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PARLIAMENTARY DEBATES  
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# HOUSE OF LORDS

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

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

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# House of Lords

Wednesday 8 January 2020

3 pm

Prayers—read by the Lord Bishop of Rochester.

## Oaths and Affirmations

3.05 pm

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

## Farming Question

3.10 pm

Asked by *Baroness McIntosh of Pickering*

To ask Her Majesty's Government what plans they have for the future of (1) upland farms, and (2) tenant farmers.

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con):** My Lords, I declare my farming interests as set out in the register. Upland and tenant farmers are key to a vibrant agricultural sector and rural communities. In the tenant farming sector, we have consulted on proposals to support productivity improvements and facilitate structural change. We will publish a response to the consultation soon. Food production and environmental enhancement are central to our plans and go hand in hand. We are working with farmers in all sectors and locations to co-design environmental land management schemes.

**Baroness McIntosh of Pickering (Con):** My Lords, does my noble friend agree that tenant farmers and upland farms are the backbone of the farming community? Will he ensure that they have a vibrant future? In particular, will he guarantee today that the agriculture Bill will bring forward proposals for tenancy reform, and that tenant farmers who currently benefit from countryside stewardship schemes will have the opportunity to access funds under the ELMS and other new moneys coming after the agricultural funds from the European Union cease?

**Lord Gardiner of Kimble:** My Lords, 33% of all farms in England are of mixed tenure—owning and renting land—which emphasises why this is important. It is why we have consulted on tenancy reform and are working on improving the situation. These matters are under active consideration. On the benefits of the environmental land management scheme, we are working with all sectors—owning, tenant and those who farm commons—because all this is part of the important work of enhancing the environment.

**Lord Wigley (PC):** My Lords, will the Minister confirm that he is speaking as Agriculture Minister for England and that his comments are not necessarily applicable in the same way in Wales and Scotland, where agriculture is devolved? Will he ensure, however, that if extra resource becomes available in England, a Barnett consequential will come through for Wales

and Scotland? Given the importance of the sheep industry in upland Wales, will he confirm that, if steps are taken by the Welsh Government to help the sheep industry, no action will be taken from London to try to stop them?

**Lord Gardiner of Kimble:** My Lords, I am well aware that upland farming and sheep production in Wales are extremely important. That is why our lamb exports to Japan, China and India are a way forward. As the noble Lord has said, it is clearly a devolved matter. Defra has strong and good relationships with the devolved Administrations, particularly that in Wales, and we want the agricultural sector in Wales to be successful, as we want it to be in the rest of the United Kingdom.

**Baroness Jones of Whitchurch (Lab):** My Lords, the Minister will know that many hill farmers rely on farm subsidies to survive, so can he clarify whether the Government intend to maintain the £3.2 billion cash pot that was previously available for farm support to the end of the seven-year transitional period that is envisaged, even if the pot is distributed in a different way? Will that overall pot be maintained?

**Lord Gardiner of Kimble:** My Lords, I take the opportunity of the noble Baroness's question to speak of a manifesto commitment. We will guarantee the current annual budget to farmers in every year of the Parliament. I am very pleased that in December last year the Chancellor confirmed nearly £3 billion of funding for 2020. By way of a simplified countryside stewardship scheme that is coming in and through the pilots of the environmental land management scheme, we want a scheme flexible enough to work across England and all sectors, so that we enhance the environment and that the public good already being done by many farmers is properly recognised.

**Lord Cameron of Dillington (CB):** My Lords, has Defra commissioned research, along the lines of that carried out by the Welsh Government, as to what land, notably upland, is likely to become unfarmed after the extended single farm payment runs out? Has it calculated what is likely to happen to that land?

**Lord Gardiner of Kimble:** My Lords, environmental land management schemes will be available in the uplands, so that farmers can decide about food production, timber production and the public goods that will benefit. I do not see any problem at all about such parts of the country, with the right trees in the right places, being part of our work and the farming community's work to ensure that we have greater tree cover. I do not see it in quite the way the noble Lord describes, with parts of the country being unfarmed: we will be farming for timber and food production and for the environment.

**Baroness Rock (Con):** My Lords, I declare my interest as set out in the register. In its paper *Moving Away from Direct Payments*, Defra states:

"There is evidence that Direct Payments inflate farm rents, meaning some of the payment supports the income of the landowner, not the tenant farm."

[BARONESS ROCK]

Does the Minister expect that the removal of the BPS will have the direct impact of lowering rents for tenant farmers?

**Lord Gardiner of Kimble:** My Lords, I have to say that I have not studied that particular element. I think our tenancy reforms will ensure flexibility and that, as with all these things, there is a reasonable return for the landowner. As I have said, a lot of land is farmed by a mixture of part-rented and part-owned. I see our tenancy reforms as giving more flexibility and options for tenants to have successful and productive businesses.

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, while the £2.85 billion announced on 30 December is welcome and provides a degree of reassurance for all farmers, the majority of this money will be allocated at the end of 2020, with only £143 million for 2021. There is no certainty for the remaining period to 2023. On CAP Pillar 2, the Government press release states that:

“Remaining EU funding ... will continue until the current EU funding is used up or 2023, whichever is earliest.”

If the price of feed and other costs increase as we leave the EU, this money will run out sooner rather than later. Does the Minister accept that natural inflation does not play a part in the Government’s plan for farmers or agriculture?

**Lord Gardiner of Kimble:** My Lords, as I said before, we have guaranteed in our manifesto the current annual budget for farmers in every year of this Parliament. Clearly, as we all know, farming costs go up and down. For example, in some years straw is up or down, or corn is up or down, and therefore you get different consequences in different parts of the farming industry. In our manifesto and throughout, we have set out that we support farming and that we want farmers to play a part in enhancing the environment. I emphasise that we recognise the importance of food production and food security, and this will be in our updated agriculture Bill to be introduced shortly.

## Integrated Security, Defence and Foreign Policy Review

### Question

3.18 pm

Asked by **Lord McConnell of Glenscorrodale**

To ask Her Majesty’s Government when the integrated security, defence and foreign policy review will report on the United Kingdom’s place in the world.

**Earl Howe (Con):** My Lords, the Prime Minister has committed to undertake the deepest review of Britain’s security, defence and foreign policy. The review will examine how we strengthen and prioritise our alliances, diplomacy and development, and how we reform Whitehall to support integrated policy-making and operational planning. It will consider all aspects of our defence and security capabilities, including our approach to procurement and maintaining our technological edge. An announcement on the review will be made in due course.

**Lord McConnell of Glenscorrodale (Lab):** My Lords, I thank the Minister for his reply. This review is very welcome, not least to those of us who have argued for some time that the UK should be updating the strategy set out in 2011 on conflict, stability and security. It is welcome that defence, diplomacy and development are all referenced both in the gracious Speech and in the supporting documentation. The UK is in a unique position internationally, because of our commitment to defence, our commitment to development and our diplomatic resources, to make a real impact. I would welcome an assurance from the Minister and the Government that due weight and respect will be given to development as well as diplomacy and defence, as this will ensure that this review and its outcomes have the most impact in whatever “global Britain” might now mean.

**Earl Howe:** My Lords, I agree completely with what the noble Lord has just articulated. On international development, as I indicated, the review will be broad-ranging, with a number of interwoven strands. The precise scope of the review has yet to be determined, but I can tell the noble Lord that the policy to maintain 0.7% of gross national income for development will remain unchanged.

**Lord Howell of Guildford (Con):** My Lords, is my noble friend aware—I am sure he is—that over the last three years your Lordships’ International Relations Committee has produced a stream of reports on Britain’s changing role, security and foreign policy in utterly new transformed world conditions and an entirely new international landscape? Would he tell his colleagues in government that all they have to do is read some of these reports? It would save them a lot of work and trouble.

**Earl Howe:** I am grateful to my noble friend and can reassure him that those reports have been read. I can only endorse his central point: the world is changing rapidly. Technology is advancing at pace, international relations are becoming more complex, and conflict and climate change are driving migration at scale. That is why the Government must not get stuck in outmoded practices and ways of thinking. We have to be nimbler on our feet, adapt faster and take decisions in an integrated and better fashion. The review will address all these issues.

**Lord Touthig (Lab):** My Lords, did the Minister listen yesterday to the speech of my noble friend Lord Robertson of Port Ellen, who recalled that he and the late Robin Cook worked together to produce a defence and foreign policy review that lasted an unprecedented 11 years? They achieved this by forming a defence review built on agreed foreign policy objectives. Will the Government follow that sensible pattern? It seems a common-sense approach to this sort of review, although, having said that, I recall my mother telling me as a young man that in life I would find that sense was not that common.

**Earl Howe:** My Lords, I listened with care yesterday to the words of the noble Lord, Lord Robertson, and agreed with a great deal of what he said. However, this



review is about more than defence. It is about both defence and the wider context in which defence operates: our international relations, international foreign policy and national security. Defence will be bound up in this, and I anticipate that the kind of far-reaching and comprehensive review he referred to, which took place under the Labour Government, will be broadly mirrored in the work that we do.

**Baroness Lane-Fox of Soho (CB):** My Lords, I am sure the Minister will agree that our standing on the world stage is also heavily influenced by our ability to defend against cyberattack—most recently the micro example of the hacking of the New Year Honours List but, more alarmingly perhaps, the likely retaliation from Iranian activity in the cybersphere. What deep thinking around cyber and the joining up of the strategy across the digital skills of every department, which need to be upgraded, will be in the review? I make a plea that we think imaginatively and creatively about how to bring people into this very important aspect of the defence services.

**Earl Howe:** I am grateful to the noble Baroness. As I said, the precise scope of the review has yet to be determined, but I have no doubt that cyber will feature large in the subjects to be addressed.

**Lord Wallace of Saltaire (LD):** My Lords, it is clear that this will be a long-term review and will take a considerable amount of time. Meanwhile, our policy towards the Middle East, which has been made very much in close relation with France and Germany, will be left as we leave the European Union at the end of this month without the framework through which we have operated. Are there plans to make some interim arrangements until we come to the end of the review, for example by responding to the proposals floated by the French and German Governments for a European security council, which would keep Britain in the loop?

**Earl Howe:** My Lords, we aim to keep pace with whatever happens in Europe after we leave the EU. However, we have made clear that, while we are leaving the EU, we have committed to strengthen our co-operation with Europe on security, our intelligence services have highly effective co-operation to build on, and, of course, the foundation of European security since 1949 has been the NATO alliance, which will not change.

**Lord Collins of Highbury (Lab):** My Lords, in yesterday's debate—I do not know whether the Minister was present—I asked a question about the nature of the review and the fact that the three lead departments were the FCO, the MoD and the Cabinet Office. Development is a key part of this strategy, and I am concerned that DfID does not have the same lead role. I did not get a response yesterday; I hope I get one today. One of my old trade union general secretaries used to say, "If you want to knock someone's shed down, tell them that you're knocking the house down." We have a problem here regarding the future of DfID. I hope that the Minister can give us some strong reassurance that it will remain a stand-alone department with its own Secretary of State.

**Earl Howe:** My Lords, I am not in a position to resolve questions about the machinery of government. However, as I said in my original Answer, one of the main aspects of the review will be to see how we can best reform Whitehall to support more integrated, joined up policy-making. I have already indicated that the international development theme will be central to that work.

## Creative Industries: Research and Development Question

3.26 pm

*Asked by Baroness Bull*

To ask Her Majesty's Government what consideration they have given to adopting a broader definition of research and development that includes, and incentivises, research and development investment in the creative industries.

**The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy and Northern Ireland Office (Lord Duncan of Springbank) (Con):** My Lords, the Government's definition of research and development builds on the internationally recognised OECD definition. Following that definition, the UK offers relief to boost research and development through direct grants, support for universities and R&D tax credits. There are eight additional tax reliefs specific to the creative industries, which delivered over £1.1 billion of support in 2018-19 alone.

**Baroness Bull (CB):** I thank the Minister for his engagement with this Question. However, I urge him to consider, in reviewing R&D definitions, the Government addressing current HMRC requirements that R&D relates specifically to scientific or technological discovery. The exclusion of work in the arts, humanities and social sciences means that much of the R&D taking place in the creative industries is ineligible for targeted tax relief, despite creative businesses undertaking almost as much R&D as manufacturing. Does the Minister agree that applying tax incentives equally to a sector that already represents the fastest-growing part of the UK economy would be an effective way to boost innovation and productivity?

**Lord Duncan of Springbank:** The noble Baroness is absolutely right that creative industries are at the heart of the improvements that we have seen across the UK's global reach. We put a significant amount of money into research and development in the creative industries. Some £58 million has gone to research and development through the creative clusters, £39 million directly from government and £25 million from industry. But that does not answer the noble Baroness's question, which regards the definition. I read with interest the paper by Hasan Bakhshi and Elizabeth Lomas, *Defining R&D for the Creative Industries*. If the noble Baroness is willing and amenable, I would like to sit with her and discuss this matter further.

**Lord Fox (LD):** My Lords, the noble Baroness, Lady Bull, appears to have hit on an idea that can go further. However, can we put a time limit on this?

[LORD FOX]

The Budget is coming up on 11 March, and redefining that process can be announced then so that these important businesses can benefit from the tax benefits of research and development. Could the Minister therefore also adhere to a timetable that enables the Budget to play a role in this?

**Lord Duncan of Springbank:** On tax, it is important to stress that we offer a significant amount of tax relief that covers all the wider creative industries, from film animation to museums and galleries and the theatre, and so far it affects a significant proportion of those areas. The noble Baroness raised the exact definitions, which is important, because thus far we are bound by the Frascati convention of the OECD definition, which is tilted primarily towards technology and science. I will not go into too much detail, but this of course misses the epistemic and aleatory uncertainties inherent in this particular problem—you do not hear that every day.

**Lord Stevenson of Balmacara (Lab):** Indeed, we need to pause after that. A round of applause would not be inappropriate.

My Lords, I am glad that the Minister mentioned the creative clusters, because they have been a huge success in bringing out the exact points made by the noble Baroness in her Question. However, does she not also raise a wider definitional issue—it does not have a grand name—which is that the creative industries are often structured around freelancers working in small industries and, as such, they cannot take advantage of some of the scale issues for which the Minister's department is responsible? I think particularly of the way in which the apprenticeship levy cannot be applied in this case. Does the Minister have any plans to change that?

**Lord Duncan of Springbank:** The noble Lord makes an important point. I was curious about that this morning as well. I was fearful that a lot of these funds would end up in the larger businesses and industries but, in actual fact, SMEs are disproportionately affected in this area for the very reason that the arts, humanities and wider creative industries are usually small ventures. So there is a significant proportion of benefit in that regard. If the noble Lord will allow it, I will drop him a note on the exact figures and put it in the Library for the edification of all others.

**Baroness Neville-Rolfe (Con):** Can my noble friend also consider as part of his follow-up work the allocation of the R&D spend by government? We are talking about tax, which obviously affects the creative sector and companies. The Government are actually spending more money on R&D, which I very much welcome, but allocation to sectors other than the ones that BEIS considers key is very important. Agriculture, which we discussed earlier, has lost a lot of its R&D in recent years. The creative sector is a new sector and requires attention as well.

**Lord Duncan of Springbank:** The simple answer to that question is yes, I will do that.

**Lord Blunkett (Lab):** My Lords, I wonder whether we could use a bit of creativity in terms of how a public/private partnership in investment in R&D could

reflect the needs of the nation as a whole, so that when the Government think about a critical mass they do not simply, for the north of England, think about Manchester. Given the Minister's heritage, does he agree that if Scotland were treated as badly as Yorkshire—Yorkshire has a larger population than Scotland—there would be an SNP cry for something better? If we are to keep our nation together, we need something better for the east of the Pennines.

**Lord Duncan of Springbank:** I agree with the noble Lord. On a bizarre point, I was criticised over the Christmas period for drinking not Scottish tea but Yorkshire tea. In Scotland, even on these issues, grievances can be found. He is exactly right: there would no doubt be a problem if we treated these individuals as if they were competitive. There should be a constructive advantage to working together and seeing the collaboration that can lift all parts of the United Kingdom to the wider benefit of all.

**Lord Berkeley of Knighton (CB):** My Lords, great creativity depends on a very wide definition of various art forms, whether it be science and technology or something else. Of course, we are extremely good at this in this country and the creative industries bring a huge amount of recognition and money into the Exchequer. The problem is that innovation tends to need public rather than private money. With private sponsorship, to take the area of expertise of the noble Baroness, Lady Bull, people love to sponsor "Romeo and Juliet", for example, but are less interested in really innovative work.

**Lord Duncan of Springbank:** The noble Lord is correct. It is not always easy for the Government to find the right way to support this area, which is why we seek to collaborate with private enterprise and the artistic industries, for obvious reasons: they are more artistically minded than the Government perhaps are. Politics is not quite the art it used to be.

## County Lines Drugs Gangs *Question*

3.33 pm

*Asked by Lord Farmer*

To ask Her Majesty's Government what assessment they have made of the statement of the Chief Constable for Devon and Cornwall Police that children involved in county lines drugs gangs should be seen as victims not criminals.

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, county lines exploitation has a devastating impact on our communities. We are working to disrupt county lines gangs and end the exploitation of children and vulnerable adults. This includes investing £20 million in a new package of measures to crack down on these gangs. Our position is clear: children who have been groomed and exploited through county lines should be seen as victims first and foremost.

**Lord Farmer (Con):** I thank my noble friend the Minister for her reply. The chief constable points to the lack of family and security in these children's lives and to the need to bridge the gap between dysfunctional homes and school. That is exactly what the family hubs promised in the Conservative manifesto aim to do. Can my noble friend update the House on the Government's plans for delivering on that promise?

**Baroness Williams of Trafford:** I certainly can, and it is apposite that my noble friend has asked this Question today, because earlier today he will have heard the PM reiterate his commitment to family hubs to our honourable friend Fiona Bruce in another place. My noble friend Lord Younger has also written today to outline our commitment to supporting vulnerable families with the intensive, integrated support that they need to care for their children. That is why the Government have announced up to £165 million of additional funding for the troubled families programme in 2021, and they will be setting out their plans for family hubs in due course.

**Lord Storey (LD):** My Lords, the Minister may be aware that, since 2013, there has been a 70% increase in the number of young people being excluded from school and put into alternative provision. Much of that alternative provision is unregistered, which means that often no proper checks are made on those young people. We also see young children in care being put into unregulated accommodation. How do the Government plan to support these most vulnerable young people?

**Baroness Williams of Trafford:** I am glad that the noble Lord has raised this issue. It is not just something that we are acutely aware of—as he and I will know from our local government days, it is long overdue for attention. He may also know that the Government commissioned my honourable friend Ed Timpson MP, who I am delighted to say is back in the other place, to undertake a review of alternative provision so that the quality of provision can be as good and effective—perhaps more so—as in a mainstream school, because these children need extra attention. To date there has been a £4 million investment in an innovation fund for alternative provision, and I am sure that the House will be kept updated on its success.

**Lord Hunt of Kings Heath (Lab):** My Lords, can the noble Baroness comment on youth services funding? She mentioned family hubs, but since 2010 there has been a 69% reduction in the funding of youth services by local authorities. This must have had a negative impact on the lives of many young people. Will the Government now start to reverse that?

**Baroness Williams of Trafford:** The Government have already made quite a few inroads, particularly for vulnerable children. I have just mentioned the £165 million-worth of funding for troubled families for the next year. We have invested £3.6 million in the National County Lines Coordination Centre, which is absolutely essential for safeguarding young people who get into that sort of activity. Further, the £200 million youth endowment fund will be delivered over 10 years, in addition to the £22 million of the early intervention youth fund that is already funding 10 projects. But one

of the most important aspects of funding is that into which we put into our trusted relationships fund. These children do not trust anyone, so it is very important that they are able to build up trust with those who are seeking to protect them.

**Lord Laming (CB):** My Lords, the Minister has already indicated that here we are talking about some of the most vulnerable children in our society, some of whom are in the care of local authorities. Building on the question put by the noble Lord, Lord Hunt, does the Minister agree that this is a sad reflection of the current state of child protection services in this country? Is it not time that we looked again at the quality of child protection standards?

**Baroness Williams of Trafford:** The noble Lord and I go back many years on this issue and we do not disagree. I shall certainly get my noble friend Lord Younger to update him on some of the child protection issues, because if children are staying in unregulated bed and breakfast accommodation, for example, which is something I remember from the past, that situation needs to change. But I will give him an updated position on that.

**Baroness Browning (Con):** My Lords, I had the privilege of representing a Devon constituency for 18 years and I support the view of the Chief Constable of Devon and Cornwall on this matter. May I respectfully remind my noble friend that I represented 650 square miles of Devon—a very sparsely populated area? When we look at national solutions, what is very often needed in rural areas is a very different approach from when you are looking at large urban conurbations. There are pockets of deprivation in rural counties that reflect exactly what one sees in inner cities, but they are on such a small scale and so disparate that they never qualify for grants and support. I ask my noble friend to make sure that we do not fall into the one-size-fits-all trap.

**Baroness Williams of Trafford:** My noble friend raises two very important points there: the spread-out nature of county areas and the distances people have to travel to get support. I do not know whether she recalls—I recall it only vaguely from two or three years ago—the rural sparsity fund that was designed to address precisely such an issue. Of course, she also brings to mind the fact that county lines are specifically designed to cross from town areas into country areas and vice versa. So she raises the really important point that, wherever children are, their vulnerability is equally important.

## Domestic Premises (Energy Performance) Bill [HL]

*First Reading*

3.40 pm

*A Bill to require the Secretary of State to ensure that domestic properties have a minimum energy performance rating of C on an Energy Performance Certificate; to make provision regarding performance and insulation of new heating systems in existing properties; and for connected purposes.*

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



**Extension of Franchise (House of Lords)  
Bill [HL]**  
*First Reading*

3.41 pm

*A Bill to make provision for members of the House of Lords to vote in elections to the House of Commons.*

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

**House of Lords (Hereditary Peers)  
(Abolition of By-Elections) Bill [HL]**  
*First Reading*

3.41 pm

*A Bill to amend the House of Lords Act 1999 so as to abolish the system of by-elections for hereditary peers.*

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

**Wellbeing of Future Generations Bill [HL]**  
*First Reading*

3.42 pm

**Lord Bird (CB):** My Lords, please forgive my prolixity as I set off on this journey.

*A Bill to make provision for requiring public bodies to act in pursuit of the United Kingdom's environmental, social, economic and cultural wellbeing by meeting wellbeing objectives, publishing future generations impact assessments, accounting for preventative spending, and through public services contracts; to establish a Commissioner for Future Generations for the United Kingdom; to establish a Joint Parliamentary Committee on Future Generations; to require companies to consider the impact of their activities on the United Kingdom's wellbeing; and for connected purposes.*

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

**Referendums Criteria Bill [HL]**  
*First Reading*

3.43 pm

*A Bill to make provision concerning referendums within the United Kingdom on constitutional or parliamentary arrangements.*

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

**Queen's Speech**  
*Debate (3rd Day)*

3.44 pm

*Moved on Thursday 19 December 2019 by Lord Lamont of Lerwick*

That an Humble Address be presented to Her Majesty as follows:

“Most Gracious Sovereign—We, Your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal in Parliament assembled, beg leave to thank Your Majesty for the most gracious Speech which Your Majesty has addressed to both Houses of Parliament.”

**The Advocate-General for Scotland (Lord Keen of Elie) (Con):** My Lords, it is a privilege to open the third day of debate on Her Majesty's most gracious Speech. I begin by wishing all noble Lords a happy and prosperous new year.

The focus of today's debate on home affairs, justice, constitutional affairs and devolved affairs will enable us to explore some of the key themes of the gracious Speech. That includes the Government's commitments to making our streets safer, which is the first duty of any Government; to review the way the constitution works in our modern society to ensure that our democracy and the rights of all are protected and supported; to deliver further for the whole of our union, investing in and levelling up every part of England, Scotland, Wales and Northern Ireland; and to improve the criminal justice system so that it is fair, proportionate and supports victims to get the justice they deserve. Given the wealth of experience represented on all sides of the House, both my noble friend Lady Williams and I look forward to hearing the contributions from noble Lords.

We were all shocked and appalled by the scenes at London Bridge at the end of last year. I express my deepest condolences to the families and friends of Jack Merritt and Saskia Jones. I also pay tribute to those members of the public and the emergency services who ran towards danger. The incident was a shocking reminder of the threats we face from terrorism. The Government's top priority is the safety and security of the public, and that is why we will introduce changes to ensure that the worst terrorist offenders spend the appropriate amount of time in prison. We want to give the public greater confidence that the sentences served by terrorists reflect the level of their offending and the risk they represent.

The Government have also been clear that the most serious violent and sexual offenders must serve sentences that truly reflect the severity of the crime. We will toughen community orders, so that they deliver an appropriate level of punishment, and address issues such as mental health or substance misuse.

As well as getting tougher on criminals, we also recognise that being a victim of a crime can be a life-changing event and the way that people are treated in the justice system can have a huge impact in helping them to recover. The Government are determined to



ensure that victims receive the support they need and the justice they deserve. That is why we have committed to guaranteeing victims' rights in legislation, through a victims law. Our law will build on the rights to which victims are entitled as set out in the victims' code and ensure that they fully understand the level of support they can expect. Furthermore, we are committed to consider increasing the powers of the Victims' Commissioner, so that they can better hold government to account. To deliver this we will seek views on a revised victims' code in early 2020 and bring forward a consultation on our new victims law as soon as possible thereafter. Noble Lords will agree that such an approach will ensure that victims of crime receive the best support and the understanding they need to enable them to cope and recover.

Recent cases have underlined the anguish for families when offenders are released in spite of refusing to disclose the location of their victims' remains. This Government have brought forward legislation to make sure that an offender's failure to disclose these details about their offences is considered by the Parole Board as part of its assessment as to whether they should be released from prison. We are grateful to the family of Helen McCourt, who have underlined the significant importance of this issue. The legislation also makes provision to address circumstances where offenders fail to disclose the identities of children who are the subject of indecent images.

Domestic abuse can shatter the lives of victims and tears families apart. In the year ending March 2019, an estimated 2.4 million adults experienced domestic abuse. The domestic abuse Bill will transform the response to domestic abuse to better protect victims and their children, and to ensure they have the support they need and that offenders are brought to justice. We need to build a society that has zero tolerance when it comes to domestic abuse and empowers people to confront it. This Bill will be a step towards that.

Marriage will always be of vital importance to our society, but when people take the difficult decision to divorce, the legal process should not incentivise conflict. The current process incentivises that one spouse makes allegations about the other's conduct, to avoid otherwise waiting for at least two years of separation. The new process will remove the requirement to prove that the marriage has broken down irretrievably. Where reconciliation is not possible, the new process will encourage couples to approach arrangements for the future as constructively and co-operatively as is possible.

The Government are committed to ensuring a fair justice system that works for everyone and commands public confidence. We will establish a royal commission on the criminal justice process in England and Wales which will deliver a fundamental review of some of the key issues affecting the system now, and which may do so in the future. The Government will set out the terms of reference for the royal commission in due course, which will include details on the scope, duration and membership of the commission.

After Brexit, United Kingdom businesses, individuals and families will still need to be able to settle cross-border disputes. That is why we are bringing forward a Bill enabling us to operate agreements on private international

law after we leave the EU. These agreements can help to return home a child abducted by one of their parents, help two parents living in different countries to agree custody arrangements in the best interests of their children, or help a UK business to resolve issues with a supplier based abroad. Without these agreements, people involved in cross-border disputes will find it more difficult to resolve them. This Bill will give United Kingdom businesses, citizens and families the confidence to work, live and trade across borders, and will help the UK to flourish as a trading nation, as we leave the European Union.

Following our exit from the European Union, the government will bring an end to free movement to ensure that the UK can take back control and introduce an Australian-style points-based immigration system that prioritises people's skills and contributions to the UK. While seizing this opportunity, we remain committed to ensuring that resident European citizens—people who are our family, friends, neighbours and colleagues and who have built their lives here and contributed so much to this country—have the right to remain.

The tragic killing of PC Andrew Harper last summer and the incident at London Bridge in November illustrated how police officers put their lives on the line and make sacrifices day in and day out in the course of their duties to assist others. The Government are committed to the recruitment of 20,000 police officers over the next three years and we have already begun recruiting new officers. We are also committed to providing the police with the powers, support and protection they need to do their jobs effectively and safely. That is why we are putting our commitment to a police covenant on a statutory footing. We are strengthening the powers available to the police to allow them to tackle unauthorised encampments. We will also introduce measures to strengthen the legal protection given to police drivers when pursuing a subject or responding to an emergency. This will ensure that the police have the protections and the powers they need to continue with their vitally important work.

Along with further protections and powers for our police officers, we will also award them the power to arrest individuals who are wanted by trusted international partners. We will ensure that the police do not have to allow known offenders, flagged on Interpol systems, to walk free while they seek a warrant. The provision will see people who are wanted for a serious crime in a country such as Canada or America and who may be a danger to the public brought before a judge within 24 hours to allow extradition proceedings to commence and thus make the streets of the UK safer.

The Government are working hard to improve the efficient and effective removal of foreign national offenders from the UK. However, tougher action is needed to stop abuse of the system, speed up the process for deporting foreign national offenders and deter foreign criminals from coming to the UK. That is why the Government will significantly increase the maximum penalty for those who return to the UK in breach of a deportation order, sending a clear message to criminals who seek to return to the UK, namely: if you try to return, you will go to prison for a long time.

[LORD KEEN OF ELIE]

The Government are absolutely committed to tackling serious violence and making our streets safer. We are determined to stop young people being drawn into crime. We need to understand and address the factors that cause someone to commit violent crime in the first place. That is why the Government will bring forward a new legal duty which will ensure that all agencies work together to share intelligence and identify warning signs, so that we can intervene earlier, protect young people and prevent and reduce serious violence in local areas.

The United Kingdom and its allies face sustained hostile activity from certain states, as illustrated by the Salisbury attack. We are committed to empowering the brave men and women of our law enforcement and security services with the tools they need to tackle these evolving threats. The espionage Bill will modernise existing offences to deal more effectively with the espionage threat.

One of this Government's key priorities is the integrity and prosperity of the union that binds the four nations of the United Kingdom. Our union is the most successful economic and political partnership in history, and it is at its strongest when all four nations work together. We are committed to getting Stormont functioning again and we will continue to work with Northern Ireland's political parties to re-establish the Executive and the Assembly. Following the UK's departure from the European Union, we will devolve and empower regions across England so that decisions and powers sit in the right place and closer to people than ever before. As set out in the gracious Speech, the Government are committed to levelling up powers and investment in the regions across England and will also introduce a bold new UK shared prosperity fund to tackle inequality and deprivation in each of the four nations and across all regions of the United Kingdom

The measures outlined in the gracious Speech set out a clear direction for the future of the United Kingdom, for a country with safer streets where the most serious offenders spend longer in prison and tougher community sentences address underlying causes of crime—one that ensures that victims receive justice and have rights enshrined in law to support them throughout the process.

We want a society with zero tolerance for domestic abuse that empowers people to confront it, that values marriage but accepts the realities of divorce, and gives the necessary powers as well as the legal protections our police officers need to do their jobs and keep us safe. We want a nation that works with others to settle cross-border disputes, values immigration but prioritises the skills it needs and rejects foreign criminals from our shores swiftly and decisively, where state agencies work together to address serious violence to keep our young people safe from harm. We want a United Kingdom that works together, where every constituent part and region is empowered with the necessary political will, the right levels of investment, and the ability to make decisions in its own best interests, where opportunity is levelled up and every single person can thrive. Over the coming weeks and months, I look forward to debating with your Lordships the many measures which I have outlined today.

4 pm

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, first, I congratulate the Government on their comprehensive win in last month's general election. If nothing else, it allows for a period of stability in the coming years so that important issues can be addressed. I am always willing to support the Government if I think they have got matters right, but I will always oppose the Government if I believe that, no matter how well intentioned, they are making the wrong call. That will be my job in this noble House in the coming years, as it has been since I arrived here 10 years ago.

The debate today focuses on home affairs, justice, constitutional affairs and devolved affairs. I intend to make some initial comments about the Bills in the Queen's Speech in these subject areas. Anything I do not cover will no doubt be covered ably by my noble friend Lord Rosser and other noble Lords in today's debate. I join the noble and learned Lord, Lord Keen of Elie, in paying tribute to the civilians and others at London Bridge for their bravery, and I offer my condolences to the victims and their families.

Some measures in the Queen's Speech seem to be trying to fix the damage done by the coalition and Conservative Governments, an example being the recruitment of 20,000 additional police officers, to which the Minister referred. That still will not take us back to the level we had in 2010. I was pleased to see that the domestic violence Bill will return, and I hope it will become law later this year. Domestic violence is an evil, wicked crime, and the measures outlined in the Bill will make significant progress in protecting victims and bringing perpetrators to justice. The Bill will, I am told, place a legal duty on local authorities to offer secure accommodation to people fleeing violence. Perhaps, when she responds, the Minister will outline how her department is going to ensure that adequate funds are provided to cover this new duty. Just placing a new duty with no additional funding is not going to deliver the step change that we need to see, and with other measures we have been told too often that new obligations are to be brought but no additional funding, or inadequate funding, is provided.

I have similar concerns in respect of the serious violence Bill, in which it is proposed to create new duties for a range of agencies and encourage partnership working. I want measures in place to deter violence, but partnership working with local authorities, youth services and other agencies costs money. These bodies have not been immune to significant spending reductions in recent years, and without a significant increase in resources I do not see how the proposals will be delivered to any great effect. Will the Minister outline any specific measures she expects to be taken in respect of county lines? This is an area of great concern to many people.

From reading the briefing, the police powers and protections Bill seems to be something that has merit and that we could support. Providing additional support and protections to police officers, who undertake a most difficult but necessary job, is welcome. We will have to look in detail at what is being proposed versus what the professionals think is necessary. I recall that in the previous Parliament a Bill sought to protect all

blue-light services and that one of the demands from the Police Federation was tougher penalties for spitting at officers. That was resisted by the Government; they would not be persuaded on this matter. We may need to look at that and bring it back in this Bill.

In respect of the Extradition (Provisional Arrest) Bill and the foreign national offenders Bill, we will have to wait for more detail on the proposals before taking a view, but we need to have proper safeguards in place to eliminate injustices and ensure that we are getting the balance right. I note that one of the first acts of the new Government was to abandon protections for child refugees in the withdrawal Bill. I hope that is not indicative of the asylum and immigration policy the Government intend to pursue.

On the proposed espionage legislation, we will see what comes forward, but it is right to review and update our legislation and protections to protect the United Kingdom from the actions of foreign agencies and powers that want to do us harm through industrial espionage or other threats to our security, safety and economic well-being, and we will support the Government on those matters.

Moving on to the justice proposals, I think we can all sign up to the Government's aim of a fair justice system that keeps people safe, although after that point there may be differences in how that is delivered and what that means. In both the counter-terrorism Bill and the sentencing Bill, it is just not enough to say that we want to lock up people who have committed offences for even longer. I want sentences that reflect the crime and the community's and public's revulsion, but also, while people are in prison, I want real work to be done with them to address their offending behaviour. For very serious terrorists and criminals who commit other appalling offences, I fully accept that that is easier said than done, but it must be the other side of the coin in these matters.

Locking people up for longer and longer will, on its own, not address serious offending and protect us. It is also extremely costly for the taxpayer. Perhaps the Minister can tell us what work has been done to access the best strategies for tackling terrorists and other dangerous offenders, as well as looking at other programmes in Europe and beyond to deal with such matters.

The Prisoners (Disclosure of Information About Victims) Bill seems very worthy of our support. Ensuring that prisoners make proper progress and rehabilitation is a good aim, and if certain facts that would help bring closure to victims and/or their families are not disclosed to the authorities by serious offenders, that should be considered by the Parole Board when considering an application for a prisoner's release. In many ways, it is surprising that that is not done already.

The proposals for the Divorce, Dissolution and Separation Bill seem to be progress, although I am not sure that they will satisfy the noble Baroness, Lady Deech. I am very much of the opinion that the more we can keep lawyers and the courts out of divorce proceedings, the better for everyone—I am thinking of divorcing couples' pockets.

On the constitutional matters contained in the Queen's Speech, the creation of a constitution, democracy and rights commission is something on which the Government must be very careful. They won a large majority in the general election and will be able to get their business through the House of Commons with no problems whatever, but they must allow Parliament, the courts and the judiciary to scrutinise, challenge and, in some cases, strike out their decisions. We live in a democracy and all these parts of the state, along with a free press, are important pillars that keep matters in check. If things are not respected and treated carefully, there will be grave risks for our country, and the Government must always keep that in mind.

I very much support the repeal of the Fixed-term Parliaments Act 2011. I opposed it in the first place and it has proved to be dreadful legislation. It has been totally ineffective. Even when it was working and prevented the new Prime Minister calling an election, I recall hearing on a Saturday night that the Liberal Democrats and the SNP were going to offer him a Bill to call an election days after he had lost a vote under the Act. I thought, "What nonsense", and then I heard that the leader of the Opposition was also going to back the Bill. The rest is history, and the only winners have been the Prime Minister and Nicola Sturgeon, the First Minister of Scotland.

Giving the Prime Minister the power to call a general election, which has been the traditional way here in the UK, is something that we should go back to. From recollection, it is very obvious when there is going to be an election. Most Governments who are doing well in the polls will seek a dissolution of Parliament at around the fourth anniversary of their election. If they are trailing in the polls and doing badly, they will carry on into the fifth year and probably quite near to the end of their term of office, unless of course they are defeated in a no-confidence Motion, which is not going to happen any time soon.

In respect of measures to be introduced regarding elections and postal votes, I would prefer there to be much more comprehensive legislation in respect of elections. I know that the noble Lord, Lord Young of Cookham, will support me on that. I think he agrees with me that our election law is not fit for purpose.

I also think it is time for the Government to take a look at the role and function of the Electoral Commission. It has made a difference but we need to ensure that what it does in terms of all our election law is right. We have plenty of time to do that and I hope that the Government will use the coming period to make sure that it happens. I would appreciate a response from the Minister on that as well.

With that, I draw my remarks to a close. I look forward to the rest of the debate, with contributions from many interesting speakers. I also look forward to the maiden speeches, which we will be hearing shortly.

4.09 pm

**Lord Wallace of Saltaire (LD):** My Lords, others on these Benches will cover the justice, home affairs and other matters raised in this debate. Given its significance, I want to focus on the proposal in the Conservative



[LORD WALLACE OF SALTAIRE]

manifesto to establish a constitution, democracy and rights commission within the next 12 months, which is repeated in the Queen's Speech.

After I read that section, I re-read part of Edmund Burke's writings on the British constitution. The tone of that part of the Conservative manifesto is astonishingly un-Conservative. It suggests that the disruptors from Vote Leave really have taken over the party from authentic Conservatives and are determined to destroy its traditional approach to the British constitution. Burke warned in his *Reflections on the Revolution in France* that the constitution of a country

"is not a problem of arithmetic";

that is, not of a simple majority sweeping all before it, claiming to embody the "will of the people"—something that Burke would undoubtedly have seen as a very Robespierrean phrase.

He wrote to the electors of Bristol that their parliamentary representatives owed voters their judgment and wisdom rather than simply following popular sentiment. He emphasised the importance of the rule of law and of careful limits on the prerogative powers of the Crown. Above all, he stressed the importance of spreading power down to local communities or subdivisions—"the little platoons"—as,

"the first principle ... of public affections, ... the first link in the series by which we proceed towards a love to our country, and to mankind."

What this allegedly Conservative manifesto offers us, in sharp contradiction, is a reassertion of prerogative power, both over Parliament and over judges as interpreters of the law. It refers to,

"The failure of Parliament to deliver Brexit",

in the same way that Cromwell referred to the failure of the Long Parliament to grant him the powers he wanted. The failure to carry through Brexit for three years was, after all, due mainly to divisions within the Conservative Party, only resolved by expelling the dissenters as Cromwell also did.

It is therefore extremely important to agree what shape the proposed constitution, democracy and rights commission will take. How will it be constituted? If it is to attract and restore public trust, it will need to be seen from the outset as more widely constituted than from among the supporters of a Government which received well under half the votes in December's election. Who will define its agenda? Will this be decided by No. 10 or by a process of consultation that will welcome divergent views? Will this commission be independent of government in its operation, or under the tight control of a Government in a hurry? I hope that the Government, in replying, will give us some indication of when such vital details will be presented to Parliament in—I hope and assume—a Green Paper for public debate and scrutiny.

We face some fundamental challenges to constitutional democracy, in Britain as in other open societies. Political technologies, funded by state actors or wealthy private individuals supporting their favoured political protégés, have spread from Russia across the western world. Data science now permits precise targeting of different groups of voters, with messages finely tuned to appeal to their fears and hopes. Populist politicians, backed by well-funded campaigns, promote "illiberal democracy"

against liberal democracy, which means leadership without constraint, generating popular support by stoking foreign threats and national grievances. From Viktor Orbán to Donald Trump, impatience with the checks and balances of constitutional democracy, and with the limits that law and constitutional rules place on political power, feeds a drift to authoritarian government.

Yesterday, we learned that Tim Montgomerie, appointed an adviser to Prime Minister Johnson last September, has praised Viktor Orbán's pursuit of what Montgomerie, in a speech in Budapest before Christmas, called "the limits to liberalism", hailing Trump, Orbán and Johnson as comrades in arms in the move against liberal democracy. I hope that the Conservative Benches in this House deplore this praise for authoritarian populism as much as I do.

*The Federalist Papers*, setting out the rationale for the American constitution, spelled out the justification for limited government, with institutionalised checks and balances and the careful devolution of power from central Executives. James Madison declared that

"The accumulation of all powers, legislative, executive, and judiciary, in the same hands ... may justly be pronounced the very definition of tyranny."

Alexander Hamilton—whose musical your Lordships have undoubtedly all seen—said that government has been instituted because

"the passions of men will not conform to the dictates of reason and justice, without constraint."

We have become painfully aware, particularly in recent days, of the passions of Donald Trump not conforming to the dictates of reason and justice, and many of us lack confidence that the ambitions of Boris Johnson will not lead him to follow suit.

We on these Benches welcome the opportunity that a well-organised constitutional convention may offer to reform and improve the quality of British democracy and government at all levels, from the federal to the local. However, it must be independent of government, with support from all parties and from civil society, not an attempt to impose a populist electoral dictatorship on Britain—or at least on England, if and when Scotland and Northern Ireland leave the union. And it will need to start by clarifying what we mean by "democracy". Democracy is not just an event every five years; it is a process that holds government to account, a dialogue between government and citizens that provides and maintains consent for government policies. Popular alienation, of which we are all painfully aware, stems partly from the decline of local democracy, with politics looking like a game played in distant Westminster, unaware of local needs and concerns.

The restoration of public trust requires, to start with: the restoration of direct links between representative government and local communities—the centralisation of the government of England in London has also alienated people in northern towns; regional devolution, for example to Yorkshire, which is as large as Scotland and as capable of managing policing, transport and industrial development; a second Chamber, in what would then become our federal parliament, that represented the regions, to replace our appointed House of Lords, something that my party and others have supported for a long time; a stronger Parliament with



fewer Ministers, to hold executive power to account; a more open electoral system so that voters no longer had to hold their noses and vote for whichever of the two dominant parties they disliked less; tighter controls on money in politics, to block the very rich from playing the populist card through heavy investment in political technologies; and citizens educated about their political and civil rights and responsibilities. That will be our proposed agenda for this new commission.

The Conservative manifesto suggests, on the contrary, that the Government want to restrict access to voting, to redraw constituency boundaries so that they no longer represent even the shadows of coherent communities, to inhibit judicial scrutiny and to attack the autonomy of the Civil Service. There is even a reference in that section of the manifesto to the greater use of data science in government, one of Dominic Cummings' manic enthusiasms, which certainly carries some major potential benefits but also major potential risks. When will the Government spell out to Parliament how they intend to exploit consolidated government data? What statutory safeguards will they build into that exploitation? This is a very important and delicate area of policy.

Yesterday, I was told in a ministerial briefing on the EU withdrawal agreement Bill that the clause in the previous Bill that provided for continuing parliamentary scrutiny of future trade negotiations had been removed because the Government's majority in December's election provided a sufficient mandate for whatever they may negotiate in future. That assertion takes us back towards electoral dictatorship as opposed to parliamentary democracy, and suggests that what we are facing from our Prime Minister and those around him is a concerted attempt to shift the balance between government, Parliament and courts—and the devolved Assemblies—in favour of the Executive. That should worry the democrats in all parties.

I have not forgotten that our current Prime Minister thinks that the rules and conventions of constitutional democracy need not apply to him. I recall that he broke several clauses of the Ministerial Code within three days of resigning as Foreign Secretary. However, democracy rests on rules and acceptance of conventions, as Conservatives from Burke to Lord Salisbury have understood. I look forward to learning how the proposed constitutional convention will address these fundamental issues.

4.20 pm

**The Lord Bishop of Rochester:** My Lords, I am grateful for the opportunity to contribute to this debate on the gracious Speech and look forward to hearing two maiden speeches from the noble Lords, Lord Parkinson of Whitley Bay and Lord Davies of Gower. I am sure we will listen with interest to their contributions and that their different experiences will come to be of value in your Lordships' House.

My contribution focuses on criminal justice matters, not only because of my role as bishop to Her Majesty's prisons but because these issues affect every community, including those in my diocese. My cathedral was privileged to host the Knife Angel memorial for victims of knife crime last September and many tens of thousands came to see it. That included a special service to remember

those who have died or been otherwise affected as a result of knife crime. Alongside this, we sponsor a conference on these issues jointly with the University of Kent. One of my clergy, the Reverend Nathan Ward, also co-ordinated the presentation to the Prime Minister of a pledge book signed by more than 5,000 individuals in Medway committing never to carry a knife.

Therefore, I welcome the Government's intentions in proposing a serious violence Bill, not least the proposed emphasis on multiagency working between named public agencies. I note also the manifesto commitment to increase funding for youth services by £500 million and the other funding mentioned in response to the Question from the noble Lord, Lord Farmer. Nevertheless, analysis by the Children's Society suggests that overall funding for youth services from all public services reduced by some £3 billion between 2010 and 2018. In welcoming the proposed duty on public agencies to collaborate, I rather hope that duty will extend to requiring them to collaborate not only with each other but also with voluntary and community organisations, including church and faith communities, not least because of the funding issues. The reality on the ground is that most services for children and young people are now provided by voluntary organisations through both volunteers and paid workers. In the area of my diocese for example, the number of out-of-school youth workers provided by churches far exceeds those provided by all statutory agencies combined. It will be good to see this acknowledged and supported through the legislative framework.

All communities in our country, including faith communities, are sadly affected by domestic abuse and those communities encompass both victims and perpetrators. I welcome therefore the return of the domestic abuse Bill. My diocese is working closely with specialist agencies to raise awareness and understanding in our churches and other communities around this issue, particularly to encourage men to speak out about male violence against women as part of the White Ribbon Campaign with which we are associated. I note the good intention to place a duty on tier 1 local authorities in relation to providing refuges and other safe accommodation. I trust that, in responding to the debate, the Minister can assure the House that the Chancellor also supports that intention.

Alongside the domestic abuse Bill, I welcome the focus on victims but ask the noble Baroness that particular attention be given to children who are exploited, and not infrequently forced into crime as a result of that exploitation. Again, this was mentioned earlier in response to the Question from the noble Lord, Lord Farmer. Such young people too often appear in the criminal justice system as offenders or at least as suspects when fundamentally they are victims. Therefore, somewhere in this package of Bills, a clear statutory definition of child criminal exploitation would help all concerned.

The gracious Speech contains a number of proposals concerning detailed issues around sentencing and combating terrorism. Others are better placed than me to comment on those. However, perhaps because it is not thought to require further legislation, almost nothing is said about the huge challenges that face the regular work of our Prison and Probation Service. We know

[THE LORD BISHOP OF ROCHESTER]

that the surest—and indeed the cheapest—way of reducing crime and making our communities safer is to make sure that those who offend do not do so again. We know also that the factors which lead people to desist from criminal behaviour are really very simple: decent and assured accommodation; purposeful activity, whether in employment, training, family engagement or volunteering; and networks of good and supportive relationships. Key to much of that is what happens immediately on release and in preparation for it. Alongside the proposed legislation, I hope that in this Parliament we will see good progress on these basic matters, not least in the context of the reshaping of probation services. I am sure I will not be alone in this House in keeping my attention in that direction.

Finally, I think I welcome the proposal for a royal commission. My slight reticence is because we have yet to see the terms of reference. I hope that the commission will give attention not only to practical matters but to the reaffirmation and articulation of the principles and purposes that underpin the justice system as a whole. I note that the noble Baroness, Lady Prashar, served as a commissioner on the 1993 royal commission, and that the noble and learned Lord, Lord Judge, who is speaking today, gave evidence to that commission. Of course, the context has changed significantly since 1993 and we face new and evolving kinds of criminal activity, but the importance of upholding principles of justice, fairness and the power of reconciliation does not change. I look forward to engaging with the commission and continuing to work on these issues with Members across your Lordships' House and beyond.

4.25 pm

**Lord Green of Deddington (CB):** My Lords, I declare a non-financial interest as president of Migration Watch UK. I also remind the House that I speak for 30 million UK adults who wish to see immigration reduced, 18 million of them “by a lot”. In yesterday's debate the noble Lord, Lord King of Bridgwater, referred to what he described as a bizarre taboo against discussing world population. I would add that there seems to be an even more bizarre taboo on discussing the population of the UK, this despite the fact that our population is growing at a rate of about 1 million every three years—that is, the population of Birmingham—and 80% of that growth is due to the direct and indirect effect of immigration. If there is such a taboo, I am very happy to break it.

The Queen's Speech promises a “modern, fair, points-based” system for immigration and it is welcome that the Prime Minister's new year message recognised that controlling immigration is now one of “the people's priorities.” Indeed it is. On the same day, a Home Office spokesman said that the Government wished to attract the brightest and the best while bringing the numbers down—good. They are no doubt aware that a recent Deltapoll survey found that 64% of those in marginal seats saw current immigration levels as a “major public concern.” We have had words from the Government; what about action? Crucial decisions will need to be taken quite soon on the shape of the new system. I will just make three brief points.

First, there has been talk of schemes to permit low-skilled workers from certain countries to come and work here for 11 months, before returning home for a so-called cooling-off period. Any such scheme would be completely unenforceable. It would just be a clumsy attempt to manipulate the official immigration figures, and I see that the noble Lord, Lord Reid, agrees. These proposals should be dropped.

Secondly, for skilled workers, the current level of skills and salary must not be undermined. There is already pressure to reduce the skill level from degree to A-level and the salary from £30,000 to £21,000, only just above the living wage in London. The effect of such changes, which I agree sound rather technical, would be enormous. They would expose between 6 million and 9 million UK jobs to new or increased international competition. The effect could well be that the numbers rise sharply, given that wages in Britain are much higher than in the third world and that this route would lead to settlement.

Thirdly and lastly, a solution is at hand, one already an essential part of the Australian system that the Government claim to be following; namely, to place a cap on the number of skilled work permits issued each year. It is as simple as that, and it is a proposition supported by 70% of the British public.

I conclude with the thought that caution is essential. Numbers could well spin rapidly out of control, as they did, regrettably, in the Blair years, and it would be very difficult to get them down. If that was allowed to happen, the Conservative Party would go into the next election having spectacularly failed to reduce immigration for the fourth time. That would not amuse the bulk of its own supporters. As for the new supporters in the so-called red constituencies, many would be absolutely furious. Immigration is normally an issue that this House loves to avoid, but the Government would avoid it at their peril.

I have 10 seconds in which to welcome the noble Lord, Lord Parkinson of Whitley Bay, to this House and to wish him a very happy and successful time in this body.

4.30 pm

**Lord Parkinson of Whitley Bay (Con) (Maiden Speech):** My Lords, it is a privilege to rise to speak here for the first time, particularly to do so following the noble Lord, Lord Green of Deddington, who is right to remind your Lordships of the large number of people who are concerned about the rapidly growing population and the contribution that net migration makes to that.

This is only my 12th day sitting in your Lordships' House. In ordinary times, I might have waited a little longer before venturing to make my first utterances, but this is already my second Parliament and we have just had the second Queen's Speech in almost as many months, so I thought I had better get my skates on.

Despite arriving in the middle of such a busy period, I have found the staff of the House to be extremely kind, generous and helpful, answering all my many trivial questions and providing directions with great patience despite the many burdens on their time. Most of all, I am grateful to them for not mistaking me for somebody's son or parliamentary assistant who has taken a wrong turning.

I am particularly grateful to my supporters, my noble friends Lord Lexden and Lord Lamont of Lerwick, who have given me valuable guidance and support, just as they have over many years, and to noble Lords from all parts of the House who have been so very warm and welcoming.

Of course, the election that we have just seen has changed a great deal. I had anticipated using my maiden speech to tell your Lordships how much I looked forward to speaking up for the north-east of England, a part of the country which does not normally benefit from a loud chorus of Conservative voices, but now I find that I come from the new Tory heartlands and need only be a backing singer to the 10 Conservative MPs who represent the region in another place. None the less, I look forward to working with them and people from all parties and none who want to help a part of the country that I hold particularly dear.

My native area held out against the Tory tide at this election, despite being for many years a dependably Conservative part of the north-east. Whitley Bay stands in the Tynemouth constituency, which for many years was represented by a trailblazing Tory woman, Dame Irene Ward, later a Member of this House and clearly fondly remembered as Baroness Ward of North Tyneside. I know that I do not need to tell the noble Baroness, Lady Quin, anything about Whitley Bay, for she also has the pleasure of hailing from there, but for those of your Lordships who have not yet had the pleasure of visiting, I would heartily recommend it. You will find a place fizzing with great spirit, friendliness and creativity. If your Lordships had been there this time last week, you would have seen 300 hardy souls running into the North Sea for the traditional New Year's Day dip. I am afraid to say that I was not among them, but their bravery has certainly inspired me as I dip my toes into these rather warmer waters for the first time.

A particular privilege of entering your Lordships' House at a relatively youthful age is the chance to do so in the sight of both my parents. I am sure that other noble Lords, however and whenever they came to this place, did so deeply conscious of the gratitude that we all owe to our families, and I am very glad to have the opportunity to express mine directly.

I hope your Lordships will also permit me to pay tribute to the former Prime Minister, Theresa May, my boss for much of the last seven years. First at the Home Office, and then in Downing Street, I had the privilege of seeing at first hand her dutifulness, her resilience and her strong devotion to public service. I am sure that these qualities will continue to inspire many in public life, particularly those of us who have come here by her nomination. I look forward to speaking in your Lordships' debates with my own voice, while drawing on all that I learned during those years in government. To that end, I am particularly glad to see the domestic abuse Bill among the measures in the Queen's Speech. Its provisions will transform and, in many cases, save lives. It has already been far too long in reaching the statute book and I hope it will have a swift passage from hereon in.

I am not only a Conservative and a unionist, I am a Tory and therefore respectful of tradition—not least, today, the sensible tradition of steering clear of contentious

topics in one's maiden speech. However, when a figure as esteemed and authoritative as Lord Sumption is among those who have pointed to the growing tendency to resolve in the courts matters which, even earlier in my short political career, would have been matters for Ministers, accountable to Parliament and to the electorate, I feel safe in welcoming the Government's plans to establish a constitution, democracy and rights commission.

The Supreme Court turned 10 years old only in October. Even without the controversies of recent months, I think that this would have been a useful time to take stock and examine how it is working and how it has developed. I am glad that there will be a chance to do that through this new commission. For my part, I have certainly watched with concern the way that litigation seems to be becoming politics by another means, and the new, seemingly widespread view that what happens in the courtroom is sacrosanct, while what happens at the ballot box is not.

My despair at seeing laws I had worked on in government and had seen pass both Houses of Parliament struck down as incompatible with EU law was one of the reasons I left government in order to campaign to leave the EU, and I am particularly glad to be coming here at a time when Parliament is reasserting some of the sovereignty which I feared it might have lost. I hope it is more than youthful naivety which leads me to believe that there is a way of proceeding and embracing this commission which can reassert the importance of the rule of law and of parliamentary democracy and can restore the reputation of our courts and our Parliament in the eyes of the public they both serve. I look forward to the day when judges are neither traduced on the front pages of newspapers, nor have their brooches replicated and worn like political pin-badges.

However, these are debates for future occasions and I must be wary of wading too deeply for fear of sinking before I can swim, particularly in the company of so many accomplished swimmers. It is a privilege to be paddling alongside you.

4.37 pm

**Lord Sherbourne of Didsbury (Con):** My Lords, it is a real pleasure to follow my noble friend Lord Parkinson of Whitley Bay, who has just made an excellent speech. We are very fortunate in this place in being able to draw on the experience that new Members bring to the House. My noble friend is no exception and does just that, but he also brings to the House an attribute which most of us here do not have and cannot even aspire to: the advantage of youth. He is still in his thirties, and without reform of the second Chamber I must tell him that he could still be a Member of this House in 2070, as a sprightly 80 year-old.

My noble friend has had a stellar political career, first as President of the Cambridge Union, then at the think tank the Centre for Policy Studies, and most recently as adviser to Theresa May, both at the Home Office and then at No 10. He has a deep interest in history and recently deployed his analytical skills to good use in contemporary history, in a devastating critique of a book purporting to be a history of Theresa May's premiership that was rushed out within weeks of her leaving office. My noble friend reviewed



[LORD SHERBOURNE OF DIDSBURY]

the book with a forensic ferocity, exposing a litany of glaring inaccuracies and unsubstantiated, if not malicious, generalisations. This was not blind loyalty on the part of my noble friend but careful, detailed and effective scrutiny. It is this talent which I know he will put to good use in the proceedings of this House, and we look forward to hearing more from him in future.

I turn now to the gracious Speech, although what I will talk about is not mentioned in it. What is more, I have to be honest, it is a subject on which I have no special knowledge or particular expertise. My purpose is simple: to highlight a subject of considerable importance—the state of our prisons, which was mentioned in the right reverend Prelate's speech. Last week, I heard the Chief Inspector of Prisons, Peter Clarke, speaking on the "Today" programme. He has been chief inspector for four years, during which time there have been five Justice Secretaries and five Ministers for Prisons. How on earth can a Minister drive a policy through if they are in the job for no more than a few months?

In his interview, the chief inspector spoke about Feltham young offender institution. It had been inspected in January last year and was inspected again in July. In those six months, everything had got worse: levels of self-harm had tripled, violence and the use of force had risen significantly, and 40% of the children said that they felt unsafe during their time there. They were locked up for 20 hours a day. In Swinfen Hall young offender institution in Staffordshire, half the young male prisoners were locked up for 22 hours a day. As the chief inspector explained, it is not surprising that this causes frustration and anger, leading to violence, self-harm and, all too often, suicide.

This puts great pressure on prison officers. It is a really tough job, and they have to be protected. Quite rightly, the Conservative manifesto talks about the need to improve prison security, protect staff and stop drugs being smuggled into prisons. Only yesterday a report was published on HMP Winchester, which said that 59% of prisoners found it easy to import drugs. These are huge challenges. It is partly about resources: more staff and better facilities in prisons. In many places, such as HMP Liverpool, investments and improvements are being made. But it is also about the quality of local leadership, and the quality and teamwork inspired by that leadership. We know how important that is in every organisation—in schools, in companies—and so it is in prisons.

The Conservative manifesto also talked about rehabilitation. It says that the Government

"will create a prisoner education service focused on work-based training and skills"

and talks about having a "job coach" in every prison. I welcome that, but for many prisoners who have had wretched lives, what is needed is much more basic than that. Some of them have mental problems, and many lack the very basic skills of literacy and numeracy. As a general point, I hope that the Government will look around the world to see what they can learn from other countries, what reforms and innovations have worked there which we could perhaps introduce and emulate.

Finally, looking at the Lib Dem Benches, I very much welcome the appointment of the noble Lord, Lord Macdonald of River Glaven, as the new president of the Howard League for Penal Reform. On almost every subject on which I have heard the noble Lord speak, whether in this House or in the media, I have been struck by his common sense and clarity, so I very much hope that he will use his new position to advance the cause of prison reform.

4.43 pm

**Lord Jordan (Lab):** The gracious Speech gave a high priority to the National Health Service—its health and the health of those it serves. More than 6,000 people are killed as a result of home accidents in the UK every year, considerably more than are killed in workplace or road accidents. The home has become, statistically, a dangerous place to be.

My comparison with road and workplace-related injury seeks not to downplay the seriousness of accidents in other environments but to highlight the fact that reductions in accidental death and injury in those areas were brought about by vigorous and prolonged campaigns led by the trade union movement and organisations such as RoSPA that eventually won the support of the Government, which then saw a safety crusade turned into life-saving laws. The Health and Safety at Work etc. Act 1974 was a turning point for safety in the world of work.

The eradication of home accidents has not yet benefited in the same way from such rigorous and enduring national campaigns. Consequently, the number of fatal and serious accidents in our homes has been increasing. This must change. The Government's proposed building safety Bill provides an opportunity to alter course and to have a dramatic impact on the number of people needlessly dying or requiring hospital treatment. The Bill has the stated aim of changing industry culture to ensure accountability and that residents are safe in their homes. The focus is understandably on fire safety given the tragic events at Grenfell Tower. However, change is also needed to ensure that new homes have safety built into them to prevent other types of accidental injury. It should be noted that for every one fire-related hospital admission, there are 234 due to accidental falls.

The design of new homes can be improved to minimise the risk of accidents, particularly for those most vulnerable to serious injury: very young children and older people. Many of these accidents could be reduced by better design, such as installing flooring with higher slip resistance in bathrooms and kitchens, where a simple slip can have devastating, long-lasting or life-changing consequences for an older person. If the building regulations were to require the achievement of a minimum standard within, for example, RoSPA's *Safer by Design* framework, which has now been endorsed by Public Health England, we could significantly improve the safety of new homes and prevent thousands of life-endangering falls every year. *Safer by Design* concentrates on dangers that tend not to attract the same level of public scrutiny as other hazards such as fire. The hazards it covers have the greatest likelihood of causing harm in new homes. Falls, burns, carbon monoxide poisoning, entrapment and poisoning from



household chemicals all typically happen behind closed doors, yet they affect many thousands of people, causing death and serious injury every year.

Falls in homes account for 124 deaths, 48,600 hospital admissions and more than 600,000 visits to accident and emergency in England each year. It is insane to pour billions of pounds into the NHS bucket while gaping holes such as this go unrepaired. The Government must now include provisions for preventing the most common accidents in the home in their overhaul of building safety regulations, and put safety at the heart of their housebuilding programme.

4.49 pm

**Lord Paddick (LD):** My Lords, I also congratulate the noble Lord, Lord Parkinson of Whitley Bay, on his maiden speech. I look forward to hearing from the noble Lord, Lord Davies of Gower, shortly.

I will use the limited time I have to talk about immigration and policing. In the Prime Minister's introduction to the Government's background briefing on the Queen's Speech, he talks about a "fast-track NHS visa" scheme for healthcare professionals. Can the Minister confirm that the NHS will have to pay the immigration skills charge of £1,000 a year for each foreign healthcare professional it employs and that each foreign healthcare professional will have pay £625 a year to use the NHS, neither of which currently applies to EU nationals? What assessment have the Government undertaken of the likely impact of these changes on NHS budgets and on the recruitment of foreign healthcare professionals?

The Prime Minister also talks about an "Australian-style points-based immigration system".

Can the Minister explain how such a system will work in relation to auxiliary staff who work in low-paid jobs in the National Health Service, care workers employed in the social care system and foreign nationals employed in the catering and hospitality sectors?

The Prime Minister talks about "making our streets safer" by recruiting 20,000 new police officers. If the number of police officers leaving the service continues at the current rate, the Government will have to recruit more than 40,000 new police officers over the next three years, recruiting at a rate never previously achieved in the history of the police service. Is the Minister aware of the spikes in the rates of police misconduct and police corruption as a result of mass recruitment in the mid-1970s and mid-2000s? What steps are the Government taking to ensure that this does not happen again?

Of course, as the Prime Minister's predecessor said repeatedly, it is not just about police numbers. British policing is based on consent—on the active support and co-operation of the public acting as the police's eyes and ears, calling them when they see suspicious activity, passing on information and being witnesses in court. We would need vastly greater numbers of police officers were such co-operation to cease.

Blanket use of Section 60—"suspicionless" stop and search—undermines policing by consent. Only a small proportion of young black men are involved in violent crime, yet Section 60, a power that can be lawfully deployed only in areas with high levels of violent crime, affects a large proportion of young black men, the majority

of whom will not be involved in violent crime. Despite a *Sunday Times* article last weekend casting doubt on the effectiveness of Section 60 and research by the College of Policing showing that stop and search is not effective above relatively low levels, the Government want Section 60 to be used even more, lowering the authority levels required. Today, the BBC published research showing that killings in London have risen every year over the past three years despite massive increases in Section 60 stop and search and higher stop and search rates per head of population than anywhere else in the country. Outside London, where stop and search is used far less, homicides are down for the first time in five years. We cannot arrest our way out of the crisis in violent crime.

The proposed legislation to provide better protections for the survivors of domestic abuse and better support for victims is welcome, but my concern about the royal commission into the criminal justice system is that it provides cover for inaction over the lifetime of this Parliament.

When it comes to immigration and making our streets safer, this Queen's Speech contains many provisions that do not appear to have been thought through, or where the evidence suggests that they will be ineffective or even counterproductive. They will certainly not compensate for the loss of safety as a result of losing such measures as the European arrest warrant, the reduction in EU workers as a result of abolishing free movement and the other benefits of European Union membership.

We will assiduously scrutinise the Government's actions and legislation. With a sizeable majority in the other place, there will be no one but the Government to blame when, as the evidence suggests they will, these measures fail to produce their intended outcomes.

4.53 pm

**Lord Farmer (Con):** My Lords, I add my congratulations to my noble friend Lord Parkinson of Whitley Bay on his excellent maiden speech.

The Prime Minister has promised a vast interlocking programme to unite and level up the whole of the UK and unleash its potential, so the royal commission on the criminal justice system should mesh with the Government's promised review of the children's social care system. A quarter of imprisoned men and a third of women were in care. Care-experienced children are five times more likely to offend. Such crimes imply victims, increased costs and other considerable negative impacts on society. This care review needs a relentless focus on prevention. Preventing children coming into care where possible prevents care being a conveyor belt into crime and other highly detrimental outcomes. It must focus particularly on the relationships children in care need to thrive. They are an underexploited resource, yet for a child to surface, someone has to be irrationally committed to them. The Government have developed the Lifelong Links programme through their innovation fund, but the DNA of this programme has to be replicated throughout the care system and in the lives of care leavers in prison.

Returning to the royal commission, efficiency and effectiveness need to be measured against purpose. That includes public protection, safety and order,

[LORD FARMER]

the reform of offenders and preparing prisoners for release. My two reviews have shown incontrovertibly that relationships, the golden thread that must run through the prison rehabilitation system and the criminal justice agencies that surround it, are fundamentally important if offenders are to change.

Family and other relational ties provide meaning and the all-important motivation to other strands of rehabilitation activity. They are the third leg of the stool, alongside employment and education, which bring stability and structure to prisoners' lives. They are particularly important for women as relationships are their greatest criminogenic need. Women are frequently in prison because of a coercive partner or family member, and preparation for release must enable disentanglement from toxic relationships. The royal commission should pay specific attention to the needs of female offenders and build on the Government's strategy, the implementation of which appears to have lost momentum. It must also address the intergenerational transmission of crime, given that almost two-thirds of male prisoners' sons become offenders, with an even higher prevalence among the children of imprisoned mothers. They are more likely to end up in local authority care, further necessitating the royal commission's co-ordination with the care review.

Disappointingly, the Divorce, Dissolution and Separation Bill survives. Its stated purpose, to remove issues that create conflict within the divorce process to strengthen family support, is naive and oxymoronic. Removing fault from divorce is unlikely to lead to a more harmonious post-separation world. Solicitors say that enduring conflict is focused on who gets the children and for how long, as well as on finances. The Government disagree that removing any notion of responsibility from divorce alters the character of marriage or affects longer-term divorce rates. However, contradictory evidence and manifold contrary responses to the consultation process were ignored. With the full approval of the state, emotional and financial harm is inflicted on the partner who is unilaterally divorced, as well as on the children, who typically prefer parents to mend it, not end it. Such inconvenient truths belie Government claims that no-fault divorce will "strengthen family support". I will strongly resist this at Second Reading and it was not in the Conservative manifesto.

However, I fully endorse the commitment to champion family hubs, which give families the intensive and integrated support they need. Focusing attention here is the best way for the Government to strengthen family support. These would be an accessible, stigma-free place parents can go before, during and after any potential separation to get help with relational problems and prevent them impacting their children. As in Australian family relationship centres, mediation and other family law interventions could be delivered in these hubs. This would require the Ministry of Justice to work with the Department for Education and the troubled families unit.

Every department of government has a role in strengthening family relationships, so we need a Cabinet-level Minister to co-ordinate and lead this cross-cutting

work, served by an equivalent apparatus to the Government Equalities Office. The Conservative Manifesto says:

"A strong society needs strong families."

Strong families ensure that children experience the safe, stable and nurturing relationships they need to thrive. They cherish grandparents and great-grandparents so that they can face the challenges of older age flanked by love and support. They bolster working adults so that they are match fit for an ever-changing workplace. Families and relationships are not tangential at best and irrelevant at worst to policy-making or politics. They are central to human flourishing, but they will not be strengthened by words. Concrete and co-ordinated actions are required. I and others will continue to hold the Government's feet to the fire until they deliver.

I am now very pleased to welcome my noble friend Lord Davies of Gower to make his maiden speech.

4.59 pm

**Lord Davies of Gower (Con) (Maiden Speech):** I thank the noble Lord, Lord Farmer; it is a pleasure to follow him. I am grateful to be able to give my maiden speech during this gracious Speech debate. I begin my maiden speech by sharing with your Lordships my delight at both the opportunity and privilege of becoming a Member of your Lordships' House—a place I have always held in high esteem. It is, without any doubt, an integral part of our legislature and provides the much-needed checks and balances on the work of Parliament. Long may it continue to do so.

To say that my elevation to your Lordships' House was a surprise would probably count as the understatement of the decade, but my introduction here just a few weeks ago in October must surely count as one of the most notable days, if not the most notable, of my life—something I never expected but am truly honoured to accept. At this point, I must pay tribute to the clerks, the doorkeepers for their help with the geography and all the staff who made that such a memorable occasion; I thank them very much.

Maiden speeches are something of a hazard for me. On the last occasion, during my maiden speech upon entering the House of Commons, I rose to my feet on being called by Mr Speaker and immediately set off, dutifully informing the House how wonderful my new constituency was, when I suddenly noticed the date on the outside of the folder containing my notes. It was 3 June, my wedding anniversary. I was so engrossed in the preparation of my maiden speech that I had committed the cardinal sin of forgetting to send a card or to phone home that day. In a state of sudden and total panic, my immediate reaction was to apologise publicly during my speech and to foolishly suggest that a mention in *Hansard* would hopefully heal the wound. It will come as no surprise to your Lordships to learn that it was a hopeless attempt and failed miserably. I am pleased to report that I have now been forgiven.

Being introduced was a unique experience and I take this opportunity to thank my two supporters, my noble friend Lord Bourne of Aberystwyth and the noble Lord, Lord Stevens of Kirkwhelpington. Both have distinguished themselves in their chosen professions

and indeed, to a certain extent, have at times influenced my opinion on matters of politics and, in respect of the noble Lord, Lord Stevens, issues of policing. The noble Lord, Lord Bourne, of course, led the Conservative group in what was then known as the National Assembly for Wales and was instrumental in modernising and reshaping the Conservative brand during the early stages of Welsh devolution. I was extremely proud to become a member of that group at Cardiff Bay for several years. The noble Lord, Lord Stevens, among other senior policing roles, is of course a former commissioner of our great capital police force in London—a much-respected and popular Commissioner of the Metropolitan Police, steering and refocusing the Met after the difficult days that followed the Stephen Lawrence inquiry. It was here in London that I was privileged to serve with him in my role as a senior detective in what I regard to be the greatest police service in the world.

On a personal note, I had a wonderful and enjoyable upbringing in the small seaside village of Port Eynon on the south coast of the Gower peninsula in south-west Wales. I am very proud to boast that it was the first area to be designated an area of outstanding natural beauty in the United Kingdom. Having attended and received a solid education at the local Gowerton Boys' Grammar School—incidentally, a school that produced many well-known international sports men and women, particularly rugby players, together with leading scholars in the fields of medicine and the law—I decided to follow in my father's footsteps and join the police service. I am very proud of that, choosing to police in London as opposed to the tranquillity of rural Wales.

It will therefore come as no surprise to noble Lords that I regard the criminal justice system and devolution as extremely important aspects of government. I therefore take this opportunity to touch on a couple of issues. An area that frequently causes concern—it has already been spoken of—is the police power to stop and search. I am pleased to see that the Home Office has grasped the nettle on this, and I applaud the fresh approach adopted to stop and search by the Home Secretary in recent times, which hopefully has restored confidence for its use by front-line officers. It is, without any doubt, the one vital tool that operational officers have in their crime-reducing toolbox. I say “concern” because there is apprehension among operational officers that they may be criticised for using these powers in certain circumstances, even when justified. Conversely, where these powers are abused, resentment naturally follows. However, used appropriately and in a manner which is proportionate to the circumstances, there should be no fear on the part of any person where officers have reasonable grounds to use the powers and follow the correct and proper processes. It is true that mistakes are made, but that is more an issue of management and training, which should be identified and addressed.

Sadly, during the last year we have seen an unprecedented increase in knife crime on the streets of London. Murders in the capital reached their highest level for 11 years, with 148 deaths recorded in 2019, and no sooner had we seen the new year in when the first tragic death by stabbing occurred. I am therefore encouraged to see that the proposed serious violence

Bill will create responsibilities for a range of agencies, including that local government, youth offending services, health services and probation services should work collaboratively to tackle the root causes of violent crime. I am particularly encouraged by the proposed creation of new court orders to target known knife carriers, making it easier for police to stop and search those convicted of knife crime offences. I look forward very much to seeing this Bill make a swift and successful journey on to the statute book.

On devolution, I have but one wish, and that is to see Wales prosper economically. Many of the levers for such prosperity rest with the Welsh Government. However, financial support from central government is essential for city and growth deals and major infrastructure projects. I could wax lyrical for hours on the lack of infrastructure projects in Wales, particularly on the lack of local political foresight and the need for investment in transport infrastructure, which, after all is said and done, is the essential ingredient for social and economic mobility in rural areas. I very much look forward to the day when the A55 will be upgraded in north Wales. It is a major arterial road but is now a frequently gridlocked dual carriageway, unable to meet the capacity needs of that essential northern Wales, east-west connector route.

I am especially pleased to note that government is to fund the West Wales Parkway station, just outside of Swansea. This will transform journeys between west Wales and Cardiff and beyond. It is a sad fact that young people in places such as Pembrokeshire and Ceredigion are unable to travel daily to our capital city of Cardiff to engage in their chosen vocation. Consequently, we see a drain of young people out of our rural areas, never to return. This is all due to the unbelievable Victorian principles that we still apply to the journey westwards towards Cardiff and a lack of rail infrastructure. A Swansea parkway will enable journeys to be completed without the current mandatory change of train at Swansea and further connection, while exposed to the elements. More importantly, it will considerably reduce the volume of traffic heading eastwards in the morning and back in the evening, which consequently creates a daily logjam on a now not-fit-for-purpose M4. Above all, it will, I hope, also reduce vehicular emissions by encouraging more people on to our trains.

I conclude by saying that I look forward very much to playing an active part in the work of your Lordships' House but especially in promoting those issues not just near and dear to me but, above all, that influence the quality of life of our citizens.

5.07 pm

**Lord Stevens of Kirkwhelpington (CB):** My Lords, I am sure your Lordships' House will want to congratulate my old friend—I used to be his boss but he is certainly a friend now—the noble Lord, Lord Davies of Gower, on his outstanding maiden speech. It was interesting that, when he was introduced into the House of Lords, as we marched in there was a guard of honour of MPs and Members from Wales and elsewhere. I am not sure that I have seen that before in my 15 or 16 years in the House. That was all about him.



[LORD STEVENS OF KIRKWHELPINGTON]

I have known the noble Lord for a long time. As a senior detective, he was involved in one of the most difficult operations in Europe. I remember someone saying to me, "I think, Commissioner, it's about time you go out and find out what he is doing." I did. He was working in the Balkans, in areas where other people did not want to work. While there, he showed bravery, courage, honesty and integrity. That came out in his speech, together with his charm. Since policing, his highly successful political career has been stellar. We welcome the noble Lord and look forward to hearing a lot more from him on European policing, on which he is an expert. I congratulate him on his speech.

It was 20 years ago this week that I was appointed Commissioner of the Metropolitan Police. As many noble Lords will know, it was a police service that was lacking in confidence, from the public and within itself, having been found wanting by the public inquiry led by Sir William Macpherson. Many in the service claimed that morale was at its lowest point ever. We sought to restore confidence and pride in being a police officer. At the heart of this was the need to grow police numbers, to provide the support so badly needed by those responsible, day in, day out, for policing our streets and keeping us safe in our homes.

We inherited a police service of 26,405 police officers. On record, we were losing 400 officers a month. In six to nine months of my taking command and working with my team, the Metropolitan Police probably would have ceased to exist. As a result, we got massive support from the Prime Minister of the day, the Home Secretary, and subsequently from the then London Mayor, Ken Livingstone, the London Assembly and all the politicians who were necessary to ensuring that we tackled this crisis. Together, we tackled it, and together, we succeeded.

I am afraid that the past decade has seen the reversal of this situation, as we have heard in your Lordships' House today, with police numbers falling and crime increasing, through knife attacks and the worrying growth of county lines drug dealing. I am sad to say that we have also witnessed political support and engagement dwindling for those brave enough to undertake a policing career. That is a fact. However, I am delighted that we once again have a Prime Minister and a Home Secretary who recognise the value and importance of a strong and respected relationship. This is reinforced by the new government commitment to provide the service with an additional 20,000 police officers in England and Wales. My friend, the noble Lord, Lord Paddick, explained that we probably need 40,000, but this will restore the status quo. It is a positive start which cannot and should not be sniffed at. It will take some time to deliver.

I also welcome the pledge for the introduction of police protection legislation to provide the police with additional powers, support and protection, a move which I believe will provide further confidence and support to our officers as they perform their duties each day. The assaults on police and other emergency services are an absolute scandal—this cannot continue.

Police officers must be meticulous in all that they do, especially when investigating crime. It must be very depressing for all of them—although part of the job—

when they see those convicted of some of the most serious crimes imaginable being released back into the community well before they deserve to be. I therefore welcome the Government's plan to introduce tougher sentencing for violent offenders and to end automatic half-way release for serious crimes, which I believe will strengthen public confidence in the criminal justice system. I welcome the introduction of statutory duties across multiple public agencies to work together to prevent and reduce serious violent crime in communities, and the renewed attention committed to victims' rights is more than welcome.

It is key that the Government address the vulnerable in our communities. Earlier this week, it was announced by its chairman that the National Police Chiefs' Council also welcomes the royal commission. However, as has already been addressed, it will be necessary for that not to be seen in isolation. For anything to succeed, it must be a combined approach to what is a serious problem.

As Gilbert and Sullivan wrote

"A policeman's lot is not a happy one."

It probably never was or is. However, it will be a much happier one with this Government's renewed focus on supporting our police service and our dedicated and brave police officers, who keep us all safe in our beds at night.

5.14 pm

**Lord Reid of Cardowan (Lab):** My Lords, in this House, late last year, before I was rudely interrupted by a general election, I expressed my judgment that we were in danger of sleepwalking towards the break-up of the United Kingdom. I said then that I thought the combination of Boris Johnson and a hard Brexit would fan the flames of separatism. Nothing has changed my mind on that; indeed, the situation has got worse, because now the British electorate have clearly shown that they will not support—and I believe will never support—a Labour leadership that is unpatriotic, profligate, dogmatic and untrustworthy when it comes to the economy and security and, God forbid, even our Jewish minority in this country. That has removed the prospect of an alternative to the Johnson Government, which will have an effect in Scotland as well.

Of course, we can argue that it manifestly would not be in the interests of Scotland to leave the United Kingdom. First, there is a massive deficit if it separates—greater than Italy and greater than the south of Europe. The result of that would be austerity far greater than anything we have seen in the past few years, including in the health service, education and so on. Secondly, a separate Scottish economy would have to use the pound sterling. It would be, as Ireland was in the early years, a slave economy to England. Thirdly, the idea that there would be a re-accession to the European Union by the separate state of Scotland is a pipe dream, particularly when we consider that that requires unanimity and consider the countries in Europe that have their own separate problems among the ethnic minorities—witness Spain with the Catalans and the Basques.

On any rational grounds, it is manifestly not in the interests of Scotland to separate. But here is the rub: decisions are not always made on rational grounds.



They are made on the grounds of emotion, frustration, ideology and spirit. Witness the decision of the English electorate to leave Europe. I understand the cuts in services and the additional pressure on services from immigration. I also understand the growing sense of English nationalism. But that decision was not one of enlightened self-interest. I accept it, but I do not have to agree with it. It was not in the interests of the English people. We must not delude ourselves that what is sufficient for the English, even in the face of rationality, will be insufficient for the Scots. I believe that there is a great danger that that will be missed because of the majority that the Prime Minister—and we congratulate him—achieved in the last election.

There are a mere 16 words in the Queen's Speech on the most central of all issues:

“The integrity and prosperity of the United Kingdom is of the utmost importance to my Government.”

That is it. It is of such utmost importance to the Government that it merited no further comment in the Queen's Speech. There were a few vague references in the background briefing. It was not even mentioned in the House of Commons Library briefing. The most central aspect, which was supposed to underpin our leaving of Europe—the restoration of sovereignty to the United Kingdom and the integrity of that kingdom—is not even mentioned, other than in those 16 words in the Queen's Speech. I say to the House—and I say it with no great joy because all my life I have argued for the retention of Scotland inside the United Kingdom because it is in its interests—that the integrity of the United Kingdom should not have been reduced to a background briefing document. It should have been at the forefront of the problems that we now face and the challenges being answered in the Queen's Speech.

This issue will continue to fester. The Prime Minister likes to say that he has an oven-ready solution, but this dish will simmer for quite a while. It will not be done by the end of this month. While it is simmering, the very unity of the United Kingdom will increasingly be threatened, and I suspect that when it is cooked, the proof of that particular pudding will be that it is unpalatable for a lot of us who believe in the United Kingdom.

5.20 pm

**Lord Marks of Henley-on-Thames (LD):** My Lords, I, too, congratulate the noble Lords, Lord Parkinson of Whitley Bay and Lord Davies of Gower, on their excellent and powerful maiden speeches.

For Liberal Democrats, committed as we are to remain, the election was a major defeat and a great disappointment. We recognise that we are now headed for Brexit, which we believe will do significant harm to the UK and Europe. Supporters of Brexit now regularly call upon us all to unite behind leaving. While of course we accept the result of the election, I suggest that it is important to recognise that our nation remains deeply divided on Europe, geographically and generationally, that unity will be a long time coming, and that all parties, winners and losers, must seek out common ground. For the winners simply to impose the entirety of their will on the losers, without looking for compromise positions, just will not work.

On justice, there is a chilling passage in the government briefing on the Queen's Speech that foresees us losing the European arrest warrant, which all security professionals agree makes us safer, as do our membership of Europol and Eurojust and our access to the Schengen databases. Our civil and family justice systems are enormously enhanced by the Rome regulations on choice of law and conflicts, the Brussels regime on determination of forum and recognition and enforcement of judgments and awards, and the enhanced Hague convention provisions on the abduction of children. These are all benefits that the previous Government consistently assured us that a Brexit deal would preserve. I do not share that confidence now. The provisions proposed in the private international law (implementation of agreements) Bill outlined by the Minister in opening will provide an inadequate substitute for the comprehensive co-operation and, importantly, the international reciprocity guaranteed by the existing provisions of EU law. Furthermore, new Clause 26(1) of the European withdrawal Bill, which permits lower courts, not just the Supreme Court, to depart from decisions of the European Court of Justice, reflects the worst consequences of divergence.

Why prohibit an extension of the implementation period, even if the necessary agreements are not yet in place? The Government threaten to act like a driver on a long journey, with a deadline for arrival, who responds to difficulties en route by driving ever faster and more dangerously to arrive on time, when a prudent driver would phone ahead and change the deadline to reach the destination safely. The Government's approach is irresponsible and naive, the opposite of careful and well-judged diplomacy.

On other proposals on justice, there is much to welcome. We will support the enhanced victims law and the reintroduction of the domestic abuse Bill, which will transform protection for victims. The continuing reform of sentencing law will simplify and improve an overcomplicated area of law. Legislation on no-fault divorce is long overdue.

We particularly look forward to a royal commission on criminal justice. We will advocate greater concentration, from arrest to final completion of sentence, on turning lives around by helping address drug and alcohol abuse and mental health issues, homelessness, deprivation, lack of education, training and employment opportunities, and the specific problems faced by women offenders. We will be arguing for co-ordinated provision for individual offenders, involving the prison and probation services, local authorities, health and training providers, potential employers and others. We will also be calling for the restoration of viable and adequate legal aid to help offenders navigate the unfamiliar and often hostile environment of the criminal justice system.

But my concern is that the Government's attitude, evidenced by the proposed counterterrorism, sentencing and serious violence Bills, suggests a populist approach—locking up more people and for longer—whereas the reality is that in the UK we imprison far too many for too long. As other noble Lords have said, we must improve prison conditions, reduce overcrowding, increase staffing levels and cut the appalling violence, giving

[LORD MARKS OF HENLEY-ON-THAMES]  
offenders a real chance of rehabilitation, so cutting crime and its human and financial cost accordingly. I hope that in this Parliament we will be able to make some progress on these issues.

5.25 pm

**Lord Craig of Radley (CB):** My Lords, two years ago I received an email from a complete stranger about veterans. I did some research and found, going back five years and more, that Members of both Houses had been approached on the topic. I and others raised it in Questions and debates, in approaches to four Home Secretaries, and by letters or meetings of delegations. One well-supported letter was sent in January 2019 by Andrew Rosindell MP and co-signed by Sir Lindsay Hoyle. It was supported by a further 18 MPs and a dozen Peers, including the noble Baroness, Lady Williams of Trafford, and me. With many approaches to Home Office Ministers, what is it about? What responses were given and is it resolved?

Some 300 individuals born in Hong Kong and locally enlisted to serve in Her Majesty's Armed Forces prior to handover were seeking right of abode in the United Kingdom. Early reaction from the Home Office was dismissive. Locally employed and locally enlisted, they were said to have no rights other than to British national (overseas) status. However, these veterans had been employed and paid by the UK, not the Hong Kong Government, their pay was subject to a UK tax reduction, they had been issued with UK service identity papers, and some had undertaken detachments in this country and jungle warfare training in Brunei. Others had been deployed to meet UK commitments to UNFICYP in 1990-91 to allow UK servicemen there to redeploy in the first Gulf conflict. Their status as veterans seemed indisputable and should be honoured by the Government under the Armed Forces covenant, as mentioned in the gracious Speech.

After that, Ministers' responses then sounded more helpful:

"We have agreed to undertake a thorough assessment of the request that this group are offered right of abode in the United Kingdom".

That was the response from the noble Lord, Lord Bates, in January 2016. No decision was reached. By 2018, responses to Questions resorted to stonewalling and indecision. For example, in March 2018, Caroline Nokes MP wrote:

"We have received a number of representations on this matter, all of which are being carefully considered", adding that a decision would be made as soon as practicable.

A month later the noble Baroness, Lady Williams, wrote to me in answer to one of my Questions with an identical copy-and-paste Answer. So it went on and, in July 2019, Caroline Nokes said in an Answer:

"This is a complex matter to which we are giving careful consideration".

In short, these veterans have been left in limbo. Ministerial responses could be diagnosed as repetitive indecision syndrome.

I have now had sight of a more recent letter, dated 13 September 2019, to the noble Lord, Lord Campbell of Pittenweem, signed by Seema Kennedy, then a

Home Office Minister. She confirmed that members of the Hong Kong Military Service Corps were "part of the UK armed forces in Hong Kong ... therefore MoD considers them veterans."

Ms Kennedy went on to say that

"from a moral perspective further consideration is required."

She said that the Home Office is

"fully engaged with this issue."

That was signed off four months ago. The original 300 who started this request five years ago have reduced, through emigration to Canada, Australia and elsewhere and through deaths, to fewer than 100 individuals, and by no means is it likely that all would decide to leave Hong Kong.

I should mention that I have recently accepted the kind offer to be a patron of the Hong Kong Military Service Corps and HKOR Benevolent Association, the members of which are affected. I recall that fine Gurkha servicemen, even though never British subjects, were granted the right of abode in the UK because they served in the British Army. While all will recognise the scale of Home Office involvement with pressing immigration issues, it is unacceptable to continue to prevaricate about this claim and so not to honour our obligation to these veterans, who swore allegiance to the Crown, served full time in Her Majesty's Armed Forces and were born British subjects.

It is four years since the Government first agreed to "undertake a thorough assessment", as was promised by the noble Lord, Lord Bates. It is time for them to find a cure for their repetitive indecision syndrome.

5.30 pm

**Lord Bach (Lab):** My Lords, I declare my interest as the elected police and crime commissioner for Leicester, Leicestershire and Rutland. I start with a short tribute to Ron Hogg, the former police and crime commissioner for Durham, whose life was celebrated yesterday at Durham Cathedral. He was in a past life a senior police officer, before being elected PCC in 2012. He was an outstanding and popular police and crime commissioner who called himself the "police and victims commissioner" and focused relentlessly on victims of crime. He will be long remembered.

In the short time available, I want to concentrate on the Government's very welcome commitment to increasing the number of police officers by 20,000 over the next three and a half years; a welcome step, as I said, but one that needs perhaps to be examined in a little detail. The Government have called this, "an unprecedented drive to increase the ranks."

In a sense it is, but it is worth recording that in 2010 the number of serving police officers was 171,600. By March 2019, there were just over 150,000 officers, which represents a decrease over those years of 12%, 21,000 officers having left.

When the new police officers are in place, we will simply have cancelled some of the cuts brought about by the measures that Governments thought were necessary but which in my view were a mistake. For local context, in Leicestershire we had over 2,300 police officers in 2010. When I started in 2016, this figure had fallen to 1,800; that is, 500 fewer police officers on the streets of an area whose population had grown by 10% to 1.1 million. Recorded crime has doubled.

Our Chief Constable Simon Cole and his team are being asked to do much more with far less against a rapidly shifting backdrop that remains fairly unpredictable, not least because of Brexit. Our share of the new officers will be about 400; that is great, but it is worth pointing out that we have a long way to go before we will have increased the number sufficiently to get back to the necessary figures.

Another challenge that I raise, in a gentle spirit, is this: it looks as though the Government will be allocating £750 million to fund the recruitment of these 20,000 new police officers. But will police and crime commissioners and chief constables actually receive that money? The figure may be nearer £630 million; the rest, as the Government have already said, must come from that old favourite, efficiency savings.

I fear that the promise of 20,000 police officers set out in the manifesto is underfunded by over £100 million. Finding that sort of money for a police force after a decade of austerity, in an environment where approaching nine-tenths of the cost are taken up by salaries, will be a challenge, to put it mildly. Indeed, if it is £630 million for 20,000 police officers, that is £31,500 per post. The actual cost of a police officer is much nearer £50,000 per officer so there will be underspending—an underfund—unless we are very careful. On top of that there are the infrastructure costs associated with the increase in police officer numbers, recruitment, training, ICT, vehicles and equipment, and those non-salary costs are not captured in the on-costs of police officers.

Of course, the policy change is very welcome but all Governments, whatever their complexion, are fond of giving with one hand and taking away with another. With all the pressures that there are on police forces up and down the country—those pressures of course include recruitment as well as serious violent crime and other matters that the House knows well—I argue that it would be a major error for the Government to limit the amount that police and crime commissioners are able to precept in the coming settlement. That settlement is of course now out of date but, because of the election, the new one has not yet been announced; perhaps it will be announced next week. I really hope that the Government will bear in mind, in the spirit of what they are trying to do, that they should ensure that chief constables' powers are not limited by too little precept.

5.36 pm

**Lord Young of Cookham (Con):** My Lords, I join others in commending my two noble friends for their high-quality maiden speeches. I follow up the point made by my noble friend Lord Parkinson. He pointed out that my party annexed a substantial number of votes from Labour in its heartlands—aspirational, patriotic, small “c” conservatives. My party may now need to annex some of Labour's more sensible policies as well in order to secure those votes next time, notably putting public services before tax cuts for the better off. A good start has been made with the NHS, but we need to follow through with investment in social housing, regional policy and the reform of universal credit. The DNA of the Conservative Party is changing, and we should acknowledge that, as earlier generations have, to ensure its continuing success as a one-nation party.

I turn to the constitution. The Fixed-term Parliaments Act has had a bad press and has itself come to the end of its term. It was not, as some have claimed, a knee-jerk reaction to the formation of the coalition Government, preventing its unilateral dissolution by David Cameron at a time inconvenient to our partners. It was actually a manifesto commitment by both the Labour Party and the Liberal Democrats before the 2010 election that was generously, but perhaps ill-advisedly, adopted by my party. However, it has not worked, as we have seen, with the Government twice choosing when they want an early election.

The Loyal Address said:

“Work will be taken forward to repeal the Fixed-term Parliaments Act.”

But in the list of Bills published by the Leader in another place, there is no mention of what I assume is a straightforward repeal Bill. Can my noble friend shed some light on that?

Related to that is the manifesto commitment on boundaries. The last election that I fought was in 2010, using boundaries based on the electoral register drawn up 10 years earlier. Amazingly, those are the boundaries used in the three subsequent elections, last month's being based on boundaries 19 years out of date. Without spending too much time on the reasons for that—glossing over the voting down by the Liberal Democrats of legislation introduced by their own Leader—the question arises what to do to prevent a repetition of this distortion of the democratic process. We have, to use the Prime Minister's words, an oven-ready set of proposals, presented by the Boundary Commission in September 2018 that should have been laid before both Houses, in the words of the legislation, “as soon as may be”,

but over a year later they have not been. Is it the Government's intention to proceed with those, giving us a new House of Commons with 600 Members at the next election? Or is it their intention, as rumoured over the weekend, to revert to a House of 650 Members, which will require primary legislation to be introduced very soon if new boundaries are to be in place for the next scheduled election?

I turn next to voter ID, a commitment which I welcome. This has been portrayed as a sinister conspiracy by my party to disenfranchise our political opponents—see Owen Jones in last week's *Guardian*. It is nothing of the sort. Compulsory ID was introduced by Labour for Northern Ireland and was recommended four years ago for the rest of the UK by the independent Electoral Commission, on which all three main parties are represented. It has repeated that recommendation several times since. The chair of the Electoral Commission has said:

“Unfortunately this proposal risks becoming a political football”—a sport unknown in your Lordships' House. Can I ask when this legislation will be introduced?

I welcome the consultation announced in the Queen's Speech on electoral integrity. I have often said, as the noble Lord, Lord Kennedy, reminded us, that we have an analogue legislative framework in a digital age. Much of the groundwork is being done by the Select Committee on Democracy and Digital Technologies, under the chairmanship of the noble Lord, Lord Puttnam. His committee is in turn drawing on the 14 reports



[LORD YOUNG OF COOKHAM]

already issued on this subject. We now need a Minister in the Cabinet Office to drive this agenda forward urgently, perhaps taking the committee's report in June as the basis for the promised consultation.

Finally, I turn to the proposed commission on constitution, democracy and rights. The briefing tells us this will

"examine the broader aspects of the constitution in depth and develop proposals to restore trust in our institutions and in how our democracy operates."

I hope its members will be youthful polymaths, as I suspect that to live up to its name it will have to sit for a very long time and cover a wide range of subjects, including the royal prerogative, judicial review, party funding, the voting system, the future of the union, the ECHR, the role of House of Lords, the freedom of the press, franchise for 16 year-olds and appointments to the judiciary, to mention but a few. It must be prioritised and broken down into component parts if it is to be manageable.

All this is a major programme of constitutional reform, which should, wherever possible, be secured by consent. As it passes through Parliament, I hope the expertise of your Lordships' House can be applied to it so that any emerging reforms might last longer than the Fixed-term Parliaments Act.

5.42 pm

**Lord Tyler (LD):** My Lords, I am delighted to follow the noble Lord, Lord Young, because he has of course been a long-term champion of parliamentary democracy in an unrivalled way. By contrast, Mr Dominic Cummings is not a Conservative and he certainly does not wish to conserve the UK constitution. Neither is he, we understand, a member of the Conservative and Unionist Party; indeed, he seems to be all too eager to unlock the union. Yet his personal agenda is all too evident in the 2019 Conservative manifesto and its sketchy reiterations in the gracious Speech.

The proposed

"Royal Commission to review and improve the efficiency and effectiveness of the criminal justice process"

raises vital issues of priority, principle and practicality. Noble Lords may query whether the emphasis is right. Efficiency and effectiveness are means to an end, but the purpose of the process is to ensure that justice is done for the citizen, not just for the convenience and funding constraints of the state.

However, at least this is to be a royal commission, with all the traditional virtues of independence of the Executive that it involves. This is not so, apparently, for the constitution, democracy and rights commission, to which the noble Lord, Lord Young, just referred. Given that the only example included in the gracious Speech under this heading is the threat to

"repeal the Fixed-term Parliaments Act",

this may be a crass attempt by Mr Cummings to "take back control" to No. 10, rather than a genuine, independent, cross-party and long-overdue initiative to bring our representative democracy into the 21st century.

Incidentally, it is not straightforward, as the noble Lord, Lord Young, suggested. As Mr Cummings will discover, repeal of this Act would not just restore

status quo ante. If the Government really want to take back from the Commons the dissolution decision, so that once again the captain of one political team would have the right to blow the final whistle whenever he or she thought that they were winning, this will require new legislation, otherwise it will not fulfil its purpose.

The manifesto promised to

"protect the integrity of our democracy."

It has been the consensus across parties, and widespread in the body politic, that the most damaging threat has come from the failure of regulation and the regulators to transfer from the analogue to the digital campaign age, as has just been said. The investment of huge sums of money—much of it allegedly foreign and potentially illegal—in the 2016, 2017 and 2019 electoral campaigns by this means seems not to have been considered worthy of mention. We are still waiting for action on the various recommendations in 2019 to the Cabinet Office on this issue.

Some of the issues referred to specifically, such as

"the relationship between the Government, Parliament and the courts ... the role of the House of Lords ... the balance between the rights of individuals, our vital national security and effective government",

should certainly cause concern on all sides today—and well they may, given that the approach of Mr Cummings sounds like demolition rather than just better definition. We may well be drifting to a situation where No. 10 is trying to move towards an elective dictatorship; I see that the noble Viscount, Lord Hailsham, will speak later.

At St Margaret's this morning, the order of service asked us to pray that the officers here

"may properly enable the work of government."

Fortunately the noble Baroness, Lady Sherlock, was leading us at that point in the service and she firmly changed this to "the work of Parliament." Since 1688 the Government have been answerable to Parliament, not the other way around. We may need to remind the present Administration of that at regular intervals in the next few years.

The greatest weakness in our democracy, displayed for all to see by last month's election, was the extent to which its voting system cheats our citizens. Compare the number of votes it takes for them to elect a Green MP compared with a Scottish nationalist. The ratio of inequality is 33:1. The manifesto promises action:

"making sure that every vote counts the same—a cornerstone of democracy."

The Government must make clear that this is impossible with the first-past-the-post system. To fulfil the promise of equal voting value, electoral reform must feature in the remit of the commission.

Dominic Cummings boasts of his insurrection against the metropolitan elite in Parliament and the Civil Service. Since he is a product of an unfashionable fee-paying school and read history at Exeter College, Oxford, just like me, I suppose that I should rejoice in his rebellious company. I do not deny the need for a radical reappraisal of our constitutional settlement. I am just not convinced that he truly believes in parliamentary democracy.



5.47 pm

**Lord Judge (CB):** My Lords, I should have spoken to the noble Lord, Lord Tyler, before deciding what to speak about because he has said nearly everything that I wished to say, so I will not be very long. Your Lordships have heard me, and listened patiently to me, addressing the House about this misuse, this abuse, this failure to comply with constitutional conventions. As I spoke, I believed it and I still believe it. What has happened to Cabinet responsibility? Gone. What has happened to the confidentiality of Cabinet? What has happened to the constitution when the Minister for the Constitution is not a member of the Cabinet? What is happening and has happened with Henry VIII clauses now strewn like confetti at a happy wedding in the old days when, if I may say so to the Lords spiritual, the vicars did not mind if there were confetti on the path all the way back to and in the church?

When I read about the constitution, democracy and rights commission, I thought, "Hurrah! We're going to address the problems. We're going to address the misuse and the abuse. We're going to try to make the Government more answerable to Parliament." Then I thought, "Isn't that funny? Democracy and rights are what constitutions are about. Why bother to have a commission into constitution, democracy and rights? Why add those words if your real concern is the constitution?" As the noble Lord, Lord Young, reminded us, the Prime Minister has told us in a briefing that the idea is to develop,

"proposals to restore trust in our institutions and in how our democracy operates."

He has listed some of the many issues that have to be addressed. I suggest that the very first objective of any commission addressing the constitution should be to identify the misuses and abuses of it by both sides—by the coalition, too—in a practical way to establish and protect the constitution from further misuse and abuse and, in particular, to extinguish the misuse of unaccountable power by the Executive.

However, I could not dispel the suspicion that this is really all about the Prorogation decision of the Supreme Court.

**A noble Lord:** Absolutely.

**Lord Judge:** Well, why does somebody not say so? The answer is: it has been said, but it is not said in the Queen's Speech, nor is it said in the briefing. Yes, it was an unprecedented decision, but then the situation was unprecedented. Let us just remember that if Parliament is prorogued, Parliament shuts up. There is nobody to challenge the Prorogation decision. This democratic process, an elected House, is told, "You cannot speak now on any issue, because I, the Prime Minister, have decided that there must be a Prorogation." If the commission looks at this issue, it should not be worried about the powers of the Supreme Court; it should establish a clear understanding that Prorogation cannot happen without a vote in the House of Commons—certainly—and a vote by this House, too.

While the commission is looking at it, could it examine another element of the prerogative that has caused us all so much concern: the size of this House?

What on earth is the point of that wonderful committee led by the noble Lord, Lord Burns, making all those recommendations of "two for one", "one for two", "swap this"? Very good, but the Prime Minister of the day retains an absolute prerogative power to appoint as many men and women to this Chamber as he or she thinks fit. It would be a good idea for the commission to look at that vice in our constitutional arrangements.

I have said as much as I want to say, save this. I support the idea of a royal commission into the criminal justice system, but if it is a royal commission, why does the constitution commission, addressing the beating political heart of the nation, not merit being one, too. What sort of unroyal commission is intended to address the constitution? If we are talking about trust, a commission established to give the Government the answers that they want will strike a mortal, further blow to the public's confidence and trust in their own institutions, and the abuse and misuse will continue.

5.52 pm

**Baroness Quin (Lab):** My Lords, I congratulate both maiden speakers in this debate. As a born-and-bred Whitley Bay girl, I particularly appreciate the title chosen by the noble Lord, Lord Parkinson of Whitley Bay, and share with him a deep attachment to the region that we both come from. I look forward to hearing from him in future and from the noble Lord, Lord Davies of Gower.

As has just been pointed out by the noble and learned Lord, Lord Judge, there is a promise in the gracious Speech to create a constitution, democracy and rights commission, an interesting proposal which so far is just that, without any further details concerning its remit or composition. However, given that the immediate backcloth to this Queen's Speech was the general election of 12 December, perhaps an early task of the commission could be to look at that campaign and see what lessons should be learned for the future health of our democracy and the future conduct of elections.

Yesterday, in a truly excellent maiden speech, the noble Baroness, Lady Ritchie of Downpatrick, said that she wanted politics to recover from its recent battering and turn away from the world of lies, exaggerations, voter distrust and fake news. I have to say that I share her concerns entirely. Some examples of such practices have to be laid at the door of the Prime Minister, whose contradictory and colourful statements over the years have either entertained or, more frequently in my case, deeply alarmed us. He began the election campaign by saying that he had not wanted an election, even though I seem to remember that he desperately tried to get it through Parliament three times. He also said that he could not get his EU deal through Parliament, even though it had passed its first hurdle and was ready to be scrutinised by both Houses of Parliament. Perhaps it was the scrutiny that alarmed him, the Bill having managed to get through its first stage.

But there were other examples during the campaign that were not the direct responsibility of the Prime Minister which I found just as disquieting; for example, the doctoring of a TV interview into a fake video to make my right honourable friend Keir Starmer look

[BARONESS QUIN]

clueless about Brexit when the opposite was true and he had given a fluent interview on the subject; or the fake Margaret Beckett website; or the so-called independent fact-checking website which turned out not to be independent at all but the work of one particular political party. I say “one particular political party” because I am not trying to give a party-political speech; I am trying to highlight malpractice that we should avoid in future. If there are examples of other parties, including my own, pursuing such a course of action, I would condemn that as equally unacceptable. Perhaps the party leaders could come together, either through the constitution commission or in some other way, to agree that such malpractice should be stopped and to recognise that if democracy is to survive in a world of fake news, standards of factual accuracy should prevail.

The Government talk in the gracious Speech of governing for all. In his introduction, the Prime Minister sets an ambitious goal of delivering

“for the whole of our great Union, investing in and levelling up every part of England, Scotland, Wales and Northern Ireland.”

Surely that is an aim that we can all subscribe to, but if the Government are really to bring people together, they have a responsibility to avoid triumphalism in their approach and to recognise that, although they have a handsome majority in the House of Commons, it has been brought about by our electoral system. Overall, the Conservative vote increased by only 1.2%. The Liberal Democrats, who are said to have suffered a crushing defeat—it certainly looks like that in many ways—saw their overall vote increase by five points. Of course, the Government were hugely helped by the unpopularity of the Labour leadership, as my noble friend Lord Reid and others have said. I was struck by this day after day when campaigning in my own part of the world. I am sure that was the reason the Prime Minister really wanted an election: so that he could capitalise on that unpopularity and use a majority to claim a mandate for all kinds of other policies, including Brexit, even though it is clear from looking at the votes cast that those who voted for parties that were either anti-Brexit or committed to another referendum won 53% of the vote as against 47% on the other side—an almost exact reversal of the 2016 referendum.

The Prime Minister says in his introduction that he is humbled by the trust that voters have placed in the Government. I can only hope that he really means what he says and, to borrow Labour's phrase, will genuinely promote the interests of the many and not the few.

5.58 pm

**Lord Strathclyde (Con):** My Lords, I so enjoyed the speech of the noble and learned Lord, Lord Judge, and I know that there will be many other times to debate some of the issues raised in his analysis. What I want to discuss today is what an extraordinary few years it has been in Parliament: a seemingly never-ending Session, a Government brought before the courts, imaginative judicial judgments, breakdown of conventions and an unpleasant and unruly mood surrounding all

our work, even here in your Lordships' House—the worst atmosphere that many can remember. My wish for this decade is that we can put all that behind us and rediscover our more co-operative nature, which is absolutely necessary for this House to function in the way it should. We have been through an enormously acrimonious period in our national history. We appear to be more intolerant and judgmental as a society, but we in this House should act as an example of how we can accept difference but maintain a level of cordiality in debate.

Of course, the Government are not entirely without blame. Please, can we get back to proper annual Sessions of Parliament? There is a very good business management reason to do so. Annual Sessions provide a framework discipline for Parliament, for departments, for Government and for Opposition. It forces departments to have their Bills ready at the start of a Session, is a disincentive to their adding endless clauses halfway through the Session and provides an element of predictability for Government and Opposition alike. I hope that this Session will run until around Easter 2021 and that we will then have annual Sessions until the next election, whenever that might be.

The role of opposition is, of course, vital in this House. In so many respects Oppositions have more power than Governments, but they must use that power responsibly and sparingly. I should know a thing or two, having been Leader of the Opposition for 12 years. Most of us agree that this House is best when we revise, scrutinise and act as a forum for general, often expert, debate. Governments listen rarely to your Lordships, but are more likely to do so when we do not continually defeat the Government on endless issues but use our powers of persuasion on issues the Government might actually accept. In the 2016-17 Session of Parliament, the Government were defeated in the House of Lords in almost 50% of Divisions, an absurdly high figure. That is already far too much. In the last proper Session of Parliament, 2017-19, the Government won only 22.5% of all Divisions; they lost more than three-quarters. At this level of Peer activism, we cease to be a revising and scrutinising Chamber and become a House of opposition that Governments can happily ignore. This is not the way forward for us in the future.

The Government are always a minority in this House. That is why the responsibility for how legislation is handled falls so importantly to the Opposition. Remarkably, the Opposition have been very successful in being regularly able to sway even independent Cross-Benchers to come their way and vote against the Government. I know that we have been through a very unusual period over Brexit, but let us not retain the bad habits we have grown used to. The Queen's business must be carried on and the Government have a right to believe that their legislation should not be needlessly held up in the Lords. It is time for us to return to normal practice. One part of normal practice, as other noble Lords have mentioned, is the welcome proposal in the gracious Speech that the time has come to repeal the Fixed-term Parliaments Act. It was an experiment, it has not worked, and it is time to return to the ancient workings of the British constitution.

The noble Baroness, Lady Smith of Basildon, kindly referred to me in her opening speech in this debate, before Christmas. She referred to my belief that the Lords needs to be more directly accountable to people. I stand by that. I also accept that this is a more Europhile House, but the people have spoken very clearly—again—on Brexit and we must listen to them, particularly as we are not elected. On the constitution, democracy and rights commission, I simply say “Good luck” to the Government. When the commission starts looking at this House, that will be the proper time to re-examine the role of the electorate, age, the size of the House and who should sit here, including hereditary Peers. This is a well-trodden path but there are new ideas around and we should all examine them constructively and with great care.

6.04 pm

**Lord Thomas of Gresford (LD):** My Lords, in 1978 I was the guest of a senior lawyer in Philadelphia, Pennsylvania. That evening at home, he answered a phone call and came back wreathed in smiles: “The Republicans are struggling to get their legislation through the State Senate”, he told me. “The Democrats have told them they have to pay a price, and I’m the price: they’re making me a judge.”

On Monday of this week, a senior lecturer in the Cardiff Law School, Mr Bharat Malkani, was randomly selected by the research organisation Kantar to take part, as a member of the public, in a survey concerned with the independence of the judiciary. There were two questions. The first was, did he think the judiciary sufficiently independent from government? The second was, why is the judiciary independent? Was it lack of political interference, costs, or lack of interference from the media? When Mr Malkani asked on whose behalf the survey was being conducted, he was told that he could not be given that information until he had answered the questions. When he had finished answering, he was told it was on behalf of the Government. He phoned Kantar back later to check and was then informed that it was simply an in-house survey and had no connection to the Government at all. What is this all about? What is going on?

In recent months, as the noble and learned Lord, Lord Judge, observed, we have seen tensions. The Executive, without majority support in Parliament, unlawfully attempted to frustrate Parliament’s deliberations by way of Prorogation, relying upon prerogative powers of the Crown not deployed since the days of Charles I. Parliament reacted with unprecedented procedures, which were open to it only because the Government did not have the votes. Boundaries which were thought to be understood were crossed and the Supreme Court had to sort out the mess. Who else could have done it? The judges were portrayed by the Government, however, as unelected, unaccountable and anti-democratic: an echo perhaps, of the *Mail’s* “Enemies of the People” tag. The Government obviously find it difficult to get over losing a case. Anti-democratic? As Lord Bingham pointed out in a leading case:

“The function of independent judges charged to interpret and apply the law is universally recognised as a cardinal feature of the modern democratic state, a cornerstone of the rule of law itself.”

In Emlyn Hooson’s Chester chambers, in the elections of the 1960s, 1970s and 1980s, five of us stood as Liberal candidates—

**Lord Carlile of Berriew (CB):** Hear, hear.

**Lord Thomas of Gresford:** We have one over there. Another fought Lord Roberts of Conwy for Plaid Cymru and there was even a Conservative contender, for a valleys seat in south Wales. I welcome the noble Lord, Lord Davies of Gower, and particularly welcome his support for the A55—a north Wales road, I note—which runs into the Irish Sea, and the new Irish border, somewhere to the west of South Stack, Holyhead.

The well-worn track, however, between the Temple and Westminster was becoming rocky. For a young barrister, political involvement risked a black mark. None of the current Supreme Court justices appears to have had a juvenile fling at politics, although I note that one of them once owned a racehorse called, provocatively, “Young Radical”—something we all thought we were. Now there are these vague proposals, in the Conservative manifesto and in the Queen’s Speech, to establish a constitution, democracy and rights commission. *Protecting the Constitution*, the paper published by the right-wing think tank Policy Exchange on 28 December, expresses alarm at the entry of the Supreme Court into the political arena. The authors appear to see the Supreme Court justices, hitherto political virgins, coming together as a collective body with a determination to seize political control and promulgate new laws. We heard an echo of that in the speech of the noble Lord, Lord Strathclyde, who referred to “imaginative” new laws.

It is a highly regressive document, even calling for the removal of the title of “Supreme Court” and reverting to the wording of the Victorian Act of 1876 when Lords of Appeal in Ordinary were created to man the Judicial Committee. The authors of the paper write:

“If appeals against judgments were reviewed, in the words of section 4 of the Appellate Jurisdiction Act 1876, before Her Majesty the Queen in her Court of Parliament, it might be much less likely that the UK’s apex appellate court would mistake its position in relation to the Houses of Parliament.”

Accordingly, this paper—the basis of Tory policy—calls for the renaming of the Supreme Court as the “Upper Appeals Court” to emphasise its inferiority to the political sovereignty of Parliament and the Executive. That may not be quite compatible with the concept of independence of the judiciary as the third pillar of our democracy. Are we on the way to Philadelphia?

6.10 pm

**Lord Kerr of Kinlochard (CB):** My Lords, it is a pleasure, as always, to follow the noble Lord, Lord Thomas, but I shall take my text from what was said by the noble Lord, Lord Reid of Cardowan. I share his concern and surprise that the gracious Speech is silent on what seems to me to be the clear and present danger of the union disintegrating. I too will talk about Scotland, but also about Ulster.

I agreed with Mr Johnson when he told the DUP conference in 2018:

“No British Conservative Government could or should sign up to ... regulatory checks and ... customs controls between Great Britain and Northern Ireland.”

I agreed with that, but he has so signed up. Clearly I was wrong to discount the polls that told us that the party in England would rather lose Ulster or Scotland



[LORD KERR OF KINLOCHARD]  
 than delay Brexit. However, it still seems rather odd that the Government are so relaxed about the possible price to be paid. It does not take a crystal ball to spot what might happen when trade in both directions across the Irish Sea is subject to checks supervised by a third party, with tariffs payable to a third party on Northern Ireland's imports from the mainland if there is any risk of those goods going on into the Republic. When many regulations and standards, all state aid rules and all VAT rules in Northern Ireland are set not by this Parliament or Belfast but by Brussels institutions in which Belfast is not represented but Dublin is, the economic integration of the island of Ireland will proceed apace. Will not political integration likely follow, with Westminster required to deliver on the 1998 promise of a border poll?

Northern Ireland voted to remain, and will now remain in much of the single market and all of the customs union. Anyone born there will retain the right of EU citizenship, except the citizen's right of representation—but will not support for correcting that democratic anomaly be reinforced over time by Northern Ireland's demography? A return to full EU membership would of course be easy. It would not require any accession negotiation; the 1990 German unification precedent would obviously apply.

It is not for a Scot like me to say whether the end of a century of Irish partition would be a good or a bad thing. All I can say is that it now seems rather likely, given Johnson's betrayal of Ulster unionism. Where does that leave Scotland, which also voted to remain and whose Government have since argued in a series of White Papers brushed aside by Mrs May and Mr Johnson that, if the UK were to leave the single market and customs union, Scotland should be allowed to retain some kind of EEA-type arrangement—an arrangement rather like the one Ulster Unionists did not want but are now going to get? In Edinburgh the contrast adds insult to injury. If next year's election up there returns another nationalist Government, I find it hard to see how the demand for another referendum on independence can be resisted. To go on dismissing self-determination would only fuel the demand for it, and the Irish have their right to a border poll. So where does this end?

In 2014 I campaigned against Scottish independence. Doing so will be harder next time. I annoyed Mr Salmond particularly by insisting that leaving the UK would mean leaving the EU, something few Scots wanted. That argument has gone. I majored on the economic downside to secession, but the English have just been persuaded that, for them, sovereignty matters more than prosperity. We should heed the eloquent warning of the noble Lord, Lord Reid of Cardowan; the Scots might take a similar view to the English. They might want to take back control. It is a potent slogan, and head might lose out to heart.

The gracious Speech was, as the noble Lord said, strikingly silent on all this and on how these risks could be reduced. However, the accompanying memorandum tells us on page 121 that the noble Lord, Lord Dunlop, is about to undertake an independent review into the UK Government's "union capability". I have absolutely no idea what that means, but I look forward to hearing from the noble Lord later today and wish him luck.

I have great respect for him and it seems to me conceivably to be an extremely important exercise. I hope its terms of reference are broadly drawn.

In the meantime, I will make two concrete suggestions to the Minister. Will the Government include representatives from Edinburgh, Cardiff and Belfast in the new team being assembled to conduct the future trade relations negotiations and in the Joint Committee which is to implement the withdrawal agreement? Will they rapidly refresh strands 2 and 3 of the 1998 Good Friday agreement institutions, in particular considering how to give some democratic legitimacy to EU laws applying in future in Northern Ireland?

6.16 pm

**Lord Beecham (Lab):** My Lords, "Justice, justice thou shalt pursue" is a biblical exhortation which should be the hallmark of policy and practice in this critical area of government policy.

There is little evidence of it to be found in the Ministry of Justice's contribution to government policy and its legislative programme, with the exception of sensible measures such as the Divorce, Dissolution and Separation Bill and the Sentencing (Pre-consolidation Amendments) Bill. There is no recognition of the impact on access to justice of the last nine years of coalition and Conservative government policy, nor any indication of a determination to tackle the dreadful conditions in our overcrowded and understaffed prisons in a country with among the highest incarceration rates in Europe and a dreadful level of violence which we are encountering regularly. On the contrary, the Government seem determined to promote longer sentencing and potentially counterproductive measures such as more hours of unpaid work of an undefined nature. Nothing appears to be happening in ensuring that in this area profit is not a key factor.

However, it is not just the custodial system that is found wanting. The Law Society, not noted for left-leaning tendencies, describes the justice system as being "at breaking point", citing

"shortage of duty solicitors and independent experts, court closures, barriers to accessing legal aid, and crucial evidence not being disclosed in court until the last minute."

It also describes the criminal justice system as being at breaking point. It is true that the Ministry of Justice's budget for criminal justice is being increased, but this is largely devoted to providing new prisons and supporting the appointment of new police officers to fill the gap caused by cuts over the last few years. The probation service continues to be overstretched. The Law Society calls on the Government to ensure adequate funding across the whole criminal justice system, not just a few parts of it. This will include the need to ensure the availability of legal representation by increasing fees and updating the means test to increase it in line with inflation since 2010, given that the present level falls well behind.

Similarly, the society invokes the need to facilitate access to civil justice, so badly affected by LASPO, which currently leaves many people on very low incomes ineligible for legal aid. It also draws attention to other failings of the present system, including the need to restore legal aid for early advice in housing and family law. Here, at least, and at last, there will be a belated

piloting of an advice scheme in relation to housing law. We have to see the extent to which effective changes are made. As I pointed out several times in earlier debates, there are legal deserts in this important area, where 37% of the population live in local authority areas with no legal providers for housing law cases, in particular at a time when there are many problems in the private rented sector.

The society raises further issues, including concerns about the apparent failure to proceed with the court modernisation programme embodied in the Courts and Tribunals (Online Procedure) Bill, which passed through your Lordships' House and appears to have since disappeared. Since 2010, the Ministry of Justice budget has been cut by 40%. This translates to applications for employment tribunals collapsing, legal advice services reducing from 3,266 in 2006 to less than 1,500 in 2015, and by 2017 there was a reduction in legal aid providers by 20%—presumably by now there has been an even greater reduction. Moreover, many courts have been closed, others are in poor repair, videolinks are sparse, and waiting areas sometimes fail to provide separate facilities for parties in domestic abuse cases.

One correspondent who works in the public children's law sector sees some of the most vulnerable children in society and reports seeing,

"a court system where judges are struggling to cope with high numbers of litigants in person—some very vulnerable people—trying desperately to navigate a system so that they can either protect their child, see their child or respond to serious allegations against them ... it is not unusual to see a case where there have been 3, 4, 5 social workers in the space of one year",

with grandmothers offering to look after children and then delays of months, even years, to obtain appropriate housing.

This underlines the need not just to ensure that the legal system and proper advice and representation are accessible but that other critically important services are properly funded and available to assist both the parties and the courts. What steps will the department take to work with other departments, for example, local government and education, to contribute to the resolution of such pressing problems?

6.22 pm

**Lord Lang of Monkton (Con):** My Lords, like other noble Lords, I begin by paying tribute to two maiden speakers, my noble friends Lord Parkinson of Whitley Bay and Lord Davies of Gower, for maiden speeches which certainly enhanced the quality of our debate today.

I will make some comments on the constitutional measures, which this year have had unusual prominence in this debate. In particular, I welcome in the gracious Speech the words:

"Work will be taken forward to repeal the Fixed-term Parliaments Act."

It was good to hear the noble Lord, Lord Kennedy, who sadly is not in his place at the moment, condemn that Act from the Opposition Front Bench and call for its repeal. He used the word "ineffective", but I fear that it was much worse than that. The Act has always been a piece of constitutional illiteracy. It sought to destroy a fundamental principle of our constitution that, subject to the outer limit of five years, a Government may remain in office for as long as they command a

majority in the House of Commons. The consequence of blocking off that principle was months of chaos, as certain parties broke their pledges to the electorate, paralysed government and yet resisted the holding of an election that was so badly needed. No Act of repeal has yet been listed for the FTPA, but it should be straightforward to revert to the status quo ante. The folly of the present Act has now been proved. Its underlying motive can only have been more coalitions and, therefore, confusion, indecision, instability, and endless haggling within government—the kind of terrain which can bring only cruel comfort to minority parties. So long as it remains on the statute book, the Act constitutes a monstrous carbuncle in the great gut of our unwritten constitution, and it should go soon.

Another outstanding issue, of which no mention was made in the gracious Speech, but of which my noble friend Lord Young of Cookham has already spoken most tellingly, is the need for the implementation on a population basis of new boundaries for parliamentary constituencies. This is a matter of fairness and justice, over which paralysis has sat in recent years, and I agree with his comments. Matters of this kind, if not attended to, end up nowhere.

The noble Lord, Lord Reid of Cardowan, who has also, sadly, just left his place, complained that there were only 16 words in the gracious Speech about the union and devolution; the noble Lord, Lord Kerr of Kinlochard, also had some strong words to say about it. I agree with a lot of what each of those noble Lords said, but it seems to me that much action is in fact afoot. The new "Department for the Union", with my right honourable friend the Prime Minister in charge of it, suggests the potential for progress opening up. The tone in recent press coverage of devolution and the union is encouraging, speaking as it does of viewing all policy through the prism of the union, and of levelling up, connecting and embedding devolution into everyday business as part of the daily drumbeat of government activity.

Perhaps these are just straws blown with the wind, but this now apparently prevailing tone, if fulfilled, perfectly enshrines the change of mindset throughout government, and the more proactive approach to the devolved Administrations that your Lordships' Constitution Committee called for in two of its reports some three or four years ago is now finding favour. Abandon the slogan "devolve and forget", was one of our cries. But for years it seemed to be our languishing reports that were being forgotten. It now seems that the tide is with us. I noticed the other day that Professor Vernon Bogdanor has joined the cry. We do not need more throwaway, ad hoc devolution; we just need better government and better intergovernmental relations. I much look forward to the forthcoming report by my noble friend Lord Dunlop on a review of UK Government union capability, not least because, like other noble Lords, I am not certain what that implies. It is yet another initiative of the Government, taking action to meet with this serious problem.

This is sensitive territory. It will not be easy, but if we can get it right and change the tone, we can then look forward not only to a stronger United Kingdom but to a much-needed improvement in the quality of government in all its parts.

6.26 pm

**Baroness Humphreys (LD):** My Lords, I want to talk about three issues from the present version of the Queen's gracious Speech that impact on Wales.

First, although many of our rural constituencies voted in December to "Get Brexit done", many farmers remain worried about the consequences of the Prime Minister's timetable for quitting the EU. The president of the Farmers Union of Wales, in his new year message, has called on the Government to change their focus and to "Get Brexit done safely", over a realistic timescale ensuring a trade deal with the EU which,

"delivers full and unfettered access for our Welsh produce to EU markets".

Many Brexiters will wake up on 1 February believing that Brexit has been achieved, but that will be when the hard work begins. The Prime Minister has decided that he will take charge of the trade negotiations to begin on that day—and what a challenge he faces. He faces an EU determined to adhere to its standards and protect its internal markets, and, on the other hand, he faces the prospect of other countries demanding that we accept their lower health, hygiene, welfare and environmental standards as the price of a trade deal with them. It is a circle that will be difficult to square, and it will probably lead to the UK's exit on or before 30 December with no deal—the disastrous situation which we, who have the interests of Welsh farmers at heart, have fought against for the last three years.

Secondly, I want to highlight the very different immigration needs of Wales. It is a subject I have alluded to before but, with the prospect of the immigration Bill arriving in this House before long, I want to put on record the potential impact one of the measures in the Bill could have on the Welsh economy. Wales has a significant number of EU workers and, as they lose their right to freedom of movement in the UK and contemplate applying for visas, both their futures here and the potential damage to the Welsh economy give rise to concern. A report in June of last year from the Wales Centre for Public Policy found that the proposal that the existing salary threshold of £30,000 for tier 2 visas be maintained would have a significant negative impact on economic growth in Wales, reducing GDP by between 1.1% and 1.6%. Nearly 50,000 of our full-time workers are from the EU, and 65% of those earn below the proposed threshold. The Migration Advisory Committee has been asked to look at whether the salary threshold should be the same or different across the UK, I look forward to the publication of its report—hopefully before the immigration Bill comes to this House.

My third and final issue is taken from the briefing documents that accompanied the Queen's gracious Speech, in which the Government outline their economic plans for Wales. There is much I could comment on, but I want to focus on one sentence in the document that leapt out at me. It reads:

"The Government will upgrade the A55 as the main road transport artery for North Wales".

This was mentioned by my noble friend Lord Thomas of Gresford in his excellent speech. It was also mentioned by the noble Lord, Lord Davies of Gower, in his excellent maiden speech; I extend to him a very warm

welcome to this place. The A55 runs from Chester in the east to Holyhead in the west. It is a commuting route. It is a route that gives tourists access to our towns and villages; those of us who have lived in north Wales for many years still marvel at how quickly we can now get from A to B because of it.

However, the A55 is not just our local road. This stretch of road is part of Euro route E22, which begins in Ishim in Russia and runs through Moscow, Amsterdam and Leeds with the final part of the road ending in Holyhead, then going on to Dublin. Because it is such an important link between mainland Europe and Dublin, improvements over the years have been the result of Welsh Government and EU investment. The road does need upgrading: there is a need for hard shoulders where conditions allow; there are very few lay-bys; and there is a distinct lack of lay-bys big enough for lorries.

So why am I concerned? Well, powers over transport are devolved to Wales, and I wonder whether this upgrade of the A55 is suddenly considered the UK Government's responsibility. Is this an example of the Government bypassing devolution, or was that particular sentence in the briefing misworded? Perhaps the Minister can tell me what discussions the Government have had with the Welsh Government about the proposed upgrade.

6.32 pm

**Lord Hope of Craighead (CB):** My Lords, I would like to add my own few words to the powerful speech of the noble Lord, Lord Reid of Cardowan, about Scotland. The gracious Speech said:

"The integrity and prosperity of the United Kingdom is of the utmost importance to my Government."

The Government's briefing note says that the Government "want 2020 to be a year of opportunity, growth and unity for Scotland, not of further division."

I agree with these sentiments, of course, but my concern is that, despite what the noble Lord, Lord Lang of Monkton, said, this message is not being put across clearly enough in Scotland to the people who live there. We are at risk of sleepwalking into the breaking up of the United Kingdom, as the noble Lord, Lord Reid, rightly said.

The future of the union in the face of the SNP's relentless demands for another referendum on independence is a matter of huge importance. The other parts of the union have a strong interest in holding it together. Take defence, for example: the SNP will not allow any nuclear weapons to be based in Scotland. That is a red-line issue for it. So the future of the submarine base at Faslane, and all that that means, will not be negotiable after independence. We need therefore to give careful thought to what needs to be done if the integrity of the union is to be preserved.

The first point to notice is that the SNP's relentless demands for complete independence will continue. It will not go away, despite everything that is said in the briefing note about how the Government are investing in the Scottish economy. We must give it full credit for its beliefs. It will never be satisfied with less. The briefing note is right to point out that a raft of additional powers were devolved to the Scottish Parliament in 2016. There was a time when it was thought that



devolution would settle the matter for ever, but that is not so now, as the Labour Party has been replaced by the SNP as the established governing party in Scotland. Just saying no to Nicola Sturgeon's call for another referendum on independence because of what the result was in 2014 may be enough for now, but as the noble Lord, Lord Kerr of Kinlochard, pointed out, it will not be enough for very much longer.

The second point is that if and when it becomes clear that independence is the settled will of the Scottish people as a whole, the demands for it will almost certainly be unanswerable. Many believe that it would be unthinkable that the people of Scotland should be held within a union to which the Scottish people as whole did not wish to belong. It needs to be stressed that this is a high standard. However, short of holding another referendum—which the Prime Minister refuses to agree to—how is one to determine whether that high standard has been reached? That is the key question.

The SNP is a master at answering that question by making capital out of the way election results play in its favour. It did this in 2015, just one year after the country rejected independence by 56% to 44% of those voting in the referendum. It said that there had been a material change of circumstances because it had won 56 of the 59 Scottish seats in that year's general election. It did so again just a few weeks ago when it won 47 of the 59 seats in the last general election. It claims that this was a mandate for a second referendum—*indyref2*, as it calls it. Of course, the results in a first past the post election are not a true guide to where the settled will of the Scottish people lies. Although the SNP won by far the most seats, its share of the popular vote was only 45%.

The SNP is now looking forward to the next election for the Scottish Parliament in 2021. It is almost certain that the SNP will be returned to power again by a substantial majority; there will then be even more vocal demands for a second referendum. Of course, it can be said that the issues in that election will be about devolved government in Scotland, but we can be sure that this is not what SNP will ask the Scottish people to believe.

As a matter of law, the integrity of the union is a reserved matter to be decided here in Westminster, but I cannot emphasise too strongly that relying on the legal position will not hold up against the political campaign demanding that Scotland's future is for the Scottish people to decide. The SNP knows that if it is to win the popular vote on this issue, it has a lot of persuading to do. Last time, many people—the silent majority—were put off by the aggression and intimidation that were used. This time, gentle, steady persuasion is likely to be the preferred, and much more effective, tactic. It is already under way as I speak.

I do not claim to have the answers to this problem. That is for the Government to work out, if they mean to make good their pledge in the gracious Speech. The purpose of my intervention is to draw attention to the scale and urgency of the issue. There is no time to lose if that pledge is to be made good.

6.37 pm

**Viscount Hanworth (Lab):** The exorbitant effulgence of the Prime Minister's pomposity and waffle has served to conceal from many people the extent of his ignorance and carelessness. Doubts persist over whether his utterances are planned or simply haphazard.

A case in point concerns the future trading relationship between Northern Ireland and the rest of the UK. The recent Brexit agreement has proposed a customs barrier in the Irish Sea, requiring checks on goods, known as exit summary declarations. However, Boris Johnson has insisted that there will be

"no forms, no checks, no barriers"

for goods travelling from the Province to the mainland, and he has assured people that there will be "unfettered access". Asked by one person whether he could tell staff to refuse to fill in the forms, Mr Johnson said:

"If somebody asks you to do that, you can tell them to ring up the prime minister and I will direct them to throw that form in the bin."

It appears that the Prime Minister has failed to understand the terms of his own Brexit agreement but there is still doubt concerning the motives behind his declaration, and some people have given him credit for a conscious strategy. If his utterances have been more considered than they seem to have been, it is difficult to understand their underlying logic. They will certainly cause difficulties when the detailed trade negotiations with the European Union are under way.

The political activities of Boris Johnson have a quality of patrician amateurism. He exudes self-confidence and a disdain for fussy detail. His attitude appeals to many who find the details of public administration to be tedious and inessential. Amateurism is nothing new in British politics. It was satirised in a long-running television series that had a hapless Minister, James Hacker, confronted by a cunning and sagacious civil servant by the name of Sir Humphrey Appleby, who was adept at sidestepping the misguided initiatives of the Minister. The programme both satirised and celebrated the *modus operandi* of the British Civil Service, which has endured almost unchanged for 150 years, beginning with the Civil Service reforms of 1855. It depicted in a masterful way the Minister's gracious if quietly resentful acknowledgement of his own incompetence.

What has changed since the days of Sir Humphrey Appleby is the deference of Ministers towards the Civil Service, which is greatly diminished. The Civil Service has been faced with the impossible task of turning the fantasies of Brexit into practical reality. The inevitable failures have roused the irritation of Ministers. That irritation and the helplessness of the officials have been palpable in many of the sessions of the Lords European Union Committee and its sub-committees. The Government have hardly welcomed the substantial guidance and wisdom that have been offered by the numerous reports of the committees. Michael Gove is famous for having declared that,

"people in this country have had enough of experts."

Members of the Lords committees do not often profess to be experts. However, they do universally acknowledge the value of expertise and they have sought to tap into it by calling upon expert witnesses. In the process, they

[VISCOUNT HANWORTH]

have irritated many Ministers, who have resented the manner in which the reports of those Lords committees have served to obscure the leitmotifs of the Brexit agenda and to transform a simple idea into a maze of complications.

During the period of the recent Conservative Governments, a new element has begun to dominate the formulation of policies and their expression in legislation. Increasingly, the policies have been hatched within think tanks that are affiliated to the Conservative Party. The policy of universal credit and housing policies, including such things as the bedroom tax, originated in think tanks, most notably one called Policy Exchange. The Civil Service has been sidelined. It has been inhibited from contributing its experience and its caution to such matters, and the consequences have been disastrous. One can imagine the circumstances in which a neophyte, perhaps a recent Oxbridge graduate who is eager to impress his political masters, is put in charge of policy formulation. The result is liable to be a proposal with a strong political coloration that is devoid of practicality and careless of the plight of the people on whom it might impinge.

Another feature of those Conservative Administrations has been the increasing role of special advisers drawn from outside the Civil Service. Some of them are contemptuous and resentful of the Civil Service and its personnel. There has been a well-publicised tirade by the Prime Minister's principal special adviser, Dominic Cummings, against the Civil Service in which he seems intent on sidestepping the normal recruitment processes. In his blog he seeks to encourage scientists, mathematicians, computer programmers and, in his own words,

"weirdos and misfits with odd skills"  
to join the service.

It is a widely acknowledged fact that there is a shortage in the Administration of people with technical skills. Any attempt to reduce this deficit should be more than welcome, but the proposal of Dominic Cummings is for the creation of a disruptive ginger group, seemingly intent on pursuing the tendentious policies of right-wing fanatics. That would be profoundly unwelcome.

6.43 pm

**Lord McNally (LD):** My Lords, one of the great traditions of this House that the noble Lords, Lord Parkinson and Lord Davies, will quickly become aware of is that when the Government plan to do something ever so slightly dodgy, they send along the noble Lord, Lord Strathclyde, like the village policeman, to give one of his, "Move along: nothing interesting to see here" speeches. That only underlines a worry I have which was brilliantly exposed by the noble and learned Lord, Lord Judge, my noble friends Lord Tyler and Lord Wallace of Saltaire, and the noble Lord, Lord Young of Cookham. It is the grave suspicion that a Government who campaigned on "taking back control" will use the proposals for a constitution, democracy and human rights commission to claw back to the Executive the powers they have lost in recent years to Parliament, the courts and the individual citizen. Indeed, the Conservative manifesto was very clear about its intention

to clip the wings of individuals or institutions who frustrate or slow down the revolution on which we are about to embark. This House has a special duty to safeguard our democratic freedoms and civil liberties from the abuses of what the late Lord Hailsham described so magnificently as our "elective dictatorship".

Today I will concentrate on another matter, which the noble Viscount, Lord Hanworth, has prepared for me. Another of our great institutional bulwarks against political abuse and one of 19th century liberalism's greatest gifts to our 21st century democracy is a Civil Service that is recruited on merit and politically neutral. I was one of the early political appointments when the system of political advisers was introduced by the Labour Government in 1974. My own experience of public servants during five years in the Foreign Office and No. 10 from 1974 to 1979 and during the seven years I spent in the Ministry of Justice between 2010 and 2017 was of their dedication and commitment, which I held in the highest regard.

Of course it is necessary to bring in new skills and fresh thinking to our public services, but we should not have to find out the hard way that simply rubbishing the Civil Service and bringing in "weirdos and misfits" is not a solution to the challenges that face us. We will not get the response we want from our public servants by belittling them or claiming that there is some miracle cure for real or imagined shortcomings that is ready to be applied. The truth is that many of Dominic Cummings's saner aspirations can be found in the 1968 Fulton report, yet in No. 10 we seem to have reached a stage similar to that depicted in "Little Shop of Horrors," where Dominic Cummings is ready to gobble up the Northcote-Trevelyan principles and 150 years of good governance.

I hope that Mr Cummings has read and digested the Constitutional Reform and Governance Act 2010, which puts strict limitations on the role of political appointees such as himself in relation to civil servants and that he understands and respects the specific protections and safeguards for public servants contained in that Act. Certainly, it is the duty of both Houses of Parliament to scrutinise proposals for Civil Service reform and that must include Mr Cummings appearing in person before the responsible committees of both Houses. Prior to that, the Prime Minister, as Minister for the Civil Service, should make a Statement to the House of Commons explaining the extent of the powers Mr Cummings enjoys and their compatibility with the existing rules covering the powers of political appointees.

For those of us who were hoping for a period of tranquillity following the recent turmoil, I fear that the gracious Speech contains too many threats to our freedoms for that to happen. As for Mr Cummings, I recommend a reading of the lives of Robespierre and Trotsky, with their reminder that revolutions have a habit of devouring the revolutionaries.

6.48 pm

**Lord Brown of Eaton-under-Heywood (CB):** My Lords, there is in the gracious Speech a great deal of interest and concern for one like me who has spent a lifetime in the law, but today I have time to put down only one or two markers.

On criminal justice, I applaud the decision to appoint a royal commission. I hope that it will look at the substantive law and not just at our now disordered procedure, and that it will deal, for example, with the age of criminal responsibility, along with IPPs, which are an enduring problem creating a continuing injustice for many. That said, I recognise that dyed-in-the-wool terrorists—people like the London Bridge killer—and religious zealots driven by ideology, whose reform seemingly can never be assured, may well require life sentences. I suggest that they present a very different problem from that presented by even the most serious sex offenders—Worboys and so forth.

I recognise too the case for a new treason offence and commend Policy Exchange, an admirable body with a number of distinguished contributors, on its work on that. I also support its work on the protection of our Armed Forces and its associated proposals for tinkering with the Human Rights Act in certain important respects—in particular, to deny it retrospective effect and, as Lord Bingham would have done, to deny it extraterritorial application too, save in the most limited circumstances, such as embassies and the like, which we considered years ago in the al-Skeini case.

My central focus today is on the prorogation case, Miller II in the Supreme Court. As everybody recognises, this lies at the heart of the Government's proposal to establish a constitutional democracy and rights commission, whatever is contemplated by that—as the noble Lords, Lord Wallace and Lord Young of Cookham, and my noble and learned friend Lord Judge have already astutely observed.

The Policy Exchange paper *The First Hundred Days* asserts somewhat dramatically and, I suggest, overdogmatically:

“The Supreme Court's prorogation judgment was a recent, startling example of judicial lawmaking, which compromises the integrity of the political constitution.”

It urges its reversal immediately by legislation. In fact, Policy Exchange suggests that, by the same token that Miller threatens powers of prorogation, so too—even when we get rid of the Fixed-term Parliaments Act, as plainly we should—will it threaten dissolution. For my part, I question that.

I confess that I was surprised and remain to a degree uneasy—a good deal more so than my noble and learned friend Lord Judge—about the Miller decision. I still find the also authoritative Divisional Court judgment convincing in many respects on that question. I nevertheless caution strongly against hasty action when it comes to entering upon this very delicate, sensitive and difficult area of the relations between the differing arms of state. Personally, I read the Supreme Court decision as a very narrow one on the facts. It was only really because the Government declined to vouchsafe any basis for Prorogation apart from the manifestly unjustifiable need for seven weeks to write a Queen's Speech. Only on that limited basis did the court feel entitled to strike it down as manifestly unreasonable—a judgment it felt able to make.

Be that as it may, it would really be a terrible mistake now to rush into hasty legislation or to deal with what some describe as judicial overreach, the Prince of Wales letters case being an obvious one

in point. Let these questions simmer a while. Let the various legal, political and constitutional pundits work through the implications to see what precisely may be needed and what will be the unexpected results of any legislation to overcome them. It would not be healthy for our constitution for any branch of the state now to be thought embarking on some power grab. That is the note on which I want to end. I indicate only that, as the months come to pass, there is an awful lot more that I shall hope to say.

6.54 pm

**Baroness Kennedy of The Shaws (Lab):** My Lords, as the noble and learned Lord, Lord Brown, has just said, there are ways of having a discourse about legal judgments even by our Supreme Court. One should conduct oneself in a sane and careful way. Last week we were subjected to the unseemly spectacle of the noble Lord, Lord Howard, red in face, frothing with indignation, fulminating against the judges of the Supreme Court and saying that they had committed a heinous outrage. They had reached a decision he did not like. The Supreme Court had found that the Prime Minister had behaved unlawfully in his attempt to prorogue Parliament; we all know the story and about the Policy Exchange debate.

What made the outburst all the more risible was that not very long ago the noble Lord, Lord Howard, had very loudly claimed that he wanted to leave the European Union to get us out of the European Court of Justice, to restore faith in our courts and particularly our Supreme Court, and to put it back at the apex of our legal decision-making—somewhat different. It almost seems that the noble Lord is protesting too much. Maybe it is the law, the rules and the decision that he does not like, whatever court he disagreed with.

I remind the House that that decision was unanimous and made by some of our finest legal brains, but that does not matter a jot to some. The decision was portrayed by the right wing of the Conservative Party as Brexit bias. Jacob Rees-Mogg branded the decision a “constitutional coup” and the MP Desmond Swayne called for the Supreme Court to be abolished. Geoffrey Cox, the Attorney-General no less, questioned the moral authority of the court and suggested that we might have to look at how our judges are appointed, even suggesting that we might look to America. That has been terrific, it would seem. The idea was that we would test the political opinions of those being appointed. Leave.EU, the Brexit campaign group, declared that we had an

“elitist Remain logic at the top of our judiciary.”

We can laugh about all this stuff, but it is actually distinctly and seriously damaging. We are talking about trust in our constitutional arrangements, and if anything is destructive of trust it is disgracefully dismissing our senior judiciary in this way. Law matters, the rule of law matters, and I am glad that Robert Buckland, currently in the position of Lord Chancellor, is more robust in his protection of it than many of his colleagues.

Of course, the role of the courts has grown in our societies, because our societies have all become more complex. There has been a consequential growth in governmental functions, and at times they have to be



[BARONESS KENNEDY OF THE SHAW] challenged. The responsibility of judges is to resolve disputes not just between citizens but between citizens and the state. Judges have the duty to protect citizens against the overreach of Governments.

I heard it suggested by one of our newcomers—I welcome the noble Lord—that the remedy is to vote the rascals out. Tell that to the Hillsborough families who time and again had to seek a proper inquest. Tell that to the parents of the young woman soldier who committed suicide; then, after an inquest made after a judicial review, it was found that she had been subjected to a culture of bullying and harassment.

Much of the legislation that we pass in these Chambers has gaps that fail people, and there have to be methods to deal with injustice. The judges in a nation have to be free to exercise their judicial powers independently of the state, the media, powerful individuals and entities such as large corporations and so on. We know that matters. It is not enough just to talk about the rule of law; we have to mean it.

I share the concerns of others about what the purpose of this constitutional convention might be. The questions of any sensible person should be: “Are such proposals for constitutional change really a democratic necessity or a cynical attempt by the new Government to bolster their power? Are there plans to curtail the power of our judges? Does updating human rights law mean more rights or fewer rights for certain people?” I think I know the answer. There is clearly a policy yet again to limit access to judicial review, a process by which people can challenge decisions made by public bodies. Again, is that not liked because it was used to secure the judgments in the Supreme Court on Brexit? Was it displeasure with these rulings that motivates the updating?

I want to say this: Mr Johnson is willing to break laws, evade scrutiny and mislead the public in order to secure power and get his way. I am afraid that that is true of narcissistic, authoritarian Governments the world over; they are usually led by such people. I am concerned that he has oft got at his elbow the malign force of Mr Cummings, who believes in a scorched-earth policy when it comes to some of our most valued institutions. We must be careful: if we value our liberty and democracy, we will all have to be on our mettle. Complacency will carry a very heavy price.

6.59 pm

**Lord Cormack (Con):** My Lords, the noble Baroness speaks, as she always does, with passion and sincerity. I begin my brief contribution by adding my congratulations to those of others to my noble friends Lord Parkinson of Whitley Bay and Lord Davies of Gower.

I do not suppose I was alone in inwardly rejoicing when in his first statement as Prime Minister, and echoed in his new year speech, the Prime Minister talked about the need to come together and for unity—he even touched on the importance of Parliament. That is all good and I applaud it; I hope it will be the hallmark of his period of office. However, I am concerned, as many of your Lordships are, by a fundamental flaw in the wording of the gracious Speech.

I remember the words of the late, great Harold Macmillan, who said:

“Quiet, calm deliberation disentangles every knot.”

Quietness and calmness are qualities that we need. Juxtaposed in the gracious Speech are the royal commission on criminal justice, which we all welcome and applaud, and the commission on constitution, democracy and rights. That indicates that this will not be looked at objectively, in a balanced, calm and deliberate way.

I echo the plea of the noble and learned Lord, Lord Judge, who talked about the importance of recognising the balance in our constitution. Parliament is not, never has been and never can be, if we are a democracy, the creature of government. We need a judicial system that, although it will make mistakes occasionally, is unafraid. I am concerned about rushing headlong into a commission that would have to look at so many important aspects of our democratic and constitutional life. My noble friend Lord Young of Cookham referred to many of these in a most admirable speech earlier in the debate. Will my noble friend who is winding up please talk to the Prime Minister and tell him there is concern in this House—not that these issues should be looked at but about the manner in which we fear they might be looked at?

The problem could be solved immediately in one or two ways. We could either have a royal commission on the constitution, as referred to by one or two noble Lords, or—something that has not been touched on—we could have a Speakers’ conference, chaired jointly by both Speakers. In the old days when I first entered the other place, almost exactly 50 years ago, that was the way things were done, and it was a sensible way of doing things. Now that we have a Lord Speaker in our House, we have two Speakers in whom both Houses have total faith and confidence. A Speakers’ conference or commission, chaired jointly by two men whom we all respect, consisting of Members of both Houses and distinguished outsiders—I would not be against them sitting on such a body—could take time on this. I am not talking about kicking things into the long grass for ever, but it could look at things with the calm deliberation I referred to earlier. It would help enormously in many respects.

The noble Lord, Lord Reid, and the noble and learned Lord, Lord Hope of Craighead, talked passionately about the threat to the union. That cannot be mitigated by gimmick and slogan. However, by calm deliberation, perhaps we can protect the one aspect of our constitution that means more to me, with half my family in Scotland, than any other thing. We are at a crossroads and we must take a road that leads to calmness and unity. We have time to do it because of the disarray of the Opposition and the big majority that the Prime Minister enjoys. Will he please not neglect that opportunity?

7.05 pm

**Lord Beith (LD):** My Lords, the gracious Speech programme contains a sackful of measures on criminal justice and justice matters generally. I start by simply making the point that we can legislate until the cows come home but, in almost every part of the judicial system, it is resources that are causing more problems

than any lack of legislation: resources for the courts, the Crown Prosecution Service, access to justice, prisons and early intervention through services provided by local authorities. Unless we address that, we will not make the kind of improvements we need in the system.

I turn to the issue of royal commissions, as discussed by the noble Lord, Lord Cormack, and several others. It is not a bad idea to have a royal commission—it would be perhaps a less good idea to have an unroyal commission, which would seem rather strange—if it is set up in the proper way, rather than to have half-baked, ill-thought-out policies, hastily implemented. But it depends who is on the commission, how much independence it has, how much expertise it has access to and whether anything is done with its recommendations once they have been made.

I worry that the commission on constitutional matters does not look to be off to a good start and may have its origins in partisan resentments about the proper role of the courts in interpreting the law, ministerial resentment at any challenge to the Executive by Parliament and a dismissive attitude towards constitutional conventions. In his very powerful speech, the noble and learned Lord, Lord Judge, analysed this problem and referred to the Prorogation issue. The Prorogation case was, as the noble and learned Lord, Lord Brown, pointed out, decided on quite narrow facts, but what lay beneath it was the recognition that in modern times Parliament is no longer simply convened when the Crown runs out of money. That was the basis on which there was a prerogative power: Parliament could be called on when needed and got rid of once there was enough money to manage without it. Parliament is now assumed to have a continuous existence, interrupted only by agreed short breaks for elections, conferences and holidays, and not summoned or dismissed to suit the political convenience of the Executive.

The commission suggested in the Queen's Speech has a very wide agenda, as the noble Lord, Lord Young, pointed out, and I will not go through the list. I will, however, note the things that are not on the list. There is nothing on it about the electoral system. My party got 11.6% of the vote in the general election, which should have produced 70 seats or more in the House of Commons; the Labour Party got 500,000 votes in Scotland and only one seat there. The system we are landed with is absurd, but it is not there. Nor is there anything there about the governance of England, which has become increasingly paradoxical in the system we have developed. The Government say in the briefing that accompanied the Queen's Speech:

“Careful consideration is needed on the composition and focus of the Commission.”

You can say that again. Whether any such careful consideration will lead to the kind of royal commission that would command wide confidence and lead to a sensible reassessment of constitution issues, I am distinctly doubtful. An exercise such as this needs to be broad based.

The royal commission on the justice system looks to have had a slightly more promising start, although not much has been said about what it will cover. Everybody who has spoken about it today has referred to the wide range of matters that it needs to cover and I have seen newspaper suggestions that things such as

the relationship between the Crown Prosecution Service and the police might be covered, and that we might move towards a Scottish, procurator fiscal-type system. Clearly, this is an open goal into which all sorts of ideas about the justice system might be kicked. Clearly, the Government do not anticipate this royal commission looking at the crisis caused by overcrowded prisons, or, elsewhere in the Queen's Speech, the potential to create the sentence inflation that will make that overcrowding worse and commit resources on a massive scale—resources that need to be used in other areas of the criminal justice system to prevent crime.

I conclude with two separate, specific questions. First, what has happened to the Courts and Tribunals (Online Procedure) Bill? It was supposed to be integral to the modernisation of the court system and went through all its stages in this House in 2017, following the Queen's Speech, yet has still not materialised and is not in this Queen's Speech.

My second question is about the espionage legislation. Will the Intelligence and Security Committee be set up in time to study the Bill and advise both Houses, with informed consideration, on the value of the proposals and whether they are sound? Speaking as a former member of the committee, that is essential, but past experience suggests to me that the Bill may be introduced long before the committee is set up.

7.10 pm

**Lord Carlile of Berriew:** My Lords, I am sure that the House will indulge me in expressing my great pleasure at hearing, back in such good voice, the noble Lord, Lord Thomas of Gresford. When I was very young, and he was relatively young, we were in a small set of chambers founded by Lord Hooson, a set of chambers which, incidentally, eventually produced as many Peers—as many piers!—as Blackpool. We used to trundle across that much-mentioned A55 road, sometimes appearing against one another in civil and criminal cases. I recall how effective he was in court from a sedentary position, as he was in your Lordships' House this afternoon.

Substantively, I start by urging Her Majesty's Government to go further than the gracious Speech in relation to the police; indeed, to go where others have feared to tread because of slender majorities in the other place. I agree with Martin Hewitt, the head of the National Police Chiefs' Council, that the time has come for the 43 territorial police forces to be reorganised. Parochial considerations, understood by all Members of your Lordships' House who have been Members of the other place, make it difficult to reform police structures unless the Government who do so are possessed of a substantial majority there. That opportunity is now available. There are significant variations in size, competencies and qualities among those 43 forces. Some are simply too small to fulfil all reasonable policing requirements. Inspection reports illustrate this. In contrast, the National Counter Terrorism Policing Network consists of 12 regional units—for example, WECTU, the Welsh Extremism and Counter Terrorism Unit. For the most part, these function very well, covering four, five or six forces, and are a sound exemplar of reformed police organisation potential. I urge the Government to give urgent consideration to reform along similar lines.

[LORD CARLILE OF BERRIEW]

My second substantive point relates to sentencing and release in terrorism cases. It has been suggested by the Government and many others that longer sentences should be passed by judges in such cases. In my view, far more important than a blanket length-of-sentence temporal approach is that the sentences passed should ensure that the public are protected from demonstrably dangerous people while they are in prison—it is of course less difficult then—when the time comes for it to be considered whether they should be released from prison, and indeed after they are released from prison. My suggestion is that, in prison, anti-radicalisation measures and post-release measures must be developed far more rigorously and evaluated much more exhaustively than has been the case to date. Pre-release procedures should include detailed and reliable psychological and neurological assessments before release can occur. In other words, there should be proportionate protection for the public.

My final point picks up on a point made by the noble Lord, Lord Beith, in his excellent speech. It is about delay. There are terrible delays throughout the criminal justice system. The Bar Council has issued an excellent paper giving the statistics. I will not repeat them, but will give one brief example. I know of a case—because I was approached about it—in which a teenage girl and her mother complained of the decision by the CPS not to prosecute a young man for allegedly raping the teenage girl. The decision was questionable on the merits. The girl and her mother exercised what is called the victim's right to review on 10 October 2019. The Crown Prosecution Service's website clearly states that there is supposed to be, within 30 days, either a clear answer or information as to why there will be a delay. We are talking here about the lives of two young people: the one making the allegation and the one who might be accused. They have heard nothing since the complaint for the victim's right to review was made, apart from a letter of acknowledgement. That is a small example of the kind of delay that does not come to public attention. I urge the Government to ensure that the criminal justice system is not the home of expensive and damaging delay.

7.16 pm

**Lord Soley (Lab):** My Lords, it has been my view for many years that the union of the United Kingdom has been probably the most successful political and economic union the world has ever seen. It is quite remarkably stable and, at its best, it has been a remarkable defence for the ideas of democracy and the rule of law. We must do all we can to protect and enhance it. It is increasingly under threat because of the use of referendums on things such as Brexit without a clear idea of the rules on referendums.

I have never really liked referendums. I much prefer a system in which you answer to your electorate and they throw you out if they do not like you. However, if you are going to have them, a couple of golden rules apply. First, make sure that you know what you will do if you do not get the result that you want; that was a big failing of Brexit. Secondly, make sure that you have the balance right about what percentage of voters and what majority you need. We have had a mess over

Brexit—big time—but just think of the mess that we will have in Scotland if a vote for independence is equally narrow, which it may well be. As someone who lives in the Highlands, I say that it is a mistake for the SNP to think that because it has had a good result at a general election, it automatically has a majority for independence. It has not. To be fair to Nicola Sturgeon, I do not think that she does think this.

The noble and learned Lord, Lord Hope, was right to say that we could lose this by default. We can make a good case for the union of the United Kingdom, and a strong case for why breaking it up would be a mistake. It is my view that “Scot-Exit” will be at least as big a problem as Brexit has been, or even bigger, and the reasons are economic, political and cultural. It is a very important issue, which is one reason why I would welcome a serious look at the constitution.

The oddity is that in Britain we began to experiment with a federal-type approach 300 years ago, before federalism was invented, so we have separate legal, church/state and other systems, but we have not moved into a full federal system of the modern type. Whether we should—I appreciate the difficulties—is an important part of the discussion. One of the issues, so people say, is that England is too big. Actually, the problem with England is that about a third of the United Kingdom population live in the south-east corner—from Southampton up through Oxford, across through Milton Keynes to Cambridge. Something like 20 million people live in that corner. That is why it is difficult for us to come up with a structure that gives us some identity over and above that.

I remember as an 11 year-old trying to work out whether I was British, from the United Kingdom, English, Scottish, Welsh or a Londoner. Like so many people, having spent much of my life in London, it was easy to say that I was a Londoner and leave it at that. One problem we have is with the language. Many Scottish people feel, as indeed do the Welsh and Northern Irish, rightly angry when people talk about Britain by using the word “England”, particularly when the BBC does it—it is not so often done now, and I raised the matter in the House some years ago. If you talk about England, you should mean England and not the United Kingdom, Wales, Scotland or Northern Ireland. It is a mistake that I often hear in this House too, including by Ministers.

We need to get that language right because the SNP has been very successful in presenting an image of Scotland as though it has always been a totally independent nation—that something went wrong a few hundred years ago and now it will try to put it right. But it forgets. A few weeks ago, I even noticed a claim that Bonnie Prince Charlie took part in the first war of independence, or words to that effect. Bonnie Prince Charlie, to his credit, on his march through England leading his Highland clan, told his troops to be kind to the English people because he was their king too. He was very clear about that. In other words, he was not going to be the king of Scotland: he was going to be the king of Britain. That actually runs deep in the thinking of the British people.

We need to relate to that properly and get our message across about the strength of the union, about our history and about the acute dangers that would be



produced for the Scottish people if they suddenly pulled out of the United Kingdom. They would have a really difficult problem with 60% or 70% of their exports going to the rest of the UK. I welcome any attempt by the Government to give careful consideration to the constitutional approach, because we really need to get serious about this if we want our country, as we have known it, to survive.

7.22 pm

**Lord Garnier (Con):** My Lords, even in this short contribution to today's debate, it would be churlish not to congratulate the Prime Minister—a man who, not so long ago, I was able to describe in my professional capacity as the defendant—on his victory at the general election. I confess that throughout the last several months I have not always found it easy to be wholly enthusiastic about the policies and conduct of the Conservative Party nor about the people advising it. I have occasionally been reminded of Peter Kropotkin, the Russian anarcho-communist, when looking at some of the anarcho-Conservatives who appear to have some influence on the Prime Minister. But there is no getting away from the numbers: the Government won a huge victory and they have now come forward with an ambitious programme for this Parliament. I also congratulate my two noble friends, Lord Parkinson of Whitley Bay and Lord Davies of Gower, on their excellent maiden speeches this afternoon and I do so with alacrity. I am sure that we all look forward to their contributing often to our debates.

There is plenty to commend in the Government's programme, but in my remarks I want briefly to concentrate on that aspect of it that concerns one part of the criminal justice system, namely; prisons. In that regard, I draw attention to my registered interest as a trustee of the Prison Reform Trust.

By chance, Kropotkin said that the test of their success was whether they were answering their purpose in diminishing the number of anti-social acts. In his view, prisons in Tsarist Russia were not doing that. They were universities of crime, breeding places of criminality. My noble and learned friend Lord Keen, in opening this debate, said that the Government's top priority is the protection of the public, and we can all agree that that must certainly be one of them. He also said that sentences must reflect the seriousness of the crime, and again, he was not being controversial in saying that.

Between 2005 and 2009, when I was the shadow Prisons Minister in the other place, I made a study of our prisons. I visited about 65 of the approximately 140 prisons, young offender institutions and secure training establishments in England and Wales. I found a mixed picture of success and failure. I met prison staff, be they governors, prison officers, teachers, drug rehabilitation and addiction experts or mental health specialists who were utterly dedicated to their work and determined to do all they could to reduce the chances of the prisoners in their care reoffending on release.

I also saw the consequences of prison governors and prisoners being moved from prison to prison far too often so that the first could not lead and develop their prisons positively and the second could not learn

to read and write, deal with their alcohol and drug problems or come to terms with and deal with their crimes and the effects they had on their victims. Huge sums were spent on incarcerating people and achieving very little apart from that. Based on my experiences, I wrote a paper, *Prisons with a Purpose*, which advocated, among other things, the view that prisons should not be simply places to house criminals for the period of their sentence, nor should they be filled with drug addicts or people with mental health problems who could and should be treated more effectively in secure hospitals. They should be places of improvement but also places where the most violent and dangerous criminals could be kept out of harm's way for the public's safety.

I wanted to see prisoners working for wages which could save the welfare budget. Instead of being paid a few pounds a week, prisoners could earn a living wage with the money being held for the benefit of their families or dependants who would otherwise rely on the state for their upkeep. And I wanted to see them doing the sort of work that they might aspire to do when back in society. Seeing work rooms full of grown men sorting red and black plastic wires or making hair nets did not fill me with confidence that they would rush off to apply for those jobs on release. There was no obvious connection between their work and monetary reward. It was mindless, time-filling drudgery, and made reoffending more attractive, not less.

We are now told that under the legislation proposed by the Government—the counterterrorism (sentencing and release) Bill and the sentencing Bill—sentences will get longer. I will not go into the detail of the proposals now nor do I criticise the changing of sentencing law by Parliament, but I ask the Government to think about how this will work. Will what is proposed have a practical and beneficial effect on us as citizens and taxpayers and as the potential or actual victims of crime and on those who are sentenced? Will we see a reduction in crime flowing from this legislation, and can we be assured that what will pass into law will do what is promised? Will those who are given these heavier sentences be made better citizens, more capable of returning to the outside as responsible members of the public prepared to go to work and look after their families and contribute to the national well-being, or will they have to stay inside, unreformed and irremediable at vast public expense?

Will the court system and the Crown Prosecution Service, let alone the police, be ready and able to cope with the additional people they will have to deal with and which the public, by these measures, are being encouraged to believe will be taken off the streets in greater numbers and for longer periods? Above all, will the prison estate be capable of accommodating these prisoners for longer, both in terms of budgetary and human resource? Many of the crown courts have unused court rooms and are in a poor state of repair. The CPS is not working as well as it should and the liaison with the police has always been patchy. The longer or harsher sentence is not a solution that works by itself, so I urge the Government to ensure that, as they pass these Bills, they also will the means within other areas of the criminal justice system to enable the whole system to work well rather than legislating for temporary effect.

7.28 pm

**Baroness Tyler of Enfield (LD):** My Lords, it is a pleasure to speak today with so many other noble Lords who are distinguished constitutional experts and, indeed, to hear two such excellent maiden speeches. I generally speak on health, social mobility and wider social issues, but today I wish to make some remarks on constitutional matters with a particular focus on Civil Service reform, which has been hitting the headlines in somewhat lurid terms in recent days, drawing on my near 20 years' experience as a civil servant and my six years' experience as chair of a public body.

Some may consider constitutional matters rather dry and technical—dare I say, geeky. I have never seen them in that light. I consider our constitutional settlement, unwritten as it is, as the very cornerstone of our parliamentary democracy. The checks and balances that it contains are essential to ensuring that the Government of the day, whatever their colour, are held to account by a sovereign Parliament. It is what a liberal democracy—something we should all cherish—is all about.

Frankly, I have been troubled by some of the press accounts concerning the proposals for constitutional change coming out of the Conservative Party manifesto that I have been reading. Do not get me wrong: in principle I welcome the constitution, democracy and human rights commission announced in the gracious Speech to look at the broader aspects of the constitution, particularly the relationship between government, Parliament and the judiciary; the very foundation stone of those checks and balances. We move away from that delicate balance at our peril.

Like my noble friend Lord Wallace, I am very apprehensive about any agenda designed to increase the powers of the Executive and to reduce the powers of Parliament to hold them to account and of the courts to conduct judicial reviews. It may be a pesky irritant to a Government with a large majority—in terms of seats, that is, rather than of vote share, given our absurdly unfair voting system, a point made very eloquently by many noble Lords today—but history tells us that shackling the powers of Parliament to create an overmighty Executive is a very dangerous path. I would like to see the powers of Select Committees reviewed and enhanced, not least so that it would be unconstitutional for a Minister, or indeed the Prime Minister, to refuse to appear before a relevant Select Committee when requested to do so. We should also remember that Permanent Secretaries are directly accountable to Parliament as accounting officers, which is one reason why any proposals to get rid of them would be so undesirable.

Civil Service reform is often seen as a niche issue, but enter Mr Dominic Cummings, the great disrupter, whose radical ideas for transforming the way government and the Civil Service operate have caught the headlines, not least his wish to see “weirdos and misfits” whom he clearly prefers to what he terms “confident public school bluffers” and “Oxbridge humanities graduates”. His preferred HR practices are pretty unconventional too, particularly his suggestion that those “wild cards” who feel that they meet his rather unusual person specification bypass formal recruitment processes and

get in touch with him direct via email. Other plans are reported to include an overhaul and merger of government departments alongside radical reform of how civil servants are recruited, assessed and rewarded, including them taking regular exams to prove they are up to the job.

In fairness, he does acknowledge that “there are many brilliant people in the Civil Service,” but Mr Cummings clearly has a very dim view of the system as a whole. Intriguingly, back in 2014 he argued:

“The idea of a Cabinet of over 30 people is a farce; it should be a maximum of probably six or seven people.”

Well, I am looking forward to that one.

In response to this, some former Permanent Secretaries and others have rightly pointed out that it is far better to take people with you when advocating major change than destabilising simply for the sake of it. It is also worth reminding ourselves that the historic values established by Northcote and Trevelyan in 1854—political impartiality, recruitment on merit, integrity and objectivity—remain as relevant today as ever.

Others have also been putting forward interesting ideas, including Policy Exchange, a right-wing think tank, which has just published a document called *Whitehall Reimagined - A Strengthened Civil Service for a post-Brexit World*. I agree with some of its recommendations, but certainly not all of them. Its report also rightly points out that recruitment freezes, below-inflation pay rises and major cuts to budgets have put the system under severe strain in the past 10 years, but I strongly take issue with the partisan proposals for public appointments which fail to recognise the need for appointments which can serve successive Governments.

Civil Service reform is important. From my experience, I have three key conclusions, with which I shall finish. First, civil servants move around far too often, leading to a real loss of expertise and corporate memory. Secondly, ministerial churn is arguably a substantially greater problem. During my six years as chair of Cafcass, I interacted with some 15 Ministers in the sponsor departments, many of whom did not stay in post for longer than a year, or for even less, including at Secretary of State level. No wonder there has been such little progress on family justice reform with that never-ending merry-go-round.

Finally, machinery of government changes are a phenomenal waste of time and money and a total distraction from policy delivery. When she responds, will the Minister outline the intended timescale and process for the Civil Service reforms we have been reading about so recently, including the consultative arrangements, as I have a number of specific ideas I would like to feed in?

7.33 pm

**Baroness Jones of Moulsecoomb (GP):** My Lords, it came as no surprise to me that there was nothing to delight my soul in the Government's programme. For example, a fair justice system that keeps people safe takes more than a royal commission; it takes resources. When budgets have been cut by one-third, the system does not function well and justice suffers. I hope that the royal commission will examine the impact of austerity

on fairness and access to justice. I also question any attempt to impose longer sentences when we are failing to deal with the care and rehabilitation of the large number of people already in the system. The probation service and the Prison Service are unable to cope properly with the existing numbers. If you add to that number, you are adding to those pressures and problems.

The tighter rules on carrying knives repeat the same rhetoric we have heard for years and fail to address the fear on the streets and the lack of a visible police presence, which can lead many to arm themselves for so called self-protection. The deaths and injuries from knife crime are a horrendous outcome of bigger social problems. We should be debating legislation that strengthens the family and community bonds that stop knives being seen as the solution to anything except eating dinner. Increasing Section 60 stop and search is not the answer. Research by the *Times* into the use of stop and search in London throws doubt on its effectiveness. In Enfield and Camden, two of the boroughs where the tactic was used most, knife attacks over the past year rose by 28% and 13% respectively. Use of this tactic risks alienating communities that could assist in combating knife crime.

We should be getting drugs off the streets and out of the hands of organised crime by regulating their use and selling them at pharmacies. We should be focused on breaking the cycle of violence experienced by far too many who come to see it as an inevitability in their lives. While I welcome the government support for action on domestic violence, the rest of this proposed legislation lacks the vision to deal with the problems we face. In fact, many of the big issues are not discussed at all.

The preventable deaths of five people a day on our roads is a scandal. The facts that these deaths are taken for granted by the Government and that our efforts to address road danger have stalled in recent years display shocking complacency. This level of criminality receives no attention from the Government, when the obvious solution is to hand out a lifetime ban to anyone who fails to stop and take responsibility for their actions as a driver.

Instead of action on the big issues that impact on the well-being of hundreds of thousands of people, we have a government proposal to criminalise unauthorised encampments. This is targeted at Roma, Gypsy and Traveller communities, which is discriminatory and adds an extra threat on top of existing prejudice against those communities. I am also deeply concerned about how criminalising encampments will affect a whole form of peaceful protest that was previously a civil matter. It means criminalising the setting up of protest camps for the pettiest of reasons. It is because the Government and their corporate backers have been losing the debate. For example, Extinction Rebellion has changed the debate by being inconvenient. That can involve blocking roads, but obviously that is nothing like our Prime Minister, who today blocked the cycle lane on the Embankment so that he could get to work. I do not know where he was coming from. Extinction Rebellion sets up temporary protest camps to co-ordinate its actions, provide advice, handle liaison with the authorities et cetera. Last year, these actions sent a

message to people and to Parliament, and Parliament responded by declaring a climate emergency. It showed that protest can be a powerful positive legitimate force in our democracy.

Local people setting up anti-fracking protest camps as a way of mobilising a continual presence on the doorstep of the frackers was very important. The frackers lost, despite all their powerful connections and party donations. Powerful people do not like losing, and they look at ways to make life more difficult for the protestors. That is the inspiration behind the proposed legislation to make this form of trespass a matter for the police and to give them the ability to seize property and vehicles. There are other protest camps. For example, local people protesting against HS2 are camped out near water meadows and ancient woodlands that face destruction, for example at Harvil Road in Hillingdon. They have been pushed out today.

I welcome the setting up of a constitution, democracy and rights commission, but could we not open that up to citizens' assemblies to consider the way forward? The process should be designed to obtain maximum public consent and create a democracy fit for the 21st century. Obviously, the first issue of constitutional reform should be an elected second Chamber using proportional representation. I thank the noble Lord, Lord Tyler, for so passionately advocating proportional representation and for pointing out that Greens have to work much harder for a seat than any other party. The problem for me is that this Government will attempt to use this constitutional commission to cement their own power and give even greater autonomy to Ministers. We need a Parliament elected via a fair voting system which can take back control.

7.39 pm

**Viscount Hailsham (Con):** My Lords, although those on this side of the House celebrate the scale of the Government's success in December—a sentiment that may be shared by many on the Benches opposite, although covertly—it is important that we do not learn the wrong lessons.

Notwithstanding the earnest and sometimes frivolous contributions of the Prime Minister, the person and policies that contributed most to that remarkable outcome was Mr Corbyn and the Momentum-inspired manifesto. Among those who voted Conservative there were millions who, like me, feared the damage that Mr Corbyn would cause to Britain, yet more than they feared the damage that would flow from Brexit. While I accept that the election is authority for leaving the European Union on 31 January, it is not authority for a no-deal or hard-deal Brexit. I am profoundly concerned by the provision in the withdrawal Bill that purports to prevent the extension of the transitional period beyond the current year.

I turn directly to the aspects of the Queen's Speech more precisely relevant to the terms of today's debate and wish to make a very brief comment on the following: the police, prisons, Northern Ireland and the constitution. However, before doing so, I express my concern about the number of Bills contemplated by the Speech. I have counted 24 in number. It beyond the capacity of



[VISCOUNT HAILSHAM]

Parliament—even of this House—to deal with that volume of legislation in a proper and effective manner. In the Commons there will be mandatory timetabling, and there will be thousands of pages of unamendable secondary legislation. This is thoroughly bad for democracy and should be considered by the commission on the constitution.

Turning now to the police, although I welcome the royal commission on the criminal justice system, it is even more important to establish a royal commission on policing in England and Wales. Nobody could or should be satisfied with how the police service in England and Wales is presently performing. A royal commission should examine the resources dedicated to the police, the number of forces, the appointment of senior officers, the training of constables and, perhaps above all, the prioritisation of objectives. There will be hard decisions to take and they will be robustly resisted, but the recommendations of a royal commission will add credibility to the resulting polices.

I now want to say a word about prisons. I note the Government's commitment to more prison places. When I was the prisons Minister at the back end of the 1980s, there were just over 40,000 prisoners; there are now over 80,000. I doubt the justification for this. It is essential that priority is given to improving the fabric of the estate, to the provision of meaningful out-of-cell activity, to remedying the defects in the basic educational attainments of many prisoners and to the development of workplace skills. The provision of more effective non-custodial sentences, backed by a reinforced probation service, is yet more important.

As regards the prosecution of servicemen for offences alleged to have been committed in Northern Ireland during the Troubles, I find it deeply offensive—indeed, an abuse of process—that service and police personnel should be prosecuted while individuals alleged to have been involved in terrorism are welcomed into the political community and have held high political office. The only sensible way forward is a statute of limitations that will prevent all prosecutions for all alleged offences relating to the Troubles committed prior to, for example, the Good Friday agreement. Although it grieves me to suggest that an alleged terrorist should be treated in the same way as a police or security officer, I do not think that the law can or should permit a distinction.

My find word is on the commission on the constitution. For familial reasons, alluded to by the noble Lords, Lord Tyler and Lord McNally, I have long been concerned by the threat to our democracy that could be posed by a Government with a large parliamentary majority. This indeed is the elective dictatorship of which my father wrote and spoke. We do not live in a society that has firmly entrenched rights, and we should be very slow to reduce the power of the courts to declare unlawful the actions of an over-mighty government. Those of my friends who take a different view should consider where they would stand on this matter in the event of a Momentum-inspired Administration.

In the coming months we will have much to consider. I very much hope that we hold this Government to account and seek to improve the volume of legislation that will be brought before us.

7.45 pm

**Lord Wallace of Tankerness (LD):** My Lords, like many other noble Lords who have spoken in this debate, the noble Viscount, Lord Hailsham, has referred to the constitution, democracy and rights commission and I very much agree with what he has said. If one looks at the perhaps now infamous page 48 of the Conservative manifesto, I think one can argue that it is so lacking in specification that the Government can scarcely claim a mandate for any of the specific proposals that they might subsequently bring forward. However, one phrase jumped out at me and caused me some concern:

“We will ensure that judicial review is available to protect the rights of the individuals against an overbearing state, while ensuring that it is not abused to conduct politics by another means or to create needless delays.”

Those words have echoes of some ministerial responses to the Supreme Court judgment in the case of the illegal Prorogation.

Ministers would be well advised to reflect on the words of Mr Michael Gove when he was sworn in as Lord Chancellor in May 2015. Indeed, Mr Gove himself might want to reflect on them. He said:

“It must be a sorry nation ... in which judges themselves agree with politicians 100% of the time.”

He then went on to quote Lord Denning in the 1977 case of *Gouriet v Union of Post Office Workers*:

“Be you ever so high, the law is above you.”

Of course, Lord Denning was in turn quoting Dr Thomas Fuller from 1733. This is a theme that has infused our thinking about the relationship between the state and the courts—that the law is above even the lawmakers. As the Supreme Court made clear in the Prorogation case, a fundamental principle of our law is the sovereignty of Parliament—not the sovereignty of the Executive. This House will do well to challenge any measures brought before us that try to change that and make it the sovereignty of the Executive.

In the remaining time, I want to say something about Scotland. Like the noble Lord, Lord Kerr of Kinlochard, I await with eager anticipation proposals from the noble Lord, Lord Dunlop. This is a time for some innovative thinking. Would the interests of Scotland, Wales and Northern Ireland be better served by a very high-ranking Secretary of State for the nations and regions rather than territorial Secretaries of State? If there is to be a review of the role of the House of Lords, why do we not constitute it, as often happens in a number of other second Chambers, with a very weighted bias towards the nations and regions of the United Kingdom? A starting point could be the evidence which, over 50 years ago, the Scottish Liberal Party submitted to the Kilbrandon Royal Commission on the Constitution.

More immediately, the Government are about to start negotiations on the future trading relationship with the European Union, as well as numerous bilateral trade negotiations. It is not disputed that under the devolution settlements the conduct and conclusion of negotiations are reserved to the United Kingdom Government. However, on a number of these issues, the subject matter of such negotiations will fall within devolved competence. Indeed, those with whom we

are negotiating may well have an interest in implementation in all parts of the United Kingdom. Last year's report by the Constitution Committee on the parliamentary scrutiny of treaties made the point that there should be full engagement of the devolved Administrations. In their response, the Government said:

"The Government will continue to share papers, including relevant interdepartmental correspondence, and invite the DAs"—the devolved Administrations—

"to meetings on subjects in which they have a devolved policy interest. The Government remains committed to timely consultation where possible ... These new structures will ensure there is meaningful engagement with the devolved administrations at all stages of a negotiation, including prior to developing the mandate and finalising the agreement."

That, of course, was the government response from the previous Administration under Mrs May. When she comes to reply, will the Minister confirm that that is still the position of the United Kingdom Government, and can she say what steps have already been taken to engage the devolved Administrations in any upcoming negotiations with the EU or indeed in other bilateral trade negotiations?

It is not just a question of institutional arrangements, although the downside of not treating the devolved institutions with respect in future trade negotiations could be damaging given the capacity of many to milk a grievance. The Prime Minister has said that on no account will he cede powers without a second independence referendum, although the Secretary of State for Scotland went on the record during the election as saying:

"The democratic mandate for a Section 30 Order is a matter for 2021. We'll see whether the SNP get a majority then".

It has been said in this debate by the noble Lords, Lord Kerr and Lord Reid, that there would be great pressures in 2021 if the SNP were to get a majority. The best way of avoiding that is not to allow it a majority. Let us not play the First Minister at her own game. Nothing suits her better than to constantly debate the constitution. Let us challenge her on her stewardship of the things that are fully within her devolved responsibility. If she says that she wants to set up a central bank so that we can reapply for EU membership, let us challenge her. How could Scotland set up a central bank so easily when it cannot even build hospitals safely or build two ferries on time?

If the First Minister wants to talk about independence, she should also be willing to face up to the record of ScotRail, the centralisation of police services and the mental health waiting times for children. Finally, as the noble Lords, Lord Reid of Cardowan and Lord Soley, said, we must establish the case for our United Kingdom not only from the head but from the heart. That was perhaps not always what we did in 2014, but the question of why we believe the United Kingdom is so valuable might be worthy of a debate in your Lordships' House.

Finally, we can look around the world at the islands and peninsulas that have been scarred by years of division. Here, for the last 300 years and more, we have built a great democracy together based on a culture of human rights and the rule of law. We have built the National Health Service and a welfare state. We have resisted invasion and conquest. We did not fall in the

last century for the totalitarian ideologies which blighted other countries. Yet, at the same time, we have retained our identities as separate parts of the United Kingdom while also feeling British. That is something that we should be proud of and that we perhaps need to articulate more often and more eloquently than I have managed this evening.

**Lord Bethell (Con):** My Lords, I politely remind contributors to this debate that there is a guidance of five minutes for speeches and we have a great many speakers to come. It would be hugely appreciated if speakers could please stick to the guideline.

7.52 pm

**Lord Lisvane (CB):** My Lords, your Lordships will recall that, over the centuries, Parliaments have been given nicknames to reflect their character. In 1388, there was the Wonder-Working Parliament—if only. In 1404, the Dunces' Parliament was so called because—this will please my noble and learned friends—upon the instructions of King Henry IV it contained no lawyers.

So what shall we call the 2017 Parliament? Possibly the Gridlocked Parliament, but it was also a Parliament which saw well-established constitutional conventions and understandings ignored or trashed, the actions of a Prime Minister in the high duty of advising his Sovereign found to be unlawful and, in the House of Commons, the explicit wording of certain Standing Orders made subject to imaginative reinterpretation. We do not yet know what long-term damage has been done to our constitutional arrangements but of one thing we can be sure: there are some expensive noises coming from the engine.

I will swiftly touch on four issues. First, I warmly welcome the undertaking in the gracious Speech that the Fixed-term Parliaments Act will be repealed. That Act will go unlamented to its legislative grave but, in doing so, it may pose an interesting problem. The Act removed the discretionary prerogative power of dissolution; presumably, that must be restored in terms. I shall be very interested to see how the repeal Bill defines the nature and extent of those prerogative powers and whether there are implications for other aspects of the prerogative.

My second issue is the routine surrender of parliamentary power to the Executive by the extent of delegated powers granted to Ministers. This is a sad story which will no doubt be continued by the many Bills foreshadowed in the gracious Speech: extensive powers delegated to Ministers, including powers to amend primary legislation, often with little effective parliamentary scrutiny, often to achieve ends which are not made explicit to Parliament when the powers are granted, and all too often upon the criterion that a Minister thinks that such provision is "appropriate"—that baneful word—not "required", not "necessary" but merely upon the unsupported judgment of a Minister of the present Administration, or of any future Administration, while the powers remain upon the statute book.

Your Lordships are sensitised to these issues, particularly by the excellent work of the Delegated Powers Committee, but there appears to be no similar sensitivity at the other end of the building, so the

[LORD LISVANE]

legislative power of Parliament continues to drain away. Let us hope that in this Parliament—an appropriate expression has just come to mind—we might consider “taking back control”.

Noble Lords, especially noble and learned Lords, have considered, and will consider, the implications of the Supreme Court judgment on prorogation. Tempted as I am, I will take only one aspect of that judgment for my third issue. For some years in my previous life, I was closely involved in protecting “proceedings in Parliament”, in the words of Article 9 of the Bill of Rights, from incursion or encroachment by the courts. This often involved complex issues.

As the Supreme Court quite rightly pointed out, the Bill of Rights is statute law and so falls to the courts to interpret but, of course, there is room for more than one opinion on the matter. It is a close call but, on balance, I think the court, in paragraph 69 of the judgment, was right to conclude that it was not precluded by Article 9 from considering the validity of the prorogation. I did, though, have the mischievous thought as to what the situation would be if, the ceremony of Prorogation not being considered by the Supreme Court to be a proceeding in Parliament, a Member of your Lordships' House were, during that ceremony, to interrupt proceedings with words which were not only disorderly but actionable. Would he or she be protected by absolute privilege, as in a proceeding in Parliament? Perhaps it would be best for such a thing to remain in the realm of hypothesis.

My final issue is the preservation of the union. This is becoming a matter of increasing concern, and the centrifugal forces pulling our nation apart are ever greater. Noble Lords may recall that, in the last Parliament, I introduced the Act of Union Bill. That Bill resulted from the extensive work of the Constitution Reform Group, founded and chaired by the distinguished former Member—indeed Leader—of your Lordships' House, Lord Salisbury.

The Bill sought a new devolution settlement—indeed, a new constitutional settlement for the United Kingdom—with the sharing of powers and responsibilities on a bottom-up, not top-down, basis and avoiding what I have described as the imperial condescension of Whitehall. The group has continued and broadened its work and, in addition to its membership from several parties and from none, it now also draws upon the help and advice of some senior figures in the world of finance and, I am glad to say, former First Ministers of Scotland, Wales and Northern Ireland, as well as of a great number of conferences and seminars.

I hope to introduce a new and improved version of the Bill in the present Parliament. I hope that, at the very least, it will support continuing serious debate about the future of the union and that, at need, it will provide a plan B; with the passing months this seems ever more necessary.

7.58 pm

**Lord James of Blackheath (Con):** My Lords, at this hour of the evening, I am deeply concerned as to the propriety and responsibility of making the speech with which I have come prepared. I have no greater desire than to see the whole of this Brexit process end

with a satisfactory completion and an unarguable vote, but I am deeply concerned that we have a serious error in the process by which this House counts votes, and it could have a significant effect on the outcome.

It would be irresponsible of me to share too much of my story in a way that could be copied by the press and perhaps acted upon to the detriment of what we are trying to achieve. So I will share a little of it and offer to sit down with the clerks to look at what I am saying—quietly, separately, outside this meeting—with a view to seeing whether it can be corrected or we can do something about it. But I do not want to be the trouble-maker I am likely otherwise to be.

All this started on the day when we finished and went home for the election. I went to the clerks' office and asked a question that I should have asked long ago: “What does it take for this House to be quorate for a vote?”—a question that I used to ask all the time before any board meeting of any of my companies. The reply that I got was: three Peers present to ratify a Statement to be read into the record, and 30 Peers for any part of a Bill. I then asked, “But what do we do with regard to the disallowance of votes from Peers who have become disqualified for failing to live by the oath they took on being signed in?” “No, Peers are allowed to vote once they have taken the oath.” “Yes,” I said, “but a lot of Peers have broken their oath.” “No Peer ever breaks his oath.” I thought, “I know I have, and I'm not the only one.” I have broken the oath because I did not object to the Lisbon treaty when I was here. I am therefore in breach of that oath and have been ever since, and so has anyone else who has been here since that time. I said, “Then do you count my vote when I come in here to vote?” They said, “Yes, we do.” I said, “Then your votes must always be wrong.”

This is much more complicated than that because you then have to go back to the Maastricht treaty. Anyone who was here when that treaty began has Brownie points-plus, because the Maastricht treaty introduced the levy that effectively increased the omnipotence of Parliament, not reduced it. So anyone who voted thereafter and then went to the Lisbon treaty is probably cleared to vote again now, because the Lisbon treaty only took away what had been given by Maastricht in the first place so it is probably a Mexican stand-off.

After that, it is a question of just how many votes are excluded and included. As some of our votes are not that big, it would not take more than a variance of 10 or 20 to be significant in swinging a vote. I think that we ought now to have a new approach to voting in this House based upon the fact that everyone should have a voting code included on the register when we go through the Lobby saying whether we were valid or invalid according to the time when we took our oath and what has happened since. It could be easily fitted and done up in the next few days before we come to a vote, and it would give an accurate and realistic vote that could be unarguable in whatever took place afterwards.

I do not want to go into too much detail and give a hostage to the press to have fun with us, but I am seriously concerned that we have an error in our system. God help



us, I hope that we get a right vote and a clear one, with no argument. I will help the clerks in any way that I can to understand my problem.

8.02 pm

**Lord Taverne (LD):** My Lords, I believe that we are too ready to ignore some real present dangers to democracy. Johnson is of course no Hitler, but there are disturbing signs that he does not understand some of the basic elements of democracy, and we have no idea what we may stumble into. Certainly, neither Johnson nor the bulk of the present Conservative party—let alone the most influential figure in the party today, Dominic Cummings—seems to grasp the danger to democracy of a Government who lie. Nor do they care a hoot about parliamentary democracy, which has been the rock on which British democracy has traditionally been based.

Johnson clearly does not believe in the importance of scrutiny by Parliament of government policy, as he showed in his attempt to prorogue Parliament, which in the event was foiled by that bastion of our liberties, the Supreme Court. Ominously, he has announced that we should re-examine the role of the Supreme Court in its relations with Parliament, because he seems to regard the court as an undemocratic obstacle to what in his opinion may be important government policy.

Now that he has a majority, he can also sweep aside any obstacles created by inquisitorial MPs, such as those who passed the Hilary Benn Act, which he tried to invalidate. Furthermore, Johnson has encouraged a general campaign against experts and elites, especially against politicians who seek to question the people's will as expressed in the 2016 referendum, which it seems is inviolate, however much circumstances may have changed.

In fact, one of the most dangerous developments in our politics today is the constant invocation of "the will of the people". All democracies start with the proposition that Governments should govern in accordance with the wishes of the people, but that proposition is not unqualified. As Locke maintained, it must be subject to the rule of law and the rights of minorities and of the individual. Furthermore, because of the complexities of government, Burke argued that MPs should not be delegates who vote as instructed by some outside body but representatives who take account of majority wishes but exercise their own judgment after hearing the argument and evidence. Without those qualifications, "the will of the people" becomes an extremely useful term for autocrats.

Today it is commonplace to hear any qualification to the need to obey "the will of the people" as a denial of democracy. But that is the creed of Rousseau, the hero of Robespierre and the Committee of Public Safety, and of almost any autocrat since, from Mussolini and Hitler to Erdoğan today. The Conservative Party seems to have swallowed Rousseau hook, line and sinker and forgotten its own history. Exit Locke and Burke; MPs must now be delegates, no longer representatives.

We may soon find ourselves in very dangerous territory. Suppose, as is far from impossible, that no substantial progress has been made in the difficult

negotiations for a free trade agreement by the statutory deadline at the end of this year. We may indeed end up after all with a no-deal Brexit and a situation of chaos. Only today, Mr Boris Johnson has announced that he is happy to leave without a free trade agreement. No doubt the lie machine will get to work to prove that failure is in fact a famous victory, but people may finally decide that this is not what they were promised. If so, it will of course all be the fault of Europeans, civil servants or other elite enemies of the people, but especially obstructive parliamentarians, an easy target for blame in the present political mood. It will be an ugly world. There is perhaps more than just a whiff of Weimar in the air.

8.07 pm

**Baroness Meacher (CB):** My Lords, I shall touch on four issues. The first is the Government's focus on imprisonment and tough community sentences. Such policies fail to address the causes of crime and the vulnerabilities of children excluded from school, and will therefore not reduce knife crime or violent crime more generally. This is a human tragedy but also a terrible waste of taxpayers' money. I urge Ministers to listen to the most senior police officer in the land, who understands how to reduce the level of serious crime. Martin Hewitt, chair of the National Police Chiefs' Council, could help the Government to achieve their objective; he is clear that arrests are not the key to fighting crime.

The Children's Society makes the point that a long-term solution to youth violence must prioritise effective support for vulnerable children at an early stage. The 29% cut in funding for children and young people's services and the 49% cut in specific early intervention funding since 2010 will only fuel youth crime. Urgent is the need for investment in mental health support for children at risk of exclusion from school. Excluded children are the criminals of the future. Can the Minister give me some assurance that the cuts will be restored in full, and that children's mental health services will be funded adequately? There is no indication of the full restoration of funding in the Queen's Speech.

Secondly, I want to refer to a totally different subject: my Private Member's Bill, which I will introduce tomorrow and which gives legal recognition to humanist marriages. Scotland is 14 years ahead. Humanist marriages in Scotland account for 22% of all marriages, more than are accounted for by any religious or belief group. Northern Ireland, Jersey and the Republic of Ireland also have legal recognition of humanist marriages, but at present in England and Wales the growing number of couples who have humanist marriages also have to have a civil wedding, with all the additional costs and administration involved. This is a human rights issue that is currently going through the courts.

Seven years ago, the Government tabled an amendment to the Marriage (Same Sex Couples) Act 2013, to enable Ministers to legalise humanist marriages. This was in response to strong parliamentary support for such a reform. Seven years later, nothing has happened. It would be very simple and very popular. I hope the Government will ensure that parliamentary time is given to this Private Member's Bill to ensure that we can make progress at last.

[BARONESS MEACHER]

On my third issue, the persecution of patients, the Minister will be aware of the appalling experience of 55 year-old Lesley Gibson, a multiple sclerosis sufferer in a wheelchair who was arrested and charged with possession and cultivation of cannabis for growing 10 plants to treat her symptoms. Lesley faced up to five years in jail. Medical cannabis is legal, but most patients have to spend about £1,000 a month to get hold of it because of our ludicrous regulations. They cannot afford it. Will the ministerial team give an instruction to the Permanent Secretary to do what is necessary to decriminalise the possession or cultivation of cannabis for medical purposes only? Some police forces are already operating such a policy. Police know that patients' self-care does not and should not represent a crime.

Finally, let me turn to the issue of assisted dying—last but very much not least. I want to pay tribute to Ron Hogg, former police and crime commissioner for Durham Constabulary, whose funeral I attended yesterday in the cathedral. Ron campaigned for the legalisation of assisted dying, as he himself lay dying of motor neurone disease. He was unable to move, speak and all the rest of it, yet he was somehow helping us to get this across. He did not want others to suffer as he was suffering. Seventeen police and crime commissioners joined Ron in his end-of-life plea for reform. MPs, police officers and doctors are increasingly aware of the cruelty of the current law, from all sorts of points of view. One is the pain for police officers having to arrest and interview bereaved relatives. They cry on occasions because they find it so painful.

We have an urgent need for an independent inquiry into the consequences of the Suicide Act 1961 as it affects terminally ill, mentally competent people who need help to bring their suffering to an end a little earlier than might happen naturally. The previous Justice Secretary agreed to such an inquiry. I call on the current Government to reaffirm that commitment.

8.12 pm

**Baroness Eaton (Con):** My Lords, I declare my interest as a vice president and former chairman of the Local Government Association.

I begin by congratulating the Prime Minister on winning the general election. We can now get Brexit done, honour the referendum result and make sure that we level up all areas of the country. The ambitious Queen's Speech makes it clear that the new Parliament is about getting Brexit over the line while delivering a powerful one-nation agenda, an agenda that is a force for positive change in communities across the country.

In the time I have today, I will focus on two issues that I am passionate about: the need to tackle the scourge of domestic violence, and the opportunity to reshape the way our country is run by devolving more powers to communities through their local elected councils. Domestic abuse is a hugely important issue, one that we all take seriously. The domestic abuse Bill is a legislative landmark. It will provide the first definition of domestic abuse that is not limited to violence. This will provide clarity for everyone involved, including councils. Women's Aid said that it has the potential to

create a step change in the national response. I am sure all noble Lords would agree that this is promising. In particular, the creation of a domestic abuse commissioner will help to raise the profile of this issue and ensure momentum behind it.

The Government's approach should also recognise a greater focus on prevention and early intervention measures. This would include funding and investing in evidence-based perpetrator programmes and sharing at the national level the key learnings from domestic homicide reviews. By doing this, we can tackle the root causes of the issue and stop domestic abuse happening in the first place.

The Queen's Speech made a commitment to "give communities more control over how investment is spent".

As a member of the APPG on devolution, reform and decentralisation, I have championed the call for further devolution. The simple truth is that local leaders are best placed to know what is needed in their communities. The Conservative manifesto rightly recognises this, calling for national politicians to move away from the idea that Whitehall knows best and that all growth must start in London. This is a call to trust people and communities to make the decisions that are right for them. That is something I wholeheartedly support.

Moreover, the need to act is urgent. According to the Centre for Policy Studies, the gap between London and the rest of the country has widened to the point where no other region in the country, apart from the south-east, is generating as much wealth per capita today as London was 20 years ago. Devolution could help us to change this picture. As just one example, local control over skills and employment support is something councils are desperate for. Evidence from the LGA suggests that a devolved skills and employment policy could deliver fiscal benefits of up to £280 million a year for local areas.

The Conservative manifesto also committed to levelling up every part of the UK, particularly our rural and coastal areas that are too often left behind. Previous deals have focused on urban areas using a mayoral model. While this approach has worked well for many areas, it may not be suitable for rural and coastal communities, which instead would benefit from the freedom to propose their own governance arrangements.

Brexit represents a real opportunity to rethink the way decisions are made. Where EU laws are repatriated back to the UK, they cannot simply rest in Whitehall, Holyrood, Cardiff Bay and Stormont. We need a bold new English devolution settlement in this Parliament. With this in mind, I would be grateful if the Minister, in wrapping up the debate, could provide an update on when we can expect to see the promised devolution White Paper and whether it will be co-produced with councils and the LGA.

I conclude by once again welcoming the Queen's Speech. Proposals such as the domestic abuse Bill and the commitments to devolution will make important changes to people's lives. It will allow us to make sure that we are protecting those who are often vulnerable and need our support, while ensuring our long-term success and prosperity as a nation. I look forward to working with the Government to deliver the proposals in the Queen's Speech.

8.18 pm

**Lord Rennard (LD):** My Lords, I very much enjoyed the entertaining contribution of the noble Lord, Lord Lamont, which he made immediately in response to the gracious Speech. He was himself gracious in acknowledging his own defeat in the general election of 1997 by my noble friend Lord Willis of Knaresborough.

Some time ago, I also enjoyed reading the memoirs of the noble Lord, Lord Lamont. To be precise, I enjoyed the pages in which he blamed his demise in that election on the way in which voters in Harrogate had been inundated with letters in the name of my late, and much missed, noble friend Lord Ashdown. I suspect that the noble Lord is unaware that I was the person who drafted all those letters. These were happier times for my party. We had high hopes that the UK's constitution would be radically reformed in a way that would greatly improve the health of our democracy.

In the months before the 1997 election, Paddy had asked me to be the joint secretary of the consultative committee between the Labour Party and the Liberal Democrats, established under the joint chairmanship of my noble friend Lord MacLennan of Rogart and the late Robin Cook, to agree a consensus on such reforms. A considerable number of the proposals in that package were subsequently achieved, including the creation of the Scottish Parliament and the Welsh Assembly with systems of proportional representation, but the promised referendum on a proportional voting system for the House of Commons was never held. Hindsight is easy but I believe that those people within the Labour Party who blocked that referendum then, and a move to a fairer voting system for the House of Commons, must share at least some of the responsibility for events in the last 10 years—and for what may now lie ahead. Things really could have been better and our place in Europe would never have been threatened by a deeply flawed referendum.

During his speech the noble Lord, Lord Lamont, described the recent general election as a second referendum. I think he used the phrase “a second people's vote,” but over the last three years the position of the Conservatives has been strongly opposed to letting people have the final say on the issue of Britain's EU membership. Now that people have voted, we are told that the vote is to be considered as the result of another referendum. Ever since the 2016 referendum, the Liberal Democrats have stood up for the 48% who voted to remain. We believe that if there really had been a second referendum, based on the facts, then more than 48% would have voted to remain. It was repeatedly argued by those in favour of Brexit that the views of the 48% in 2016 should be ignored. But on Brexit now, and on every other political issue, we are told that the views of the party which received 43.6% of the vote on 12 December should be imposed upon us all. It was said before that 48% should be ignored, even when they might have become a majority, but it is said now that less than 44% of the vote is to be taken as a mandate to determine every issue. That is both illogical and undemocratic.

The Liberal Democrats want this place to be more democratic but we want the other place to be more democratic too. The recent Conservative manifesto

referred to the need to have votes of equal value, but the facts are that in the recent general election it took 38,265 votes to elect a Conservative MP, 50,717 votes to elect a Labour MP and 336,038 votes to elect a Liberal Democrat MP. The present system is not unfair to the Conservative Party but the Government continue to threaten to make it even more favourable to the Conservatives with a boundary review. The principle of roughly equal numbers of voters in a single constituency system is right, but so is the principle that everyone entitled to vote should be registered to vote. A boundary review without dealing with the problem of underregistration is unfair and is clearly intended to further favour the Conservatives.

Electoral processes, we are told, may also be changed to favour the Conservatives by introducing compulsory photo ID at polling stations. There is no evidence that this is based on anything other than the principle of seeking to reduce the ease with which people less likely to vote Conservative can vote at a polling station. Can the Minister please undertake to ask electoral registration officers how many times somebody went to a polling station on 12 December only to find that their vote had already been claimed by somebody else? This would provide an indication as to whether there really is a problem or simply a fear on the part of the Government that they may not be re-elected so easily another time.

8.24 pm

**Lord Rogan (UUP):** My Lords—

**Lord Roberts of Llandudno (LD):** My Lords—

**Noble Lords:** Order!

**Lord Roberts of Llandudno:** I am so sorry.

**Lord Rogan:** It is quite all right. My Lords, I have spoken in your Lordships' House about the urgent need to restore devolved government in Northern Ireland. I will not restate those arguments but the latest reports I have received from the talks in Belfast suggest that we are no closer to finding a resolution today than we were yesterday. Again, I will urge all the parties in Northern Ireland, particularly the DUP and Sinn Féin/IRA, to do all they can to reach agreement in advance of Monday's deadline.

I will concentrate my remarks on what the gracious Speech described as the “utmost importance” of the, “integrity and prosperity of the United Kingdom,” or, to give our great nation its full title, the United Kingdom of Great Britain and Northern Ireland.

It is a simple fact that the union is under greater threat now than at any time during the IRA's 30-year campaign of violence. Your Lordships will need no reminding that the Troubles were an indescribably barbarous period in our history. More than 3,600 people lost their lives, with countless more suffering horrendous injuries. People often ask what purpose was served by such death and destruction. From a Sinn Féin/IRA perspective, my answer would be that no purpose was served whatever. The Belfast agreement, which I was



[LORD ROGAN]

proud to be part of, enshrined the principle of consent that keeps Northern Ireland an integral part of the United Kingdom unless its people decide otherwise in a democratic vote. Meanwhile the purpose of the pro-union people in enduring the IRA's hideous terrorist campaign, rather than giving in, was to protect that precious consent principle.

I have always regarded my unionism as something positive. The unionist community is often portrayed as possessing a siege mentality but this is a false impression. In general, unionists are forward-thinking and, in a post-Troubles society, there have been significant efforts to reach out and sell the benefits and attractions of unionism to those of alternative political outlooks and none. For example, the 12 July parades now have a genuine festival feel about them, and quite rightly so. However, where unionists can perhaps be accused of becoming more insular is when they feel that the British Government of the day would rather see the back of Northern Ireland. The most obvious recent example of this was in 1985 when Margaret Thatcher co-signed the Anglo-Irish agreement, giving the Dublin Government a say in the internal affairs of one part of the United Kingdom against its will. In 1998, the then Baroness Thatcher said that she regretted signing this agreement. Thankfully, a Labour Prime Minister helped to put something much better in its place on Good Friday of that same year.

Fast-forwarding to today and the actions of the latest Conservative Prime Minister to roll off the conveyer belt, Boris Johnson's decision to renege on his public commitment not to annex Northern Ireland by placing a border in the Irish Sea after Brexit has had a profound impact on the psyche of the loyal pro-union people. Mr Johnson, I am afraid, has a long and complicated relationship with the truth across many aspects of life, but saying something and doing precisely the opposite has much deeper consequences when you hold the office of Prime Minister. Despite his supposed commitment to the constitutional integrity of the United Kingdom and Northern Ireland's place within it, as laid out in the gracious Speech, a significant proportion of unionists simply refuse to believe him and are deeply worried about what comes next.

There is also another group. As the recent Westminster elections highlighted, there is a growing number of people in Northern Ireland who do not see themselves as either unionist or nationalist. Thankfully, a succession of surveys makes it clear that a healthy majority would still vote in favour of Northern Ireland staying within the United Kingdom should a border poll be called. However, this position will be hard to maintain if the Prime Minister continues to behave like someone who, at best, does not seem particularly keen to fight to save the union or, at worst, is relaxed about retreating into a mindset of English nationalism.

8.30 pm

**Lord Roberts of Llandudno:** My Lords, I apologise to the noble Lord, Lord Rogan, for trying to speak earlier. I look over the Irish Sea from where I live and I wondered whether I also had to cross that sea today, but I am delighted that he is here.

In the referendum campaign and the general election campaign, one of the claims made was that we would "take back control". We can take back control to some limited extent, but there are areas where we cannot but where we are the victims of circumstances. For instance, how do we take back control when we have climate change turning parts of Africa into extended deserts and a mass movement of immigrant people looking for some way of sustaining their life? How do we do that? What do we do with Syria? What might we do with Iran? We accept many refugees from that region, but we never know how many we will have to take. What will President Trump do next? We have to be flexible here. How do we take control?

I was here when David Cameron made the promise that, by the year 2020, we would have accepted 20,000 refugees from Syria. I look forward before long to having the breakdown of those figures.

If we cannot take control, there are other things that we can do which are easy for us to accomplish. First, we can change our whole immigration ethos. Why do we welcome immigrants to this country yet not allow them to work until they have been here for 12 months? Why do we still have indeterminate detention on the books? We are one of only a small number of countries in the world that do it. Why do we let 18 year-old lads here from Afghanistan or other places be in fear because their status changes when they reach that age of 18? There are things that we can do. Why do we still allow a Home Office that has 47% of its immigration decisions overturned on appeal? These are things that can be done. We can have control over our own legislation. I would like to see that control, so that we change from being a hostile environment that seems to be shutting the door against people to an environment of welcome where people say, "Yes, we are here. We know there are problems, but we are here, and we can contribute so much to the life of the United Kingdom."

We heard in the House yesterday of the shortage of nurses, yet we have nurses—thousands of them, I imagine—in the immigration procedure. We are not taking advantage of them and not giving them the opportunity. There is so much that can be done. We might not be able to take control of everything, but there are certain things we can do.

I have come across a lot of people in the time that we have been talking about this. I shall give just one instance before I finish. There was a lad from Afghanistan originally; he was 14 years old. His mother and father had been killed by the Taliban. He went to Pakistan and from there to Turkey. From Turkey—what a journey for a 14 year-old—he found his way to Calais. In Calais, he jumped on the back of a truck and he landed in London. He joined our Citizens of the World Choir. I remember going with him to the Llangollen International Eisteddfod. There in Llangollen, he came to me after that performance and said to me, "Do you know, that was the best day of my life?" He is a remarkable person. He has now been in a sixth-form college. There was a mock election there and he sent me a photograph. He had a rosette; he was a candidate. The rosette was the right colour, of course; I do not know why because there was no influence directed towards him. He did

that and he said, “the best day of my life”. We had brought hope instead of despair—I could go on, but I must not—as with so many of the lads and lasses from overseas who come here.

In this new term, will the Government now give us hope and respond to those needs that we have debated over the years, so that so many people will be able to say, “Yes, this is the best day of my life”?

8.35 pm

**Lord Hennessy of Nympsfield (CB):** My Lords, to borrow a line from PG Wodehouse, it is always easy to distinguish between a ray of sunshine and the imminent return of the European Union withdrawal Bill. Yet fuelled by a wish to find reasons to be cheerful, including real possibilities on the constitutional front, perhaps I may open with a few swift thoughts about what of enduring value might be built out of the rubble, as the dust and grit of the general election campaign start to settle.

I think the outline of a consensus is visible and its achievement possible—a thin wisp of tomorrow that is just discernible today, to borrow a phrase from the great French historian, Fernand Braudel. If it is, such a consensus could rescue the coming political generation from the pit of Europe-envenomed rancour into which the recent and current political class fell with such dispiriting regularity.

There are five questions which, if tackled with determination and consensual good will, could, taken together, represent a worthy, shared project for the political generation of the 2020s to the immense benefit of our country and our people. Here would be my quintet of ingredients. The first is social care: to do for social care in the early 2020s what the NHS did for healthcare in the late 1940s. The second is a sustained social housing drive: a generous public/private mix at least comparable in scale to Harold Macmillan’s housing programme in the early 1950s. Thirdly, there is technical education, and getting this right for the first time. Parliament has been on the case since the 1860s. Now, surely, is the hour. Fourthly, there is climate change. As the incomparable Winston Churchill liked to say, “You cannot ignore the facts, for they glare upon you.” They do in this case, quite literally. Finally, there is the constitution: the codes, statutes and conventions that we live and work by. For we can no longer rely, sadly, on what an old Cabinet Office friend of mine, Clive Priestley, used to call “the good chaps theory of government”, whereby good chaps of both sexes knew where the unwritten lines were drawn and came nowhere near touching them, let alone crossing them.

During the autumn, I took a stab at an early 2020s constitutional agenda in a pamphlet for the Constitution Society, with Dr Andrew Blick of King’s College London. We called our paper, *Good Chaps No More? Safeguarding the Constitution in Stressful Times*. The paper’s premise was that

“the constitution has special properties. It is a creation of history, the work of many hands and minds that reflects a myriad of experiences. A government-of-the-day is its custodian but not its sole owner. The constitution is a shared possession of the nation as a whole which imposes a special duty of care on Prime Ministers, Cabinets and Parliament ... changes to it need to be very carefully crafted and to carry wide consent.”

Trust is the scarcest and most precious political metal at the moment. Faith in the constitution is essential to its restoration and sustenance. I shall not describe all the triggers for constitutional anxiety in our recent past, but any list would contain the attempted Prorogation of Parliament of late August 2019, deemed illegal by the Supreme Court on 24 September, the episode which may have sung the requiem for the “good chaps theory”. Her Majesty should never have been put in that position.

What terrain might be covered by a constitutional inquiry? We would all have our own cartography, but this is the landscape that Andrew Blick and I sketched out: the Executive, taking in Ministers, the Cabinet and the Civil Service; the relationship between the Executive and the monarchy; the relationship between the Executive and Parliament; the internal organisation of Parliament; the position of the courts as upholders of the rule of law; and the relationships between the UK Government and the devolved levels of governance. It is quite an ambitious enterprise, but one we need at the start of a decade that will take us out of the EU, and may—though I fervently hope not—see Scotland leaving and fracturing the very union in which all of us have lived, breathed and had our being. Such a change would, I believe, be more disturbing, psychologically, for the shrivelled UK that remained than anything the European question has thrown at us.

I share the concerns of other noble Lords about the Conservative Party’s election manifesto promise of a constitution, democracy and rights commission, a pledge etched into the marble of the gracious Speech. A first step in the restoration of trust would be for the Government to make plain that any such inquiry should be, and be seen to be, independent of the Government. Andrew Blick and I suggested an array of possible instruments and here there is an overlap with my noble friend Lord Cormack: a royal commission; a parliamentary inquiry; perhaps a Joint Committee of both Houses; a Speaker’s conference; or a citizens’ convention.

My final thought is that although I am not a written constitution man, maybe the time has come to capture more of it in cold print. I think we need a new equipoise between the moving parts of the British constitution, on which our system of government depends, and our people’s faith in it. In seeking that new equipoise, we might draw ourselves together, refreshing the constitutional arrangements by which we govern ourselves, and, in so doing, take ourselves by surprise with our creativity, our civility and our sense of common purpose.

8.40 pm

**Lord Dunlop (Con):** My Lords, it is great pleasure to follow my Constitution Committee colleague, the noble Lord, Lord Hennessy. As we have already heard in the debate, the union will inevitably loom large in this new Parliament. The gracious Speech rightly recognises the importance the Government attach to the integrity and prosperity of the United Kingdom, acknowledging that constitutional and economic questions are inextricably linked. The last five or six years have demonstrated that people want two things: more responsive and accountable government; and the opportunity for every

[LORD DUNLOP]

part of the country to share fully in its prosperity. One might say that they want not just a northern powerhouse and a Midlands engine, but a western powerhouse, a Northern Irish turbo and a Scottish dynamo, too—additional magnets for economic activity, complementing the power of London and the south-east, part of a common agenda to reunite a country divided by our withdrawal from the European Union.

This is the backdrop to the independent review I was commissioned to undertake to consider how the UK Government are organised to strengthen the working of the union, which a number of noble Lords have already referred to. Noble Lords will be glad to hear that the report is with the Prime Minister and I hope it will be published soon. I make it clear that the review is not about changing the existing devolution settlements, but about the machinery and arrangements enabling the UK Government to discharge sensitively their own unique duties to people across all parts of the country, and to work constructively with devolved Governments where responsibilities overlap. This is all part of the essential glue binding our United Kingdom together.

The first challenge, as I see it, is to embed union considerations at the very heart of the way Whitehall thinks and acts. At present, there are plenty of good intentions: the issue is how good intentions can translate into consistently effective policy development, decision-making and delivery. This means that Ministers and officials need to be fully aware of the implications of their policies and actions for Scotland, Wales and Northern Ireland—and, for that matter, for the north of England as well.

Beyond awareness, the UK Government should be sophisticated enough to design policy for the UK as a whole and differential policy for its constituent parts. An example might be the development of a new immigration system, which I think has already been mentioned in this debate. There have been persistent calls for immigration to be devolved to the Scottish Parliament to address specific Scottish demographic challenges. However, let us not forget that the UK Government are Scotland's Government too. Why should they not be capable of designing a system that protects the integrity of UK borders and is also sensitive to the particular needs of Scotland?

The second challenge is to promote a greater sense of the union as a joint endeavour. The devolution settlements have evolved significantly since 1998. The respective competencies of the UK Government and the devolved Governments are increasingly interdependent, so the willingness and ability of Governments to work together has never been more important. That is why intergovernmental relations need to be fundamentally reset.

I suspect all participants currently approach meetings of the Joint Ministerial Committee as one might contemplate a trip to the dentist for root canal treatment without anaesthetic—something to be endured rather than enjoyed. Too often the JMC is a platform for airing a grievance or public dispute. It must surely be possible, despite constitutional differences, to build more positive relationships to advance shared interests, from tackling knife crime and drug abuse to addressing

climate change, improving productivity and rebalancing the economy. But, again, this requires a change of mindset—to identify opportunities rather than seeing everything as a dispiriting and defensive damage-limitation exercise or, worse, as an argument for national exceptionalism. In short, we should be finding practical reasons to work together rather than searching for ideological excuses to fall out.

Making intergovernmental relations more transparent, with a bigger role for Parliament, would help encourage more constructive behaviour. After all, Governments working together on their priorities is what people want and expect, and there will ultimately be a political cost to those who consistently do not collaborate.

Our union—the United Kingdom—is the most successful multinational state in the world. Its success is built in part on an ability to adapt to change. Over the last 20 years the UK has changed. Devolution has empowered local decision-making while preserving the UK's ability to act collectively when size and heft matter. We should celebrate that a feature of devolution is diversity and accept that managing difference is one of its natural consequences. We should also prize the fact that one of the core values of our union is solidarity and never forget that the promotion of common interests is one of its essential roles.

8.46 pm

**Lord Ramsbotham (CB):** My Lords, in the short time available I intend to focus on the justice section of the gracious Speech, particularly the announcement that there is to be a royal commission

“to review and improve the efficiency and effectiveness of the criminal justice process.”

I note that in yesterday's *Times* there was a suggestion that this should include the organisation of the police, last subject of a separate royal commission in 1962. I agree with the noble Viscount, Lord Hailsham, that this should be repeated.

I am concentrating on prisons and probation for two reasons. First, their evolving problems have been catalogued in detail, over many years, by successive quality assurers—the Chief Inspectors of Prisons and the Chief Inspectors of Probation—so it will not be difficult to draw up a comprehensive list of what needs to be reviewed. Secondly, on 3 October 2019 I tabled a Motion that

“this House takes note of the case for reforming the management and treatment of offenders in prison and the community”—[*Official Report*, 3/10/19; col. 1808.]

in which I called for an outside inquiry, akin to a royal commission, to be appointed as quickly as possible, not least to determine whether punishment or rehabilitation should be the primary aim of the Prison and Probation Service. I did that because, in the past,

“Whenever an issue of public policy required thorough examination and the Government were not committed to a definite policy, the task used to be entrusted to an invited group of persons from outside the relevant departments, such as a royal commission.”—[*Official Report*, 3/10/19; col. 1810.]

The last Royal Commission on the Criminal Justice System reported in 1993, since when all reviews have been carried out in-house, despite the known imperfections of that process. Because Ministry of Justice officials have presided over failure for so long, and because



some existing practices need to be questioned, I do not believe that they are the right persons to carry out a review.

The Ministry of Justice rejected my request on the grounds that Ministers were not convinced that a review was necessary in view of the reforms already outlined. I therefore welcome this change of heart and, in view of their fundamental importance, ask the Minister whether she can tell the House anything about the commission's timings, chairman and terms of reference.

The lack of consistent strategic direction of the criminal justice system, amounting to successive Governments not being committed to a definite policy, was made manifestly obvious in 2012, when the coalition Government introduced a legal aid, sentencing and rehabilitation of offenders Bill, which was quickly renamed the Legal Aid, Sentencing and Punishment of Offenders Bill. Of course, any sentence is a punishment, awarded by the courts following a crime, but then what? This lack of a definite policy was highlighted by the tragic event at the Fishmongers' Hall last month. The Prime Minister immediately focused on punishment, while the father of Jack Merritt, one of the victims, memorably took the opposite view. In my debate I mentioned a suggested joint aim for the prison and probation services:

"It is our duty to help all those committed by the courts to live useful and law-abiding lives, with the qualifications that they must be treated with humanity and not allowed to escape from prison or breach the terms of their supervision order in the community."—[*Official Report*, 3/10/19; col. 1810.]

As far as prisons and probation are concerned, I encourage the Government to make the terms of reference of the royal commission as wide as possible, including the outlining of a definite policy for the criminal justice system, the governance of prisons and probation and the processes by which offenders are to be treated and managed. They should also include initial assessment, the provision of healthcare and the treatment of women and children, foreign nationals, the elderly and indeterminate-sentenced prisoners. Above all, I hope that the Government, on behalf of the public, whose protection they are responsible for providing, will listen to the words of a former prisoner:

"We should at least try to rehabilitate, and not just give up on prisoners."

8.51 pm

**Lord Caine (Con):** My Lords, as a number of noble Lords have acknowledged in the House today, the gracious Speech states:

"The integrity and prosperity of the United Kingdom is of the utmost importance"

to the Government. As a unionist, and as somebody who served as a special adviser to the past six Conservative Secretaries of State for Northern Ireland since 1991, I warmly welcome that commitment. But to listen to some commentators, and indeed some Members of this House, one could be forgiven for believing that the union of Great Britain and Northern Ireland is entering its dying days, and that, following the election results, a united Ireland is now inevitable. I strongly disagree with that proposition. Allow me therefore for a moment to put the election results in Northern Ireland into some perspective, because we need to look beyond the headlines.

Yes, there are now for the first time more nationalist MPs than unionist MPs in the other place, yet the combined Sinn Féin and SDLP vote was still just under 38%, while the Sinn Féin vote fell by more than the DUP vote. While at the March 2017 Assembly election, Sinn Féin was just over 1,000 votes behind the DUP, at this election it was 60,000 votes behind. It is true that at 43%, the combined unionist vote was at an historic low. The real winners were the SDLP in South Belfast and Foyle, where it hammered Sinn Féin, and the Alliance Party, which gained a seat in North Down. Yet not everybody who votes SDLP necessarily has a united Ireland at the top of their agenda, and if anybody is suggesting for one moment that the people of North Down vote Alliance for a united Ireland, they simply do not understand Northern Ireland.

The election was about a combination of issues: abstentionism, Brexit, the absence of devolved government and deteriorating public services, in which the most pro-united Ireland party, and the one campaigning for a border poll, saw its vote fall sharpest. I remain confident, therefore, that if there were a border poll—I am not advocating one—there would remain a clear majority for the United Kingdom.

However, if the union is not in immediate peril, there are certainly pressures, as a number of noble Lords have alluded to. To counter them, four things need to happen. First, Stormont needs to be restored at the earliest opportunity. Devolved, power-sharing government is in the best interests of both Northern Ireland and the union as a whole. I wish the Secretary of State well in his efforts in the discussions that are currently taking place at Stormont.

Secondly, Brexit needs to be achieved in ways that genuinely ensure no border on the island of Ireland and no border between Great Britain and Northern Ireland. I welcome the Government's manifesto commitments in these areas and their commitment to ensuring unfettered access for goods moving within our United Kingdom.

Thirdly, although the debate around Brexit has certainly energised nationalism, the response within unionism has so far been muted. This needs to change. There needs to be a conversation within unionism, extending beyond politicians, about how we articulate a modern, moderate and compelling case for the union that can appeal across the community and across all generations. It is a conversation that has to have as its starting point two facts: that the Northern Ireland of today is very different to the Northern Ireland even of 1998 when the Belfast agreement was reached; and that the future stability of the union will increasingly rest on those from moderate nationalist backgrounds accepting that their best interests continue to lie within the United Kingdom.

Fourthly, the UK Government need to begin soberly and sensibly setting out the benefits that Northern Ireland gains from membership of the United Kingdom, which remain huge. Historically, the Northern Ireland Office has been reluctant to do so; this needs to change. The Government need to become a genuine persuader for the union.

[LORD CAINE]

The Conservative manifesto for Northern Ireland, in which I confess to having had a small hand, contained a commitment to

“inclusive and modern unionism that affords equal respect to all traditions and parts of the community”

and expressed an “unshakeable” belief that the four constituent parts of the United Kingdom are truly stronger and better together. As the United Kingdom embarks on a new chapter in our history, it falls to a Conservative and Unionist Government with a renewed mandate and a substantial majority to make a reality of those words.

8.57 pm

**Baroness Stowell of Beeston (Non-Afl):** My Lords, it is a privilege to follow the noble Lord, Lord Caine, who is recognised for his expertise and knowledge on all constitutional matters relating to Northern Ireland. I will restrict my comments about the gracious Speech to the Fixed-term Parliaments Act.

Unusually among Members of this House, I supported the then Fixed-term Parliaments Bill in 2011. As a Back-Bencher, I argued that introducing fixed-term Parliaments was one of the most tangible and meaningful moves we could make if we were serious about wanting to show the public that we were serious about putting their interests before our own. As we have heard other noble Lords argue, the change would mean the Government and Opposition facing the electorate on a predetermined date, whatever the political conditions at that time.

I supported the Bill because of the serious decline of public trust in Parliament following the expenses scandal. Indeed, looking back at my speeches during the debates at the time of the Bill's passage, I discovered some evidence that I quoted then but had since forgotten. Populus research for the *Times* in 2009, at the height of the expenses scandal, showed that 74% of the public supported fixed-term Parliaments as a change to improve the political system. At that time, the only measures ranking higher among a list of 13 possible reforms were: a recall for MPs found to have broken parliamentary rules; national referendums on major constitutional issues; and local referendums on local issues where interest warranted them. That evidence is worth being reminded of, not least for the clear signs it offered, which some of us later missed or chose to ignore.

During the passage of the Fixed-term Parliaments Bill, several noble Lords argued that our political system was not broken, and I agreed. My argument was that none the less, the public did not trust us to operate the system to their advantage, so we needed to look for opportunities to change in order to show that we did. That said, I am not going to argue against the Government's decision to repeal the Act. It has not worked and it needs to go. Sadly, the electorate cannot trust us to use it for the reasons we introduced it. However, we must learn the correct lessons from our failure. If in the future we are to introduce constitutional change and argue that it is for the benefit of democracy and the electorate—I for one am very interested to hear more about that agenda—we must be sincere both in why we are doing it and maintain our commitment to that cause in how we operate once the change

is made. That is the real lesson we should take from the failure of the Fixed-term Parliaments Act and I hope that we are able to show that we have learned it.

9 pm

**Lord Cavendish of Furness (Con):** My Lords, a new year, a new Parliament and a new gracious Speech. I do not think that six months ago many of us could have predicted the shape of today's Parliament. For those of my persuasion, there is no point in pretending that we do not have much to celebrate, but I recognise that a victor's satisfaction is matched by acute sadness and disappointment on the part of political opponents. Most of us have experienced political failure and disappointment, and probably for the most part will do so again. A new Administration with a substantial majority have the authority to act quickly, decisively and with confidence, and I hope that this one will. That said, no majority justifies high-handedness and the quiet display of humility already shown by my right honourable friend the Prime Minister was well judged.

I would hope that there is much in this hugely ambitious gracious Speech that commends itself to the whole House, and here I include the Official Opposition. I would also hope and expect to witness in the months and years ahead the kind of constructive opposition for which this House was once famous. But for that to be possible, and here I touch on perhaps a rather sensitive area, we need to understand what comprises the post-election Opposition and what its members believe in. I do not know to what extent Labour Opposition Peers campaigned for Mr Corbyn's manifesto in the general election. Did they, like so many of us, tramp the streets in search of votes? I have no feel for the outcome the noble Lords opposite wished for. But by the conclusion of this three-day debate, it will be important for your Lordships' House and the country to understand the extent of consensus, or the lack of it, that exists in both our Houses of Parliament. We heard an entirely reasonable speech by the noble Lord, Lord Kennedy of Southwark, which gave us great encouragement, but we will have to wait for the future nature of the Labour Party while its leadership issues are resolved.

Much space has been devoted to proposed institutional reforms, although it is clear to me that without radical rethinking in many areas, this exciting programme has little chance of success. Where the Civil Service is concerned, the process of reform and review should surely be a permanent feature in its management, and up to a point I suppose that it is. While I feel that there are areas of deep concern—procurement springs very much to mind—I also feel instinctively that the service is as much sinned against as sinning. I earnestly hope that reforms will be approached with sensitivity and the recognition that, whatever its defects, the Civil Service makes an outstanding contribution to our national life. Where I am less comfortable is with some of the other public bodies that impact so heavily on individuals and businesses. Noble Lords may have heard me refer in the past to the “incivility of civic life”. Some of these organisations, mainly those with rather tenuous lines of accountability, are outrageously high-handed and arrogant and are long overdue for reform because they are capable of doing huge damage.

There is a wonderful ring to the term “one nation” and I fully subscribe to it. I do so especially at a time when my party owes its considerable majority to communities whose support is emphatically on loan. I dream of the day when we earn their more permanent endorsement. It needs to be understood that one-nation policies have a price tag. You cannot cut taxes, spend considerable sums on public services and embark on a major programme of capital investment, all the while keeping finances under control, without some economic headroom. The fact that there is some economic headroom is a legacy, for which we should be grateful, of the last Administration. One hears so much about austerity, as though it were the wish of the last Government to inflict pain and misery; of course, it was no such thing. As an aside—I am no economist—I would still prefer it if our national debt did not increase by over £5,000 per second, or £1.5 million before I resume my seat.

I will curtail my contribution—others have curtailed theirs well—but I close with a plea that has as much to do with tone as anything else. The real key to realising the dawn of a new and better age is a changed culture. It is really time to recognise that it cannot be left to Ministers, politicians and civil servants to do all the heavy lifting. For a long time now, the potential of people in communities to add value has been neglected. For far too long, a surly and centralised establishment places all manner of obstacles in the path of people wishing to better the lot of themselves and their neighbours.

As the Government embark on such a challenging programme, I hope they will steer reforms away, having in mind that it should be largely in the gift of the citizen, not the Government, to make our country a better and more contented place.

9.06 pm

**Lord Norton of Louth (Con):** My Lords, like several noble Lords who have spoken, I will focus on the proposal for a constitution, democracy and rights commission. Commissions take different forms. Having chaired one on behalf of the Conservative Party to examine how to strengthen Parliament, I believe they can be beneficial. However, it is important that we are clear as to purpose. I caution against setting up a body that is in effect a constitutional convention—that is, a body created to come up with a set of constitutional reforms or, indeed, a new constitution. I have previously made the case for a constitutional convocation, an informed body able to stand back and make sense of where we are before we embark on further change.

The past quarter-century has been marked by changes to the constitution on a scale not seen since the end of the 17th and early 18th centuries. Conservatives are at one with Burke in accepting that a state without the means of some change is without the means of its conservation. What is a problem is when a great many reforms take place quickly. There is not the opportunity, as has been the case before, for a reform to be assimilated into our constitutional architecture before another major change occurs.

The changes of recent years have been several and substantial. They have also been disparate and discrete, often rushed, borne of political expediency and reactive. They have not been grounded in an understanding of

the system of government that has developed over centuries and been confirmed by the Glorious Revolution of 1688. That generated the basis for the emergence of the Westminster model of government. That model has been criticised, and indeed assaulted by some of the reforms of recent years, but it is at the heart of the Conservative view of democracy. It links electors to those they choose to govern the nation, with Parliament as the key buckle between them.

The system is one in which government is accountable to the House of Commons. Parliament under the Westminster model responds to what government brings forward. Because of the Glorious Revolution, the Executive cannot legislate without the consent of Parliament, but Parliament itself does not seek to wrest control of policy from the Government. That came under threat in the last Parliament.

The system has now righted itself, but recent events, on top of the other changes of the past two decades, demonstrate the need to take stock of what has happened and to do so within a clear understanding of the fundamentals of the constitution of the United Kingdom. The Westminster model has been much criticised by those who embrace different approaches to constitutional change. They, at least, have the merit of intellectual coherence—I believe them to be wrong, but they are clear and principled—whereas successive Governments have lacked any intellectually coherent approach to change.

I have previously quoted in debate the words of Sir Sidney Low, who in his short book *The British Constitution*, published in 1928, wrote:

“In England we often do a thing first and then discover that we have done it.”

We are in danger of spending years playing catch-up to make sense of what we have done. Now is the time to use the opportunity afforded by this manifesto commitment to stand back and assess clearly where we are, and to do so within an appreciation of the need to maintain a political system that has accountability at its heart. Events not only in the United Kingdom but globally demonstrate an urgent need for Governments to hear what people are saying and to be seen to be doing so. The greater demands for people to have a voice make the Westminster model more, not less, relevant to modern conditions.

We have lacked serious thinking about our constitution as such. I trust, therefore, that the Government will see the proposed commission as a means not for short-term fixes but for undertaking a mature, philosophically informed assessment of where we are, identifying any flaws, certainly, but also appreciating the system of government that—despite the critics—has served this nation well. Any change should be informed by a Burkean appreciation of what it is for.

9.11 pm

**Baroness Flather (CB):** My Lords, I have something very different to say, as usual. I am going to be very non-politically correct, and I want your Lordships to think about political correctness because I think we have tied ourselves up in knots by giving in to it. It is not a good thing for us. We see things happening but we do not speak about them because it is not politically correct. Who says so? Who says that we should not



[BARONESS FLATHER]

speak about things that need to be put right just because they involve somebody from a minority background? Who says that you cannot say “black coffee” or “white coffee”? What is this nonsense? I remember when political correctness first came about. We all thought it was rather funny, but all of a sudden it has become a mantra. Everybody is saying, “This is not PC.” But what is PC? If there is anything going on in this country that does not help it, we should all be talking about it.

There are a number of issues. There are a lot of people in, say, Bradford who do not learn English. In many European countries, people have to learn the language if they want to get their benefits. We do no such thing because it is non-PC. We say, “Please learn”, and we have the Casey report and this report and that report, but nobody will learn anything unless you make them. I have always felt that way and will go on feeling that way. If people do not speak the language, they are deaf and dumb in this country; they do not know what is going on and have to rely on children or somebody who does speak English. It is completely and utterly wrong.

Another issue is first-cousin marriages. These marriages mean that the NHS has to take the burden of any child, from birth to death. We should not allow that to happen. I asked the most reverend Primate the Archbishop of Canterbury to introduce DNA testing for first-cousin marriages, given that Anglicans allow them. He said, “No, there will be trouble.” He is also PC and therefore cannot do it. But we should do it for everybody, not just for Muslims. If there is a first-cousin marriage, there must be a DNA test, so that people will know how badly affected any child born will be. But no, we do not do that.

Then there is halal meat. We do not label halal meat. I do not know whether noble Lords know that we are all now eating halal meat. All the takeaways sell halal meat, all the hospitals serve halal meat to patients and all the schools serve halal meat to pupils. I do not think that is fair. It is not fair to those of us who do not want to eat it. I have tried to get Michael Gove to label it. He said, “Oh, but it will make it expensive for the Muslims and the Jews.” Well, what the hell? Are we running this country for their benefit or are we running it as it should be run? In any case, there are two kinds of halal: pre-stunned and non-pre-stunned. If the halal meat served was just labelled as pre-stunned, it would not have been ritually killed and there would be no problem; we could all eat it because all our meat is pre-stunned. Instead we hear, “Oh, we are going to set up a committee.” How many committees are there going to be before these decisions are taken? If you go to Bradford, parts of it are like “Little Pakistan”, with no people other than Muslims. I have nothing against Muslims and nothing against people living together, but these have almost become no-go areas. There is not much work there, so they do not work. Somebody very important, who I cannot name, asked me why they come here. Why would they not come here? We give them benefits, we give them healthcare, we give them schooling, we give them homes. Why would anyone not come here? Everybody thinks Britain is a piece of heaven and wants to come here.

The values of this country need to be protected. There was even a sentence in the gracious Speech about the Government doing everything to protect the values of this country. I think it was meant for outsiders, but we must protect our values inside as well.

9.17 pm

**Lord Mackenzie of Framwellgate (Non-Aff):** My Lords, the issues that I will touch on today, in the home affairs arena, are the increase in assaults on police officers and, also importantly, the social care of an increasing ageing population, as it is dealt with by the Home Office.

Statistics show a rise in assaults on the police of some 34% since 2013. As there has been a reduction of some 20,000 in officer numbers since 2010, those increased assaults are spread over a reduced number of targets. It is inevitable because more officers are now responding alone to incidents, and clearly offenders are prepared to take the risk of assaulting the officer to escape. According to the latest statistics, around 72 police officers are attacked every day in England and Wales; this translates as an attack every 20 minutes. Home Office data from all 43 police forces found that a total of 26,295 police constables were assaulted on duty between April 2017 and April 2018. No police officer will go through his service without being assaulted at some point.

I mention this because when I joined the police—back in the swinging Sixties—I did not remotely believe that I would have to confront a knife, still less a gun. I am afraid that is not the case today, and recently there has been some mixed publicity on the increased use of tasers by police officers. I was serving in the 1990s when trials were held in the use of pepper spray by the police as non-fatal force against a violent assailant. The service has now developed the use of electric taser stun guns. These were deployed in 23,000 incidents in the 12 months to the end of March 2019, up by more than a third on the previous year and double the 2016 total. The important statistic, however, is that in the vast majority of cases, the taser was pointed at the suspect without being fired, and used on only 2,500 occasions.

Civil libertarians point out that tasers can be lethal, but so could my striking an attacker with my truncheon all those years ago. Your Lordships will agree that police officers, in running towards danger, uniquely put themselves in harm's way to protect the public; and it is vital that we equip them with the powers, training and equipment they need to fight crime and stay safe on the job. The alternative, of course, is the routine carrying and use of lethal firearms—and we need only look across the Atlantic to see the consequences of that policy.

In my short contribution to the debate tonight, the second area that I wish to touch on is the restrictions on care workers travelling from EU countries following Brexit, which will have an impact on social care. I am aware of a case in the north-east of a 73 year-old pensioner, confined to a wheelchair and suffering from Parkinson's disease, whose health was rapidly waning both in hospital and in care homes. She was rapidly losing weight and deteriorating. There is overwhelming evidence that elderly people cared for in their own homes are happier; they thrive and live longer in the environment of their own homes, which they are used to.

The family in this case realised that it was far more fruitful and economical to arrange for an English-speaking, carefully vetted carer from Europe to provide one-to-one care, 24/7, living free of charge in the pensioner's home, rotating with a replacement every two months. The difference in results proved quite remarkable. The lady gained weight, is far more content in the environment that she knows and loves, and is visited by family and friends constantly.

The family explored a similar care plan through the local council care department, but it was simply not viable or affordable. The worry now, of course, is that the change in European travel rules may restrict European carers interchanging every two months. If that happens, it will inevitably result in the 73 year-old pensioner being catapulted back into the overburdened health service that failed her so badly in the past and would lead to additional costs to the nation, whereas the present arrangement costs the state nothing.

In developing a fair and sensible travel policy for EU workers, we must be careful not to throw the baby out with the bathwater and thereby cut off the supply of essential carers for our increasingly needy elderly population. Will the Minister give an assurance that, following Brexit, essential care workers such as those I described will be permitted to travel to the UK for short periods of two or three months at a time to continue their vital work in providing 24/7, live-in care for our growing elderly population, thereby relieving the burden on the state? This would presumably be similar to work permissions being granted to essential seasonal fruit pickers in the agricultural sector.

I fully understand if the Minister is unable to give an answer this evening, but I am happy to receive a reply in writing. These are extremely important issues that demand urgent consideration as we move towards the Government's self-imposed deadlines, and I look forward to a sympathetic response for the benefit of worried families throughout the country.

9.22 pm

**Lord Blencathra (Con):** My Lords, it is an honour to participate in this gracious Speech debate, because one has been able to hear outstanding contributions from my noble friends Lord Parkinson of Whitley Bay and Lord Davies of Gower. I hope that in due course they will like my amendments to scrutinise appointees to the Supreme Court and toughen up prison sentences.

I am able to give a warm welcome to this Queen's Speech, not just because it will finally get Brexit done, and not just because of the other Bills that I support. No, I am pleased because it comes from a Government who now command a decent majority, because the people have purged the most rotten and disreputable Parliament—or Commons, to be exact—I have ever seen in my 35 years in this place. Over 300 years, the people of this country have consistently proved that they are supreme, not Parliament, nor the Supreme Court.

Turning now to the gracious Speech, indeterminate sentences for terrorists work and we should never have dropped them. But if we cannot have them back, we must have long sentences where the person is not released automatically half way through. Indeed, there should be no automatic early release for any convict, but only when earned.

I admire those who try to rehabilitate convicts, but we have to recognise that Islamic fundamentalists are like paedophiles and sex offenders—they cannot be converted or rehabilitated. They are not like lads who get into a bit of petty crime and then move up the scale of criminality and who often by the age of 25 have stopped offending. These people can be rehabilitated by training, getting a job and housing, but Islamic terrorists, like sex offenders, believe in the fundamental rightness of what they are doing and think that it is society that is wrong, not them.

Also with sex offenders, can we please stop the obscenity of the Prison Service sending male convicts to women's prison wings because they have decided to call themselves women? It is an appalling indictment of the Prison Service that it permits male convicts, in full possession of all male physical attributes, to call themselves women, get moved to female wings and then carry on raping and assaulting. They should all be moved back to male wings until such time as they are fully converted medically to women.

We need honesty in sentencing. It is not right that a judge tells a criminal that he will serve 10 years but everyone in the court, except the victim, knows that it is just five years. That is a cruel con on victims, and it should stop. Thousands more habitual offenders need to be locked up. We have just seen appalling official data, which shows that some offenders had up to 60 convictions for theft before they got a prison sentence. One person had 53 previous convictions for fraud before going to prison. Another had been convicted for 12 previous attacks on police officers before eventually being jailed. There is something fundamentally wrong with our judicial system when judges are not sending criminals like these to prison. What planet are they on? Does no one care about the tens of thousands of victims, because these people are out on the streets committing serious crimes instead of in prison?

That is why we need to look at our constitution and the role of the courts, especially the Supreme Court. Many of us, but probably not on the Benches behind me, or possibly immediately under me, were struck by the perverse judgment of the Supreme Court in the prorogation case that overturned Article 9 of the Bill of Rights that proceedings in Parliament cannot be challenged in any court. The court usurped the role of the Prime Minister when it said, in paragraph 58 of the judgment, that he had to have a good reason for Prorogation.

While I welcome the proposed commission, I can offer my noble friend a much speedier solution. The Government can take up my Private Member's Bill, which I shall introduce shortly, which proposes a joint Select Committee to interview three candidates proposed by the Judicial Appointments Committee so that Parliament can vote on them and one of them will be on the Supreme Court. I am sure that will get unanimous support from all sides of the House, because it replicates the system in the European Court of Human Rights, which everyone says is a wonderful system.

While it is bad enough to have the Supreme Court rewriting our laws, we now have some idiotic employment tribunal doing the same by adding "ethical veganism" to the protected characteristics in the Equality Act.

[LORD BLENCATHRA]

Will my noble friend assure me that the Government will reverse this crazy judgment at the earliest opportunity? This Parliament set out the protected characteristics in Section 4 of the Equality Act. Any changes must be made by this Parliament, not by a low-level employment tribunal in Norwich. If we do not get rid of this nonsense, we had better recruit an extra 5,000 police officers, since they will be running around investigating vegan hate crimes from those who claim they could not get a Greggs vegan sausage roll in their canteen.

That is not as far-fetched as it sounds, because we have just published statistics showing that the police have investigated 87,000 non-crime hate incidents. They have been wasting their time on that. I want the police running around catching criminals, not soothing hurt feelings. I am looking forward to seeing all these Bills when they come forward and moving a few little amendments to toughen them up a little bit.

9.28 pm

**Lord Hastings of Scarisbrick (CB):** My Lords, thank goodness we will have a royal commission on the criminal justice system. I recall that during the previous Queen's Speech, not so long ago, I called for a royal commission, noting that for all of us who care very deeply for victims as well as for the potential of former perpetrators, it is about time this murky system was turned inside out and we had a fresh look at the potential of change.

I noted that at the beginning of today's debate the noble and learned Lord, Lord Keen, referred to the incident on London Bridge, which we are all deeply aware of, as a reminder of the painful reality of terrorism. However, the context is that it was also a reminder of the beautiful volunteerism, compassion and engagement of Jack, Saskia and all those others who gave themselves with determination to support the multitudes who have been reformed, many of whom rushed to get to the man, whose subsequent death was necessary to end that act of terrorism. We need to have a much more positive view of the potential of people who have recognised their crimes and come to terms with the need to have a future.

The noble and learned Lord, Lord Keen, also said that not only should we strengthen victims' rights but we should call for a fair justice system that works for everyone. Everyone means everyone and includes those put behind bars, who will emerge and have a life beyond, and families and communities, who also need to see fairness and justice done.

The last royal commission on the criminal justice system ended its deliberations 27 years ago. Under Lord Runciman, it recommended the creation of the CCRC—the Criminal Cases Review Commission—specifically to look into miscarriages of justice. Anyone who has had involvement with the CCRC knows that it has been starved of cash and that it is now barely taking up substantive cases that urgently need consideration. Far too many people are languishing unfairly when their cases need to be reviewed.

Next week, the well-affirmed American advocate, Bryan Stevenson, will be here with us in Parliament and there will be an opportunity to meet him. The film about his great work on miscarriages of justice in the

American system, "Just Mercy", will be released by Warner Bros. in just over a week. I have seen it twice on preview. It is a very painful statement of what happens to people when a system decides to crush them rather than recognise that they may well have gone through a deceitful and unnecessary process. We need a royal commission to ensure that we have integrity and honesty in our criminal justice system.

Thirty-three years ago, in 1987, a former Member of this House, my great friend Lord Hurd, phoned me with a very simple request. He asked whether I would be willing to start an organisation—subsequently called Crime Concern—along with other Members of this House, although they were not Members at the time, to create what he called a culture of alternatives to custody. I remember that in that conversation Douglas Hurd, the then Home Secretary, said that we could not continue to let the numbers in the prison estate balloon, as that would destroy the core of our society. Crime Concern flourished for 21 years. I was its chairman for 15 years and we created Catch22, of which I became vice-president. I am thrilled to have had 33 years of engagement on this issue. I have attended multiple prisons and am now a regular prison visitor, working with offenders and former offenders to get justice in their cases.

However, I have seen what can go right and what can go terribly wrong. I had a text on my phone last night from a young man who came out of a five-year sentence in Brixton Prison. He came here on the day of his release, and I was pleased to give him lunch because I had seen over that period how he had been reformed. However, since coming out of prison in October, because of an unknown, unnamed probation officer he has been denied proper housing by his local authority. He is now sofa-surfing in an area where previous crimes had taken place. That is not sensible and that anonymity is not good.

I also have a letter here, which I will not make easily shown, from a prisoner who has been moved from a prison in the south of England to Durham. His family is now nearly 300 miles away. He was moved without reason or justification, despite the fact that he has a full record of exceptional behaviour. I know that, because I know him and have seen his behaviour. How will that enhance his rehabilitation so that he becomes a man of usefulness to society?

Therefore, we need a royal commission. We need to get it right. We have injustices that must be corrected and we have an opportunity to do the best that we can.

9.34 pm

**Lord Colgrain (Con):** My Lords, I shall speak in the context of the passages in the gracious Speech which refer to issues of policing and mental health. In particular, I ask the Minister to consider the following example of where our current legislation is failing a very vulnerable section of our community, and to encourage the Government to take steps to remedy it.

I am intimately familiar with the case of one young man who has been diagnosed with high-functioning autism and ADHD. As a consequence of his condition, adulthood has proved a struggle for him and he has been unable to hold down a meaningful job or to



maintain a circle of friends. In the pursuit of craving friendship and social acceptance, he was taken advantage of, which resulted in drug taking, which has made him psychotic.

His parents attempted to have him treated but it proved impossible for them to obtain mental health support and services during the period in which his condition continued to deteriorate. The result was that he was sectioned several times under Section 136 and detained on four occasions in a police cell, which only exacerbated his problems. No mental health support of any sort was offered to him at any stage, nor was there any follow-up. He was sent home on each occasion, and the process continued until his condition deteriorated so much that he broke the law and was imprisoned.

His parents saw all this happening like a blow on a bruise. Behavioural disorders of this sort can result in the use of drugs as a form of self-medication and perpetrators with mental health disorders are not positively discriminated against until it is too late. Intervention, support and follow-up would have been far more likely to prevent the outcome which resulted in this young man going to prison. Furthermore, the police and, indeed, prison officers were being asked to devote a high degree of their time to dealing with a mental health issue for which they are not adequately trained. On 26 November last year in the *Daily Telegraph*, the chairman of the Police Federation pointed out that 40% of the time of police officers is now taken up with dealing with people with mental health issues as opposed to catching or containing criminals. At the most basic level, unnecessary costs are being incurred by the taxpayer, which could and should be avoided by a more understanding society.

I ask the Minister—perhaps in conjunction with the department of the noble Baroness, Lady Blackwood—to provide some comfort that, with the national statistics showing a clear increase in mental health problems of this sort, not only new funding but new organisational thinking will be provided by the Government for those with behavioural disorders as opposed to psychiatric illness, perhaps along the lines of supporting more Safe Haven initiatives. This funding and thinking should be designed to help not only individual sufferers but their parents and helpers, who can see a problem becoming a crisis but can find no one to listen to them and who have no channel to enable them to prevent the befalling of their own personal disaster.

9.37 pm

**Lord Faulks (Non-Aff):** My Lords, the noble and learned Lord the Minister opened this debate by emphasising that the first duty of the Government is to keep the country safe. In this context, I welcome the attention to be paid to foreign national offenders, the revisiting of the Official Secrets Act and the possible updating of treason laws, something a number of us suggested during the passage of the recent counterterrorism legislation.

We may have to acknowledge that, while rehabilitation should always be at the heart of the way we treat prisoners, deradicalisation is not a process with anything like a guarantee of success, and sentences may have to

reflect this. As to immigration, we greatly value the contribution that those already here make to this country and we will continue to welcome those who contribute their skills.

However, not everyone is welcome. For example, can we not try to deter the kleptocrats who buy up large swathes of prime London and other real estate? The noble Baroness, Lady Williams, has heard me banging on before about the need for a register to ensure transparency as to who the real owners of property are. I have since had the privilege of chairing a Joint Committee conducting pre-legislative scrutiny of a Bill. It is now, in that overworked phrase, oven-ready. The Bill makes an appearance only in the final bullet point on page 27 of the 150-page memorandum but is there any reason to delay this matter any further?

Much alarm has been expressed about the possibility of setting up a commission to look at our constitution, but who can deny that our constitution has been subjected to some pretty serious stress tests in the past year or two? Setting up a commission does not sound to me like rushing headlong into change. I gently remind the party opposite that its idea of constitutional change—getting rid of the ancient office of Lord Chancellor—was not the result of a commission or a Bill; it was simply announced overnight. This is an improvement on that. Policy Exchange has given some ideas in its paper, although not all of them will be welcome. Policy Exchange should also be praised for its continuous work on trying to protect our troops from vexatious claims. I am glad that at last this is going to get a legislative response.

On online harms, noble Lords may have read the White Paper published last year, and I look forward to the development of legislation on this. We should not forget that five terrorist attacks in 2017 had an online element.

Parliament has been naive about the internet. I remember the Liberal Democrats pulling the plug on the communications data Bill, potentially compromising national security, so as not to offend the giants of social media and their hypocritical concern for privacy. We were also too gentle on them in the Defamation Act. Not before time, those giants now face public scrutiny. The need for reform is clear. I quote a former adviser to Mr Zuckerberg, who said that Facebook had

“paid lip service to reform, while doing everything possible to protect a business model that benefits from hate speech, disinformation and conspiracy theories.”

I must declare an interest as the recently appointed chair of the Independent Press Standards Organisation, which explains my slight sideways movement. A number of noble Lords have kindly offered to give me the benefit of their views on press regulation but, whatever shortcomings they may identify, it must be remembered that IPSO is concerned with a curated source of news and an identifiable and accountable publisher. Regulation of the online world represents a much greater challenge.

Finally, I come to the law. I declare an interest as a practising barrister and a former Justice Minister. Our legal services contribute approximately £25 billion to the UK economy and the reputation of our judges is very high, but there are issues that need to be addressed.

[LORD FAULKS]

I ask the Government to revisit the question of legal aid on both eligibility and rates. Can the Government improve the tatty infrastructure of our courts and ensure that there are enough sitting courts to cope with the case load that we have? We must not risk damaging the well-deserved reputation of our justice system.

There is much legislation to scrutinise. I look forward to this House returning to what it does best: improving the Bills that are brought before us. Echoing what the noble Lord, Lord Strathclyde, said, I hope the temptation to inflict multiple defeats on the Government, however pleasurable that may be, will be resisted.

9.42 pm

**Baroness Hamwee (LD):** My Lords, I am looking around but it would take a brave person to speak in the gap after such a long debate. It is no surprise that the expertise and passion of noble Lords has been evident in this debate, together with an appropriate dose of questioning and scepticism. It has been so wide-ranging that I will not attempt to refer to individual speakers or speeches—I do not envy the Minister her task in winding up—except to congratulate and welcome the noble Lords, Lord Davies of Gower and Lord Parkinson of Whitley Bay. I am sure they will remind us in the debates to come of those two great places and, no doubt, will both play quite a part in Home Office legislation.

Oven-ready or ready to pop into the microwave? One method cooks from the outside in, the other from the inside outwards—and, as we have been reminded, some things are left to simmer on top of the stove and cause an awful mess when they boil over. These are very different approaches to policy-making: imposition or development in consultation with the people affected.

I want to talk about immigration, which is so important to our society and our economy. The Government put that dish into the oven some months ago. We were told—I learned it authoritatively from the Home Office website well before the election—that we were to have an Australian-style points system. Of course, the Migration Advisory Committee is yet to publish its advice on this, but I have forgotten how much immigration law is created by ministerial fiat, through rules which do not even get the scarce scrutiny of secondary legislation. Perhaps that feeling had rather leached over. Every sort of policy benefits from consultation. That was acknowledged earlier today when one noble Lord spoke about victims. Things look very different when you have an informed or personal take on them, as we were reminded by recent reports of Her Majesty's concerns about visas for polo events. Who had thought about polo events?

The tagline “Australian points-based system” does not tell us whether the points will be driven by the Home Office or by employers, or whether there will be an overall cap on numbers. There are many questions. The Home Office has not made a success of being both policymaker and administrator—or processor, if you like. Departments closer to the various sectors understand their needs and, one hopes, are able to unpack that awful phrase “the brightest and the best”. To me, that always raises the question: “Best at what?”

There is so much to understand about, for instance, different employment needs. I learned recently that seasonal workers are needed in far more sectors than agriculture, including at Christmas and during heatwaves and cold snaps, both of which put a strain on the health service. There are big, short-lived demands prompted by a duchess's dress. Kim Kardashian tweeted about a lipstick and that was work for 400 people for three or four days. These things are not straightforward and they are not uniform across all the nations and regions of the UK.

I have been told that Australia has 90 different visas. I counted 74 online plus 46 which had been repealed. Am I being unnecessarily gloomy in thinking that having visas with different restrictions attached to each application will make the whole process a challenge for the Home Office? Individuals caught up in the Windrush scandal have understandable views about the efficiency of Home Office schemes. Apparently we now require legislation which will not, we are told, affect the operation of the existing compensation scheme—not even to speed it up? The Windrush experience inevitably worries EU citizens subject—or subjected—to the Home Office and we will of course debate this more next week. However, given that the Conservative manifesto proclaims—I think this has been quoted already—

“We want EU citizens who came to live in the UK before Brexit to stay”,

we will continue to try to turn that into reality. The Government's response that the UK does not issue pieces of paper, something for which EU citizens have been pleading, does not meet the point. It defies credibility that 40% of those who have applied for settled status are entitled only to pre-settled status, which is what 40% have been granted.

Having been critical, I will say that I was glad to see an announcement before the election about the length of post-study visas and to see that there will be a boost for English language teaching. How will this be paid for? Please do not lay it on local authorities. This will be for “existing migrants”, so who qualifies?

Refugees are generally very keen to learn English. I want to say a word about refugees and asylum seekers, adults and children, families and lone young people, because so much of the election seemed to focus on little England. I want to remember that there are issues of morality as well as practicality, such as the importance of a safe rather than a hostile environment. We are part of a world community. I am worried, as other noble Lords have been, about the proposal for DfID to become part of the Foreign and Commonwealth Office. Its work must not be downgraded. One reason—only one of many—is because of the impacts that conflicts and climate change will have on the movements of people.

The issues I have mentioned are in one policy area in one of the topics of today's debate, so I will allow myself one point on each of those topics to pick up some threads from the debate. Regarding a royal commission on criminal justice, we have had some mention of the proposals which the Government have already announced through the manifesto. Is that not rather pre-empting a part of the work of a royal commission? What is the basis for thinking that more

years added to a long sentence will deter or reduce the risk of terrorism? There are too many dog whistles and too much that is simplistic. On home affairs, the National Crime Agency is to be strengthened but I have not heard what that actually means. I appreciate that the Minister will not have time to go into this tonight but should our priority not be to ensure that we are involved as possible—as we currently are—in contributions to and benefits from Europol, Eurojust, ECRIS, Prüm, Schengen and European arrest warrants? On the constitution, references have rightly been made to the rule of law. I just say: yes, along with and part of that are human rights.

I end with perhaps the gloomiest thought of all, but clearly I am not alone in this: it is the paradox of the Conservative and Unionist Party so endangering our precious union.

9.52 pm

**Lord Rosser (Lab):** My Lords, I start by congratulating the noble Lords, Lord Parkinson of Whitley Bay and Lord Davies of Gower, on the quality of their maiden speeches. The noble Lord, Lord Sherbourne of Didsbury, told the noble Lord, Lord Parkinson, that as a young man he could still be in this House in 2070. I am not sure whether that was meant as a threat or a promise. The noble Lord, Lord Davies of Gower, spoke about the day of, as I understand it, his maiden speech in the House of Commons and the sudden realisation that it was also his wedding anniversary. I can say only that I am heartened to find that there are others who teeter on the brink of having to look closely at the provisions of divorce law, particularly someone who was a distinguished and forensic senior detective.

This has been an interesting and informative afternoon and evening—nearly a night as well—enhanced by Members of this House who, without drawing attention to their expertise, can and do speak with real authority on the subjects covered by this debate. I hope that the Government will reflect on the many points made and not simply forget about what has been said today immediately the debate is brought to a conclusion, a point touched on by the noble Lord, Lord Cormack.

The gracious Speech contained a number of legislative announcements. One was a sentencing Bill which, in essence, will provide for what the Government describe as tougher sentences. That appears to be code for longer periods of time in prison and more extensive conditions attached to community sentences. Many would argue that the most effective sentence—indeed, a tougher sentence—is one that reduces to a realistically attainable minimum the likelihood of the offender reoffending once they have completed their sentence. That is certainly the sentence that best protects society, since the issue of bringing down reoffending rates is surely crucial to enhancing protection of the public. Can the Government say what measures in the gracious Speech they consider are geared to reducing the rate of reoffending? Is it their view that longer prison sentences and more extensive conditions attached to community sentences will impact on offending and reoffending rates? If so, in what way and to what extent?

Assaults on prison staff have increased considerably and are at their highest level ever recorded. That hardly suggests that our prisons and prison staff are

being provided with the necessary resources to deliver effective rehabilitation programmes designed to reduce reoffending rates. There does not appear to be anything in the gracious Speech to address this issue. Indeed, if the prison population increases as a result of the terms of the proposed sentencing Bill, the position could get worse.

The gracious Speech does not appear to address the problems arising from the Government's less-than-happy reorganisation of the delivery of probation services and their apparent belief that public sector delivery is always second best. If ever there was a reorganisation that was driven by the heart rather than the head, it was that one.

The gracious Speech promises a royal commission on the criminal justice process. Is it the intention that the royal commission will cover everything from reporting a crime through to sentencing? What is it from the Government's perspective that has led them to the view that a royal commission is needed?

Of course, this is not the only commission that is apparently to be set up. There will also be a constitution, democracy and rights commission, about which much has been said today but which will not be an independent royal commission. Its role will be to ensure that checks and balances in our democracy work for everyone. I hope that proves to be the case rather than “work for the Government”, because this Government are acquiring a track record of threatening any power that challenges them, including the Supreme Court. There is a whiff of vengeance in the air, with talk of changing the arrangements for the appointment of judges and restricting judicial review. We have seen in some other countries how easy it is for democracies with effective checks and balances to have them weakened by elected leaders who believe that they should be immune from criticism or challenge. The noble Lord, Lord Young of Cookham, reminded us that constitutional reform should be done by consent.

There are also concerns over government plans for photographic identification at polling stations and the impact it may have on the likelihood of some people voting, particularly those without passports or driving licences. No one of course would condone the actions of people who vote using someone else's identity, but, as the noble Lord, Lord Rennard, has said, this does not appear to be a major problem. In addressing the issue, we should not introduce arrangements and processes that result in rather more people who are entitled to vote no longer doing so when compared with the number of cases of people voting under false identities.

On the issue of voting, can the Government say what the measures are in the gracious Speech that prevent people with two or more properties in different constituencies who are entitled to vote in each location at local elections from voting in more than one constituency at a general election? What check is there to ensure that this cannot happen, and how many people have been the subject of criminal prosecutions for voting in more than one constituency in the three general elections prior to the one last month?

The noble Lord, Lord Young, referred to the Government's commitment to a consultation on many of the same issues regarding trust in our institutions



[LORD ROSSER]

and democracy as those covered by the Democracy and Digital Technologies Committee. If I understood the noble Lord correctly, he suggested that the consultation be based on the report of the Select Committee due in June this year. I hope that I am accurate about what the noble Lord said; if I am not, I apologise in advance, but can the Government indicate their willingness to consider such a course of action in relation to that report?

A number of speakers referred to the rundown in police numbers and the pledges made to reverse the cuts. My noble friend Lord Bach spoke very powerfully on this issue, as a serving police and crime commissioner. The noble and learned Lord, Lord Keen of Elie, said the Government would be recruiting 20,000 extra officers over the next three years. As has been pointed out, to reverse the cuts since 2010, a figure of nearer 40,000 police officers will need to be recruited over three years to achieve a net increase of 20,000. Can the Government confirm that 40,000 officers will need to be recruited? Can they confirm, or otherwise, what my noble friend Lord Bach said, which is that £120 million of the £750 million the Government are likely to allocate to fund police officer recruitment will have to be funded by so-called efficiency savings after a decade of austerity?

A number of noble Lords, not least my noble friend Lord Reid of Cardowan, referred to the lack of emphasis in the gracious Speech on the current threat to the future of the union. The noble Lord, Lord Dunlop, has undertaken an independent review into the UK Government's union capability—I think he said he has completed it. I stress that I speak only for myself when saying that I feel he has been asked to carry out a finger-in-the-dyke job, and that the issue of independence for Scotland is now nearer to being a case of when, not if. I hope I am proved wrong.

In the opening speech the Government spoke about ending free movement and taking back control of our borders. What does taking back control of our borders mean when a recent tragic event has shown that a large number of people can apparently die in a container brought into this country through a recognised and established port of entry without being detected? Can the Government say which measure or measures in the gracious Speech would prevent a similar tragic event happening again? Clearly, if the Government cannot prevent people being brought into this country in containers through recognised ports of entry, they can hardly claim to be taking control of our borders.

Finally, an Oral Question today asked about children involved in county lines drugs gangs being seen as victims, not criminals, a point the right reverend Prelate the Bishop of Rochester referred to in his speech. In Wiltshire alone, hardly the most heavily populated county, police have stated that almost 100 children are at risk of being exploited by county lines gangs and £50,000 is spent on heroin and crack cocaine every day. Bearing in mind the reduction nationally in funding, to which the right reverend Prelate referred, what is there in the gracious Speech to address the growing issue of child exploitation through county lines, about which we have known for some time now? Are the Government considering a definition in law of child criminal exploitation?

Many points and questions have been addressed to the Government in this debate. Now is the opportunity for the Government to respond in a meaningful way and indicate that, at the very least, they will reflect on what has been said over the last six and a half hours or so.

10.03 pm

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** I thank the noble Lord and all noble Lords who have spoken in what has been quite a long debate today. I will try to respond in the most meaningful way that I can at this time of the night.

I start by thanking my two noble friends Lord Parkinson of Whitley Bay and Lord Davies of Gower for their wonderful maiden speeches. My noble friend Lord Parkinson and I go back quite some time. We have been involved in various campaigns. In fact, he was in the Home Office when I was a Whip under Theresa May. If he is only in his 30s, I must have first met him when he was about 10—at least, he looked about 10. I was picturing Whitley Bay when I used to go swimming there at the leisure centre; I do not know if it is still there. I was also trying to envisage what getting into the North Sea on New Year's Day must have been like. It was freezing in the summer, so on New Year's Day it must have been absolutely perishing and I admire those people who took the plunge—literally. He mentioned that he has sat in two Parliaments over 12 days of sitting; I was reflecting that I am now on my fourth Home Secretary, so we must compare firsts with each other at some point.

My noble friend Lord Davies of Gower also gave a lovely maiden speech, talking about how his maiden speech in the Commons coincided with his third wedding anniversary. I do not know the noble Lord particularly well but am very much looking forward to getting to know him. I am quite lucky because my wedding anniversary is in August, but my birthday falls in May so I am generally sitting on this Bench for it, which is a joy, obviously. I also welcome back the noble Lord, Lord Thomas of Gresford. It is good to see him back, and I echo the words of the noble Lord, Lord Carlile.

I will start with the noble Lord, Lord Kennedy, and, if noble Lords are content with this, will split the various themes that came up and try to namecheck as many noble Lords as possible—though I might possibly fail in that. The first issue raised by the noble Lord, Lord Kennedy, was the role and function of the Electoral Commission. It is the independent regulatory body responsible for ensuring that elections and referenda are run effectively and in accordance with the law, registering political parties and regulating the spending of and the donations and loans to political parties and other campaigners. The Government continue to work closely with the Electoral Commission and other stakeholders in the electoral system to protect the integrity, security and effectiveness of referenda and elections.

The noble Lord, Lord Wallace of Saltaire, along with many other noble Lords, spoke about the constitution, democracy and rights commission—how, when, what powers, scope, et cetera. I am afraid that I am about to drop the biggest damp squib of the day, given how much time has been devoted to this issue. In broad terms, the commission's role will be to examine

broader aspects of the constitution and restore trust in institutions and democracy in terms of the composition and focus that are required. There will be further announcements in due course. That is about all I can say on it this evening. The Government will always stand for democracy and the rule of law, but, with the significant constitutional upheaval we have had over the last two decades, it is vital that we maintain a balance.

My noble friend Lord Young of Cookham and other noble Lords have broadly welcomed the decision to repeal the Fixed-term Parliaments Act. It led to parliamentary paralysis at a critical time for the country, which was not good for anybody. Repealing the Act will ensure that that does not happen again. It was passed by the coalition under unique circumstances. My noble friend Lady Stowell pointed out that recent events have shown that it is not appropriate for our democracy.

The noble Lord, Lord Thomas of Gresford, spoke about the independence of the judiciary. The Government will always stand up for democracy and the rule of law. We are proud that our independent courts and judiciary are admired around the world, but it is important that we maintain a careful and appropriate balance between the major pillars of our constitution, especially given some of the upheaval we have had.

Also on the question of justice, the noble Baroness, Lady Jones of Moulsecoomb, talked about whether planned encampment legislation would be discriminatory towards the Gypsy, Roma and Traveller community. We currently have a consultation running on it in which all views, including those of the Gypsy and Roma community, will be taken into account. I recall engaging with them when I was in the DCLG, so I know that we have quite a lot of engagement with them.

My noble friend Lord Hailsham talked about the legacy of the past in Northern Ireland and the role of the Armed Forces personnel. Another noble Lord—I cannot remember who—also spoke about bringing an end to the unfair pursuit of our Armed Forces through vexatious legislation. We stated in our manifesto and in the Queen's Speech that we will bring forward comprehensive legislation on that as soon as possible, and we are committed to delivering on the Stormont House agreement.

The noble Lord, Lord Carlile, and my noble and learned friend Lord Garnier talked about delays in the criminal justice system. The number of trial cases in hand at the Crown Court at the end of 2019 was the lowest since 2000. There is not a shortage of judges; we have the lowest waiting times for trial since 2014. My noble and learned friend Lord Garnier talked about criminal justice reform and courts and prison capacity. The sentencing Bill will protect the public and provide greater confidence to victims by ensuring that serious violent and sexual offenders who receive custodial sentences will spend more of that sentence in prison. A number of noble Lords talked about the length of sentences. The Government have announced a £1 billion modernisation programme for courts, implementing 21st-century technology and improving efficiency. At the end of 2018-19, the Crown Court had 25,071 cases in hand, which is the lowest since 2000, and the Government have also announced an investment of £2.5 billion for 10,000 additional prison places.

The noble Lord, Lord Beecham, talked about the court estate and closures. Continued access to justice will be the top priority when making decisions about the future of court and tribunal buildings. The noble Baroness, Lady Kennedy of The Shaws, talked about access to justice and the impact that the constitution commission will have on that. We spent £1.7 billion on legal aid last year, and we are committed to ensuring that people can access the help they need into the future. On that point, the noble Lord, Lord Rosser, talked about reviewing access rates, legal aid and support. We are conducting a fundamental review of criminal legal aid fee schemes, which will consider criminal legal aid throughout the life cycle of a criminal case.

The noble Lord, Lord Paddick, asked about the scope for the royal commission on the criminal justice system to look at the care system and care leavers in prison. That is a good point. The Government are committed to ensuring a fair justice system that works for everyone and which commands public confidence. We value the vital work of local multiagency services in supporting children on the cusp of offending and those who have already offended, and youth offending teams are clearly central to that. The Youth Justice Board total funding for front-line services, including youth offending teams, is £72.2 million, and we continue to support residential areas to provide an environment where young people feel able to engage with integrated care, health and education services in order to progress during their time in custody.

The noble Baroness, Lady Meacher, talked about exclusion and early intervention. I do not know whether she was here for the Question that I took on this today—I do not say that to chide her—but we covered quite a lot of that today. We have announced £165 million of funding for the troubled families programme in 2021, which I am sure she will be pleased to hear about, to help more people and families get access to early, practical and co-ordinated support to transform their lives for the better. We are focusing on improving the quality of alternative provision, which came up today in Questions as well, and we have launched a £4 million alternative provision fund ahead of setting out our plans to go further in due course. We are also investing over £220 million in early intervention through the Youth Endowment Fund over a period of 10 years, and £22 million into our early intervention youth fund.

The right reverend Prelate the Bishop of Rochester asked whether there would be a definition of child criminal exploitation. There is a government definition in the *Serious Violence Strategy*, which is commonly used to describe child exploitation associated with county-lines drug dealing. Robust legislation is also in place to prosecute those who exploit children for communal purposes. In April 2019, the Government published a *Child Exploitation Disruption Toolkit*, which provides front-line practitioners with tools to disrupt child exploitation.

The noble Lord, Lord Beith, asked whether the Intelligence and Security Committee would be constituted in time to scrutinise the espionage Bill and make recommendations to both Houses. We appreciate and recognise the important role that the committee will

[BARONESS WILLIAMS OF TRAFFORD]

play in scrutinising national security legislation, and we are confident that that will be the case. He also asked where the courts and tribunals Bill was. We are committed to modernising the whole criminal justice system, as I have previously outlined, and to ensuring that it is fit for purpose. We will bring forward any necessary legislation to ensure that that happens.

The noble Lord, Lord Kennedy, asked whether the Domestic Abuse Bill will be accompanied by the necessary resources. We will of course ensure that the appropriate funding is there to meet the new duty.

The noble Lord, Lord Kerr, asked whether economic integration on the island of Ireland will lead to political integration. It remains firmly the Secretary of State's view that a clear majority in Northern Ireland continues to support the current settlement, as my noble friend Lord Caine pointed out, and that the circumstances for a border poll are not satisfied. I thought that he explained it very satisfactorily in more detail.

The noble Lord, Lord Kerr, also asked about the Government refreshing strands 2 and 3 of the Belfast agreement, both to give some democratic legitimacy to the continued existence of some aspects of EU law in Northern Ireland and to ensure that Northern Ireland is represented in deciding these laws. The UK Government's priority remains the restoration of devolution in Northern Ireland. The Secretary of State for Northern Ireland is engaged in intense negotiations with all the parties to get Stormont back up and running before the current 13 January deadline.

Both the noble Lord, Lord Kerr, and the noble and learned Lord, Lord Wallace of Tankerness, asked about the representation of the devolved Administrations in negotiations on our future relationship. We recognise the need for their close involvement in negotiations on our future relationship with the EU in order to deliver a satisfactory outcome.

The noble Baroness, Lady Humphreys, and my noble friend Lord Davies of Gower asked about the UK Government's commitment to delivering economic growth in Wales. We are committed to supporting a strong Wales within a strong United Kingdom across a wide range of areas. That includes providing significant investment in city and growth deals across the whole of Wales to deliver that real, long-term growth to the respective regions. We are providing £790 million of investment in city and growth deals covering the whole of Wales, including £500 million to the Cardiff capital regional deal, which will provide an investment fund to the region and support the electrification of valley lines railways, and £150 million to the Swansea Bay city deal. We have also committed £120 million and £55 million respectively to allow the north Wales and mid-Wales growth deals to be agreed. Finally on Wales, there is the A55, a road on which I have travelled many times—and a beautiful road it is. I can announce that on Monday, the new Secretary of State for Wales met with the Welsh Government Minister for the Economy and Transport to discuss transport improvements in Wales.

My noble friend Lady Eaton talked about the publication of the devolution White Paper, including work with local authorities and the Local Government

Association. It will be published this year as per our manifesto commitment, and we are absolutely committed to working with all relevant sectors and stakeholders.

My noble friend Lord Dunlop gave us a taster of some of things we should think about in terms of strengthening intergovernmental relations. I look forward to reading his report, which the Government will of course consider in due course.

My noble friend Lord Young of Cookham and the noble Lord, Lord Rennard, talked about when and why we are introducing compulsory voter ID. It will not be implemented before May 2020 and I am sure that they will support the premise that electoral fraud is absolutely unacceptable. It strikes at the principle of, and undermines, democracy, because everyone's vote matters. I know that, having lost Bolton West by 92 votes. We already ask people to prove who they are before they collect a parcel, claim benefits or rent a car. You need two forms of ID to get into a Labour Party meeting, so I think that it is reasonable to take the same approach to voting rights. The noble Lords, Lord Rennard and Lord Rosser, asked for examples. I do not have any to hand but I shall see if we have any data and I will provide them for both noble Lords.

The noble Lord, Lord Paddick, asked about Section 60 and the response reports showing the lack of efficacy and negative effect on young black men. The police believe that stop and search can play an important role in fighting crime. The Government have listened to the police and eased voluntary restrictions on the use of stop and search. That means that officers can authorise these powers, and for longer, but he is absolutely right that no one should be targeted due to their race. However, the use of legal powers to protect those most at risk has to be right, so obviously a clear balance has to be struck.

The noble Lord, Lord Carlile, asked about the reform of the 43 police forces, which struck a chord with me. He gave an example of how regional structures work quite well and I am thinking, of course, about the regional organised crime units that operate extremely well. The more efficiency and less disjointed working across the 43 forces, the better, and actually the more financially efficient they will be as well. There is greater ambition for policing to work as one system to manage new threats and to deliver consistently high standards. Obviously, the recruitment of 20,000 extra officers will help to deliver that commitment.

The noble Lord, Lord Paddick, also asked about police corruption, which increased during the 1990s following the last major recruitment drive. It might help him to know that the vetting rules were put under a statutory code of practice under this Government in 2017, and we are working with forces to ensure that these stringent standards are applied as they increase their recruitment. The noble Lord, Lord Bach, supported by the noble Lord, Lord Rosser, asked whether the figure of £750 million was correct, was it not closer to £630 million with an expectation on PCCs to realise efficiencies, and how much would go directly to them. We have committed to increasing investment in policing by £750 million next year to support the unprecedented commitment to recruit an additional 6,000 officers by



March 2021, and details of the allocation of funding will be set out very shortly in the police funding Statement.

Other questions were put to me on immigration but I have been speaking for 20 minutes and I am aware that another debate is happening next. If there are a few questions that I have not responded to, I hope that noble Lords will be okay if I respond to them in writing. Again, I thank all noble Lords who have taken part in this debate.

*Debate adjourned until tomorrow.*

## European Union (Withdrawal) (No. 2) Act 2019

### *Motion to Take Note*

10.24 pm

*Moved by Lord Callanan*

That this House, for the purposes of section 2(2)(b) of the European Union (Withdrawal) (No. 2) Act 2019, takes note of the *Report under section 2(1) of the European Union (Withdrawal) (No. 2) Act 2019*, published on 8 November 2019.

**The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con):** I will give noble Lords not entranced by the prospect of a further European Union debate at this time some more moments to leave the Chamber.

My Lords—I hesitate to use the plural—I beg to move the Motion standing in my name on the Order Paper. As this is my first appearance at the Dispatch Box since last term, I begin by wishing all noble Lords a very happy new year.

In moving these Motions today, the Government are meeting the legal obligations placed on them by Section 13 of the European Union (Withdrawal) Act 2018 and the European Union Withdrawal (No. 2) Act 2019, or the Benn Act. For the benefit of the House, I will set out—briefly, given the late hour—how these obligations have arisen.

Noble Lords will no doubt recall that on 19 October last year, the other place considered a Motion seeking approval to leave the EU with the deal negotiated by the Prime Minister. An amendment was tabled to that Motion in the other place in the name of the then Member for West Dorset, which was subsequently passed. As a result of the amendment being passed, under the terms of Section 1(3) of the Benn Act the Government were required to seek an extension to the Article 50 period to 31 January. As a result of this extension being granted, the Benn Act then required the Government to publish a report by 30 November “explaining what progress has been made in negotiations on the United Kingdom’s relationship with the European Union.”

The vote on 19 October also engaged Section 13(4) of the European Union (Withdrawal) Act 2018, which requires the Government to

“make a statement setting out how Her Majesty’s Government proposes to proceed in relation to negotiations for the United Kingdom’s withdrawal from the EU.”

The Government complied with both requirements on 8 November, with the report and Statement made available on GOV.UK and provided by the Printed Paper Office for the convenience of your Lordships. Under the Benn Act and Section 13 of the European Union (Withdrawal) Act, the Government were then required to move a Motion in relation to those reports in five calendar days and seven sitting days respectively. That is why we are here today. I know noble Lords will have noticed that we have somewhat exceeded the five-day deadline. The Dissolution of Parliament prevented this debate taking place sooner, but the Government have sought to comply with the law as soon as practically possible.

For the benefit of noble Lords who have not read the statement and report, they make clear that the Government have no further plans for renegotiations. This is for the very simple reason that the Government had, and continue to have, no plans to further renegotiate the terms of our exit. So, despite the fact that a deal was already in place and we are now in the process of legislating for the implementation of that deal, it is a legal necessity for us to consider these Motions. As noble Lords will know—I repeatedly said it during the passage of those Acts—the Government will always comply with the law.

Having dispensed with these Motions today, in short order this House will be asked to consider provisions in the withdrawal agreement Bill that seek to repeal both Section 13 of the European Union (Withdrawal) Act 2018 and the European Union (Withdrawal) (No. 2) Act 2019. I hope that when these matters are considered in this House, noble Lords will agree with me that these requirements are no longer necessary and that, whatever one’s view on Brexit, they have served their purpose and it is now time for us to move on.

Section 13 of the European Union (Withdrawal) Act 2018 and the European Union Withdrawal (No. 2) Act 2019 have detained the UK in the EU, and us in this House, for many hours already. This debate is about a government report and statement that make clear that we have no further plans to renegotiate the terms of our exit—a position clearly supported in the general election. So given the late hour, I will not seek to delay the House any longer than required as we dispense with these necessary legal obligations.

10.28 pm

**Baroness Ludford (LD):** My Lords, we are an even more select little club than anticipated. I thank the Minister for that introduction, but I am just a little puzzled by Section 13 of the 2018 Act being proposed for repeal under the WAB, the current withdrawal agreement Bill. The statement says:

“The Government has no plans to have further negotiations” on the withdrawal agreement, which I understand and recognise. But the Explanatory Notes to the withdrawal agreement Bill say that Section 13 is proposed for repeal to

“ensure that the Withdrawal Agreement can be ratified in a timely and orderly manner, and to remove provisions that are no longer needed.”

That clouded my brain, although it may be the late hour. Are the Government saying that the provisions in Section 13 of the 2018 Act are not needed because

[BARONESS LUDFORD]

the withdrawal agreement Bill overtakes it? It is a little unclear. I recognise that the withdrawal agreement will not be reopened but the Explanatory Notes appear slightly to cloud the picture as to exactly why Section 13 is being repealed to allow the withdrawal agreement to be ratified in a timely and orderly manner. As I say, it may be that I am puzzled due to the late hour.

I turn now to the Benn Act, as we all call the European Union (Withdrawal) (No. 2) Act 2019. Will the Minister explain why the whole Act is proposed for repeal? What about Section 2(5)? It says:

“The Secretary of State shall make a further report ... at least every 28 calendar days starting on 7 February 2020 either until an agreement with the European Union is reached or until otherwise indicated by a resolution of the House of Commons.”

The point is that Section 2 of the Benn Act has the heading:

“Report on progress of negotiations on the United Kingdom’s relationship with the European Union.”

Unlike the 2018 Act, which goes on to refer specifically to the withdrawal agreement and the political declaration, it seems to me that this provision is not limited to the withdrawal agreement and the political declaration. It talks only about the progress of negotiations on the UK’s relationship with the European Union. Surely that extends to negotiations on the future relationship. I do not appreciate how this Act—particularly Section 2(5), which talks about future reports—can be deemed ripe for repeal in these circumstances. Perhaps the Minister will reply on that.

This is particularly apposite given that, as we will discuss next week, the December version of the withdrawal agreement Bill removes what was in the October version about parliamentary oversight. It rips away what was in the October Bill because the Government say that, because they have a mandate now, they do not need any continuing parliamentary accountability on the progress of negotiations on the future relationship, and it rips away the Benn Act as well. It is not clear to me why this is, because Section 2 of the Benn Act is not limited to the withdrawal agreement. Will the Minister explain?

Finally, I thank the *Daily Mirror* for drawing my attention to something called the Regulatory Policy Committee. I had never heard of it but apparently it is an independent body sponsored by BEIS which issues opinions on the quality of departments’ assessments of the potential impacts of regulatory proposals. It gave an opinion on the impact assessment that the Government issued on the October version of the withdrawal agreement Bill. Given the short time available, the committee decided not to give a rating and to suspend judgment on whether the impact assessment was or was not fit for purpose, but it identified a number of areas where it could benefit from improved evidence to the level that the Regulatory Policy Committee would normally expect to see.

It therefore gave the Government a pass in October, recognising that everything was done in a hurry. It was particularly worried that there was a lack of quantification of the impact on business of the regulatory requirements under the Northern Ireland protocol, and stated that “if significantly more time was available ... we would expect the Department to expand the analysis and submit a revised IA”

for RPC scrutiny. This has not happened, so yesterday the RPC issued another statement:

“The Government have not revised the October IA to reflect either the comments in our October opinion or the changes made to the Bill at its re-introduction to Parliament in December. Our opinion, therefore, remains that the quality of evidence in the IA is not at the level that we would expect to see in a final stage IA.”

This brought some rather robust comments from my colleague in the other place, Alistair Carmichael, who said:

“At every step of the way, the Tories have tried to disguise the damaging and dangerous consequences of their Brexit plans. The Government must stop running away from the false promises that they have made and be honest with the public about what they have in store for them with their hard Brexit plan. It’s about time that Boris Johnson started being honest with our people, rather than hiding the true price of a hard Brexit. What do they have to hide?”

I bat that question to the Minister, to answer if he would.

10.36 pm

**Baroness Hayter of Kentish Town (Lab):** My Lords, this debate could have been, and—the noble Baroness, Lady Ludford, is right—should have been, about the state of the negotiations with the EU. It was not simply about the withdrawal deal, although the agreement did include the political declaration, and that is essential to the discussions that are going on. That is what we should have been debating this evening, and we should have had an update from the Government. Instead, as the noble Baroness indicated, we are faced with a Bill that shuns all such future requirements for reporting to Parliament. Indeed, it is hard to reconcile Clause 38(1) of the withdrawal Bill, which recognises

“that the Parliament of the UK is sovereign”,

with the rest of the content of the Bill, which takes mammoth powers to the Executive and away from Parliament.

It repeals the Benn/Cooper requirements to report to Parliament, it disapplies CRAg for the withdrawal deal, it abolishes the meaningful vote for the withdrawal and final deals, and it deprives Parliament of any say on whether the implementation period should be extended, other than what is in the Bill. Of course, that is a decision taken before we have left, before the interests of the devolved Administrations have been taken into account, before we have seen any negotiating mandate—either from the EU or from our Government—and before we know how such negotiations are progressing, or what obstacles, from Northern Ireland or elsewhere, may stand in the way of a satisfactory agreement. So, before all that, the Government have decided to rule out any possibility of an extension. Yet only in October, Robert Buckland promised the Commons that the Government would bring forward an amendment to “allow Parliament to have its say on the merits of an extension of the implementation period”.

The Government claim that the Bill will “ensure Ministerial oversight of the Joint Committee”.

Of course, the Joint Committee is in the withdrawal deal, not in the political declaration. So the Bill will ensure ministerial oversight of the Joint Committee, but not parliamentary oversight of what our EU Committee calls

“a uniquely powerful and influential body”,

which can even amend the withdrawal agreement. These are issues that should be reported here for discussion.

So in future we will have no MEPs in the European Parliament and, under this Bill, no British parliamentarians will be able to consider and debate the actions of the Government and the Joint Committee other than take-note Motions. This absence of political oversight goes beyond the Joint Committee, beyond the implementation date of the withdrawal deal and beyond the implementation of the deal itself. Parliament will lose its role on the mandate for and progress of negotiations on our trading, diplomatic, cultural, consumer, environmental and security relations with the EU. There will be no MEPs to put the British view in Strasbourg and we will not be allowed a view here. It is taking away what in the earlier Bill was an undertaking that Parliament would have some input into these talks. That means that Parliament will be left with only take-note debates or responses to Ministerial Statements. That is not proper scrutiny and of course leaves the devolved authorities out of the game altogether.

As we have said, the withdrawal deal may be implemented through this Bill, but there is the political declaration, which was part of the agreement reached with the EU. That is the framework for future negotiations. Those negotiations will not be quick or easy, but the Government still seem to think that they can complete them within the timeframe that they have dictated, regardless of advice from anyone else. The Commission warns that

“reaching a final agreement usually takes several years. It involves over 30 stages.”

Michel Barnier says:

“It is unrealistic that a global negotiation can be done in 11 months, so we can’t do it all”—

only the “vital minimum” to establish a relationship with the UK.

Sabine Weyand, the deputy negotiator, thought that there would be only a “bare bones” deal covering only goods, which will itself cost money for people trading in goods. But more importantly, most goods now also have an element of service, whether intellectual property, servicing of what is sold, expertise or data movement. These are all issues that were covered in the Benn Bill expectations of what would be brought here, but they are not being discussed by us.

The Institute for Government reckons that

“it will not be possible to complete everything necessary to leave with a deal”,

because of course it is not just the negotiations but the practicalities that have to be sorted out in 11 months, which means that we will be only partially ready by December.

David Henig from the UK Trade Policy Project says that for a free trade agreement to come into force on 1 January next year, the political agreement would be needed by October this year. There is not just the issue of implementation; it will need ratification by national parliaments in many cases and sometimes by regional parliaments. So an even louder clock is ticking than we talked about before. Professor Catherine Barnard reckons that these agreements usefully take 48 months, not a mere nine months—what the British Chambers

of Commerce called a “crazy rush”. Today, we heard from no less than the President of the Commission, Ursula von der Leyen, that striking a comprehensive trade deal before the end of the year was “impossible”.

But the Prime Minister just will not listen to that, and he reiterated that he wanted a broad free trade agreement covering goods and services by 31 December, and that any future partnership must not involve any kind of alignment. That is at complete variance with what the Commission president said. Although she would like to

“design a new partnership—zero tariffs, zero quotas, zero dumping” and a partnership with the UK that

“goes well beyond trade and is unprecedented in scope”, she said that

“without a level playing field on the environment, labour, taxation and state aid, you cannot have the highest quality access to the world’s largest single market.”

That is what we face at the moment without any debate in Parliament.

Business understands the need for alignment. In October, the car sector, chemicals, food and drink, pharmaceuticals and aerospace warned of “serious risk” to competitiveness and

“huge new costs and disruption”

if the Prime Minister ended regulatory alignment, and five trade bodies, worth £98 billion to the economy between them, urged the Government to recognise the “importance of continued regulatory alignment in negotiations” on a deal and not to tear up regulations which enable them to work with EU customers and suppliers. This is vital for the future of our economy. These are debates which should be happening here on more than just take-note Motions.

I find it quite hard to understand the objection to a level playing field with our largest trading partner. I find it even harder to imagine that that is a slogan. I was staggered that just before Christmas there was a demonstration outside Parliament with printed posters that called for “No level playing field”. This is a strange way to negotiate and to think about the future of our economy.

This debate was called to take note of the negotiations. They are not formally in place, but they are clearly happening in shadow form, with the Prime Minister already sketching out his objectives. As I have just said, those objectives are at variance with what might be possible and he does not plan to present them to the Commons for approval. That is typical of the withdrawal agreement Bill, which will severely undermine parliamentary democracy. The Minister seems to think it is enough to say that this is a take-note on something that was published some months ago. He really has to do better to reassure the House that our withdrawal is not going to happen simply under governmental diktat rather than with parliamentary approval.

10.46 pm

**Lord Callanan:** My Lords, I thank the noble Baronesses for their points. I am grateful that they have taken the time at such a late hour.

As I set out in opening, the Government continue to have no plans further to renegotiate the terms of our exit and we will always obey the law. Of course it



[LORD CALLANAN]

was necessary to consider the Motions before us this evening, even though we are now in the process of legislating for the implementation of the deal. That is currently in the other place and will come to this House next week.

On the specific points asked by the noble Baroness, Lady Ludford, on the repeal of Section 13, there is no need for a further meaningful vote in Parliament. The public showed in the general election that they want to get Brexit done and to leave the EU with a deal on 31 January. The Bill will give Parliament the chance to repeal the conditions under Section 13 set out in the previous Parliament.

With regard to Section 19, we think it is unnecessary law, and it has no legal effect in practice. For this reason, it is being repealed. We have complied with the Article 50 extension requirements under the Benn Act, and we will shortly comply with the outstanding debate requirement. Beyond that, the Act serves no useful purpose, and there is no reason for it to stay on the statute book.

With regard to the repeal of the Cooper Act, the duties in the Act have been spent and no longer have any legal effect. The Act therefore has no future purpose and there is therefore no reason for it to stay on the statute book.

The noble Baroness's point on Section 2(5) of the Benn Act was that, for further reports, it would apply only if the Commons defeated or amended the Motion referenced at Section 2(2), which it has not.

I move on to the points raised by the noble Baroness, Lady Hayter. She referred to a further parliamentary vote on extending the implementation period. As she will understand, we will not be extending it. That was a commitment in the Conservative Party manifesto. As I am sure she has noticed, we won the general election on that commitment and therefore will not extend the implementation period. There is therefore no need for Parliament to have a vote on doing so.

I take the opportunity to reassure her that we are completely committed to parliamentary accountability. Ministers—whether me or others—will be here to answer questions on these topics, reply to debates in this House and appear in front of committees and so on of this House and the other place. Of course, the

normal rules of parliamentary procedure will apply. In fact, we are essentially reverting to the procedures that operated under a previous Government involving her party—those of normal parliamentary scrutiny. There is no need to put special provisions on to the face of the Bill or into statute telling Parliament how it can carry out its role of scrutinising the Government.

I am sure that we will have extensive debates about ratification of the future relationship next week and probably in future weeks to come. The noble Baroness made some very interesting points about regulatory alignment. Again, as we have discussed many times, I do not agree with her on that, but this is really not the occasion to have those debates. There will be plenty of opportunity for them during the passage of the legislation over the next two weeks and indeed on many future occasions. Given the lateness of the hour, I think that now is probably not the appropriate time to go into all those details. I am sure that we will have those discussions in full in the future and it therefore probably makes sense for us to complete this debate.

We all look forward to the many hours that we will spend in this place considering the withdrawal agreement Bill, when, I am sure, this and many other related points will be raised and the Government will be provided with the appropriate scrutiny by the Opposition.

*Motion agreed.*

## **European Union (Withdrawal) Act 2018**

*Motion to Take Note*

10.51 pm

*Moved by Lord Callanan*

That this House, in accordance with the provisions of section 13(6)(b) of the European Union (Withdrawal) Act 2018, takes note of the Written Statement titled “Statement under Section 13(4) of the European Union (Withdrawal) Act 2018”, made on 8 November 2019.

*Motion agreed.*

*House adjourned at 10.52 pm.*



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