more progress on this, so I would suggest to the noble Lord that, if he will allow me, I will seek to broker meetings directly with those concerned in Northern Ireland and I will invite him to attend them. At present I cannot instruct that, but I will seek to reach out to the departments in Northern Ireland and, if I can, to local authorities as well. I want to get to the root of this issue. If there are individuals who are willing to participate, I want to know about that and I want to take this matter forward. If he will accept that, I think that we can make a little progress here.

The noble Lord, Lord Morrow, raised a number of issues on the Bill he took forward on human trafficking. It is an extraordinarily important Bill which has done good. He asked some very specific questions. Given the late hour, I hope that he will allow me to respond directly to those questions in writing and I will place the responses in the Library of the House so that all noble Lords can see them. I recognise the points he has made which are humanitarian in their endeavours and I want to make sure that I do not mislead the House in my responses to them. As I say, he will have a written reply as soon as my team can make that so.

I shall touch on a couple of the points raised by the noble Lord, Lord Empey. The first is his reference to the Magee campus. I hope that it will form a significant of the city deal. I believe that if we are in a situation where that can be delivered, I think that we can make some serious progress.

When looking at the question of historical institutional abuse, a matter raised by a number of noble Lords, I should say that we want to make progress by the end of the year. That is a commitment I made to the noble Baroness on the last occasion we talked about this issue. It seems like yesterday, but I imagine it must have been in July. I believe that we can make progress by the end of the year. While there are challenges tucked inside this issue and I do not want to mislead anyone about what they represent, but we will do all we can to move the matter forward.

The noble Lord, Lord Browne, asked some questions in an area that I was less familiar with, which is that of gambling. He raised some very specific points. If the noble Lord will permit, I will write to him and lodge the answers to those questions in the House. We recognise—with the statistics that he quoted—that gambling in Northern Ireland being four times the English rate, three times the Scottish rate and twice the Welsh rate is extraordinary. I would like to get to the bottom of that and learn more. I may commission

some research to find out if we can understand what on earth is going on in Northern Ireland. I commit to responding to each of the points that he raised during his intervention.

I was pleased to hear the noble Lord, Lord McColl. He put forward the very specific question of whether officials have guidance on how to make decisions about extending support and whether I would be able to make copies of it available. As I previously advised, the provision was included in order to ensure a smooth transition for victims exiting DoJ-contracted support into longer-term arrangements. Therefore, it is exercised on a case-by-case basis, according to need. For example, we would continue to provide support to an individual under Section 18(9) where an appropriate exit plan is not in place. That is, for example, if accommodation had not been secured. In general, the support providers will work with potential victims from the point of referral into support to ensure that the appropriate arrangements are made for when they exit that support. This is why Section 18(9) has been used only in respect of a small number of cases where it has been identified as necessary and in the best interests of the victim to ensure the smooth transition to longer-term arrangements. I will be very happy to write to the noble Lord as well, confirming this information and expanding on it. I believe he deserves a fuller response than I have been able to give him this evening.

The noble Lord, Lord Hay, raised the issue of education and the noble Lord, Lord Empey, raised the matter of health. They both are in a sorry state in Northern Ireland. We know why that is and what has to be done to sort it out. There will, necessarily, be a Budget for Northern Ireland that will emerge soon after Prorogation but, as noble Lords will be aware, that is a trajectory budget based on the outgoing Executive and, frankly, it does no good in the areas that have been discussed. Therefore, I welcome the interventions and expect further discussion on this. We need to make sure that an incoming Executive are ready to take these matters forward. Should there not be an incoming Executive, responsible Ministers will take these education and health matters forward with the urgency I believe they require.

The noble Lord, Lord Maginnis, as ever, raised interesting points. On the RHI assessment, I have it written down somewhere. The Department for the Economy has recently updated the NIAC on progress relating to the hardship unit, including on the call for evidence, which ran from 17 June to 10 July 2019. The DfE has stated that it will move to appoint the independent chair as soon as possible. I will be held to that, so we need to make sure we get a date against it. A report providing an update on progress on the establishment of an RHI hardship unit will be published on or before 21 October 2019, in line with the requirement of Section 3(17) of the EF Act. The person in the Box needs to develop bigger handwriting because that was quite tricky.

The other issue that we need to touch on is the question of the £10,000 to the individual who was offended by the picture of the Queen. I will not comment on the details, but I might have thought that that money—even at this late stage—could be given to charity. That would be no bad thing.

[LORD DUNCAN OF SPRINGBANK]

The noble and right reverend Lord, Lord Eames, often brings us back to the point. There is disillusionment in Northern Ireland and I fully understand that. I understand why and he will as well. Politicians have let people down, both here and in Northern Ireland, and the people of Northern Ireland are no longer trusting of us. That will be manifest in many different ways as the years come and none of them will be good. That is why we need to get to the stage of intense discussions, which I spoke of before, from my right honourable friend the Secretary of State for Northern Ireland.

We have to intensify these talks, but they require all participants to be willing to take that next step. If we are being honest, they will have to do so against a backdrop of Brexit. Sometimes politicians have to step up to challenges. They cannot simply wait for somebody else to pick up the dustpan and brush to sweep it all up and then get involved. They need to do it now. We know what is coming. We know how difficult it will be for Northern Ireland. They have got to recognise what has to be done. The noble Baroness, Lady Smith, raised the point that all need to participate in that endeavour.

My noble friend Lord Hayward raised the question of same-sex marriage. I will write to him on that. I was very pleased to hear that he marched alongside the Taoiseach in Belfast. I saw the photographs—he sent plenty of them to me, so there was no surprise there. We will meet the deadline. In order to do so, we will basically learn the lessons from the implementation of similar legislation in England and Wales, as well as in Scotland, and we will make sure that the consultation is done correctly all the way through. As for its timing, clearly, as I said, we cannot begin until 22 October, the reason being that that is when we are committed to carrying it out. However, we will do so and will make sure that the consultation, such as it will be, with each of the bodies, including on the morality or conscience clauses, is made available to all in this House and lodged in the Library.

My noble friend asked what the individuals in Northern Ireland who are preparing to get wed should do. The answer is: get ready for Valentine's Day, because that is when they can do it. I can think of no better time than Valentine's Day. I hope that that satisfies my noble friend. I will of course write to him confirming each of those elements.

I am getting there. I believe that the noble Baroness, Lady Smith, is the last but by no means the least. I shall touch upon the hyponatraemia report. We need to get this sorted out, so I now make a commitment at the Dispatch Box that we will look at it again in greater detail to see what the problems are and whether we can move it forward. I suggest that at some point we sit on this matter over a cup of tea to see whether we can find a way forward. I think that that would be sensible and necessary.

The noble Baroness raised a number of points around the question of Prorogation. I can assure her that, as I said earlier, this is not a leave of absence. The Northern Ireland Office will be doubling or trebling its efforts to ensure that we can deliver that which we have committed to do. Importantly, we need to do so as transparently as possible, and I hope that the next

series of reports that come along as part of the Bill will deliver on those items. I am not sure whether my right honourable friend is on resignation watch but I know that he will have a very busy time ahead, and I understand why.

As to the point about the external facilitator, as I said, the individual chairs of the break-out sessions are independent. We have not lost sight of that. I do not doubt that the fresh thinking that my right honourable friend brings to this will go some way towards exploring each of the elements that any potential solution is composed of.

As to whether the historical institutional abuse legislation will be in the Queen's Speech, I bloody hope so, but I cannot commit to that. However, I can say that my right honourable friend has said that he will do all he can to ensure that it is there. I think that it should be there and that we should deliver against it.

I think that I have done it—we are now there. I thank noble Lords very much. I hope that these reports have been useful and that the next set will be as useful.

Motion agreed.

Report Pursuant to Section 3(14) of the Northern Ireland (Executive Formation etc) Act 2019

Motion to Take Note

10.02 pm

Moved by Lord Duncan of Springbank

That this House takes note of *Report Pursuant to Section 3(14) of the Northern Ireland (Executive Formation etc) Act 2019*.

Motion agreed.

Report Pursuant to Section 3(13) of the Northern Ireland (Executive Formation etc) Act 2019

Motion to Take Note

10.02 pm

Moved by Lord Duncan of Springbank

That this House takes note of *Report Pursuant to Section 3(13) of the Northern Ireland (Executive Formation etc) Act 2019*.

Motion agreed.

Report Pursuant to Section 3(12) of the Northern Ireland (Executive Formation etc) Act 2019

Motion to Take Note

10.03 pm

Moved by Lord Duncan of Springbank

That this House takes note of *Report Pursuant to Section 3(12) of the Northern Ireland (Executive Formation etc) Act 2019*.

Motion agreed.

Report Pursuant to Section 3(11) of the Northern Ireland (Executive Formation etc) Act 2019

Motion to Take Note

10.03 pm

Moved by **Lord Duncan of Springbank**

That this House takes note of *Report Pursuant to Section 3(11) of the Northern Ireland (Executive Formation etc) Act 2019*.

Motion agreed.

Baroness Chisholm of Owlpen (Con): My Lords, I beg to move that the House do now adjourn during pleasure. Further timings will be confirmed on the annunciator.

10.04 pm

Sitting suspended.

Parliamentary Buildings (Restoration and Renewal) Bill

Returned from the Commons

11.05 pm

The Bill was returned from the Commons with the amendments agreed to.

Sitting suspended.

Royal Commission

1.11 am

The Lords Commissioners were: Baroness Evans of Bowes Park, Lord Fowler and Lord Hope of Craighead.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, it not being convenient for Her Majesty personally to be present here this day, she has been pleased to cause a Commission under the Great Seal to be prepared for proroguing this present Parliament.

When the Commons were present at the Bar, the Lord Privy Seal continued:

My Lords and Members of the House of Commons, Her Majesty, not thinking fit to be personally present here at this time, has been pleased to cause a Commission to be issued under the Great Seal, and thereby given Her Royal Assent to an Act which has been agreed upon by both Houses of Parliament, the Title whereof is particularly mentioned, and by the said Commission has commanded us to declare and notify Her Royal Assent to the said Act, in the presence of you the Lords and Commons assembled for that purpose; and has also assigned to us and other Lords directed full power and authority in Her Majesty's name to prorogue this present Parliament. Which commission you will now hear read.

A Commission for Royal Assent and Prorogation was read:

Elizabeth The Second, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith, To Our right trusty and right well-beloved the Lords Spiritual and Temporal and to Our trusty and well-beloved the Knights Citizens and Burgesses of the House of Commons in this present Parliament assembled, Greeting:

Forasmuch as in Our said Parliament an Act has been agreed upon by you Our loving Subjects the Lords Spiritual and Temporal and the Commons, the short Title of which is set forth in the Schedule hereto but the said Act is not of force and effect in the Law without Our Royal Assent, and forasmuch as We cannot at this time be present in the Higher House of Our said Parliament, being the accustomed place for giving Our Royal Assent to such Acts as have been agreed upon by you Our said Subjects the Lords and Commons, We have therefore caused these Our Letters Patent to be made and have signed them and by them do give Our Royal Assent to the said Act, Willing that the said Act shall be of the same strength, force and effect as if We had been personally present in the said Higher House and had publicly and in the presence of you all assented to the same, commanding also Our well-beloved and faithful Counsellor Robert James Buckland, Chancellor of Great Britain, to seal these Our Letters with the Great Seal of Our Realm and also commanding The Most Reverend Father in God Our faithful Counsellor Justin Portal Archbishop of Canterbury, Primate of All England and Metropolitan, Our well-beloved and faithful Counsellors

Robert James Buckland, Chancellor of Great Britain
Peter Norman Lord Fowler, Lord Speaker
Natalie Jessica Baroness Evans of Bowes Park,
Lord Privy Seal

James Arthur David Lord Hope of Craighead

or any three or more of them to declare this Our Royal Assent in the said Higher House in the presence of you the said Lords and Commons and the Clerk of Our Parliaments to endorse the said Act in Our name as is requisite and to record these Our Letters Patent and the said Act in manner accustomed and We do declare that after this Our Royal Assent given and declared as is aforesaid then and immediately the said Act shall be taken and accepted as a good and perfect Act of Parliament and be put in due execution accordingly.

And whereas We did lately for divers difficult and pressing affairs concerning Us the State and defence of Our United Kingdom and Church ordain this Our present Parliament to begin and be holden at Our City of Westminster the thirteenth day of June in the sixty-sixth year of Our Reign, on which day Our said Parliament was begun and holden and is there now holden, Know Ye that for certain pressing causes and considerations Us especially moving We have thought fit to prorogue Our said Parliament.

We therefore confiding very much in the fidelity, prudence and circumspection of you Our Commissioners aforesaid have by the advice and consent of Our Council assigned you Our Commissioners giving to you or any three or more of you by virtue of these

[BARONESS EVANS OF BOWES PARK]

Presents full power and authority in Our name to prorogue and continue Our present Parliament at Our City of Westminster aforesaid on a day no earlier than Monday the ninth day of September and no later than Thursday the twelfth day of September until and unto Monday the fourteenth day of October there then to be holden, and we command you that you diligently attend the premises and effectually fulfil them in manner aforesaid We also strictly Command all and singular Our Archbishops, Bishops, Lords, Baronets, Knights Citizens and Burgesses and all others whom it concerns to meet at Our said Parliament by virtue of these Presents that they observe, obey and assist you in executing the premises as they ought to do, In Witness whereof We have caused these Our Letters to be made Patent witness Ourselves at Westminster the tenth day of September in the sixty-eighth year of Our Reign.

The Lord Privy Seal continued:

My Lords, in obedience to Her Majesty's Commands, and by virtue of the Commission which has been now read, we do declare and notify to you, the Lords Spiritual and Temporal and Commons in Parliament assembled, that Her Majesty has given Her Royal Assent to the Acts in the Commission mentioned; and the Clerks are required to pass the same in the usual Form and Words.

Royal Assent

1.32 am

The following Act was given Royal Assent:

Parliamentary Buildings (Restoration and Renewal) Act.

Prorogation: Her Majesty's Speech

1.33 am

Her Majesty's most gracious Speech was then delivered to both Houses of Parliament by the Lord Privy Seal, in pursuance of Her Majesty's Command, as follows.

My Lords and Members of the House of Commons, my Government's legislative programme has laid the foundations for the United Kingdom's departure from the European Union while pursuing wide-ranging domestic reform.

Landmark legislation was passed, and has now been commenced, to repeal the European Communities Act. Other laws are in place to enable the United Kingdom's smooth exit from the European Union, establishing new arrangements on international sanctions, nuclear safeguards, customs, and reciprocal healthcare arrangements. Close to 600 Statutory Instruments have been made to ensure a functioning statute book following the United Kingdom's departure from the European Union.

The stability and strength of the union that joins England, Scotland, Wales and Northern Ireland has been at the forefront of my Government's agenda. Preserving and promoting the social, economic and

cultural bonds that unite this nation remains of the utmost importance to my Government. My Government continues to work to ensure that locally-accountable politicians can take decisions in Northern Ireland at the earliest opportunity.

It has been an enduring focus of my Government to strengthen the economy to support the creation of jobs and to generate the tax revenues needed to invest in the National Health Service, schools and other public services. Improving public finances, while keeping taxes low, has been a priority for my Government. Legislation passed this session has provided one hundred percent relief from business rates for agricultural nurseries and, for a period of five years from April 2017, properties used for the purpose of new fibre infrastructure.

My Government has set out a programme of work to improve productivity and help businesses create high quality, well paid jobs across the United Kingdom. In 2019, more than a million workers benefited from the largest increase to the National Living Wage since it was first introduced. My ministers have worked to attract investment in infrastructure to support economic growth. Legislation has been passed to ensure that the United Kingdom remains a world leader in new industries, including electric cars and commercial satellites.

My Government has continued to support international action against climate change, including implementation of the Paris Agreement. Recognising the need for bold steps to protect the planet, a commitment to reach net zero carbon emissions by 2050 was enshrined in law, making the United Kingdom the first major economy to do so.

Draft legislation was published which will establish a new body to ensure the United Kingdom's high environmental standards are maintained and to protect and improve the environment for future generations. My Government has legislated to protect animals, including bans on the sale of ivory, puppies and kittens by commercial third parties and the use of wild animals in travelling circuses in England.

Voyeurism offences have been recognised as the crimes that they are and legislation has been passed to ensure the courts have powers to take swift action to protect children who are identified as at risk of female genital mutilation.

In presenting the long-term plan for the National Health Service in England, my Government strengthened its commitment to ensuring there is a world-class health system that supports everyone from birth, through the challenges that life brings, and into old age. My Government is committed to ensuring mental health support is available to all who need it and to protecting the fundamental human rights of the most vulnerable in society. Legislation enacted this session will increase access to protections and put in place robust safeguards for those who are deprived of their liberty.

In recognition of the need to make renting fairer and more affordable, and to promote fairness and transparency in the housing market, legislation has been enacted to reduce costs at the outset of, and throughout a tenancy, by banning most letting fees paid by tenants in England.

My Government has taken steps to ensure fairer markets and to protect consumers from unfair practices and financial losses. Legislation has been passed to ensure people have access to free and impartial financial guidance and debt advice and to introduce a ban on nuisance calls in relation to pensions. Measures have been enacted to reduce insurance costs for motorists by tackling the high number and cost of whiplash claims.

The security of the nation and its citizens remains of the highest importance to my Government. In this session, legislation has been passed to ensure the police and security services have the powers they need to keep the population safe in the face of evolving threats of terrorism.

Legislation passed this session marks a significant step towards my Government's commitment to tackle serious violence on the streets of the United Kingdom. Laws are now in place to prevent young people from purchasing dangerous weapons and to prosecute those who possess such items, or sell them without imposing rigorous age verification.

The defence of the Realm remains an utmost priority for my Government, which it has supported through investment in our gallant Armed Forces.

As a leading member of the international coalition against Daesh, the United Kingdom played a critical role in the military defeat of Daesh's so-called caliphate in March of this year. While the Middle East continues to suffer from serious conflict, my Government has played a leading role in de-escalating regional tensions. My Government has also played a key role in international efforts to protect the United Kingdom and its allies from hostile threats, including in response to the chemical weapon attack in Salisbury.

As a permanent member of the United Nations Security Council, my Government has provided political and diplomatic support to peace efforts in Yemen, Libya and Syria, as well as mitigating the human cost of these tragedies through the provision of substantial humanitarian assistance.

Prince Philip and I were pleased to welcome Their Majesties King Felipe and Queen Letizia of Spain and we also welcomed King Willem-Alexander and Queen Maxima of the Kingdom of the Netherlands, and the President and First Lady of the United States of America, on State Visits.

Prince Charles and I were delighted to attend a national commemorative event to honour and remember the heroism, courage and sacrifice of the many servicemen and women who participated in the D-Day Landings.

Members of the House of Commons, I thank you for the provisions which you have made for the work and dignity of the Crown and for the public services.

My Lords and Members of the House of Commons, I pray that the blessing of Almighty God may rest upon your counsels.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords and Members of the House of Commons, by virtue of Her Majesty's Commission which has now been read, we do, in Her Majesty's name, and in obedience to Her Majesty's Commands, prorogue this Parliament to the 14th day of October, to be then here holden, and this Parliament is accordingly prorogued to Monday, the 14th day of October.

Parliament was prorogued at 1.40 am.

Grand Committee

Monday 9 September 2019

3.30 pm

Intelligence and Security Committee of Parliament

Motion to Take Note

Moved by The Marquess of Lothian

That the Grand Committee takes note of the recent work of the Intelligence and Security Committee of Parliament.

The Marquess of Lothian (Con): My Lords, it is a great pleasure to introduce this debate on the work of the committee since 2015. These debates used to be a lot more regular, but, for some reason, this is, I think, our first since that time—so a very large body of work is in front of us if we wish to discuss it. I say “we” because your Lordships’ House is represented on the committee not only by me but by the noble Lord, Lord Janvrin, who will share with me today the introduction to the work of the committee, which since 2013 has been independent and self-tasking.

The ISC oversees the seven organisations that make up the UK intelligence community. As members, we are all subject to the Official Secrets Act and are cleared to have sight of highly classified information. We meet in private and all evidence we take is given in complete confidence—trust in which confidence is essential to the highly sensitive security subjects that we work on. Noble Lords who follow our work in some of the reports that we put forward will realise that large portions of it consist of asterisks. I am not sure how one expresses an asterisk orally, so today I shall avoid getting into those areas of detail.

The ISC oversees the whole gamut of the work of our intelligence and security agencies, from international counterterrorism, Northern Ireland-related terrorism and cybersecurity to oversight of administration and expenditure. We examine their priorities and how they allocate efforts and resources. Issues such as recruitment and staffing are important, because intelligence, even in this technological age, is essentially still a people business. We need therefore to make sure that we have the highest-quality people.

Our remit allows us to look at the security and intelligence aspects of the subjects that we investigate, which by definition cannot fall within the remit of parliamentary Select Committees. In this debate, I propose, along with the noble Lord, Lord Janvrin, to look at the main work carried out since September 2015. We have agreed to share this task between us.

I shall start with our report on the UK lethal drone strike, which we published in April 2017. In it, the committee addressed intelligence issues relating to the conflict in Syria, and in particular the lethal UK drone strike against Reyaad Kahn on 21 August 2015. This strike was exceptional in that it was the first time that the UK had conducted a lethal drone strike against a terrorist target outside of participation in a military campaign.

In investigating the strike against Reyaad Khan, the committee’s focus was on the intelligence on him and the resulting assessment of the threat he posed. Other parliamentary committees had considered the legal, policy and military aspects of the strike, but were unable to scrutinise the intelligence basis, given that the intelligence was highly classified.

Our committee did not seek to reach conclusions as to the legal basis for the strike but was able to determine that, in terms of the severity of the threat posed by Reyaad Khan, the intelligence reports and assessments we were shown would suggest that Khan was a prolific recruiter and a successful attack planner. While we were in no doubt that Reyaad Khan posed a very serious threat to the United Kingdom, there was nevertheless a question as to how the threat was finally quantified and assessed.

Regrettably, the committee was unable to consider how Ministers made that assessment, since we were denied sight of the key ministerial submission. This was despite the fact that our work is carried out within the ring of secrecy—and anyway, where necessary for national security reasons, is always subject to redactions. This failure to provide what we considered to be the relevant documents was profoundly disappointing, and we hope that the Government will give serious consideration to changing this approach in the future, because oversight depends on primary evidence. It is therefore essential that the Government open up the ministerial decision-making process to secure scrutiny on matters of such seriousness.

I turn now to our detainee report, which we published in June 2018. This was a major inquiry into detainee mistreatment and rendition during the period 2015 to 2018, which we were originally invited to undertake by the Government. In the end, we published two reports: the first covered the period 2001 to 2010; and the second, the current situation since the publication of the *Consolidated Guidance* in 2010. This entailed the committee taking 50 hours of oral evidence, reviewing 40,000 original documents and devoting over 30,000 staff hours to investigating the actions of the UK agencies and Defence Intelligence in respect of detainees and rendition.

Our report on the historic issue of detainee mistreatment and rendition concerned the period 2001 to 2010. It contained 27 conclusions and outlined some serious concerns. While we did not find any evidence that UK agency officers or Defence Intelligence personnel directly carried out physical mistreatment of detainees, we did, for example, find incidents where UK personnel witnessed at first hand a detainee being mistreated by others, or were told by detainees that they had been mistreated by others. Some cases were investigated, but not all. The committee also found cases where United Kingdom personnel continued to supply questions or intelligence to liaison services, even after they knew or suspected mistreatment. There were also instances where UK personnel received intelligence from liaison services that had been obtained from detainees whom they knew had been mistreated.

The inquiry uncovered new material that had not been presented to or considered by any previous inquiry or review. However, we wished to examine certain

[THE MARQUESS OF LOTHIAN]

matters in greater detail; in order to, we wanted to hear from officers who were involved at the time. In 2017 the Government, much to our regret, denied us access to those individuals, and we were therefore able to publish only the information we had found up to that point, leaving, in our view, our report sadly incomplete.

Turning now to the current report, covering the period from 2010 onwards, one of our key recommendations concerned what is generally referred to as the *Consolidated Guidance*. We have consistently suggested, since it was first published in 2010, that it should be renamed. It is not guidance, and to call it so was misleading. We made this point in 2018, and I am delighted that it has now been renamed *Principles*. So we made some progress there. The new *Principles* are overseen by the Investigatory Powers Commissioner and reflect the important changes we recommended in our report. These include, for example: specific reference to extraordinary rendition, alongside torture and what is known as CIDT—cruel, inhuman or degrading treatment; the application of the *Principles* to joint units and non-state actors; regular review; and that the agencies must follow the spirit of the *Principles* and not just the letter. This is a major step and it was most encouraging to see that there has been real change as a result of our recommendations.

The story of rendition has been less positive. Our inquiry found that there had been little improvement since we last reported in 2007. There is still no clear policy, and not even agreement on who has responsibility for preventing United Kingdom complicity in unlawful rendition. It was particularly surprising that Her Majesty's Government have still failed to introduce a process to ensure that allies cannot use United Kingdom territory for rendition purposes without prior permission. Given the clear shift in focus signalled by the present United States Administration, the current reliance on retrospective assurances and the voluntary provision of passenger information are completely unsatisfactory.

Further, the Foreign and Commonwealth Office position that the United Kingdom is absolved from complicity in permitting transit or refuelling of a possible rendition flight because it has no knowledge of what the aircraft has done or is doing, is not acceptable to us. We are unconvinced that the Government recognise the seriousness of rendition and the potential for the United Kingdom to be complicit in actions which may lead to torture or CIDT.

Our report made a formal request that the Government should publish their policy on rendition within three months of publication of this report: that was September 2018. Sadly, we are still waiting, and we find the Government's bland assertion that there is no need to be wholly unsatisfactory. It is to be hoped that the Government appreciate that, where they refuse evidence, bar witnesses or delay in making information available, they merely enhance suspicions in the minds of those who believe that the Government have something to hide.

While the committee's primary output tends to be through its inquiries, we also address intelligence issues as and when they arise. In relation to Syria, for example, we examined the intelligence that led to the decision to

conduct co-ordinated strikes, undertaken by British, French and American forces, on three sites in Syria on 13 April last year, with the aim of degrading the Syrian regime's chemical weapons capability. We examined summaries of the evidence that had been considered by the Government, including assessments by the Joint Intelligence Committee and its post-strike analysis.

While the committee was reassured that the intelligence available supported this action by the United Kingdom against the Syrian regime following its strike on Douma, we also identified a worrying divergence in views within the intelligence community on the impact of the strikes. On this occasion, we reported our findings in our annual report of 2017-18, which was published in November 2018. The ability of the committee to probe and question the intelligence community on matters such as these is, I believe, invaluable to the agencies and to related organisations. It proves that robust oversight is an important mechanism for them, as well as for the wider public.

These reports show the breadth of the committee's work over the three years since 2015. We have since been working on a number of other inquiries. While I cannot go into detail regarding the committee's current work programme, I am able to confirm that our inquiry into Russian activity against the United Kingdom is ongoing. The committee agreed to begin this inquiry in 2017 and we commissioned evidence from the Government in December 2017. The poisoning of Sergei and Yulia Skripal in March 2018, and the subsequent attribution of the attack to Russia by the United Kingdom, highlighted the importance of this inquiry. We irritatingly did not receive the final evidence until 30 June 2018 and could only begin taking oral evidence that July. The committee nevertheless hopes to publish its Russia inquiry shortly.

In conclusion, I would like to take the opportunity to thank the committee's staff, who work so diligently to provide expert support to the committee, and indeed to pay tribute to our chairman, the right honourable Dominic Grieve MP, for steering the committee through what has been a busy and productive period. I believe that we have achieved much. However, the committee's resources are stretched and we are woefully underresourced by comparison with our international counterparts. This is an issue that we have been keen to discuss with the Prime Minister. It is a matter of deep regret to members that, despite making a number of requests, we have not had a meeting with the Prime Minister since 2014. We used to have them annually.

Finally, I would like to end by paying tribute to the men and women who work in our intelligence community. They work tirelessly, often under enormous pressure and in very challenging circumstances, on behalf of us all. We applaud the vital work that those in the intelligence community are doing to safeguard our national interests. We are grateful for their dedication and courage. We owe them not only our thanks but our undying admiration and respect. I beg to move.

3.43 pm

Lord Anderson of Ipswich (CB): My Lords, I am grateful to the noble Marquess, Lord Lothian, not only for this debate and the fine speech we have just

heard but for his Global Strategy Forum, at which I have learned so much. The debate is timely—indeed, it is overdue, considering that, according to Andrew Defty, an authority on intelligence oversight to whose research I am indebted, the House of Commons last debated the ISC in 2011 and the House of Lords in 2010.

The security and intelligence agencies are only peripherally relevant to the everyday work of the Independent Reviewer of Terrorism Legislation, in which capacity I had the privilege of serving for six years until 2017. However, from 2014 I was commissioned by the Government to conduct a number of extra reviews focused on the work of the SIAs. These include *A Question of Trust*, a comprehensive report on investigatory powers, the *Bulk Powers Review*, which assessed the operational case for bulk collection of data, and a quality assurance of the steps proposed by MI5 and Counter Terrorism Policing to improve intelligence-handling procedures after the terrorist attacks of 2017. In each of those assignments I drew on the work of the ISC and found its members and staff unfailingly helpful. I declare a further interest as a miniature oversight mechanism myself—the Investigatory Powers Commissioner for Guernsey and Jersey.

There are many reasons why effective oversight of security and intelligence agencies is needed, even when those organisations have a strong internal compliance culture, which is what really counts. Informed scrutiny can identify systemic errors and ingrained misconceptions, challenge groupthink and bring different perspectives to complex issues. At the political level, it can help formulate and scrutinise policy in relation to such delicate issues as 5G suppliers and offensive cyber. By pressing for, and indeed providing, an appropriate degree of transparency—perhaps in this field it should be called “translucency”—active and forward-looking oversight can promote informed public discussion of such controversial matters as the ethics of intelligence, the exercise of bulk powers, the efficacy and intrusiveness of current and future data-driven intelligence techniques and the impact of technologies such as blockchain and quantum computing. Such discussions should be conducted dispassionately on the basis of trustworthy information and assessments provided in good time. That is far preferable, not least for the agencies themselves, to what we saw in the aftermath of the Snowden revelations: stolen or leaked information prompting an emotional debate and a drop-off in co-operation, causing potential harm to national security.

More generally, detailed and unsparing scrutiny can serve to reassure an often suspicious public that the money and intrusive powers devoted to intelligence work are properly used. I refer not only to the British public—who are rightly conscious of our fine intelligence heritage and warm as instinctively to the history of Bletchley Park and Operation Double Cross as they do to the fables of James Bond—but to the international public. If the United Kingdom is successfully to defend before national or supranational courts its drone strikes, data sharing or covert interception of international cables, or indeed to secure the data adequacy determination from the EU that is likely to be required after Brexit, assurances from government are not enough; independent and hard-hitting assessments are called for.

The positive findings of such independent assessments were helpful to the Government in the recent Big Brother Watch judgment of the European Court of Human Rights on bulk collection of data by intelligence agencies. The United Kingdom was rewarded also for the massive exercise in transparency, independent approval of warrants and beefed-up oversight that was the Investigatory Powers Act 2016, when the UN’s Special Rapporteur on Privacy, Professor Joe Cannataci, opined last year after a fact-finding visit that, after what he called,

“significant recent improvement to privacy laws and mechanisms”, the UK,

“is now co-leading with that tiny minority of EU states which have made a successful effort to update their legislative and oversight framework dealing with surveillance”,

and,

“can now justifiably reclaim its leadership role in Europe as well as globally”—

not bad from a UN rapporteur.

Parliamentary oversight of intelligence, which is now standard in most democracies, brings another important benefit: it ensures that the parliamentarians who conduct it, on the basis of access to highly classified material, are sufficiently versed in intelligence matters to understand the implications of proposals that come before Parliament, and thus to speak with authority on the issues under debate. Nor, I need hardly say, would the interests of the agencies in any way be served were we to see the appointment of compliant rather than critical overseers.

I spoke once to a Green Party member of the G10 Commission, the German parliamentary body responsible for the scrutiny of surveillance warrants. I have no doubt that his initial reservations, and the way in which he had overcome them when shown the evidence, had been helpful in influencing his colleagues and in formulating his party’s policy along practical and realistic lines.

Noble Lords will be pleased to hear that there is no time for me to address the form, mandate, membership, powers or resources of the ISC. However, it seems to me that, since the reforms of 2013 for which its then chair Sir Malcolm Rifkind fought so hard, the ISC has compared favourably in a number of these respects with its parliamentary counterparts elsewhere in the Five Eyes.

The ISC’s recent work has been, to my mind, generally impressive, both in itself and as an accompaniment to the other principal UK mechanisms for intelligence oversight: courts and tribunals, including, in particular, the specialist Investigatory Powers Tribunal, and the super-regulator and approval mechanism for warrants—IPCO—which is now assisted by a high-powered technology advisory panel, which has been given an energetic and successful start by the outgoing Investigatory Powers Commissioner, the appellate judge Sir Adrian Fulford.

The ISC has looked at subjects with strong policy elements to which a parliamentary body is particularly well suited: for example, in its privacy and security report and its current inquiry into national security issues relating to China. It has also displayed a forensically detailed approach, on a smaller canvas, in its reports into the intelligence relating to the murder of Lee Rigby, lethal drone strikes in Syria and the changes

[LORD ANDERSON OF IPSWICH]
 required after the 2017 attacks in London and Manchester. Not everyone will agree that a parliamentary body is best equipped for such close work. After all, even the international benchmark in this area, the 6,700-page American enquiry into CIA torture, was adopted in 2012 only after a vote on which members of the Senate Intelligence Committee divided largely on party lines.

The ISC has avoided such partisanship, so far as I know, but in other respects its wings have been clipped. Though there is much of value in the two detainee treatment and rendition reports of last year, the Government's refusal to give it access to those who had been on the ground at the time prevented the ISC, in its own words, conducting an authoritative inquiry or producing a credible report. If the ISC is to be hobbled by such a restrictive interpretation of its powers—and I hope it is not—the case is strengthened for entrusting future reports of such a forensic nature to a serving or former judge, whether within IPCO or outside it, with the ISC concentrating its efforts on the policy-heavy subjects for which its political expertise gives it a comparative advantage.

I shall end with a few suggestions which I hope the Minister might be prepared to consider. First, something must be done to improve the speed with which new members are appointed. In the three years 2015 to 2017, a period much marked by terrorism in the UK, France and elsewhere, the ISC was not constituted for almost 12 months. This is plainly unacceptable. Secondly, the ISC's reports should be published without delay and responded to fully by the Government. Delays in publication are said to have become worse in recent years, and the publication of responses to annual reports has been patchy. Thirdly, as I have already indicated, the ISC needs to be able to see any relevant document and to interview any relevant witness in closed session. As the noble Marquess, Lord Lothian, said that must include access to relevant ministerial advice.

Fourthly, the resources of IPCO could be more often requested and made available to supplement those of the ISC staff. Those resources include the reports of the expert technology advisory panel, which I understand is proving a most useful addition to IPCO's armoury, and the services of IPCO's expert inspectors who, among other things, know the agencies from the inside. Fifthly, the ISC should do more to invite genuine dialogue with civil society groups, as IPCO has done, for example, in relation to its work on the *Consolidated Guidance*. They should, after all, be on the same side when it comes to holding the intelligence agencies to account. People active in international NGOs in this area have told me that this is more evident when dealing with parliamentary committees in some other western European states than it is here.

Sixthly, oversight mechanisms such as the ISC and IPCO need the involvement of lively minds from outside the worlds of security and the Civil Service. The refusal of security clearance to such persons should be capable of appeal to the Security Vetting Appeals Panel, as it is when clearance is refused to a civil servant or a contractor. That is the best way of avoiding the real or apparent conflict of interest inherent in a potential overseer being refused clearance by the bodies which they are applying to oversee.

Seventhly, any legal or practical gaps in oversight, whether by the ISC, IPCO or others, need to be identified and remedied, not as an ad hoc response to litigation, as is so often the case, but on a considered basis. Candidates for consideration are: intelligence work abroad that does not need authorisation under Section 7 of the Intelligence Services Act and is not caught, for example, by the Fulford principles; enhanced use of machine learning, artificial intelligence and behavioural analytics, particularly when data is managed, as is increasingly the case, outside the SIAs' own systems; and the use of overt surveillance and insufficiently regulated techniques such as facial recognition, gait recognition and lip-reading technology. Many of those techniques are of course used not just by the SIAs but by the police and others: oversight, similarly, should not be exercised in silos, and the remit of the relevant bodies should reflect this—as indeed is the case with IPCO.

Finally, the Public Administration and Constitutional Affairs Committee of the House of Commons recently recommended that Parliament's committees should be given access where possible to the most relevant information that has informed the Government's decisions about foreign affairs, military action and intelligence. This will also need consideration.

I hope that it is no longer the case, as according to the Snowden documents it once was, that intelligence officials could present it as a "selling point" to the National Security Agency that "We have a light oversight regime compared to the US". Good progress has been made in recent years, by legislative advances in 2013 and 2016 and by the enhanced professionalism of oversight work. Few of us welcome our auditors with unalloyed pleasure, and, given the vital importance of the work that our intelligence personnel do, scrutiny should be no more resource-intensive than necessary. But, in my judgment, the SIAs are sincere when they tell me that the continued acceptance of what they do by the public, both here and abroad, depends on active, thorough and forward-looking oversight. I commend the ISC and our other oversight mechanisms for their first-class work and look forward to hearing any immediate reaction that the Minister may have to my suggestions for improving them further.

3.56 pm

Lord Janvrin (CB): My Lords, it is a pleasure to follow my noble friend Lord Anderson of Ipswich, and I pay tribute to his work both as the Independent Reviewer of Terrorism Legislation and on the extra reviews that he carried out during and after that period. I too thank the noble Marquess, Lord Lothian, for securing this debate. It is a long time since we have been able to have this kind of discussion. I regret that it is not on the Floor of the House, but I welcome this opportunity to put on open record some comments on the recent work of the committee, which inevitably conducts its business in secret.

Before doing that, I follow directly from where the noble Marquess, Lord Lothian, ended his speech, by putting on record my admiration for and gratitude to all those who work in the intelligence community. The noble Marquess mentioned the dedication and courage

of those working under great pressure and in challenging and sometimes dangerous circumstances. I wholeheartedly endorse those sentiments. In doing so, I also add a particular word for the families of those who serve in our agencies. They face their own blend of stress and pressure, day in and day out, in supporting their loved ones who work in the agencies. They too deserve our thanks.

My colleague, the noble Marquess, Lord Lothian, commented on some of the reports published since 2015. I offer comment on some of those reports that he did not have time to mention. In particular, the importance of the committee's oversight role is perhaps most effectively captured by the issues addressed in our annual reports. The 2016-17 report was a particularly full one and, among other subjects covered, highlighted the importance of detecting and countering high-end cyberactivity, which is and must remain a top priority for the Government. The current cyber threat to the UK is an issue that remains an important focus for the committee—a threat that ranges from individual criminals to organised crime groups and from terrorist organisations to state actors such as Russia, China and Iran. One notable development since the publication of our report has been the attribution by the UK over the past year of malicious cyberattacks to these state actors, notably the Russian GRU and APT10 acting on behalf of the Chinese Ministry of State Security.

The committee also took evidence on the administration and expenditure of the agencies, as it does annually. We questioned the heads of agencies and organisations about their spending, on their resources and priorities for investing in people, capabilities and major projects, and on areas such as IT and accommodation. This is an important part of the committee's scrutiny role. Issues such as the use of contractors and consultants, or the percentage of staff working in certain areas, are important to our oversight of current spending.

Last year, the committee published its findings on the state of diversity and inclusion across the intelligence and security communities. We found that there had been significant progress recently and were impressed by the work being done by staff of the intelligence community through their own staff networks, as well as through strong and effective partnerships with organisations such as Stonewall. However, as many we spoke to during our visits acknowledged, there is still much to do. At senior levels in particular, the intelligence community is still not gender-balanced and does not fully reflect the ethnic make-up of modern Britain. There is a particular lack of black, Asian and minority-ethnic staff at senior levels across the community. We also drew attention to the vetting process, which appears to be bureaucratic, takes too long, and is widely considered by many of the staff we spoke to as an inhibitor to diversity. It is imperative that the intelligence community continues its focus on creating a diverse and inclusive workforce which reflects our society.

Also in 2018, we published a major report on the 2017 terror attacks in the UK. Countering the threat of terrorism remains a primary focus for all seven organisations that we scrutinise. The scale and pace of the terrorist threat continues at an unprecedented level. This challenge was brought into sharp focus by

the terror attacks of 2017. The committee undertook an inquiry into the attacks on Westminster, the Manchester Arena, London Bridge, Finsbury Park and Parsons Green. MI5 and the counterterrorist police launched internal reviews in the immediate aftermath of these attacks, and this process was overseen by my noble friend Lord Anderson of Ipswich. The committee commended MI5 and the police for taking the initiative but, nevertheless, regarded it as essential to ascertain for ourselves whether mistakes were made and to ensure that the changes and improvements required had been identified.

We considered each attack in depth, with the exception of the Parsons Green attack, where, despite numerous requests, the Home Office failed to provide full evidence in sufficient time for it to be included in the inquiry. As we said at the time, the committee found this unacceptable. From what we did see, there appeared to have been failings in the handling of this case by the Home Office, the police and Surrey County Council. For the four remaining attacks, we considered the actions of MI5 and counterterrorism policing in relation to a number of cross-cutting issues that played a part in the actions of two or more of those who perpetrated these attacks. These issues included: extremist material online, extremism in prisons, vehicle hire, chemicals and explosives, joint working, closed subjects of interest, travel, disruptive powers, families and Prevent, protective security and data and information. That is quite a shopping list, and I just want to focus on one or two of those areas.

Our inquiry found that there continued to be issues with communication service providers. Following the murder of Fusilier Lee Rigby in 2013, the ISC was the first to draw attention to the failure of communication service providers to stop their systems being used as a tool for extremism and terrorism. Those loopholes were again exploited by the perpetrators of the 2017 attacks, and the Government need to continue to work on ways to inhibit this insidious use of the internet.

Extremist contact in prison was another area which the committee highlighted in its report. Abedi, the Manchester Arena bomber, visited an extremist contact in prison on more than one occasion, but no follow-up action was taken by either MI5 or CTP. In our opinion, known extremist prisoners should not be able to maintain links with those vulnerable to extremism, and we recommended that the approved visitors scheme be extended to all extremist prisoners.

In relation to explosives, we found that the system for regulating and reporting purchases of the ingredients to make explosives was out of date in dealing with the threat posed. Although the committee welcomed the changes subsequently made to the system and the Government's intention to improve co-operation and information sharing between retailers and law enforcement, with the benefit of hindsight, this should have been done sooner and must now be kept under review.

The Manchester Arena bombing also highlighted deficiencies in MI5's systems for monitoring individuals of interest not currently under active investigation. The perpetrator, Abedi, had in fact been flagged for review, but MI5's systems moved slowly, and the review

[LORD JANVRIN]

had not happened prior to him launching his attack. The question of how closed or peripheral subjects of interest are managed, which has been the subject of previous recommendations by the ISC, remains of crucial interest. This has indeed been a focus of the review of the noble Lord, Lord Anderson.

The report also noted that, despite Abedi being known to MI5 from 2014, he was at no point considered for a referral to the Prevent programme. This failure to use the Prevent programme is not a new issue, and we would have expected lessons to have already been learned. We welcome the appointment of the noble Lord, Lord Carlile, to undertake a review of Prevent, and he is due to report on his findings next year.

The noble Marquess, Lord Lothian, commented on some of the items for future work. I should like to touch briefly on the China inquiry. On 6 March, the committee announced that, following the current inquiry into Russia, its next inquiry would be into international security issues relating to China. Among other issues, the inquiry was to examine the role of Huawei in the UK telecommunications infrastructure. In view of the considerable parliamentary and public interest concerning the Government's deliberations on Huawei, the committee decided to prioritise that aspect of its inquiry and issued a statement in July on the issue of 5G suppliers.

Our statement noted that the National Cyber Security Centre has been clear that the security of the UK's telecommunications network is not about one country or one company. The network has to be built in such a way that it can withstand attack from any quarter, whether that be malicious action from someone within the network, a cyberattack from actors outside, or simple human error. We should therefore be thinking of different levels of security rather than a one-size-fits-all approach.

This is essentially about resilience. The NCSC has said that this can best be achieved by diversifying suppliers, as it is important to reduce overdependence and increase competition. However, the telecoms market has been consolidated down to just a few players. In the case of 5G, there are only three potential suppliers to the UK: Nokia, Ericsson and Huawei. Limiting the field to just two would result in less resilience and lower security standards. It therefore follows that including a third company will result, somewhat counterintuitively, in higher security.

However, the committee recognised that this is not just a technical issue but a geostrategic issue of great significance. There are clearly a number of factors to weigh in the balance, including our intelligence-sharing relationships with our closest allies, in particular our Five Eyes partners, and the importance of our economic and diplomatic relationship with China. The committee expressed the view that this debate has become unnecessarily protracted and urged that a decision should be taken as soon as possible on which companies will be involved in our 5G network.

In concluding, I add my thanks to the committee's staff, who work so hard to provide expert support. I also thank our chairman, the right honourable Dominic Grieve MP, for steering the committee through what has been a busy period. I believe that, as the noble Lord, Lord Anderson, so eloquently said, the committee

has a vital role to play in ensuring the legitimacy of our intelligence agencies. Effective scrutiny of their work by a body trusted by Parliament and the public is crucial in giving them their licence to operate effectively, under the rule of law, in a free, open and democratic society.

Holding organisations to account means looking for errors, questioning judgments and probing procedures—all inevitably and advantageously with the benefit of hindsight. This is difficult and very time-consuming for those in the intelligence community under scrutiny, but it may never go far enough for those with concerns about the legal and ethical boundaries of intelligence work.

I hope that the ISC gets the balance about right, within the parameters set for us. It is very important that we do, as I am convinced that the UK's oversight system contributes both to the effectiveness of our intelligence community and to the esteem in which it is held by the rest of the world.

4.13 pm

Lord Ricketts (CB): My Lords, I too thank the noble Marquess, Lord Lothian, for securing this debate, which gives me the opportunity to speak about intelligence matters for the first time since I joined your Lordships' House. I follow three speakers who have eminent credentials for commenting on these matters. Mine are far more modest. I was, as a member of the Diplomatic Service for 40 years, an enthusiastic consumer of the intelligence community's products, and I had some oversight of their activities twice: first as chairman of the Joint Intelligence Committee in 2000 and, more recently in 2010, as National Security Adviser, when I also oversaw their budgets, and indeed wrote the annual appraisals of the heads of the intelligence agencies. It was a singular privilege.

Having worked very closely with the intelligence community throughout my career, I regard the men and women of the agencies as one of the greatest assets we have in the British public service. They are quite rightly held accountable to the very highest standards, largely by the ISC itself. I am perhaps the only person here who has had the privilege of appearing in front of the ISC in various capacities—although perhaps my noble friend Lord Anderson has. Inevitably, the agencies' triumphs are not well known to the British public, while their failings and shortcomings come under intense scrutiny.

Things were in a fairly bad patch when I became the National Security Adviser in 2010. There had been a great deal of adverse publicity around rendition. The agencies were engaged in the grinding civil litigation brought by the Guantanamo Bay detainees, which was absorbing a huge amount of resources, but they were handicapped by the fact that the Government could not produce in court the secret evidence to support their case. It is very encouraging to see how successfully a line has now been drawn under that period. Credit for that goes to the Cameron Government, and particularly to the then Justice Secretary, Ken Clarke, who was willing to legislate to make exceptional arrangements for the agencies to be able to defend themselves in court where necessary.

A good deal of credit for the turnaround in public confidence in the agencies and in the morale of agency staff goes to the ISC. Its work on detainees and rendition absorbed an enormous amount of time and effort and there were frustrations at not being able to bring it to a final conclusion. None the less, the 2018 report shed as much light as was possible on what went wrong and why. Like others who have spoken, I believe that establishing the facts and being honest about failings is important in re-establishing public confidence. The committee's report makes it very clear that the staff of the agencies were working under intense pressure, at a time of real national emergency, in the months and years after 9/11. True to their values, they have learned from their mistakes.

It is vital for all of us that we have a self-confident and well-respected intelligence community, and I believe that we are in a much better place now than in 2010. Given the high level of terrorist threat that the country has been under in recent years, it is pretty remarkable that so many plots have been thwarted. However, there are always lessons to learn when things go wrong. Here, the committee's report on the 2017 attacks and what needed to change was exemplary, both in helping the public to understand the incredibly difficult context in which the agencies work and in bringing forward useful and practical recommendations for future improvements.

I will not comment further on counterterrorism while in the presence of such a distinguished specialist as my noble friend Lord Anderson of Ipswich. Instead, I offer two comments that look forward and will perhaps help inform the committee's judgments about its priorities in the coming years.

The first is on the impact of Brexit on intelligence work and co-operation. It will be important for the committee to keep this under review in the months and years to come. My feeling is that this is one area of Britain's national security which is unlikely to be seriously impacted by Brexit. While Britain's overall international standing and weight is bound to be diminished by leaving the EU, our key intelligence relationships should not be damaged. That is clearly true of the Five Eyes community, which operates well outside any EU context, and will largely be the case for co-operation with our main European partners, which exists almost entirely outside EU channels.

That is in sharp contrast to the position of law enforcement and judicial co-operation, where a no-deal Brexit risks very serious and immediate damage to connectivity to databases, the alerting systems and the European arrest warrant instrument that we need for our security. I was worried to read in my *Financial Times* this morning a suggestion that in the current round of discussions in Brussels being held by Mr David Frost, international security and defence is going to be given less priority in the negotiations. That seems worrying. The Minister may be able to help us on that aspect. If the connections we have with our European counterparts through the EU are severed from one day to the next by a no-deal Brexit, that is bound to make the job of law enforcement more difficult. The relevance of that to this debate is that however good intelligence work is, it normally requires flexible, agile law enforcement work to give it effect and to stop the threats that that intelligence illuminates.

My second and last point is more general. Throughout my career, I have seen that the intelligence community has been able to refocus as the threat changes. For the first 40 years of the post-war period, it was the confrontation with the Soviet Union, and for a lot of that time it was the effect of IRA terrorism. After 1989, we saw the intelligence community very effectively refocus on regional issues to back up western interventions in the Balkans, Iraq, Afghanistan and Libya. After 9/11, counterterrorism obviously became the central issue, particularly for the Security Service, but the threat moves on. For example, cyber is now rightly a very high priority. It is excellent that we have a first-class National Cyber Security Centre under its director Ciaran Martin, in whom I have the fullest confidence.

I hope the committee will keep in mind the need for the intelligence community to reflect the fact that great power competition is rising as a challenge to this country. It is very encouraging that the committee has been looking at Russia, and I welcome the inquiry into China, Huawei and telecoms security. I hope the committee may be able to untangle for us all whether Huawei indeed represents a national security threat to this country or whether it may not be more about industrial competition and protectionism from some of our allies. There is an issue about whether the intelligence community has the human skills in the right place to deliver this new focus on the emerging threat of great power competition, given that we are likely to face a post-Brexit world where we have nationalist powers increasingly feeling that they can ignore international rules with impunity.

4.23 pm

Lord Paddick (LD): My Lords, I, too, thank the noble Marquess, Lord Lothian, for the way he introduced this debate. He was ably supported by the noble Lord, Lord Janvrin, on the work of the Intelligence and Security Committee. This has been an enormously well-informed debate, to the extent that I feel completely underqualified to make any meaningful contribution, but in preparing for our debates on the Investigatory Powers Bill, now the Investigatory Powers Act, I was privileged to visit MI6, to be briefed by MI5 and MI6 and to visit GCHQ. I associate myself with the remarks of other noble Lords. They were summed up by the noble Lord, Lord Ricketts, who described our security and intelligence services as one of our greatest assets. I am in awe. I was lucky enough to be told of some of the work that they were undertaking. What they do and what they can achieve is quite mindboggling.

The noble Lord, Lord Anderson of Ipswich, talked about the rigorous internal measures within the security services to ensure that everything functions properly, but said that they were no substitute for scrutiny and independent, hard-hitting assessments, as he put it.

The noble Marquess, Lord Lothian, talked about the fact that these debates used to be far more regular than they are now, and the noble Lord, Lord Anderson, said that the last debate on this subject in the House of Lords was in 2010. The theme running through the contributions was about a weakening of parliamentary oversight of these important issues. The noble Marquess, Lord Lothian, talked about how the committee is

[LORD PADDICK]

cleared to see highly classified information, yet in its report on the use of lethal drone strikes, for example, it said:

“Oversight and scrutiny depend on primary evidence: without sight of the actual documents provided to Ministers we cannot ourselves be sure—nor offer an assurance to Parliament or the public—that we have indeed been given the full facts surrounding the authorisation process for the lethal strike”.

If people cleared to the highest levels to see classified information are still denied the evidence they need in order to provide effective oversight, something is clearly amiss—something the Government need to address.

The noble Lord, Lord Anderson of Ipswich, comprehensively set out the benefits and necessity of external scrutiny. While I was hoping to get through a debate without mentioning Brexit, he quite rightly pointed out that, should we leave the EU, we would have to get an adequacy certificate from the European Union to continue to share data with it, and effective scrutiny and oversight is part of what the European Union will consider in deciding what to provide. The Government should be indebted to the noble Lord, Lord Anderson, for his comprehensive range of recommendations, which the Government would be well advised to take note of.

The noble Lord, Lord Janvrin, talked about the lack of diversity in the intelligence community. We are talking here not about political correctness but about ensuring that the very best people are employed in our security and intelligence services. If there is any way in which any community or group is finding it more difficult to access positions within those services—perhaps because of an overlengthy and bureaucratic vetting process—that is to the detriment of the ability of the security services rather than anything to do with political correctness or reflecting the community more generally. The noble Lord, Lord Janvrin, talked about what the committee will look at in future: the involvement of Chinese companies in the development of the UK’s 5G network. That shows how important and relevant the work of the committee is.

The noble Lord, Lord Ricketts, was able to provide an independent assessment of the independent assessment provided by the ISC. He described its report on the 2017 attacks as “exemplary”. He made the important distinction between the impact of leaving the European Union on law enforcement and judicial co-operation and the impact on intelligence co-operation, which tends to be on a bilateral rather than an EU-wide basis.

Not least because I am not qualified to comment, I do not intend to comment on the work of the committee, but I will comment on this apparent erosion of parliamentary oversight by the committee and the apparent contempt in which the Government appear to be holding the committee. The Government’s response to the 2016-17 annual report was received only on 23 July 2018, but I understand that under the memorandum of understanding it should have been published on 19 February 2018 because the Government’s response should come within 60 days of the publication of the committee’s report. The report states that further questions arose over government action in response to the committee’s other inquiries. The report also talks about the committee’s

work being interrupted by a general election and the exceptionally long time after it for the committee to be reconstituted. Parliament was dissolved on 3 May 2017 but because of government delays in appointing new committee members it was not until 23 November 2017 that the committee met again, so nearly six months passed with no parliamentary oversight of the intelligence and security communities.

As I have mentioned, the report states that,

“effective and robust oversight of the intelligence community, entrusted to—

the Intelligence and Security Committee—

“is too important to have been left in a vacuum for so many months”.

We now have another period, albeit a shorter one of five weeks, where there will be no oversight by Parliament because it is being prorogued for an unprecedented and unacceptable length of time. With another general election likely after Parliament returns, there is likely to be another extended period with no effective oversight of the intelligence and security communities provided by Parliament. It is not just a matter of Parliament not sitting during a period of prorogation; it is all its committees being unable to sit to call for evidence and to interview witnesses.

All this points to a Government who are showing contempt for Parliament and its oversight of the Executive, not least in this extremely sensitive area. The important work of this committee and the importance of not having extended periods of prorogation where the committee ceases to function was highlighted in June this year when the Investigatory Powers Commissioner stated that MI5 had handled large amounts of personal data in an “undoubtedly unlawful” way. According to Liberty, MI5 has been holding on to ordinary people’s data illegally for many years. In a High Court action brought by Liberty, lawyers for MI5 stated that they could not explain the exact nature of the breaches in open court because of “serious national security concerns”. The former Home Secretary stated that MI5 had taken “immediate and substantial steps” to comply with the law but, again, national security concerns meant that he could not give any details.

This is exactly the kind of issue that the Intelligence and Security Committee can and must be dealing with because its members are security cleared and can be told the exact nature of the security breaches and what steps have been taken to comply with the law—although, from the sound of things, this Government under this Prime Minister seem to think that complying with the law is optional. As Parliament is to be prorogued for five weeks, there will be no effective parliamentary oversight, as the committee will not be allowed to call for evidence or examine witnesses.

The work of the committee is becoming increasingly important as the powers of state are increased, as they have been substantially and against our objections, by the Investigatory Powers Act. For example, as we argued at the time, tech specialists, security chiefs and former Security Service personnel have argued that measures such as storing internet connection records will create cybersecurity and privacy risks.

We are in danger of increasing the powers of the state to spy on us while weakening Parliament's oversight of the intelligence and security communities. I look forward to the Minister's counter to our concerns.

4.33 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I thank the noble Marquess, Lord Lothian, for tabling this Motion for debate today. I join the noble Lord, Lord Paddick, in feeling totally unqualified to take part in the debate, but, given the eloquent and clear contributions made by other noble Lords, I feel that I can comment on the points that have been raised.

This is a welcome opportunity to discuss the work of the Intelligence and Security Committee. I want to begin by joining others in paying tribute to the staff of the various security and intelligence agencies for the important work that they do to keep us and the UK safe. We owe them a great debt of gratitude.

The committee itself provides important oversight of the work of the intelligence community and has done for the last 25 years. I agree with the noble Lord, Lord Janvrin, that it is regrettable that we have not had more frequent debates. I would have liked this debate to have been on the Floor of the House, where I am sure many more speakers would have been involved. I hope that when Parliament comes back, the next debate can be on the Floor of the House.

I am very supportive of the committee and the work that it does. It strikes the right balance between detailed parliamentary oversight in camera—in private session—and a more general annual report that we can debate and can be discussed in public. The committee itself contains a good balance of members who have had considerable experience in relevant fields or have held high ministerial office.

Looking at the annual report of the committee, there are important items summarised in the appendix regarding the finances, expenditure and administration and policy in general. I noted that those were not particularly referred to in the report, but I know that the committee had a number of inquiries to deal with. I am sure that there was proper oversight of these important matters in the meetings, despite them not being referred to in the report.

The committee has undertaken work that is summarised in its annual review and I will comment on some of those issues. Many noble Lords have mentioned diversity and inclusion as being very important. We select men and women of the highest calibre to undertake this work—people in whom we place our trust with the task of safeguarding national security. It is not just politically correct: I am of the view that to get people of the highest calibre we must have diversity and inclusion at the heart of that process. I know that is what we mean by that. The committee has been doing important work and it is important that that continues, so that we build a diverse and effective workforce. As the noble Marquess, Lord Lothian, said, this is still very much a people business. The intelligence agencies are not only dealing with data: they are dealing with people.

The terrorist attacks in 2017 were horrific events and the police and other emergency responders, on the night and afterwards, along with the security services, acted

with immense skill and bravery. However, it is reassuring that not only were there internal reviews of these agencies and the one overseen by the noble Lord, Lord Anderson of Ipswich, but the committee itself considered primary matters relating to the attacks provided by the police and MI5. I very much concur that it is for the committee to establish whether mistakes were made and to ensure that all changes and improvements required have been identified. For me, that is the committee doing its job and providing for both Houses and the wider public a greater degree of scrutiny, examination and reassurance—an independent committee examining the facts and drawing its own conclusions.

The noble Lord, Lord Janvrin, made several points about those susceptible to extremism being able to visit extremist prisoners and on the issue of regulations around explosives. I would welcome the comments of the noble Baroness, Lady Williams of Trafford, on those points.

I welcome the committee's inquiry into China, and in particular Huawei and the 5G network. I agree that the network has to be built to withstand attack, from wherever it comes, and diversity may be one of the ways that we can achieve that.

The noble Marquess, Lord Lothian, referred to the work done in respect of Syria and the activities of terrorists. I agree that it is regrettable that certain matters were denied to the committee. This is a committee of privy counsellors, subject to the Official Secrets Act, and it would be good to hear the Minister's response to the points made by the noble Marquess in that respect.

It is concerning that staff from the UK intelligence services have witnessed abuse, or been told of abuse, and have been supplied questions to ask to detainees. These are very serious matters. Rendition has been an issue for many years and needs to be addressed.

The noble Lord, Lord Ricketts, referred to how successful the services have been in foiling terrorist plots. That is another example of the great debt we owe to the dedication and skill of our security agencies. I share his concern about the risk of a no-deal Brexit to the sharing of databases, the European arrest warrant and close co-operation with our European allies.

I also share the noble Lord's concerns about the risk of cyber threat that no deal might bring. It would not have been an issue many years ago, when we did not talk about cyber at all, but today, everything in life—food and energy production, defence, manufactured goods and services, and transfers of money and data—requires the use of detailed digital and electronic signatures. It is very important that we get this right. The cyber threat is probably the most serious thing we face, in terms of widespread attacks to the UK.

As the report outlines, there has been some concern in the West about the activities of Russia. I was pleased to learn from the noble Marquess, Lord Lothian, that the work on Russia continues. The Skripal poisoning, which has already been mentioned, has been attributed to agents of the Russian state, and there is suspected interference in elections and referendums in the West. The report refers to the previous Prime Minister's Mansion House speech in 2017, when she accused Russia of planting "fake stories" to, "sow discord in the West and undermine our institutions".

[LORD KENNEDY OF SOUTHWARK]

I also note the guidance issued in May 2017 by the National Cyber Security Centre to political parties, local authorities and their staff to protect their digital systems. This area is extremely serious and I hope that the committee will keep these matters under review.

The noble Lord, Lord Young of Cookham, agreed with me many times in the House when I raised issues about elections. We agreed that election procedures and rules are not fit for purpose. We have allegations all the time of bots—as I think they are called—stealing our votes with lies, smears, fake news and all sorts of other nonsense. This must be addressed before we get to a general election. I will be the first to co-operate to get a Bill through Parliament to deal with outside interference, fake news, lies and smears, and then have our election, whenever it comes. I hope that the Intelligence and Security Committee shares my view and that of many others. I have made those representations to the Prime Minister and I hope that we will put country before party.

I have had positive meetings with the noble Lords, Lord Young of Cookham, Lord Hayward and Lord Gilbert, Chloe Smith MP from the Conservative Party, my noble friend Lady Kennedy of Cradley, and the noble Lords, Lord Rennard and Lord Tyler, from the Liberal Democrats. We all agreed that something must be done about elections before we have a general election. This is a really serious problem. I wrote a paper on this issue last year, which I gave to all noble Lords present, and everyone agreed with me—I think I sent it to the Intelligence and Security Committee so that it could look at it as well. We need to deal with this issue to ensure our election is not stolen from us.

In conclusion, I am most grateful to the noble Marquess, Lord Lothian, for bringing this Motion for debate today, and for the work of the Intelligence and Security Committee in providing the required scrutiny and oversight of our intelligence services, which need our backing, support and confidence in all that they do.

4.42 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): I thank all noble Lords who have taken part in this debate, particularly my noble friend Lord Lothian for securing it. He and many noble Lords made the point that the committee has not had an opportunity to discuss this, and in my time as Home Office Minister, I have not had the opportunity to reply to the committee until now. I hope that, in the future, the committee requests more regular debates. I will certainly be happy to respond to them.

Before I proceed, I echo the comments of my noble friend Lord Lothian in praising the noble Lord, Lord Janvrin, and the work that he does, and the committee, which does the most incredible work. When I listened to some of the comments from the committee today, I felt quite humbled by the expertise we are so lucky to have in your Lordships' House and the contributions that the committee has made. I also join noble Lords from the committee in thanking the right honourable Dominic Grieve QC for his leadership and direction of the work of the committee since 2015. Security and intelligence have featured heavily in public

discourse over recent years, and it is to the credit of the chairman and the committee members that parliamentary oversight of the intelligence community has been so effectively maintained, even when the pace of events has been extraordinarily fast.

Noble Lords from the committee talked about its output since 2015 and managed to divvy up various contributions so that they were entirely different and focused on different aspects of the committee's work. The committee has taken evidence on numerous occasions from Ministers and senior officials, conducted a number of inquiries and published several comprehensive reports on a variety of issues.

I shall take a moment to focus on some of the notable achievements of the committee. First, its report into the terrorist attacks in 2017, to which several members of the committee referred, was well researched with tangible recommendations that will help to improve the safety and security of our country. The Government's official response to that report made clear that the police, the Security Service and the Home Office are all implementing improvements based on it.

Secondly, the committee's reports into current and historic issues relating to detainees in the Afghanistan and Iraq conflicts were the result of several years of hard work by the committee and its staff. Those reports were extremely thorough and highlighted a number of important findings.

Thirdly, we must commend the committee's efforts in looking into how the intelligence community can become even more diverse and inclusive. It was interesting that a number of noble Lords made that point. Again, the report included useful recommendations that build on the significant work that the agencies have already done to make their organisations more diverse and inclusive places to work. The noble Lord, Lord Kennedy, rightly pointed out that inclusivity and diversity is not just a "nice to have": it enhances the workforce at hand. I am very glad that the committee gave that issue equal standing with the other topics that it has examined.

Finally, the annual reports demonstrate the breadth of its remit and the wide-ranging nature of its oversight role. The conclusions and recommendations of those reports are always noted with interest by the Government and the agencies.

I have so far acknowledged the vital work that the Intelligence and Security Committee conducts to ensure that the UK's oversight of its security and intelligence agencies is world-leading, but of course, like other noble Lords, I want to put on record the excellent work that the agencies do. As the noble Lord, Lord Janvrin, mentioned, their families support them in their work, and one must not underestimate the strain that that probably often puts them under.

I turn to the various points that noble Lords made, starting with the point made by my noble friend Lord Lothian and others on lethal drone strikes in Syria. A precision airstrike against a British citizen is one of the most difficult decisions a Government can take. However, if there is a direct threat to UK citizens, such as that posed by Reyaad Khan, this Government will always be prepared to act. In 2015, there was no alternative to a precision airstrike in Syria. There was no Government who the UK could work with and no

military on the ground to detain Daesh operatives. There was also nothing to suggest that Rayeed Khan would desist from his desire to murder innocent people in the UK. The Government had no way to ensure that all of his planned attacks would not become murderous reality without taking direct action. As the then Prime Minister informed the House in September 2015, a rigorous decision-making process underpinned the airstrike. A direct and imminent threat was identified by the intelligence agencies and the National Security Council agreed that military action should be taken. The Attorney-General was consulted and was clear that there would be a clear legal basis for action in international law. An air strike was the only feasible means of effectively disrupting the attack planning, so it was necessary and proportionate for the individual self-defence of the UK. On that basis the Defence Secretary authorised the operation, which was conducted according to specific military rules of engagement that complied with international law and the principles of proportionality and necessity.

The ISC announced on 29 October 2015 that it would be,

“investigating the intelligence basis for the lethal strikes”.

The ISC was provided with all the relevant information in this respect, and we are very grateful to the committee for its work. The decision-making process was not part of the review’s remit, which meant that the committee was not provided with a number of documents, including what the ISC has referred to as the “key Ministerial submission”. More generally, I assure noble Lords that the Government take all ISC requests for information very seriously and respond in line with the memorandum of understanding between the Government and the committee.

My noble friend Lord Lothian, the noble Lord, Lord Anderson, and others talked about the detainees and the committee saying its inquiry was neither authoritative nor credible because of government restrictions. The Government and the agencies fully and willingly co-operated with the committee and the earlier Gibson inquiry. The Government provided all relevant documentary evidence to assist inquiries into this issue, including the committee’s. The committee had access to the Government’s material provided to the Gibson inquiry and the agency heads’ responses to the 27 themes issued by Sir Peter Gibson in his preliminary report. As the committee said, it took 50 hours of oral evidence, reviewed 40,000 original documents and devoted over 30,000 staff hours to its inquiry. The only sticking points were the committee’s request to interview junior staff and staff subject to ongoing legal proceedings.

The point about Russia has been well made, and we look forward to reading the committee’s report on Russia when it is published.

My noble friend Lord Lothian asked why the Prime Minister has not met the committee and whether it is a statutory requirement. The Prime Minister takes the work of the committee seriously and will provide evidence to it at an appropriate point in the future.

My noble friend also asked me about air strikes in Syria outlined in the 2017-18 annual report. All indications were that this was a chemical weapons attack, and we were and are clear about who was responsible. Both

the Organisation for the Prohibition of Chemical Weapons’ interim report on the Douma attack and the UN commission of inquiry’s most recent report support the Government’s conclusion that a chemical weapons attack was carried out on Douma on 7 April. While we do not comment on specific targeting decisions, targets were selected on the basis of rigorous intelligence and were extensively examined and assessed to ensure that our objective was achieved while protecting civilian life.

The action we took has had a disruptive effect on the Syrian regime’s capabilities. There should be no doubt as to our resolve regarding any future use of chemical weapons. As the then Prime Minister said at the time:

“It is in our national interest to prevent the further use of chemical weapons in Syria”,—[*Official Report*, Commons, 16/4/18; col. 42.]

and we will continue to work with partners, including through the UN and other international organisations, to uphold and defend the global consensus that these weapons should not be used. The Syrian conflict has been one of the most destructive in recent human history, and we reacted with our largest-ever humanitarian response. Our priority now is for the war to end as quickly as possible through the UN-facilitated political process reaching a lasting settlement to the conflict that protects the rights of all Syrians.

I will move on to the comments of the noble Lord, Lord Anderson of Ipswich. The Government welcome the assurance that the noble Lord has provided in order to monitor the progress of the work of MI5, CT policing and the Home Office. As he highlighted, it is of great importance that MI5 and CT policing improvement programmes continue to be scrutinised. It should be noted that as part of the ongoing scrutiny, the Government are providing six and 12-month updates on a number of the recommendations in the committee’s recent report, *The 2017 Attacks: What needs to change?*

The noble Lord talked about the reconstitution of the committee and the speed, or lack thereof, with which appointments were made. As he will know, the Justice and Security Act 2013 devolved more of the appointments process to Parliament. Candidates for membership of the committee are nominated by the Prime Minister, after consultation with the leader of the Opposition, and Parliament then votes to appoint them.

The noble Lord talked also about the lack of speed in publications. The Government aim to publish our response to ISC reports within 60 days, as set out in the MoU, but I will defer to the noble Lord, Lord Paddick, who seems to think that one of them was not responded to. We aim to do so within 60 days.

The noble Lord, Lord Anderson, also referred to the IPCO, civil society and wider expertise. I thank him for his suggestions about IPCO resourcing, the involvement of civic society and the opening up to wider expertise. These suggestions will be considered by government.

On the same theme, the noble Lord, Lord Paddick, mentioned that the committee cannot sit during Prorogation, which is right. Both Prorogation and general election campaigns unfortunately do not provide for that process to continue.

[BARONESS WILLIAMS OF TRAFFORD]

I will move on to the comments from the noble Lord, Lord Janvrin. Rightly, his first point—

Lord Anderson of Ipswich: Before the Minister leaves those comments, I wonder whether I might press her a little further on a point that was raised a number of times. We have heard in this debate of no fewer than three reports—on drone strikes, a detainee inquiry and Parsons Green—in which the committee has not been allowed either to see relevant documents or to speak to relevant personnel. That seems to be something of a pattern. Could the Minister explain how the public can have the necessary confidence that we have comprehensive intelligence oversight when the overseer itself complains that it is not being given the tools it needs to do the job? What guarantees can we have that this situation will not recur in future ISC inquiries?

Baroness Williams of Trafford: As I said to noble Lords, we endeavour to respond within 60 days. There will be certain occasions when responses cannot be given for reasons possibly of national security, but where responses can be given, we endeavour to give them.

Lord Anderson of Ipswich: Is the Minister saying that there may be reasons of national security why information cannot be provided to the privy counsellors on the Intelligence and Security Committee to hold the intelligence agencies to account?

Baroness Williams of Trafford: I am saying—I will be corrected if I am wrong—that there may be occasions when it is not possible for that information to be provided. But, for the benefit of the noble Lord, Lord Anderson, I will go back and interrogate each event that he mentioned and confirm that in writing to the committee if that is the case—but I suspect that is the reason why sometimes documents cannot be provided. I know the noble Lord does not look happy about that.

Moving back to the point about diversity and inclusion, I said that better workforces are more diverse workforces, and the other point I wanted to make was about flexibility in working styles to allow for more inclusivity within the workforce.

The noble Lords, Lord Janvrin and Lord Ricketts, talked about 5G suppliers. The UK Government have recently conducted a comprehensive review to ensure the security and resilience of 5G in the UK. We published that review earlier this month. Our response to the review is based on evidence and a hard-headed assessment of the risks. We will never compromise security in our pursuit of economic prosperity. I think we can have both. I stress that no final decision has been made about Huawei. The US entity listing is a new and relevant factor for the findings of this review, with potential implications for the market as a whole. The Government will further consider the position regarding high-risk vendors and make a decision in due course.

The noble Lord, Lord Janvrin, referred to Prevent and the Abedi case. As with all the other issues relating to the 2017 terrorist attack, the Government have looked for lessons learned relating to the Prevent programme. Abedi was not referred to the Prevent programme following the closure of investigations

into him in 2014 by MI5 or CT policing. The investigations were closed because he was thought to be an individual seen acting suspiciously with a subject of interest, but he turned out not to have been that individual and therefore was judged to be low risk. He was also not referred separately to Prevent as part of the operational improvement review. Investigators must now give thought to referring an individual to Prevent upon the closure of an investigation.

The noble Lord, Lord Ricketts, made a point about how Brexit might impact on intelligence sharing with our EU partners. We work exceptionally closely with our European counterparts on intelligence sharing, joint operational work and sharing experiences of the developing threat. National security is outside the EU purview, but the noble Lord made the point that when we leave the EU the whole dynamic will change.

The light is flashing. I hope that noble Lords will be content for me to continue for another minute.

The noble Lord, Lord Kennedy, asked why the purchase of chemicals used in the Manchester and Parsons Green attacks was not picked up and why it took an attack for the Government to realise that the suspicious activity reporting regime was out of date. Terrorists diversify their methods, including their methods of acquisition, and therefore our methods need to adapt over time to maintain that correct balance. Since the attacks we have refined our comprehensive strategy for preventing and detecting terrorists' acquisition of explosives precursors to make our activities smarter and more efficient. The Government are actively working with retailers to design out the threat by substituting products with safer alternatives that cannot be used in an attack.

The noble Lord also made the point about the Manchester attacker visiting a known terrorist prisoner in prison and asked why that was allowed. All offenders of extremist or terrorist concern are managed actively as part of the comprehensive counterterrorism case management system. We are currently scoping work to strengthen controls around communications and visits for TACT and TACT-related offenders that could continue to pose a risk to the community irrespective of their prison security category. This process will be part of the wider review of all contact and transactions between people in the community and extremists in prison, and it will include addressing arrangements currently in place under the approved visitors scheme.

Finally, the noble Lord made a point about bots—about what is real news and what is fake news. I have to say that the past week has led me to wonder what is real in the world; so much is going on on Twitter. The noble Lord made an important point about elections because we need them to be based on what people have actually voted for rather than on what might have been influential over the internet. We have the *Online Harms White Paper* and will be doing further work on what appears on the internet, but the noble Lord makes a valid point in which I know that DCMS will also be very interested.

I thank noble Lords for their patience—the light has now been flashing for three minutes—and particularly my noble friend.

The Marquess of Lothian: My Lords, this has been an excellent and highly-informed debate which I have certainly learnt from. The noble Lord, Lord Anderson, made a typically modest speech in which he paid tribute to everybody except himself, but his reports informed much of the work that the committee did. They were immensely valuable, and I thank him for that.

I am also grateful to the Minister for her response. She knows that there are certain areas where we did not find that we were of a common mind. I hope that she will take them back and reflect on them. I raised them only because they make it more difficult for the committee to do the work that I think essentially Parliament expects us to do. It is worth the Government reconsidering them.

I hate to admit that I have been on the committee since 2006. It is only in the past three years that a Prime Minister has refused to meet us. We have found those meetings exceptionally useful because a lot of the criticisms that I have brought up today we could quietly bring up with the Prime Minister and, very often, they were resolved by doing so. I hope that we will go back to the habit of meeting the Prime Minister annually. I thank everybody for partaking in this debate.

Motion agreed.

Committee adjourned at 5.07 pm.

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