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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

House of Lords

Wednesday 22 January 2020

3 pm

Prayers—read by the Lord Bishop of Birmingham.

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.

Gift Vouchers

Question

3.07 pm

Asked by ***Baroness Hollins***

To ask Her Majesty's Government what assessment they have made of the case for (1) prohibiting expiry dates on gift vouchers, (2) requiring retailers to notify purchasers of any expiry dates, and (3) requiring retailers to publish the proportion of vouchers sold that are not redeemed.

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 strongly encourage businesses to be transparent with consumers over voucher expiry dates. This is backed by legislation which enables consumers to challenge unfair terms. Many retailers offer vouchers which do not expire and, where expiry dates are used, we strongly encourage businesses to stipulate at least two years. There are no plans for further legislation.

Baroness Hollins (CB): My Lords, I thank the Minister for that helpful Answer. How many noble Lords are aware of people with date-expired gift cards at home, people whom the Competition and Markets Authority defines as vulnerable consumers, perhaps elderly or with learning difficulties? Will the Government consider emulating Ireland's Consumer Protection (Gift Vouchers) Act 2019? That mandates a minimum five-year expiry date for all gift vouchers, and for the expiry date to be clearly communicated to the consumer on the voucher, not just in small print on the receipt, which is usually held by the purchaser.

Lord Duncan of Springbank: The noble Baroness was kind enough to meet me yesterday. I now appreciate more fully the issues she raises regarding vulnerability, the elderly and those with learning disabilities. We have in the past worked with the UK Gift Card & Voucher Association. After this discussion, if the noble Baroness is willing, I will put the *Hansard* record of this Question to it, to encourage it again to strengthen the information which it puts on the cards and consider how to address this quite complicated but none the less important issue.

Lord Naseby (Con): Is my noble friend aware that for those of us who are grandparents, gift vouchers are a very useful gift which the receiver can choose what they do with? Would it not be impossible for the retailer to indicate to the consumer when they buy the gift voucher exactly when it expires? I declare an interest, having a daughter who runs a very successful cookware shop. I cannot see how, when she is serving customers, she would have the time to emphasise on each occasion a gift voucher is purchased that it has an expiry date.

Lord Duncan of Springbank: I must admit that since my grandparents passed away, I have not received a postal order. I am aware that the challenge is that the gift voucher is often given but the details are held by the purchaser. There is a dislocation between what is on the voucher and what is on its receipt. That is why, in working with the UK Gift Card & Voucher Association, I would like there to be a stronger connection between the voucher itself and the information about it, which should be readily determined. I strongly encourage the association to ensure this.

Lord Brooke of Alverthorpe (Lab): My Lords, given that it is possible to make changes so that there can be clearer identification regarding the voucher, the purchaser and the person who receives it, is it not possible to develop a system in which we can try to persuade better corporate responsibility, so that if in fact a voucher is not redeemed its cash equivalent is paid to a charity?

Lord Duncan of Springbank: That is an interesting idea. I will take it away and give it further thought.

Lord Foster of Bath (LD): My Lords, although unexpired and unused, my One4all gift card that was originally worth £40 is now worth only £25.60. I discovered in the small print that each month after 18 months an inactive balance charge of 90p is deducted from the card. Other owners of the cards have described this as a scam and, not surprisingly, 68% of users have given them the lowest possible rating on Trustpilot. I am not asking for the Minister's sympathy, but can he at least tell us who makes the rules that enable that to happen and say whether they should be changed?

Lord Duncan of Springbank: I do indeed offer sympathy to the noble Lord for his heartfelt pain in this regard. He is correct: certain voucher providers will, through inactivity, seek to deduct money from the value. There is a recognition that a card can be part of the bottom line of a company only once it has been redeemed or the expiry date has passed, so there is a logic there. However, the very act of penalising somebody for not using their card sounds both pernicious and unpleasant.

Lord Watts (Lab): My Lords, why should there be any limit whatever on a voucher? After someone has passed their money over to a shopkeeper and the shopkeeper has given them a receipt for goods to buy at a later date, why should they not be able to use it whenever they want?

Lord Duncan of Springbank: The logic seems to be there but the reality is that the provider of the voucher cannot add the value to their bottom line—they cannot redeem its value—until either after the expiry date or the voucher is used. Large companies can often extend the expiry period for five to 10 years, but smaller companies would struggle to do so as they would simply lose the money and not be able to recoup it in due course.

Baroness Neville-Rolfe (Con): As a former retailer, I remember debates about the accounting treatment of these vouchers. However, I want to make a different point concerning competitiveness. Often vouchers are for British stores, but a modern move is to give people vouchers for major US internet retailers. I worry that, if we were to bring in new regulation, that trend might be encouraged and some of our smaller retailers that we try to shop at would be affected.

Lord Duncan of Springbank: My noble friend is correct. It is a challenge when we live in an internet age that connects the global marketplace in a competitive sense with smaller businesses on the high street, so we need to be cautious. However, I hope that any rules in this regard would be of the highest possible standard to ensure that people who received gift vouchers did not find themselves penalised by holding them.

Lord McNicol of West Kilbride (Lab): My Lords, I looked in my wallet before coming to this debate and noticed that I had two gift vouchers from Christmas. I am not quite sure what they say about me: one is for Greggs, the bakers, and one is for Waterstones. Nitecrest has estimated that 98.6% of gift vouchers are spent within the first year, but since the market for gift vouchers is worth around £6 billion, that means that about £84 million is not spent within the first year. Do the Government know what proportion of people who fail to spend their gift vouchers come from low-income households? If they have the answer to that, what measures, if any, are they looking to take to help support consumers and customers?

Lord Duncan of Springbank: The noble Lord clearly has kind friends who give him Greggs vouchers and Waterstones vouchers: food for the heart and for the mind. At present, some £300 million in gift vouchers per year is unclaimed out of a £6 billion retail offering. Quite often they are lost—they have not been redeemed because they have simply been misplaced. I do not have the figures, and I do not believe the figures have been gathered, on those who come from low-income families, but I recognise that this is still 5% of the overall market, which is way too high. We need to find a way to ensure that the value of these products is not lost, particularly when low-income households are affected.

Lord Harris of Haringey (Lab): My Lords, I refer to my interests in the register. Has the Minister considered the position when vouchers are purchased in good faith from organisations that promise experiences of various sorts, but when the recipients of those vouchers try to redeem them they find there are specific circumstances in which the experience has to take place, be it skydiving—not something that I personally wish to indulge in, in consideration of the security of everyone below—or whatever bizarre thing people might wish to do? Has the Minister considered whether there should be some expectation on those selling these vouchers that they are genuinely redeemable?

Lord Duncan of Springbank: Part of the problem with the experience voucher is that it is often specific and limited within a given season or period. I suspect that skydiving is more limited to the summer months so, should noble Lords wish to experience that, their time is yet to come. I recognise that the experiences need to be much more transparent to ensure that those vouchers can be redeemed within the allotted time and those experiences are fully enjoyed—even for those underneath the skydivers.

Violence Against Journalists

Question

3.16 pm

Asked by ***Lord Black of Brentwood***

To ask Her Majesty's Government what steps they are taking to ensure that those responsible for violence against journalists in the Commonwealth and globally are brought to justice; and what discussions they have had (1) with the government of South Sudan about the death of Christopher Allen and (2) with the government of Malta about the death of Daphne Caruana Galizia.

Lord Black of Brentwood (Con): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare my interests as a chairman of the Commonwealth Press Union and patron of the Rory Peck Trust, and draw attention to my other media interests.

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): My Lords, the United Kingdom condemns violence against journalists in the strongest possible terms. We launched the global campaign for media freedom in partnership with the Canadian Government, in November 2018, to shine a spotlight on media freedom and raise the costs for attacks on journalists. We remain closely engaged with authorities in both South Sudan and Malta on these cases, and are clear that all responsible must be held to account.

Lord Black of Brentwood: I thank my noble friend the Minister for that Answer. Is he aware that, over the last two years, 125 journalists worldwide have been murdered in pursuit of their work, often in direct retaliation for uncovering wrongdoing? Shockingly, virtually all these killings have gone unpunished, as democracies around the world fail to properly investigate them and bring perpetrators to justice—a failure which simply fuels further attacks. The brutal murders of

Daphne Caruana Galizia in Malta and UK citizen Christopher Allen in South Sudan in 2017 highlighted the terrible human tragedy of such impunity. Does my noble friend agree that it is unacceptable that their families have not received justice? Is it not particularly intolerable that there has been no independent investigation into the vicious killing of Christopher Allen by government soldiers as he did his job bearing witness to conflict? As the Minister says, the Government are laudably committed to protecting journalists around the globe. Should they not live up to that commitment by ensuring justice for these families?

Lord Ahmad of Wimbledon: I first thank my noble friend for drawing attention to these important issues and pay tribute to his work in defending journalists and media freedom around the globe. He talked of the 2018 figure of 125 journalists murdered. While this remains a very deep concern, I note that the figure dropped last year—to 59, I believe. However, this should not provide for any sense of complacency. My noble friend draws attention to two particular cases. In the instance of Malta, judicial proceedings are under way. Let me assure my noble friend that we are providing full support to the family and have made representations repeatedly to the Maltese Government. On the tragic killing of Christopher Allen, I am sure that all noble Lords join me in once again conveying our deepest sympathy to his family. I assure my noble friend that we are working very closely with the United States and continue to press South Sudanese authorities on this case. Most recently, Her Majesty's ambassador met the South Sudanese Defence Minister and raised the issue, and my colleague, the Minister for Africa, met the family directly.

Lord Collins of Highbury (Lab): My Lords, we should not forget that this is not just about people who have been murdered and killed and suffered judicial issues; there are a lot of journalists who have been imprisoned that we should be making representations about, including in countries such as Egypt. One of the problems with the Minister's longevity in post is that he is responsible for taking forward a number of the initiatives that previous Foreign Secretaries have launched, one of which is of course the global media freedom campaign. I would like to hear from the Minister just how he is going to ensure that that campaign is sustainable, given that the Foreign Affairs Committee down the other end did not believe that it was—the conference cost half the budget. As we lead up to the Commonwealth Heads of Government Meeting in Rwanda, just what is he doing to ensure that the commitments he made at that conference are made by the Commonwealth Heads of Government in ensuring media freedom?

Lord Ahmad of Wimbledon: My Lords, the noble Lord pointed to my longevity in office, and I thank him for his support during that time. Yes, I am serving under my third Foreign Secretary, but the fact is that that campaign, launched by the former Foreign Secretary, and indeed the girls' education campaign, launched by the then Foreign Secretary who is now serving as Prime Minister, show that these campaigns are not just down to one individual who may lead a department but are important on the broader issue of human rights.

On the media freedom campaign, he is right to draw attention to the conference. There was a follow-up during high-level week where I, together with the Foreign Secretary's envoy, Amal Clooney, and the Prime Minister of Sudan, launched a side event on this particular issue. We as the UK have committed over £4.5 million to this project and an additional £3 million over five years to the Global Media Defense Fund. As the noble Lord will know, we are working directly with the special envoy, Amal Clooney, the noble and learned Lord, Lord Neuberger, and the noble Baroness, Lady Kennedy, to discuss the legal dimension to the threats that journalists face. He is right to point out that it is about not just journalists who are killed but those journalists who are in prison simply for doing their job

Baroness Northover (LD): My Lords, as the Minister knows, I have raised with him the case of Christopher Allen several times, initially at the request of Lord Ashdown. If the FCO is indeed to defend journalists, it needs to pursue this case more vigorously. Christopher was a dual US/UK national, but the FCO did not follow the correct procedures when his family requested help. I would like to know what formal investigation of that failing in the FCO has occurred, and whether the Minister will agree to meet the family to take the case forward.

Lord Ahmad of Wimbledon: My Lords, on the latter point, as the noble Baroness will know, of course I would be willing to meet the family. I suggest, as I said in my original Answer, that my colleague the Minister for Africa is also present, who most recently met with Christopher's cousin. I assure the noble Baroness that, if there have been any shortcomings in our approach, we always take that issue very seriously. I am constantly looking at issues of consular assistance to ensure that we not only respond accordingly to citizens when a particular tragedy befalls them but offer them support afterwards. On this particular issue, we want to link the support that we are providing through legal expertise to journalists with how we can bridge the gap and support those families where, tragically, the journalists themselves have been killed.

Baroness Coussins (CB): My Lords, does the Minister accept that there is an equally strong case for additional and specific protection for interpreters working alongside journalists, particularly in conflict zones, where the journalists could not do their jobs unless the interpreters were working with them? The protection that interpreters get as civilians under the Geneva convention is regarded as inadequate because they are not ordinary civilians in this context. Does the Minister agree that a good place to start would be to persuade the UN Security Council to agree a specific resolution on the protection of interpreters in conflict zones that mirrors the resolution that already exists on the protection for journalists?

Lord Ahmad of Wimbledon: I pay tribute to the noble Baroness's work in this respect. She and I have spoken on this subject on a number of occasions and she knows my specific views. I support the fact that there are many translators who act in support of not just journalists but other parts of government and NGOs on the ground, and we should look to afford them protection. She mentions the UN Security Council. There are always challenges around getting a specific resolution passed, but I assure her that these discussions are taking place with my colleagues and with counterparts from other countries at the UN.

BBC Charter Review

Question

3.24 pm

Asked by ***Lord Blunkett***

To ask Her Majesty's Government what plans they have to review the continuation of the BBC Licence fee at the next BBC Charter Review.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, the royal charter maintains the licence fee funding model until the end of the charter in 2027. However, the Prime Minister has indicated that the Government will consider the licence fee funding model in the long term. In addition, under the charter, the BBC has committed to consider how alternative funding models such as subscription could supplement licence fee income. The results of this will feed into the next charter review.

Lord Blunkett (Lab): My Lords, I am very pleased to follow the Question put by the noble Lord, Lord Black, on press freedom. It is one reason why the BBC as an institution, and its funding model, are held in such high esteem across the world. Is it not possible to criticise, for instance, the BBC for being too metropolitan or Radio 4 for being too miserable and at the same time defend not only its right to independence but its ability to hold senior politicians to account in a vigorous fashion? Will the Minister at least join me, and hopefully the whole of this House, in thanking the noble Lord, Lord Hall, for his stewardship in guiding the BBC over a very difficult and turbulent seven years?

Baroness Barran: My Lords, I am delighted to join the noble Lord in thanking the noble Lord, Lord Hall, who I do not think is in his place. I echo the words of my noble friend the Secretary of State in acknowledging, and thanking him for, his extraordinary contribution to public service broadcasting. On the noble Lord's wider point, there is no question but that this Government strongly support the BBC's mission to bring impartial news and hold politicians to account, not just in this country but to global audiences, including in some of the most remote parts of the world, and particularly where free speech is limited.

Lord Grade of Yarmouth (Con): My Lords, there is talk of the Government looking at decriminalising non-payment of the licence fee. In 2015, Mr David Perry QC produced an exhaustive and comprehensive report. The Conservative Government of 2015 accepted his recommendation, which was to leave things alone. What has changed?

Baroness Barran: My Lords, the Government have said that we will review whether or not non-payment of a TV licence fee should be decriminalised. We will set out the steps on how we will approach this in due course. My noble friend is vastly more expert in this area than I am. I think two key things have changed: first, the broader landscape of what media is available and how we consume it has changed out of all recognition, and secondly—I am sure a number of noble Lords heard what I heard on the doorstep—this is a real concern for people. As a Government, we want to listen to the people who voted for us.

Lord Birt (CB): My Lords, I too pay tribute to the assured and inspiring stewardship of the noble Lord, Lord Hall, as director-general of the BBC. On Monday, the political editor of "Newsnight" reported a briefing that he had had from No. 10 about the appointment of the next director-general. The drift of that briefing first set out what No. 10 thought the proper specification for the new appointee was—its wish list—and then expressed No. 10's wish that it should be consulted about who the next director-general of the BBC should be. Will the Minister, without equivocation, restate the convention now nearly a century old that it is the BBC's board and only the BBC's board that appoints the director-general?

Baroness Barran: Obviously, I cannot comment on the briefing, but I am happy to confirm the noble Lord's last remarks.

Baroness Bonham-Carter of Yarnbury (LD): My Lords—

Baroness Uddin (Non-Afl): My Lords—

Earl Howe (Con): My Lords, it is the turn of the Liberal Democrats.

Baroness Bonham-Carter of Yarnbury: Can the Minister confirm that the BBC's scope and mission will not be changed, and nor will the BBC have financial or other obligations placed upon it, by the Government before the next charter review, and that the mid-term review will not be used to impose new requirements?

Baroness Barran: It is clearly and widely agreed that there is a longer-term challenge in working out the business model for the BBC. We have time to do that ahead of the 2027 charter review. Clearly, the Government have a part to play in that, as it spills over into areas, as the noble Baroness understands very well, of competition and other law. So that is the long-term goal, and any funding model needs to follow the business model.

Baroness Seccombe (Con): My Lords, does my noble friend agree that the BBC would benefit from showing international cricket matches, as we have a whole generation of young people who were denied that opportunity because their family did not have Sky TV?

Baroness Barran: This feels like a very popular suggestion to your Lordships. Sadly, I have to disappoint my noble friend. While I might agree personally, there are no current plans to show international matches.

Health: Sepsis

Question

3.32 pm

Asked by ***Lord Grade of Yarmouth***

To ask Her Majesty's Government, further to the University of Washington's Global Burden of Disease Report, published on 16 January, what steps they are taking to address incidents of sepsis in the United Kingdom which is ranked 132 out of 195 countries for deaths caused by sepsis.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, over recent years the NHS has become much better at spotting and treating sepsis quickly. This means that more people are being identified as at risk of sepsis and mortality rates are falling. While we welcome this report's attempt to advance knowledge of worldwide deaths from infection and sepsis, we are confident in our own data, which puts UK deaths from sepsis as significantly lower than reported in the study.

Lord Grade of Yarmouth (Con): I thank my noble friend for that Answer. The House will not need reminding that some 50,000 people a year die in this country from sepsis, far too many of them unnecessarily. I declare my interest as an unpaid adviser to the UK Sepsis Trust, which has done remarkable work to improve awareness. Members of the trust, including clinicians and so on, have had many meetings at different levels within the department, begging for a registry of all sepsis cases in the UK. We have had a very sympathetic hearing but it is a bit like dealing with the laundry— nothing ever comes back. Can the Government make a commitment to introduce a registry which will help greatly to improve the targeting of the right antibiotics for the right cases?

Baroness Blackwood of North Oxford: I thank my noble friend for this Question and I pay tribute to his work on it, and the work of the UK Sepsis Trust. I am aware of the calls for a national sepsis registry for patients. It is important that we understand the data; we are confident that it provides an accurate indication. We think that UK data is as good as it can be at the moment but that there is a clear need for better data on sepsis. The problem with the registry as proposed is that it would use retrospective data collection. We want to go beyond this with the UK's five-year national action plan for AMR, which includes a commitment to develop the real-time patient-level data of individual patients for infection, treatment and resistance history. Work is already under way by NHS England and NHS Improvement. I hope that is the kind of answer my noble friend was looking for.

Lord Patel (CB): My Lords, as a country our record for the number of deaths due to sepsis is pretty abysmal, as stated already. Most of that is due to late diagnosis of sepsis. One-third of patients die and for every hour that a diagnosis is delayed, the death rate rises by 8%. Last year, on a visit to a biotechnical company in Northern Ireland, the Secretary of State commended the development of a quick diagnostic test, which will give a result within two hours so as to start appropriate antibiotics. Will the Government make a commitment that when this molecular test is available, which is likely to be soon, it will be immediately available to the whole of the NHS?

Baroness Blackwood of North Oxford: The noble Lord, as always, speaks with great expertise in this area. I emphasise the work that has been ongoing to improve the picture on sepsis. Since 2015, screening for sepsis in emergency departments has improved from 52% to 89% and timely treatment for sepsis from 49% to 76%, but the noble Lord is absolutely right that we need to improve the outcomes. Early and accurate diagnosis is at the heart of this. I shall keep an eye on innovations in diagnostics. The noble Lord knows that innovation in this area is right at the heart of what I do, and I think that his proposal is very sensible.

Baroness Thornton (Lab): My Lords, the Government seem to be complacent about this. I know that the Minister has given us lots of facts and statistics, but the number of deaths from sepsis in the UK is five times higher than in the country in the European Union that has the best performance. Only two EU countries have a higher number of deaths, so it is a very serious problem. Why are only 70% of acute trusts in England using the national early warning score system? Why are they not all using it?

Baroness Blackwood of North Oxford: I am not quite sure which data the noble Baroness was referring to. The study stated that the number of UK deaths was at 48,000. This was a modelled estimate; it was inaccurate. Our data, published by the Office for National Statistics, states that the figure is 22,341 and puts the UK's performance at a better rate. We are not complacent in any way. This is why there has been concerted action through a number of routes not only to improve the performance in sepsis diagnosis and screening but to make sure that we raise public awareness and provide training for NHS staff. The early warning system has been introduced as the revised national early warning score. As the noble Baroness said, it is intended to improve and standardise the process of recording, identifying and responding to patients at risk. It was introduced as a CQUIN incentive and included in the

[Baroness Blackwood of North Oxford]
2020-21 scheme which was published yesterday. This means that it will be in every hospital across the country.

Baroness Walmsley (LD): My Lords, it can be difficult to diagnose sepsis in people with learning disabilities and difficult for them to realise that they may have it. The NHS has a very good little video prepared by and for people with learning disabilities and their carers. Is there anything the Minister can do to make sure that that helpful video is disseminated more widely?

Baroness Blackwood of North Oxford: That is an extremely helpful and constructive proposal. If the noble Baroness would like to raise it with me outside the Chamber, I will take it up as a matter of priority.

Lord Forsyth of Drumlean (Con): My Lords, does my noble friend accept that public education has an important role to play here, so that people are aware of the symptoms—following the question asked by the noble Lord, Lord Patel? Can we congratulate the BBC, those of us who are fans of "The Archers", on the work it has done in this respect?

Baroness Blackwood of North Oxford: I am very happy to congratulate the BBC. I do not know that I heard "The Archers" storyline in question, but I shall make sure that I update my education in this respect. I want also to congratulate Public Health England on its national Start4Life information service for parents. It has worked with Mumsnet to make sure that awareness is spread to those most likely to need it, because those most at risk are the young, the elderly and those who have underlying conditions. Targeting the messaging at those who need it most is very important.

Lord Winston (Lab): My Lords, the noble Lord, Lord Grade, raises a very important point. Can the Minister tell us what percentage of patients with sepsis have the DNA profile of the bacteria recorded?

Baroness Blackwood of North Oxford: The noble Lord, Lord Winston, always raises very specific questions requiring statistical answers which are not necessarily at my fingertips. I shall write to him on that point.

Wuhan Novel Coronavirus: Threat to UK Citizens

Private Notice Question

3.39 pm

Asked by ***Lord Patel***

To ask Her Majesty's Government what is their strategy for protecting UK citizens from the threat posed by the spread of Wuhan novel coronavirus (WN-CoV).

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, we are monitoring closely the development of this virus. Advice from Public Health England and the Chief Medical Officer is that the risk to the UK is currently low. The UK is well prepared for the emergence of novel viruses. As part of our preparedness, we have introduced enhanced monitoring of direct flights from Wuhan to the UK and updated our travel advice for Wuhan. We continue to update health workers on how to identify, treat and contain any possible cases.

Lord Patel (CB): My Lords, I thank the noble Baroness for her reply and commend the Government for publishing tomorrow initial measures for controlling the spread of this virus, if it comes to the United Kingdom. This is a newly identified virus, which probably originated in animals, particularly in the seafood markets in Wuhan. None the less, it is 80% genetically identical to the SARS virus, which killed a significant number of people. We now understand that, although the Chinese have sequenced the genome of the virus, it has mutated and can now spread directly from human to human, which raises the likelihood that it will spread more widely. The initial illness can vary and is sometimes very mild, hence the case in the United States where the diagnosis was not made on arrival at the airport in Seattle by the authorities, even though they had procedures in place. Will the Government keep a watch out and update the advice depending on how the virus develops? Secondly, will there be procedures for quarantine and follow-up contact if a case is identified, particularly if the virus mutates and becomes highly virulent?

Baroness Blackwood of North Oxford: I thank the noble Lord for his important and timely Question. I am happy to update the House that, from today, enhanced monitoring is in place for all direct flights from Wuhan to the UK. Public health officials will meet every direct flight from Wuhan to the UK and will be on hand to provide information about symptoms. Mandarin and Cantonese speakers will be on hand and leaflets will be available in several languages. We will also roll out enhanced monitoring of all flights arriving in the UK from China. Leaflets and information will be available across all UK airports, advising travellers from China on what to do if they feel unwell. The enhanced monitoring of direct flights will obviously be kept under continuous review and expanded if necessary. The risk to the public is low and the NHS is well prepared but, to answer the noble Lord, any patients assessed for this new disease would be isolated under standard procedures if necessary. There are a number of infectious disease units around the country that would be able to respond appropriately.

Baroness Brinton (LD): My Lords, it is good that the Chinese Government, and indeed our Government, are responding better than has perhaps happened in some past incidents, including over SARS. The BBC has reported today that a number of Chinese cities are now reporting that there are people with this condition. When will flights from those cities, and not just Wuhan, be monitored? Also, will there be specific traveller advice for UK citizens travelling into China who have chronic and underlying conditions that mean they may need to take more care?

Baroness Blackwood of North Oxford: I have a list of the current confirmed cases, which I am happy to place in the Library—it is probably not constructive to read it out—although the numbers are changing regularly. We are keeping travel advice and the monitoring of flights in and out of other Chinese cities under constant review. The advice at the moment is against all but essential travel to Wuhan. We will keep travel to other Chinese cities under close consideration.

Viscount Ridley (Con): My Lords, does my noble friend agree with one of the precepts of Darwinian medicine that there is generally a trade-off between virulence and contagiousness and that, in the world of viruses, if you want to spread by casual contact, it tends to help to keep the patient healthy and standing on their feet—as indeed I am with a cold at the moment? If this virus does spread from man to man—sorry, person to person—there is a chance that it may reduce in virulence and it is, therefore, important to keep in perspective the warnings that we give people. While we must not underreact to this, it is also important that we do not overreact and cause major disruption to the economy, as has occasionally happened with responses to previous incidences of influenza.

Baroness Blackwood of North Oxford: That was well put. Our view is that this is a proportionate and sensible response that is scalable and appropriate according to the evidence available. We will obviously be reviewing what is a new and emerging infection. Scientific understanding of the disease is evolving rapidly—essentially on a daily basis. We will obviously review the measures set out regularly.

It is important to set out what the symptoms are, in case anybody listening needs to understand. This is essentially a bad respiratory tract infection that could turn into pneumonia. At this stage around 2% of known cases have died. To compare mortality rates, SARS had one of 10% and Ebola 70%. That gives a level of perspective, but the picture is evolving and we will keep this under close review as the situation develops. Unsurprisingly, of course, within that context those at greatest risk are the vulnerable, the elderly or those with underlying health conditions, so the advice is to come forward if such symptoms occur.

Baroness Thornton (Lab): Notwithstanding the noble Baroness's remarks, I am pleased and reassured that the Government have implemented the measures outlined and welcome the precautionary approach taken to the arrival of passengers from the Wuhan region of China. Can she confirm that the Government have assessed whether adequate resources are available in the PHE port health teams to carry out screening procedures and any further screening procedures that might be necessary?

Baroness Blackwood of North Oxford: We have indeed. First, three direct flights from Wuhan arrive into Heathrow and a team of public health experts, which will include the principal port medical inspector, the port health doctor, the administrative support and team leader and a translator, will meet every direct flight from Wuhan. We believe that this is a scalable solution, which could respond to a developing health challenge. In addition, before a flight lands a message will be broadcast to passengers in several languages to encourage them to report illnesses to flight staff and the captain will be required to provide an early warning of any illnesses on the aircraft one hour before arrival, which allows a much more appropriate response on landing. We believe that this is a manageable and effective response. The NHS has a very good record of responding to similar situations, whether with Ebola or monkeypox. We can be very proud of our public health record in these areas and can be confident in how bodies will respond to this incident.

Baroness Masham of Ilton (CB): My Lords, does the Minister agree that this has come at a very difficult time, because we are the middle of the flu season and this is difficult to diagnose? Does she realise that 15 health workers have been diagnosed in China? Therefore, will all health bodies be told to be aware?

Baroness Blackwood of North Oxford: The noble Baroness is absolutely right: there is great pressure on the NHS and we need to make sure that the appropriate information is given to the system so that there is no undue anxiety in that regard. As I said, the NHS has a tremendous record in responding to similar incidents. Clinicians in primary and secondary care have already received advice covering initial detection, investigation of possible cases, infection prevention and control and clinical diagnostics. NHS England and NHS Improvement have developed an algorithm to support NHS 111 to identify suspected cases and a central alerting system alert will be issued to the front line by the Chief Medical Officer, the medical director of Public Health England and the medical director of NHSE and NHSI to increase awareness of the situation and actions if potential cases present.

As I said to the noble Lord, Lord Patel, there are a number of infectious disease units around the country that can take suspected patients and are accustomed to responding in this way. Of course, the UK is one of the first countries outside China that has a prototype specific laboratory test for this novel disease. I want to emphasise, though, that there are no confirmed cases in the UK.

Lord Campbell-Savours (Lab): My Lords, I listened closely to what the Minister said. She seemed to be referring to post-flight monitoring. Would it not be possible to have some sort of pre-flight monitoring process at the point where people depart from China? I say that as someone who has half a lung and is therefore very vulnerable.

Baroness Blackwood of North Oxford: As someone who has my own health condition, I share the noble Lord's attitude to exposure to infection. The Chinese Government are taking strong measures in Wuhan to try to control the outbreak, including reports, confirmed by post in Beijing, that they are advising their own citizens against travel to and from Wuhan. Measures are in place there. We would welcome more timely

[Baroness Blackwood of North Oxford]
sharing of epidemiological data on the spread of diseases from China via the WHO, and we are working through those routes to try to improve it. However, I made the point that, where we have the ability to do so, we seek to put in place the earliest possible control measures, including on-flight, so that by the time there are issues at the border we are able to intervene.

Arrangement of Business
Announcement

3.51 pm

Lord Ashton of Hyde (Con): My Lords, for the convenience of the House it may be helpful if I make a short business statement. Earlier today the House of Commons considered this House's amendments to the European Union (Withdrawal Agreement) Bill. The message from the other place has arrived and we will consider the Bill later today. The Legislation Office will be open now that the message has arrived and reasons have been printed for noble Lords to table any amendments if they wish to do so. Timings will be announced via the annunciator in the usual way. The start time for the consideration of the Bill will be confirmed via the annunciator.

Storage Period for Gametes Bill [HL]
First Reading

3.52 pm

A Bill to provide for a review by the Secretary of State of the regulations governing gamete storage periods.

The Bill was introduced by Baroness Deech, read a first time and ordered to be printed.

Immigration Control (Gross Human Rights Abuses) Bill [HL]
First Reading

3.52 pm

A Bill to enable the Secretary of State or an immigration officer to refuse entry, or to vary or curtail leave to enter or remain which has already been granted, to a person who is known to be, or to have been, involved in gross human rights abuses and who is not a UK or EEA national.

The Bill was introduced by Baroness Kennedy of The Shaws, read a first time and ordered to be printed.

Rented Homes Bill [HL]
First Reading

3.53 pm

A Bill to amend the Housing Act 1988 to abolish assured shorthold tenancies; to extend the grounds upon which landlords of residential housing may recover possession; and for connected purposes.

The Bill was introduced by Baroness Grender, read a first time and ordered to be printed.

Victims of Crime (Rights, Entitlements, and Notification of Child Sexual Abuse) Bill [HL]
First Reading

3.53 pm

A Bill to make provision for specifying new statutory rights and entitlements for victims of crime under the victims' code of practice; to require elected local policing bodies to assess victims' services; to increase the duties of the Commissioner for Victims and Witnesses; to grant victims the right to request a review of a decision not to prosecute; to establish reviews into homicides where no criminal charge has been made; to create an obligation on professions to notify cases of possible victims of child sexual abuse; and for connected purposes.

The Bill was introduced by Baroness Brinton, read a first time and ordered to be printed.

Cosmetic Surgery (Standards) Bill [HL]
First Reading

3.54 pm

A Bill to make provision to include medical practitioners specialising in cosmetic surgery in the Specialist Register for medical practitioners.

The Bill was introduced by Lord Ribeiro (on behalf of Lord Lansley), read a first time and ordered to be printed.

Joint Committee on Human Rights
Joint Committee on the National Security Strategy
Membership Motions

3.55 pm

Moved by ***The Senior Deputy Speaker***

Joint Committee on Human Rights

That a Select Committee of six members be appointed to join with a Committee appointed by the Commons as the Joint Committee on Human Rights:

To consider:

(a) matters relating to human rights in the United Kingdom (but excluding consideration of individual cases);

(b) proposals for remedial orders, draft remedial orders and remedial orders made under section 10 of and laid under Schedule 2 to the Human Rights Act 1998; and

(c) in respect of draft remedial orders and remedial orders, whether the special attention of the House should be drawn to them on any of the grounds specified in Standing Order 73 (Joint Committee on Statutory Instruments);

To report to the House:

(a) in relation to any document containing proposals laid before the House under paragraph 3 of the said Schedule 2, its recommendation whether a draft order in the same terms as the proposals should be laid before the House; or

(b) in relation to any draft order laid under paragraph 2 of the said Schedule 2, its recommendation whether the draft Order should be approved;

and to have power to report to the House on any matter arising from its consideration of the said proposals or draft orders; and

To report to the House in respect of any original order laid under paragraph 4 of the said Schedule 2, its recommendation whether:

(a) the order should be approved in the form in which it was originally laid before Parliament; or

(b) the order should be replaced by a new order modifying the provisions of the original order; or

(c) the order should not be approved; and to have power to report to the House on any matter arising from its consideration of the said order or any replacement order;

That, as proposed by the Committee of Selection, the following members be appointed to the Committee:

Brabazon of Tara, L; Dubs, L; Ludford, B; Massey of Darwen, B; Singh of Wimbledon, L; Trimble, L.

That the Committee have power to agree with the Committee appointed by the Commons in the appointment of a Chair;

That the quorum of the Committee shall be two;

That the Committee have power to send for persons, papers and records;

That the Committee have power to appoint specialist advisers;

That the Committee have power to adjourn from place to place;

That the Committee have leave to report from time to time;

That the reports of the Committee be printed, regardless of any adjournment of the House;

That the evidence taken by the Committee in the last session of Parliament be referred to the Committee;

That the evidence taken by the Committee be published, if the Committee so wishes.

Joint Committee on the National Security Strategy

That a Committee of ten members be appointed to join with a Committee appointed by the Commons as the Joint Committee on the National Security Strategy, to consider the National Security Strategy;

That, as proposed by the Committee of Selection, the following members be appointed to the Committee:

Brennan, L; Campbell of Pittenweem, L; Harris of Haringey, L; Healy of Primrose Hill, B; Henig, B; Hodgson of Abinger, B; King of Bridgwater, L; Lane-Fox of Soho, B; Neville-Jones, B; Powell of Bayswater, L.

That the Committee have power to agree with the Committee appointed by the Commons in the appointment of a Chair;

That the Committee have power to send for persons, papers and records;

That the Committee have power to adjourn from place to place in the United Kingdom;

That the Committee have leave to report from time to time;

That the reports of the Committee be printed, regardless of any adjournment of the House;

That the evidence taken by the Committee in the last session of Parliament be referred to the Committee;

That the Committee have power to appoint specialist advisers;

That the evidence taken by the Committee be published, if the Committee so wishes.

Motions agreed.

Democracy and Digital Technologies Committee

Electoral Registration and Administration Act 2013 Committee

Food, Poverty, Health and the Environment Committee

Social and Economic Impact of the Gambling Industry Committee

Membership Motions

Democracy and Digital Technologies Committee

That a Select Committee be appointed to consider democracy and digital technologies, and to make recommendations; and that, as proposed by the Committee of Selection, the following members be appointed to the Committee:

Black of Brentwood, L; German, L; Harris of Haringey, L; Holmes of Richmond, L; Kidron, B; Knight of Weymouth, L; Lipsey, L; Lucas, L; McGregor-Smith, B; Mitchell, L; Morris of Yardley, B; Puttnam, L (*Chair*); Scriven, L.

That the Committee have power to appoint specialist advisers;

That the Committee have power to send for persons, papers and records;

That the Committee have power to adjourn from place to place;

That the evidence taken by the Committee be published, if the Committee so wishes;

That the evidence taken by the Select Committees on Democracy and Digital Technologies in the last Parliament be referred to the Committee;

That the Committee do report by 23 June 2020;

That the report of the Committee be printed, regardless of any adjournment of the House.

Electoral Registration and Administration Act 2013 Committee

That a Select Committee be appointed to consider and report on the Electoral Registration and Administration Act 2013, and to make recommendations; and that, as proposed by the Committee of Selection, the following members be appointed to the Committee:

Adams of Craigielea, B; Campbell-Savours, L; Dykes, L; Eaton, B; Hayward, L; Janvrin, L; Lexden, L; Mallalieu, B; Pidding, B; Shutt of Greetland, L (*Chair*); Suttie, B; Wills, L.

That the Committee have power to appoint specialist advisers;

That the Committee have power to send for persons, papers and records;

That the Committee have power to adjourn from place to place;

That the evidence taken by the Committee be published, if the Committee so wishes;

That the evidence taken by the Select Committees on the Electoral Registration and Administration Act 2013 in the last Parliament be referred to the Committee;

That the Committee do report by 23 June 2020;

That the report of the Committee be printed, regardless of any adjournment of the House.

Food, Poverty, Health and the Environment Committee

That a Select Committee be appointed to consider the links between inequality, public health and food sustainability, and to make recommendations; and that, as proposed by the Committee of Selection, the following members be appointed to the Committee:

Boycott, B; Caithness, E; Empey, L; Janke, B; Krebs, L (*Chair*); Osamor, B; Parminter, B; Sanderson of Welton, B; Sater, B; Whitty, L.

That the Committee have power to appoint specialist advisers;

That the Committee have power to send for persons, papers and records;

That the Committee have power to adjourn from place to place;

That the evidence taken by the Committee be published, if the Committee so wishes;

That the evidence taken by the Select Committees on Food, Poverty, Health and the Environment in the last Parliament be referred to the Committee;

That the Committee do report by 23 June 2020;

That the report of the Committee be printed, regardless of any adjournment of the House.

Social and Economic Impact of the Gambling Industry Committee

That a Select Committee be appointed to consider the social and economic impact of the gambling industry, and to make recommendations; and that, as proposed by the Committee of Selection, the following members be appointed to the Committee:

Armstrong of Hill Top, B; Butler of Brockwell, L; Filkin, L; Foster of Bath, L; Grade of Yarmouth, L (*Chair*); Layard, L; Mancroft, L; Parkinson of Whitley Bay, L; Smith of Hindhead, L; St Albans, Bp; Thornhill, B; Trevethin and Oaksey, L; Watts, L.

That the Committee have power to appoint specialist advisers;

That the Committee have power to send for persons, papers and records;

That the Committee have power to adjourn from place to place;

That the evidence taken by the Committee be published, if the Committee so wishes;

That the evidence taken by the Select Committees on the Social and Economic Impact of the Gambling Industry in the last Parliament be referred to the Committee;

That the Committee do report by 23 June 2020;

That the report of the Committee be printed, regardless of any adjournment of the House.

Motions agreed.

Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2019

Motion to Approve

3.56 pm

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

That the draft Order laid before the House on 14 October 2019 be approved.

Special attention drawn to the instrument by the Secondary Legislation Scrutiny Committee, 3rd Report, Session 2019

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I will also speak to the Criminal Justice and Courts Act 2015 (Consequential Amendment) Regulations 2019.

These draft instruments form part of the Government's wider plans to reform sentencing and law and order, through which we aim to strengthen public confidence in the criminal justice system. The purpose of these instruments is to ensure that serious violent and sexual offenders serve a greater proportion of their sentence

in prison, and to put beyond doubt that these release provisions will apply in relation to offenders receiving consecutive sentences, ahead of further changes the Government will set out in a sentencing Bill.

Under the provisions of the Criminal Justice Act 2003, all offenders sentenced to standard determinate sentences must be automatically released halfway through their sentence. These orders move the automatic release point for the most serious offenders who receive a standard determinate sentence of seven years or more. Instead of being released at the halfway point of their sentence, they will be released after serving two-thirds of their sentence.

A key component of our criminal justice system should be transparency, but currently, a person convicted of rape and sentenced to nine years in prison will be released after only half that sentence. Victims and the general public do not understand why they should serve only half their sentence in custody. While improved communication about how a sentence is served will help, this measure aims directly to improve public confidence by making sure that serious offenders will serve longer in prison.

Some may suggest that the whole sentence should be served behind bars, but this would not serve victims' interests. It is crucial that when someone is given a custodial sentence, they spend part of this sentence under supervision in the community. The licence period has long been an integral part of the sentence, and it should remain so. It provides assurance to victims through the imposition of conditions to protect them such as non-contact conditions and exclusion zones, through supervision by the probation service and through the power to recall that offender to prison if they breach their conditions. It is also an important period for rehabilitation, giving the offender the chance to address their offending behaviour and undertake activities that can help to prevent them reoffending. So, a licence period must remain.

However, it is not in the interests of public protection that when someone has committed a serious offence for which they rightly receive a long sentence, such as grievous bodily harm with intent or rape, they are entitled to be released half way. This instrument aims to address this by moving the release point for these serious offenders so that they will serve two-thirds of their sentence in prison and the remainder on licence. Retaining them in prison for longer will provide reassurance to victims, protect the public and restore public confidence in the administration of justice. It will also provide longer periods for these offenders to undertake rehabilitative activity in prison and prepare effectively for their release and resettlement in the community.

Automatic release from a fixed-term custodial sentence is a long-established measure. The Criminal Justice Act 1991 made a clear distinction between long-term and short-term prisoners. Short-term prisoners would be released automatically at the halfway point of their custodial sentence. Under Section 33(2) of that Act, long-term prisoners could be released automatically only at the two-thirds point of the custodial period. The 2003 Act removed this distinction between sentence lengths, requiring all standard determinate sentence prisoners to be released at the halfway point.

This order is the first step in restoring that distinction, beginning with those sentenced to standard determinate sentences of seven years or more, where the offender has been convicted of a serious sexual or violent offence, as specified in parts 1 and 2 of Schedule 15 to the 2003 Act, and for which the maximum penalty is life. Moving the release point to two-thirds for these offenders will correct what this Government consider to be an anomaly in the current sentencing and release framework.

Take the example of an offender convicted of rape. They could receive a standard determinate sentence, or, if they are determined by the courts to be dangerous, an extended determinate sentence. If they are given an extended determinate sentence with a custodial term of nine years, they could spend the whole custodial period behind bars if it was necessary for the protection of the public, but the Parole Board could consider them for release on licence after two-thirds of that period—namely, six years. However, if they were not assessed to be dangerous but had still been convicted of this very serious offence and sentenced to a standard determinate sentence of nine years, currently, they would be released after four and a half years. This measure will bring the two sentencing regimes closer into line, so that the offender could be released only after six years, ensuring that offenders committing these grave offences serve time in prison that truly reflects the severity of their crime.

We are starting with those sentenced to seven years or more because this strikes a sensible balance between catching those at the more serious end of the scale and allowing time for the change to embed sustainably. While the measures will apply to anyone sentenced to a standard determinate sentence of seven years or more for a relevant offence after the orders commence, the effects will not begin to be felt until nearly four years later—that is, until we approach the stage at which the first affected prisoners reach the halfway point of their sentence and remain in prison rather than being released. The impact will be felt gradually; our best estimates are that this will result in fewer than 50 additional people in custody by March 2024, rising to 2,000 over the course of 10 years.

The House's Secondary Legislation Scrutiny Committee has drawn attention to the impact of this measure. I am content to offer assurances that this Government will act to ensure that the additional demands on HM Prison and Probation Service will be met. We will continue to invest in our prisons, both to build the additional capacity of 10,000 places announced by the Prime Minister—as well as the 3,500 places already planned at Wellingborough, Glen Parva and Stocken—and to undertake maintenance across our prison estate to manage the anticipated increase in demand. We have also invested significantly to increase staff numbers, recruiting between October 2016 and September 2019 an additional 4,581 full-time equivalent prison officers, thereby surpassing our original target of 2,500. We will continue to recruit officers to ensure that prisons are safe and decent, and to support both the current estate and planned future additional capacity.

Our impact assessment is based on assumptions that judicial and offender behaviour will continue unchanged, although of course, that cannot be certain.

[Lord Keen of Elie]
We are putting in place mechanisms with our partners across the criminal justice system to monitor the impact of the additional officers and give us the ongoing and future insight necessary to allow us to plan the prison estate. As these offenders spend more of the sentence in prison, correspondingly less time will be spent under probation supervision in the community.

These measures will enable us to take swift but sustainable action ahead of the wider package of reforms that the Government intend to bring forward in the sentencing Bill. They are not retrospective and will apply only to those sentenced in England and Wales on or after 1 April 2020.

Not proceeding with legislation would mean continuing with a system which fails properly to ensure that serious offenders serve sentences that reflect the gravity of their crimes and continue to be released halfway through their custodial period. In our view, that is not in the public interest, nor does it promote confidence in the justice system. I beg to move.

Lord Beecham (Lab): My Lords, for some time this country has had the dubious distinction of having among the highest number of prisoners relative to population in Europe, with the numbers having risen by almost 70% in 30 years, with the vast majority of those, some 60%, being imprisoned for non-violent crimes. Moreover, the length of sentences has increased substantially, with 2.5 times as many people being sentenced to 10 years or more in 2018 as in 2006. On average, those receiving mandatory life sentences spend 17 years in custody, an increase of four years since 2001, while the average minimum period imposed for murder rose from 12.5 years in 2003 to 21.3 years in 2016. And yet, typically, the Prime Minister chooses to play to the gallery by reviewing sentencing policy without any consultation beyond the inner workings of the Ministry of Justice, and emerges with proposals for a draconian increase in the length of sentences which is likely to increase substantially the problems faced by an overworked and understaffed Prison Service, and indeed by the majority of prisoners.

As the Prison Reform Trust has pointed out:

"No evidence is given about the re-conviction of people currently released from these sentences"

and there is a risk that

"the people affected will spend a shorter period under the supervision of the probation service after release."

The trust points out that reconviction rates are indeed lower for those serving more than four-year sentences, but there appears to be no evidence that sentences of seven years or more lead to any further reduction in reoffending on release.

The trust also reveals that the Ministry of Justice's own research discloses that, when they are given the full facts of individual cases,

"the public tends to take a more lenient approach than sentencing courts."

Moreover, they are likely to be confused by the fact that, when two convictions lead to consecutive sentences of less than seven years but with a total of more than seven years, the new provisions will not apply. And, of course, it is in any event open to the trial judge to impose longer sentences where this is deemed necessary.

As the trust rightly points out, there are other and better approaches to combating potential reoffending, not least by tackling the problems of the understaffed probation service. It rightly points out that the Chief Inspector of Probation has raised the issue of unacceptably large case loads for officers responsible for the supervision of long-serving former prisoners. Typically, no detail has been supplied of the additional costs of providing the offender management of those in custody that the new regime will require. Can the Minister supply any information about the relevant staff numbers and the costs involved?

For that matter, is he able to provide an estimate of the costs likely to be incurred by local authorities to meet the needs of families struggling for even longer periods without the income of an imprisoned partner or parent? What assessment has been made of the impact on prisoners' employment possibilities after serving longer sentences and the consequential cost of benefits if, as seems increasingly likely, they find it even more difficult to find employment after a longer period of imprisonment?

Other financial questions arise. Four years ago the Government declared that they would provide an extra 10,000 prison spaces. All of 200 have been created. How many places will be required now to meet the need created by this order? How long will it take to provide them? What is the estimated cost of their provision and of the necessary increase in staffing? To what extent does the estimated increase in prison numbers of 3,200 by March 2023 reflect this new policy—or did that increase precede the policy contained in this order?

The last decade has seen a shocking worsening of conditions in our prisons. Sexual assaults quadrupled between 2012 and 2018; 117 prisoners have died having used or possessed new psychoactive substances; self-harm incidents rose from 23,158 in 2012 to a staggering 55,598 in 2018, with women disproportionately affected; and assaults rose dramatically, tripling to more than 10,000 on staff between 2013 and 2018. Yet staff numbers were cut by 26% between 2010 and 2017-18—albeit with some partial restoration since then. But—this is surely alarming—54% of the officers who left the service last year had served less than two years. What, if any, attempts were made to understand the reasons for this drastic loss of staff in such a short period and to avoid its repetition? Currently, 35% of staff members have been in post for less than two years and only 46% have served for more than 10 years. What, if anything, is being done to address this disturbing position and what, if any, is the difference between privately and publicly managed prisons in those respects?

In 2018, 58,900 people were sentenced to prison, 69% of them for non-violent crimes. Of those who received custodial sentences, 46% served six months or less. Is it not time to review the utility of such sentences against alternative measures? Would it not be better to secure greater investment in the probation service and the youth service as an approach to tackling the problem?

Should it not be a priority to promote purposeful activity for those sentenced to imprisonment? Just two in five prisons received a positive rating for this in 2017-18, while the quality of teaching and learning in

prisons has declined, with the number of those rated as good reduced to 42%. Some 62% of those in prison had a reading age of 11 or lower in 2017-18. What will the Government do to address this serious situation, which is mirrored in a significant fall in the number participating in education while in custody?

There are serious matters to be addressed in our Prison Service. Will the Minister use his influence to persuade the Prime Minister to address them rather than play to the gallery with a populist approach that at best will achieve nothing and is likely to make matters worse, not just for prisoners but for prison staff and society as a whole?

Viscount Hailsham (Con): My Lords, my contribution will be very brief. I support the principle enshrined in these regulations, but I share and strongly echo two concerns expressed by the noble Lord, Lord Beecham—and I do so as one who was until relatively recently on the monitoring board of a local prison.

My first point relates to the availability of relevant courses for prisoners to take in order to demonstrate that they can be safely released. When I was on the monitoring board, I was very concerned by the fact that a number of IPP prisoners were not able to find courses that could demonstrate that they were safe to release. I hope, therefore, that the Minister is able to say that resources will be dedicated to the provision of relevant courses.

The second and related point has already been made by the noble Lord, Lord Beecham: the longer a person stays in prison, the more difficult it is for them to be reabsorbed into the community and, more particularly, the more difficult it is for them to get a job. When I was on the monitoring board, I was very concerned by the lack of meaningful out-of-cell activity, particularly in the field of education and the acquisition of work skills. Therefore, I very much hope that my noble friend is able to tell the House that the Government will increase the provision available to prisons to provide for meaningful out-of-cell activity, particularly in the field of education and the acquisition of relevant work skills, which will enable prisoners, when released, to be absorbed back into employment.

4.15 pm

Lord Marks of Henley-on-Thames (LD): My Lords, this order is a populist response to perceived public concern and uninformed press comment. Lacking any genuine evidence base, it is, I regret, one among several policies for putting more people in prison, for longer, without any proven justification. The only possible argument in its favour is the simplistic one that individual offenders will be in prison for longer and so personally unable to commit further crimes during their extra time inside.

The impact assessment contains this core justification for the Government's proposal. Referring to the serious offenders affected, it states:

> "They have been given a lengthy sentence to reflect the seriousness of their offence, and, because these are the most serious types of offences with the gravest of consequences, they should therefore serve a greater proportion of their sentence in custody."

That is a complete non-sequitur, because it attempts to justify counting the seriousness of the offence twice over: once when the judge passes sentence for the serious offence, and again when increasing by a third the proportion of the sentence to be spent in custody. Put simply, you get more time for committing the serious offence—and then even more time for precisely the same reason.

Members of this House and across Parliament, and clear majorities among academics in the field and legal professionals, have long argued, as did the noble Lord, Lord Beecham, that we imprison too many people in this country and for too long, and that we must reduce the prison population to improve rehabilitation. For serious offenders we have argued for a reformed and functioning probation system; more through-the-gate supervision prior to and following release; more, and more effective, supervision of prisoners after their release; more use of early release, through release on temporary licence and home detention curfew schemes; and reducing sentence inflation in the courts. All these steps would help former offenders turn their lives around.

We have regularly debated overcrowding. Our prison estate is still both packed and dilapidated, with degrading and inhumane conditions in many prisons. Overcrowding has been matched by understaffing, so prisoners have spent far too long cooped up in cells that are too small because staff have been unable to manage or provide adequate education, vocational training, meaningful work or sport and leisure activities—a point made by the noble Viscount, Lord Hailsham. As if these failures of our present regime were not enough, issues of mental health and drug and alcohol addiction are addressed inadequately or not at all—and these problems are often worse for women in custody.

It is hardly surprising, then, that this toxic cocktail of neglect and underresourcing has led to a crisis of ever-increasing violence in our prisons, with appalling records set nearly every year for assaults by prisoners on other prisoners and staff, incidents of self-harm, suicides and homicides. It is a tragedy that good work done by prison governors and staff who seek to implement best practice conscientiously and selflessly is undermined by a pervasive bad atmosphere, low morale and failure of rehabilitation across the prison estate. Yet, against this background the Government introduce a measure, with no hard evidence to support it, that will increase the prison population by around 2,000 in a decade, at an annual expected cost of £70 million, with a capital building cost at present rates of £440 million. That is on top of an expected increase flowing from the recruitment of 20,000 more police officers.

The impact assessment accepts that there is a risk that delay in providing the new places may mean that the extra capacity required will be too late or simply insufficient to meet demand. Will the noble and learned Lord say what evidence the Government have taken into account of the risk of overcrowding getting worse, pending the provision of extra prison places? Are the Government to provide extra staff to improve prison staffing levels for the greater number of serious violent and sexual offenders in custody for longer?

[Lord Marks of Henley-on-Thames]

Furthermore, the impact assessment takes into account an expected reduction in the cost of probation for 2,000 former offenders, who will have a reduced period on licence post-release, down from half sentences to one-third, representing a reduction of 34% in the time spent on licence. This will lead to an estimated saving of £8 million in reduced case load, but what it does not take into account is all the evidence that supervision for longer periods on licence helps to get former offenders reintegrated into their communities and back into jobs, housing and their families. That reduces reoffending and cuts not only the cost of crime but the number of future victims of crime. A policy intended to help the victims of past offences risks increasing the number of future victims.

The impact assessment recognises this danger and makes two valid points. The first is that longer periods in prison mean longer separations from prisoners' families. Successful return to family life protects against reoffending and longer separations increase family breakdown. The social and financial costs of family breakdown in human misery, risks to children, risk of homelessness and increased calls on social services, taxation and benefits are considerable.

The second point made in the impact assessment is that the Government acknowledge that shorter periods on licence support former offenders' transition into the community, a point again made by the noble Viscount, Lord Hailsham. The impact assessment claims that this is an "unknown" but accepts that there is a risk that this could increase demand on prisons to provide offending behaviour interventions in custody and reduce the probation capacity to provide the full range of rehabilitative services. One wonders how the Government could claim that this is an unknown, when all the evidence is that these risks are clear and real.

This is a bad instrument, and I regret that it reflects badly on the instincts of the Government who introduced it.

Lord Ramsbotham (CB): My Lords, as has already been said, this order implements a commitment made by the Prime Minister in the summer of 2019. That commitment was made as part of a review, conducted not after a public consultation—which might have been expected on an issue with such major implications—but merely as an internal Ministry of Justice exercise.

The Secondary Legislation Scrutiny Committee, in its report of 30 October 2019, drew the House's attention to the fact that the order represents

"one piece of a large and complicated jigsaw."

Among the other pieces are: the announced sentencing Bill, to be preceded by a White Paper on sentencing more generally; the programme to build 10,000 additional prison places, announced in 2016 and repeated by the Prime Minister in 2019; the announced recruitment of 20,000 more police officers; and the royal commission on improving the efficiency and effectiveness of criminal justice system processes, announced in the 2019 Queen's Speech. The Secondary Legislation Scrutiny Committee suggested that this House may wish to ask the Minister—which I now do—for more information about how all these pieces fit together.

Last week, the Ministry of Justice released the horrifying statistic that 58% of UK prisons—68 in total—were overcrowded, nine of them by more than 50%. This is not a situation that is likely to be rectified quickly yet, by this order, the Government are knowingly adding another 2,000 prisoners. The Chief Inspector of Prisons is continually drawing attention to the lack of purposeful activity in prison and the number of prisoners who spend all day locked up in their cell doing nothing. One factor leading to this situation is the lack of staff, not least because the Government wilfully dispensed with 80,000 years of operational experience. It is all very well to talk of recruiting additional numbers, but in addition to being inadequately trained, inevitably new recruits are inexperienced and, being frequently subject to horrifying assaults, too many are leaving early.

Frequently in this House I have commented on the poor quality of impact assessments. The one accompanying this order is no exception to that stricture, because only two options are examined: take it or leave it. However, there is what I might describe as a common-sense third option: I urge the Minister to defer until the issue can be properly examined in the context of the "large and complicated jigsaw".

I have already mentioned the lack of any public consultation about what should be, to quote *Erskine May*'s definition of the affirmative procedure,

"a substantial and important piece of delegated legislation".

There has been only an internal review at the Ministry of Justice. The wide implications of the issue, and my suspicion that the proposal results from a confusion about what should be done with terrorist prisoners—highlighted by the tragic events at the Fishmongers' Hall—reinforce my plea for implementation of the order to be deferred until it has been considered in the context of all related and relevant issues.

Lord Garnier (Con): My Lords, my contribution can be brief. Having heard the speeches of noble Lords who spoke before me, and anticipating who will speak after me, I am not sure that I have a huge amount to add.

I begin by declaring my interest as a trustee of the Prison Reform Trust. I thank it for providing me with the same briefing that assisted the noble Lord, Lord Beecham, in his remarks. There is much to be gained from what it has told us, much of which the noble Lord faithfully recited. I also put in a preliminary plea to the Government—with some diffidence, seeing the noble and learned Lord, Lord Judge, in his place—to bring in swiftly the sentencing consolidation measures of the Joint Committee which the noble and learned Lord chaired at the end of the last Session.

I say that not only because what we achieved in that committee is worth getting on with but because, as a former Crown Court recorder—that is, a part-time judge—I know that sentencing is probably the most complicated thing that a Crown Court judge has to cope with. It is all very well if you are a High Court judge dealing predominantly with life sentences, but if you are a more junior member of the judiciary you deal with far more complicated sentencing arrangements. Therefore, the sooner we get what I call the "Judge Bill" into law, the better.

4.30 pm

I largely agree—in fact, I think I wholly agree—with all that has been said so far, but there are a number of things that I want to point out, based on what I see in the papers introduced into this debate by the Government through the impact assessment for this statutory instrument. The first point I want to query is to be found towards the end of the document when it sets out only two policy options. Option Zero is do nothing—that is, make no changes to the release point for serious offenders. Option 1 is:

"Legislate to move the automatic release point for serious offenders from halfway to two-thirds of the custodial period."

That is a well-known Civil Service trick. You present the Minister with two options. Sometimes, if you are generous, you present him with three, two of which are useless. In this case, one is completely unacceptable, so—guess what?—the Minister chooses the option that is required of him.

That is fair enough. I have no constitutional objection to Governments altering, through Parliament, the way in which the law on sentencing is achieved. That is the point of Parliament—it can change the law on this, that and the other, and if the Government have a majority for what they intend to do, that is fair enough. That begs the question: is it wise to do what a Government propose to do? All the policy objectives set out in this document are, of themselves, either uncontroversial or unobjectionable for some other reason. For example, it says that requiring offenders in this category—that is, the more serious offenders—sentenced to seven years or more to be released after serving two-thirds of their sentence more closely aligns the release provisions with those of similarly serious offenders who receive an extended determinate sentence. Well, yes it does—but so what?

More important is what we do with the prisoners while they are in prison. If a prisoner is given a 15-year sentence and serves 10 years, as opposed to six and a half or seven, and you do nothing with him while he is in a prison, either for the halfway or the two-thirds period of the sentence, and you release him illiterate, still a drug addict and still suffering from mental health problems, and he is wholly unfit for employment and incapable of looking after himself or his dependants, we have achieved nothing. Although the public might initially have been persuaded that tougher and longer sentences will make them feel safer—although I query whether they actually think that—once the unrepaired prisoner is released, he may well be as much of a danger to the public as he was when he committed his first offence.

Nothing that I say is original to me. I first studied prisons policy at the feet of the noble Lord, Lord Ramsbotham, when I became the shadow Prisons Minister under David Cameron's leadership of the Opposition. I confess that I became somewhat evangelical about the subject of prison reform. As I said in my speech to this House on 8 January during the Queen's Speech debate, I visited well over half of the adult prisons, young offender institutions and secure training units in England and Wales during that period. I repeat that I saw pockets of excellent work by really dedicated and excellent public servants, be they prison officers, prison governors, teachers, medical staff or experts in other forms of drug and alcohol addiction.

However, there was a lack of consistency. There was such a massive difference between the regimes in prison A and prison B, and a huge amount of churn of prisoners. You could be sent to Maidstone and then, within weeks, to Lewes; then to Exeter; then to somewhere in the north of England, and so on. So, the prison system had no ability to train, rehabilitate or mend these largely damaged and—yes—dangerous and criminal people; it had no ability to make them better. If we put junk in and take junk out, what have we achieved apart from spending an awful lot of public money to no effect, having misled the public that what we were doing with prisoners was in their best interests?

When I was a Member of Parliament, I once explained to a local journalist that I thought all prisons should have walls—of course they should—both to keep the prisoners in and to protect the public from those in prison; possibly also to protect the prisoners from the public. I also said that the prisons with walls should have windows in those walls, so that the public could see in and know what was being done in the prisons on their behalf; and the prisoners could see out and know there was a world out there that would welcome them back if they made the effort to come off drugs, come to terms with whatever addictions and mental problems they might have, learn how to earn a real living and look after themselves and their families, and understand that work for reward was a better alternative than reoffending.

The journalist sucked his pencil for a bit and said, "That's all very well, but have you thought of the public expenditure that would be involved in putting all those windows into walls?" It is possible to lose the will to live; I did not, quite, at that stage. I have become a cracked record on this subject over the last few years. My noble and learned friend the Minister is an advanced thinker in these matters, not a dyed-in-the-wool, "chuck away the key" person. If the Government want to, and Parliament permits them to do so, they can extend sentences in this way, that way and the other. But, while they have their captive audience—literally—I urge them to do something with these people that makes them better citizens on their inevitable release.

Lord Judge (CB): My Lords, I shall be very brief; following the remarks of the noble and learned Lord, Lord Garnier, there is not much more to be said. However, I wish to underline, first, that I very much hope that we will have a commitment today from the Minister that the Government do not intend to hold back on the enactment of a sentencing code. We have been through the whole of that process. It was cut short by the general election but it is an absolute imperative, as the Minister well knows and as anybody who has ever listened to the discussions on these issues fully understands. If we are to have changes to prison regimes, let them be done by amendments to an existing code rather than being introduced piecemeal and added on so that we are still looking through 17 volumes of laws to find out what the appropriate level of sentence might be.

My second point is much more general. The Minister's introduction suggested—and it is perfectly obvious that it is right—that this is just the beginning. The

[Lord Judge]
Government are committed to a wholesale investigation of whether sentencing levels and dates for release are appropriate, and so on and so forth; this is a mere first step.

Speaking for myself, I find it alarming that we have started this process by secondary legislation. The issues raised, as the eloquent speech of the noble and learned Lord, Lord Garnier, made clear, are immensely significant to the entire way we run our punitive system in this country. Yet we are to have secondary legislation for this and, I suspect, a piecemeal series of secondary legislation as the Government's thinking develops. A very good example—for once I am not looking at the Conservative side; this was Labour legislation—is the Criminal Justice Act 2003, which gave the Minister amazing powers to come to Parliament by way of a statutory instrument and effect enormous changes in our arrangements for prisons. Please, can we be more cautious about dishing out these powers?

Lord Thomas of Gresford (LD): My Lords, the policy change to increase the release date of prisoners sentenced to more than seven years to two-thirds of the sentence has been brought forward far too quickly and without proper consideration. It is not evidence-based. Before the election, the Lord Chancellor wound up the rhetoric and gave the reason for ensuring that the most serious violent and sexual offenders would face longer behind bars, as he put it, as restoring "public faith in sentencing"—sentiments that the noble and learned Lord, Lord Keen repeated. By contrast, the impact assessment attached to this statutory instrument says:

"Research into victims' views on sentencing and time spent in custody is limited. However, a 2012 study found that victims of sexual offences (who will be more likely to be affected by this policy) were unclear on what the sentences handed down by the court meant in practice."

There is no other study on which this change of policy is based and, as the noble Lord, Lord Ramsbotham, pointed out, there has been no public consultation. There have been only newspaper headlines in the popular press.

Before spending £440 million in construction costs and £70 million a year for 10,000 new prison places, as envisaged by the impact assessment, it would have been far better for the Government to take their time to form a proper evaluation of experience to date. In 2014 permission was granted for the Berwyn training prison to be built on the industrial estate of my home town, Wrexham. I know the area well; in my youth I worked on that very site as a member of a railway gang replacing wooden wartime sleepers with concrete ones. I learned how to use a pick and shovel, drink very sweet tea and place a bet—matters of great importance.

As I watched the buildings go up, to open in February 2017 at a cost of £250 million, I noted that it was the largest operational prison in the UK and the second largest in Europe. Here, I thought, was the opportunity, with modern design and facilities, really to do something to tackle attitudes, change people's lives and turn prisoners away from crime. All rooms, as the cells are called, have integral sanitation, a shower cubicle, a PIN phone and a UniLink laptop terminal. It is designed to hold up to 2,106 prisoners serving four years or more. There have been criticisms. In particular Frances Crook, the chief executive of the Howard League, told the Welsh Affairs Committee, which reported on prison provision in Wales in April 2019, that it was built in a way that even Victorians would not build. She said:

"It is going to be the most disgusting prison in Europe within 10 years."

She was concerned in particular that only 30% of the accommodation is single-cell, to save money, in flagrant disregard of the recommendations of the Mubarek inquiry into the murder of a young man by his racist cellmate.

As the prison was going up, a local rugby player, an experienced prison officer from a Merseyside prison, told me that, despite attractive offers, no regular trained officers would be attracted to work there. "It'll be full of newbies," he said. "You need to know who you're dealing with, who's standing next to you." He was right: the report of the Welsh Affairs Committee revealed that 89% of the prison staff were in their first two years of training. The Prison Officers' Association says that the recruitment pool in north Wales is exhausted and that

"we see very young inexperienced officers joining … with very few experienced staff to guide them."

An inmate released last May told the *Daily Post* that

"it's being run like a youth club."

4.45 pm

A first inspection, led by the Chief Inspector of Prisons, Peter Clarke, took place unannounced last April. He found that the prison had

"opened with a very clear rehabilitative vision which has faced resistance at times."

He found that, because of the inexperience of the staff, the number of assaults on them was higher and the use of force by the staff in response was far higher still, with full control and restraint used in 90% of cases. The staff failed to challenge low-level poor behaviour. Although there were sufficient activity places, a substantial number of prisoners were unemployed or failed to attend their allocated education, training or work place. Staff did not do enough to challenge those who chose not to participate.

What is the result? Last September, an inmate was convicted of a sexual assault on a female guard. His mitigation was that he had drunk four litres of jailhouse hooch and was dared by other inmates to touch the guard in return for another litre. A member of my family's chance meeting with 20 year-old Levi in a Wrexham street in October was instructive. Having just been released after a six-month sentence, he said, "It was a right laugh. You could get ketamine, Spice and any drug you fancied. I had a bit of a bill to pay when I came out. We spent the day stoned, playing video games."

Indeed, the chief inspector's report confirmed that drugs were too readily available: 48% of the prisoners had told his team so. He found:

"The substance use strategy was weak and not supported by a plan to coordinate, drive and measure the effectiveness of actions taken."

The chief inspector further concluded that there were not enough offending behaviour programmes to meet the needs of the population, with enough places in the

coming year for only about one-third of prisoners who met the criteria for treatment. At that time, the prison was only half full. The response to this recommendation by the governor and others last September was that the establishment is limited to the number of programmes the prison is commissioned to provide and the accommodation and resources needed to provide those programmes. Following the noble Viscount, Lord Hailsham, I take as an example the cohort of 46 prisoners serving indefinite public protection sentences who do not have access to courses that might qualify them for release. That is across the whole estate.

I would like to bring noble Lords up to date by giving the flavour of current conditions. The prison is still not full. Three years after it opened, there are only 1,628 inmates in a prison built for 2,100 because the facilities have not been finished. On 1 November last year, Judge Niclas Parry at Mold Crown Court, said, when sentencing a woman who had smuggled drugs into the prison, that drugs had plunged Wales's biggest prison into crisis. He said that Berwyn was set up in north Wales with all the best intentions in the world, but had been reduced to a place of indiscipline, violence, attacks on staff and bullying,

"all because drugs are being fought over."

On 29 November there was a case where a prisoner, a lady in transition, had hospitalised a guard by hitting him in the face with a mug. Judge Parry said:

"It is alarming and worrying how many cases this court in Mold has to deal with involving ill discipline at Berwyn Prison—and involving prison staff. You have to understand the fear of staff that something more serious might happen and the context in which these people work."

On that same day, 29 November, a coroner's inquest in Ruthin heard how fake legal letters soaked with Spice and Black Mamba had been sent to inmates. The prison thought it was barred from opening them because of legal privilege. A 22 year-old man from Blaenau Ffestiniog, Luke Morris Jones, died after smoking Spice and the inquest jury concluded that he had suffered a

"drug-related death in circumstances where a systemic failure in HMP Berwyn's systems for preventing drugs entering the prison contributed. HMP Berwyn were aware of the inefficiency of the system and insufficient mitigation was in place whilst it was addressed."

The prison has since introduced sniffer dogs and two machines to scan what the head of custody, Rachel James, called "dodgy correspondence".

On 23 December, a female prison officer was sentenced to 12 months' imprisonment for having sex with a prisoner who was serving 12 years for armed robbery. On Monday of this week, two fire appliances were sent to the prison after two prisoners set fire to their cells.

It is utterly feeble for this Government to make dog-whistle gestures with SIs such as these. Their proper function is to administer effectively and efficiently. The history of Berwyn to date indicates that the Ministry of Justice is failing in this basic duty. Do not waste the resources, time and energy warehousing more people for longer in large prisons. Fund the programmes and prevention, recruit the staff and use the resources in such a way that the outcomes are positive, so that offenders are given not a drug-fuelled holiday but a rigorous training leading to real rehabilitation. That is how public safety will be maintained.

Lord Thomas of Cwmgiedd (CB): My Lords, I will make one brief point. It is clear from what has been said, both in the impact statement and from the many points made by noble Lords, that what will be required is a very significant amount of further money for the prisons. My noble friend Lord Thomas of Gresford has described Berwyn; it is clear that much more money is needed, but that is one example.

The question I ask the Minister is: where is this money coming from? This is a critical question. The rule of law depends upon the proper provision of courts and of legal aid—legal aid not merely in criminal matters but in family matters, where it is denied to a huge number of people; in civil matters; and for really important things such as disputes relating to social services entitlements and to employment. It is not generally available there at all. Can the Minister assure us that what happens will be through new Treasury money and not, as has happened over the last few years, through gradually denuding the other parts of the Ministry of Justice, particularly the courts and legal aid, to prop up the Prison and Probation Service? The two are plainly interlinked because there is emerging evidence to show that if you do not deal with people's legal problems, you often set them off on the road to criminality. I hope the Minister can assure us that this is new money, because that is not what has happened in the past.

Lord Beith (LD): My Lords, perhaps I may follow the noble and learned Lord on the resources point. Prison is an extremely heavy user of resources. It is not possible to have a political argument about the stance a party wants to take on the use of prison while ignoring those substantial resource implications. Those resources are denied to other things which will stop people committing crimes or make it less likely. Here, we are confronted with one piece of a quite large jigsaw puzzle. It is one measure which will go alongside the sentencing Bill and the rhetoric which effectively urges judges and magistrates to pass longer sentences. All these things act together to create sentence inflation. Not merely will we then have the 2,000 extra places by 2030, which the Government's own impact assessment says is the central estimate of the effect of this statutory instrument; we will have all those other increases as well. All of that claims money which is effectively denied to probation and to local authority services, which are necessary if we are to steer young people away from crime. Therefore, it is money diverted contrary to the interests of public safety.

The impact assessment refers to "crowding". This is Ministry of Justice code for what the rest of us call overcrowding, but we are apparently not allowed to use "over" any more. Overcrowding is not simply prisoners living in uncomfortable conditions because there are three to a cell; it is having more prisoners than one has the staff or facilities to rehabilitate. That is the consequence of prisons having more people in them than they are supposed to have. You do not

[Lord Beith]
rehabilitate your prisoners because you cannot do the courses, and you do not have the custodial staff to take people to the courses they are supposed to be taking. You even sometimes have instructors unable to do their job because the prisoners cannot safely be brought to carry out the courses. We will increase overcrowding by this series of measures.

There is no claim in the impact assessment that there will be a valuable deterrent effect. We all know that there will no such effect; people carrying out the offences that we are talking about do not calculate whether they will be released at half or two-thirds of the custodial part of their sentence, so that is not even claimed. However, there is of course the admission that shorter periods on licence could affect reintegration. The points that a number of noble Lords have made add up to a pretty strong case against a measure for which a serious positive case is difficult to put forward.

Lord Judd (Lab): My Lords, this has been a very reassuring debate because the experience and wisdom that have been brought to bear are a wonderful antidote to much of the ill-informed commentary in the popular press.

I want to make a couple of brief points. First, a lot of imaginative, dedicated work goes on within the Prison Service, but the pressures, accentuated by repeated cuts over recent years, have made that work difficult to pursue, not least in the sphere of education. Do we see as fundamental to our penal system the challenge of rehabilitation or do we not? In my view, rehabilitation makes utter sense economically because it is the only way of ensuring that the amount of reoffending is reduced; but, of course, in a civilised society it makes sense in terms of winning people back to a decent role in society and an ability to contribute to its well-being. This suggests that a priority in the penal system must be for the whole culture and purpose of prison officers and prison staff to be ultimately and directly the challenge of rehabilitation. It is not a warehouse function; it is about enabling people to become better people, positive people.

5 pm

My second point is more personal. My wife served for 10 years as a prison visitor at an advanced prison that was more or less exclusively for people on life sentences. We have heard good sense in this debate about the importance of prisoners being able to see the outside world as somewhere to which they can return, and of the outside world seeing what is going on inside prisons. Crucially, there must be a date: there must be a purpose in people's behaviour in prison whereby they can see the target for which they are aiming. That is terribly important. What my wife and her colleagues always found most challenging and difficult was that for a number of prisoners, there was no date. The work with them was particularly difficult and exacting.

It is very good that we have a House of Lords that is able to provide this kind of insight on a crucial matter of this kind. I just hope that the Government listen to the wisdom that is put forward here, and do not just play to the chorus of the popular press.

Earl Attlee (Con): My Lords, I am grateful to my noble and learned friend the Minister for his explanation of the order. I agree with almost all of what noble Lords have said, but I part company in respect of austerity. In 2010, we were bust: about £1 in every £4 was being borrowed, according to the then Chancellor of the Exchequer, and it was not sustainable. Painful cuts had to be made everywhere—and I am afraid that the party opposite is responsible for that.

It is unfortunate that there was not proper consultation on this order, because the feedback that Ministers would have received might have dissuaded them from taking this course of action. We cannot amend the SI—that is perfectly proper—but we need not worry too much because we will have a sentencing Bill fairly soon and that will give us a great opportunity to look at these matters in detail.

My noble and learned friend said that these changes would provide more time for rehabilitation prior to release. We have all read the chief inspector's report. Very frequently, in respect of purposeful activity, it is said that it is boring, repetitive and often not relevant to employment on release, or words to that effect.

I have spent the last two years taking a very close look at the UK's prison system, and I have concluded that it is fundamentally flawed from top to bottom. It is truly terrible. The rehabilitation efforts are pitiful, partially because it is so difficult to do it in the current prison system. Longer sentences will only make matters worse. How could anything else be the case?

I worry that these changes might make it more difficult to maintain discipline in prisons, because there will be less time available to add to a sentence in the case of misconduct. I fear that this is a foolish policy, for all the reasons so well articulated by noble Lords.

Lord Hogan-Howe (CB): My Lords, I have always been a fairly hard-nosed enforcer in terms of policing and thought that punishment was really important as part of a sentence. However, I am not sure that I support these measures. With around 85,000 people in prison, there are far too many already.

Prison broadly fails. Having 85,000 in prison is at least one mark of success of the criminal justice system. It is often complained that the police arrest no one, the Crown prosecutors charge no one, the courts find no one guilty and even if they do, they never put them in prison. Well, 85,000 people got there somehow, and they have been increasing in large numbers over the last 30 years, so I think that, by one measure, we ought to have confidence that the criminal justice system can work.

But I am afraid that the prison system is failing. It has failed because the proportion of people who commit offences within two years of release is well over 80%. It is the least effective form of preventing recidivism of all the forms we know, and it is the most expensive. Of those who go into prison, two-thirds have a drug habit, but by the time they leave 80% do. One of the most secure places in the country cannot stop drugs getting in, it appears.

My brief final thoughts are these. It seems to me that if we are to take this measure—and I understand why there is some intuitive support—then there have to be some of the counterbalancing measures that

some noble Lords have discussed. First, we have to look at sentencing guidelines. These have always drifted upwards. I cannot remember the last announcement from the Government that said, "This prison sentence is far too long, and it is about time we reduced it."

Secondly, the only people who think that prison is a pleasant place are people who have never visited one. Whether it is four, six or eight years is almost immaterial, but there needs to be honesty in sentencing. What happens now is that people are announced to be going to prison for 14 years when what is meant is that you are going for seven and, in the event that you misbehave in prison, you will stay for 14. It is far better to be honest and transparent in those announcements.

Thirdly, I would invest in technology post release, such as the sobriety scheme we discussed briefly yesterday that monitors people's alcohol intake, their drug intake and sometimes, perhaps, if they have a mental illness, whether they have taken their medication. These are things that really can have an impact on release.

Finally—and this may seem to be an abstract point, but I think it is really important—one reason we are having so many difficulties, I am afraid, in controlling our prison population is to do with the corruption of some of the staff. I do not say that they are all corrupt, because that would be very unfair, but I am afraid that the Prison Service lacks a prison investigation command. The last Prisons Minister did instigate a prisons intelligence system to look at corruption, but it is no good having intelligence that no one is going to investigate. Many of our prisons sit in rural areas with our smallest forces, and they do not regard it as a priority to look at prison staff corruption and see whether there is a criminal act taking place. I urge the Government to look at that seriously.

Perhaps if we were able, even if we were to extend the period before a licence is considered, to reduce the overall prison population by changes in sentencing, the savings we would make could be invested in some of the things we have all talked about today. It would be wise to make sure that we are safer in the future and that we have a more liberal approach to the detaining of people who are, at the end of the day, convicted of serious offences.

Baroness Chakrabarti (Lab): My Lords, I can be short, as a small mercy to the Minister, because so much has been said with such force in this debate. As was alluded to earlier, there is so much said about the democratic deficit of an unelected second Chamber, but the one thing we might occasionally say in return is that this is a place where it is possible to have a thoughtful, rational, dispassionate and at times passionate debate about law and order, including what works and might work, including rehabilitation and some of the other concerns that have been so well expressed today. It is invidious to pick out a particular speech, but the noble and learned Lord, Lord Garnier, will have to forgive me: he will not thank me for saying that he was perhaps the greatest Conservative Justice Secretary or Home Secretary that we never had.

I can adopt a lot of what has been said, with perhaps one slight distinction. If this were proper populism, why would the dial be moved from the 50% point to the two-thirds point? Will that really satisfy any proper populist instinct in the population? If this is really about chasing headlines, the difference between automatic release at the 50% point and the two-thirds point will not work for very long. If this were to be a proper "hang 'em, flog 'em, throw away the key" kind of policy, or if it were about what was once called honesty or transparency in sentencing, why have automatic release at all?

The Minister quite rightly addressed the value of early release in allowing a period of supervision in the community. I suggest that it also incentivises good behaviour in prison and engagement with regimes that can help cut reoffending post sentence. But that kind of incentive is achieved by a discretionary release, not by automatic release.

As always, I have the words of the noble and learned Lord, Lord Judge, ringing in my ears, as they are designed to do. He quite rightly pointed out that Governments of both persuasions have at times conducted an arms race on law and order, including sentencing. One of the consequences is that you have long sentences to chase the headlines and then automatic release because of overstuffed prisons. That is a ratchet which both sides in politics have contributed to in recent years, and it is not desirable going forward.

If this were proper populism, it would be about complete transparency and no early release. If it were more enlightened, it would be about discretionary release for more serious offenders; however, again, you would then need resources for the Parole Board—or whoever the decision-maker would be—to determine on a case-by-case basis whether people are safe for release.

I have caught the eye of the noble Baroness, Lady Newlove. She and I know from other debates and tragic cases the dangers of releasing dangerous people early in terms of the ramifications for subsequent victims and so on. It is not wrong of the public to be concerned about that. Building public confidence in sentencing is not populist per se, if we build that confidence properly by reducing reoffending. We have heard from all sides of this House how this measure is not likely to reduce offending.

The noble Earl, Lord Attlee, said that he takes issue with debates about austerity. Fair enough. We do not need to do that in this debate, because on the Government's own case this measure will, I think, cost £680 million. The question in my mind is whether this is the best way to spend that £680 million to protect people, look after victims and make the country a little safer.

I hope noble Lords will forgive me, but we should consider this given the current state of the criminal justice system—and not just the prisons. I know that the contribution on this of the noble Lord, Lord Hogan-Howe, was slightly light-hearted; we do not really measure the success of the criminal justice system by how many people are in prison, not least when rape victims are feeling so let down at the moment and we have, I think, the worst conviction rates on record. I ask myself what £680 million could have done if directed towards rape investigation and prosecution in particular, given how difficult they are.

[Baroness Chakrabarti]

I do not want to pretend that this is the most fundamental principle being breached by this instrument because, as I say, whether it is automatic early release at 50% or 75% of your sentence, this is just a wasted opportunity. It does not seem at the moment to sit in a broader context of an enlightened approach to these matters.

For reasons that I consider deeply painful and unfortunate, this Government now have a really huge opportunity, if they choose to take it, to turn down the ratchet on law and order. They do not need to play to this imaginary or real gallery. They have an opportunity for some considerable time to change the debate on law and order. That is not to deny public concern about crime but to meet that concern properly, not with a headline or by moving the dial on automatic early release from the halfway point to the two-thirds point but to investigate and work to reduce reoffending, including by investing in community orders and so on and so forth.

This order is therefore a wasted opportunity. I hope that the Minister will not consider it an irritation or an impertinence that some remarks have been made robustly; I do not believe it is because anyone believes that a populist heart beats inside him but because this House, of all places in public debate, cares very much about trying to change the discourse and policy in law and order and about doing something positive with the platform that we have.

5.15 pm

Lord Keen of Elie: My Lords, I am grateful for all the contributions to the debate, which has ranged widely and not simply confined itself to the terms of the present order. That is entirely understandable and appreciated. I have listened with interest and concern to the many contributions. I will touch on some as I go through, more on the basis of topics than anything else.

I emphasise that we are dealing here with steps that we can take by way of this order in the context of our bringing forward a sentencing Bill that will be the subject of detailed consideration both here and in the other place. However, this is what we can do at present under the 2003 legislation.

In answer to the proposition that we are increasing sentences, I suggest that this is a process of restoration, not of increase; we are restoring the position to what it was prior to 2003. There is also the technical question of how we deal with consecutive sentences, because there was a concern about the state of the law before that.

My noble friend Lord Hailsham talked about relevant courses for safe release, and he makes a good point. It is more applicable to extended, rather than standard, determinate sentences, but I am conscious of his point. That touches on a wider issue of concern, that of rehabilitation. We all aspire to secure rehabilitation; who would say, "Yes, we want to imprison people for long periods but we've no desire to rehabilitate them. We'd rather they came out of prison just as dangerous and violent as they were when they went in"? Of course we aspire to rehabilitate. Although it may have gone unsaid in some quarters, we all understand what a challenge that genuinely is for the prison population that we have, but we are concerned to try to achieve it.

If we extend the sentence, as this instrument proposes, it will take some pressure off the probation service, but I do not seek to overstate that. Reducing the period for which someone is on licence will take some degree of pressure off the service, but that is perhaps marginal.

The noble Lord, Lord Ramsbotham, talked about us now adding 2,000 prisoners to an overcrowded population. However, with respect, that is the impact on prison numbers by 2030; we will not see any immediate impact from this for four years. It is a gradual process, and we are in the position of already dealing with the question of prison numbers by reference to capacity and staff. Indeed, in August 2019 it was announced that we would expend some £2.5 billion in this area, and in 2020-21 we will expend somewhere in the region of £156 million on the existing prison estate. Those are considerable sums of money.

The noble and learned Lord, Lord Thomas of Cwmgiedd, raised the question of new Treasury money—I think I quote him correctly. I confess that that is more a matter for the alchemist than the Minister. New Treasury money is, again, one of those aspirations that every Minister may have, but securing it is very different from talking about it. But we are expending considerable sums on the prison estate and will continue to do so.

In passing, I recognise the importance of access to justice in all its forms, as we all do, but we must be proportionate in how we go about that. There are various demands on the public purse; we cannot just assume that we have unlimited funds available, even in legal aid, for example.

Of course, there are changes we can aspire to. Indeed, the noble Lord, Lord Hogan-Howe, talked about the introduction of further technology. I am sure that is an area where exploration would pay dividends over the 10-year period we are talking about, up to 2030.

These instruments are an important first step towards reforming sentencing and release measures for offenders, particularly those who cause the greatest harm to society. In these circumstances, we consider that they will ensure an improvement in the perception of how sentencing operates. Indeed, a noble Lord mentioned that some victims of crime have little idea of how the sentencing of a prisoner who has committed a violent crime actually works. It is important to bring greater transparency to that, while ensuring that when a violent prisoner, or a prisoner who has committed a violent offence, is released, they are still subject to a period when they receive the required support from the probation service, and are still under licence and can be returned to prison if they commit a further offence.

I commend the instrument to the House.

Motion agreed.

Criminal Justice and Courts Act 2015 (Consequential Amendment) Regulations 2019

Motion to Approve

5.21 pm

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

That the draft Regulations laid before the House on 14 January be approved.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, these regulations are attendant on the order that has already been placed before the House. I beg to move.

Motion agreed.

5.22 pm

Sitting suspended.

European Union (Withdrawal Agreement) Bill

Commons Amendments

5.45 pm

Motion A

Moved by ***Lord Callanan***

That this House do not insist on its Amendment 1, to which the Commons have disagreed for their Reason 1A.

1A: Because it would involve a charge on public funds, and the Commons do not offer any further reason, trusting that this reason may be deemed sufficient.

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, with the leave of the House I will speak also to Motions B to E.

We are at the end of what seems like a very long road. The final stages of this Bill represent something that many of us thought might never happen: Parliament passing the legislation necessary to implement a Brexit deal and finally to deliver on the 2016 referendum. It has been no mean feat, with nearly 40 hours of debate and over 100 amendments in this House in the past fortnight alone. Last night, I was able to give my thanks to officials, colleagues and friends across the House who have helped us to reach this point; let me thank them once again.

Of course, I know that many noble Lords on the Benches opposite are disappointed that the Commons has chosen to disagree with all of the amendments that noble Lords passed this week. However, I would like to reassure them that their expertise and contributions will continue to play a valuable role after Brexit. Following our exit, this House will see more legislation on a range of topics connected with our departure from the European Union, and in some cases it will be the first time in decades that the UK has legislated on some of these matters.

But today, the Motions before this House recommend that it should agree with the position that the elected House has taken this afternoon. As my right honourable friend the Secretary of State said earlier in the other place, the Government welcome and appreciate the rigorous scrutiny provided by this Chamber. He also set out in detail why the Government are unable to accept the amendments from this House. If noble Lords will indulge me, I will take a moment to touch on the amendment moved by the noble Lord, Lord Dubs.

The Government have been clear that we remain committed to seeking an agreement with the EU for the family reunion of unaccompanied asylum-seeking children and we have already written to the European Commission to commence negotiations. Furthermore, we have gone beyond the original amendment tabled by the noble Lord, Lord Dubs, to provide a policy statement to Parliament within two months of the withdrawal agreement Bill's passage into law. This demonstrates our commitment to report in a timely manner and guarantees Parliament the opportunity to provide more scrutiny. We hope, of course, to have completed those negotiations as soon as possible in order to minimise any disruption to unaccompanied asylum-seeking children. We will also continue to process family reunion cases referred before the end of the implementation period.

I hope that I can also reassure the noble Lord, Lord Dubs, on behalf of my noble friend Lady Williams, that Clause 37 of the Bill does not amend the definition of relatives under the 2018 Act. A relative means

"a spouse or civil partner of the child or any person with whom the child has a durable relationship that is similar to marriage or civil partnership, or … a parent, grandparent, uncle, aunt, brother or sister of the child".

Finally, as we have already explained, primary legislation is not necessary to deliver our commitment on unaccompanied asylum-seeking children. I hope this reassures the noble Lord that we take his concerns seriously.

As I come to a close, I hope noble Lords will forgive me if I take just a brief moment of self-indulgence, as this may well be my last outing at the Dispatch Box as a DExEU Minister—unless, of course, the noble Baroness, Lady Ludford, has some more plans for PNQs again next week. It has certainly been quite a journey. When I took on this role, I knew it would be a challenge—not least as a leaver in a predominantly remain House. After, by my rough calculations, two government Bills, more than 20 debates, 49 Oral Questions, 10 Statements, four PNQs, 10 Urgent Questions and around 250 hours at this Dispatch Box, I can honestly say that I have enjoyed almost every minute of it. Given the tremendous expertise of this House—with many ex-senior Ministers, ex-MEPs, the author of Article 50 and ex-EU Permanent Representatives, to name but a few—the sheer quality of debate, political sparring and questioning is always second to none. I can only apologise if the quality of the answers is sometimes not to the same high standard. I am honoured to be part of this House, and I thank the Leader in particular for having given me the opportunity to play my part in delivering the result of the 2016 referendum and finally getting Brexit done. That is it—the end. I beg to move.

Lord Dubs (Lab): My Lords, perhaps I ought to congratulate the Minister on his stamina, as he has described it so well, but also my colleagues on the Front Bench, who have shown similar stamina and persistence. I thank the Minister for the assurances he has given me regarding the amendment I sought to introduce on unaccompanied child refugees. I wonder if I could just nudge him a little further.

Noble Lords: Oh!

Lord Dubs: It is very gentle. He has given the definition of a relative and that is fine; he has confirmed it. He referred to the Statement that will be made by a Minister in a couple of months, setting out the Government's further plans on this. I hope that Statement will include the nature of the preparations that the Government will make to ensure that this process works in time for 1 January 2021, by which time we have to have something new in place—just an assurance on what the Government will do to make sure that is all in place.

Finally, a lot of people have written to their Members of Parliament and some of the replies have come my way, not surprisingly. It is interesting. Conservative Central Office ought just to make sure that it is in line with the Minister. For example, one of them talked about exiting the EU and so on and so forth, and said it is important that the legislation comes under the Home Office in the form of the immigration Bill. Another letter says it is sensible and pragmatic to legislatively include it in the immigration Bill. MPs are saying to their constituents that all this ought to be in the immigration Bill. I understood otherwise; I understood that the Government's view was that it did not have to be in the immigration Bill. I think somebody is not listening to somebody else. I say that very gently, but I thank the Minister for the assurances he has given.

Lord Oates (LD): My Lords, I regret the Government's decision to reject all the amendments, in particular the amendment that the noble Lord, Lord Dubs, has just spoken to and the amendments that my noble friends moved.

I am sorry that in another place the Minister, when addressing the EU citizens amendment, failed to make any arguments at all. Indeed, so devoid of them was he that he resorted to a whole load of canards and non sequiturs. I could go through them at length, if I thought the Government were in any way moved by arguments on this, but it is clear to me that they are not. Sadly, and without any coherent reason at all, they have rejected an amendment which would have improved the Bill, alleviated the severe anxieties of EU citizens who are currently being refused documentary proof of their right to settled status, and ensured that the Prime Minister and the Home Secretary kept the promises they made to EU citizens during the 2016 referendum campaign.

Our amendment did not seek to interfere with any rights under the settled status scheme, nor did it do anything to thwart or delay Brexit. The proposals were not radical: the provision of documentary evidence of status is exactly the system that exists for non-EU holders of indefinite leave to remain. Our proposal for a declaratory system was simply aimed at preventing the Government and EU citizens becoming embroiled in a bureaucratic quagmire after June 2021.

As a result of the Commons' failure to heed these modest requests, the conditions have been created for a great injustice to be visited on tens, perhaps even hundreds, of thousands of EU citizens. Millions of EU citizens will continue to face deep anxiety about their status as a result of the inexplicable decision to refuse to provide them with documentary proof. This is not an arcane debating point. This decision will have a real impact on people's lives. Every member of the Government and every one of its supporters should, frankly, be ashamed that they are party to a casual abandonment of a solemn undertaking made by the Prime Minister and the Home Secretary to EU citizens during the course of the referendum. I am sorry that it has been abandoned so casually.

EU citizens in this country—and UK citizens in the EU, who are concerned about how the UK's approach at home will impact their position in the EU—can be assured that, despite the set-back today, we will not give up the fight for good sense on this matter to prevail. Although our amendment has not gone through today, we will seek further legislative opportunities to ensure that it does so in future.

Lord Mackay of Clashfern (Con): My Lords, I would like to say a word or two about the two amendments in which I had an interest. I am sorry that my voice is not quite up to it, but it is better than it was yesterday.

I am very glad that the situation now is that Parliament can act and get on with what is required. Clause 26 is the one I am interested in. Your Lordships will remember that the noble Lord, Lord Beith, moved an amendment to take out the provision which required a selection of courts to be made in a statutory instrument. I had understood that the Prime Minister had said that he wanted all courts to be able to deal with this matter in some way. By a majority of around 100, those in the House of Commons preferred that situation to what he said—that must be a matter of some interest. So far as I am concerned, I was extremely anxious to uphold what the Prime Minister said in his answer during the election.

Those in the Commons do not say that my amendment is unsuitable, but that it

"does not deal appropriately with the issue of domestic courts departing from the case law".

But they do not say that their own provision is necessarily suitable either. I am sure that I, and all my noble and learned friends who spoke on these amendments, would be very willing to offer any help that may be required when it comes to promoting this statutory instrument.

Lord Beith (LD): I wonder if I might be allowed to follow the noble and learned Lord, since we are discussing the amendments to Clause 26. He made such a bold and ingenious attempt to provide the Government with a reasonable platform on which they could deal with this problem.

I am faced with words from the House of Commons that my amendment would not leave an appropriate means of dealing with

"the issue of domestic courts departing from the case law of the European Court after IP completion day"—

but nor does the Bill as it stands. It relies on the use of a regulation-making power, under which any or all courts could be included, including lower courts which do not have the capacity to bind other courts and therefore can make many inconsistent decisions. It still leaves the Government with the power to, effectively, impose a different, unspecified test.

This is a very unsatisfactory situation, but the best thing that the Government can now do, since they have failed to accept either my amendment or that of

the noble and learned Lord, Lord Mackay, is think very carefully before proceeding, because there is already sufficient statutory provision in place in the 2018 withdrawal Act, under which the Supreme Court and the High Court of Justiciary can do the job of deciding to depart from European case law. Should the Government wish to extend that to some other courts, perhaps to appeal courts, they will probably find sympathy and support in the House, but should they try to bring forward proposals by way of regulations of the kind that were widely discussed by very experienced colleagues around the House, they will meet resistance at that stage.

6 pm

Baroness Deech (CB): My Lords, we note, sadly, that the so-called Dubs amendment has been rejected, but I am sure that many of us feel, like me, that the noble Lord, Lord Dubs, will go down in history as a champion for refugee children and that he is an outstanding example of the contribution that can be made to British life by admitting a refugee child.

Baroness Bennett of Manor Castle (GP): My Lords, I express the Green group's very strong disappointment about the decisions made earlier today in the other place. We sent them constructive amendments that aimed to protect those whom the Government themselves recognise as the most vulnerable people in society; to retain our close ties with the continent of Europe after we Brexit; to keep hard-won protections; and to recognise the established conventions of the power of the devolved institutions. We spent five days presenting powerful arguments for those amendments. I do not intend to rehearse any of them here. Rather, I present to the House three practical arguments for a way forward that the House might not currently be planning to take.

My first practical argument is about the past five days. We have all worked very hard. We have presented the arguments and argued the case. As the noble Baroness said, the noble Lord, Lord Dubs, has worked astonishingly hard and deserves the highest levels of credit. But we are potentially looking at the coming five years. I am not one who believes that we will suddenly see an outbreak of stability in Britain that means we will see five years of stable government—but it is possible that we will. So I ask your Lordships' House to consider what it will be like if we spend five years working like we just have for the past five days and then get to the point again and again of not being listened to. Do we want simply to bow down and allow that to happen again and again?

My second practical argument is that we are not going against the Salisbury convention. Nothing here reflects what was in the election that was just held—the election in which 44% of people voted for a Tory Government and 56% of people did not.

My third practical suggestion is not to be what might be described as recalcitrant, but to pick one of these amendments to say to the Commons, "Please listen to the powerful arguments and think about the impact of your actions." I am of course referring to the amendment that the noble Lord, Lord Dubs, put forward. We could hold the line on that one amendment. I ask noble Lords to think about what the impact of that might be. We are talking about people whom the Government agree are the most vulnerable children on the planet.

As we have heard in the debates, we know that lots of those children have made their way to Britain through irregular, dangerous and sometimes deadly means. A couple of years ago, I went to a memorial service for a young man who died in the back of a lorry. He had the right to come to Britain, but felt that he could not exercise that right and died as a result. I ask noble Lords to think about the message that us bowing down on the Dubs amendment will send to children in Europe today. They need to know that there are people in Britain, in the Houses of Parliament, who are on their side. So I ask your Lordships to consider our way forward, and to consider standing up for those children.

Lord Cormack (Con): My Lords, we should take an example from the noble Lord, Lord Dubs, who replied with great graciousness this afternoon, and move forward, jettisoning wherever we can the words "Brexit", "remain" and "leave". Wherever we stood in the past, we are now moving forward. I am very glad that there has been no contesting of the will of the elected House, which represents the will of the people. Let us now try to have some unity and some real healing across both Houses.

Lord Howarth of Newport (Lab): My Lords, I would like to express my personal appreciation for the way in which the noble Lord, Lord Callanan, has handled his responsibilities at the Dispatch Box. Although I am somewhat anomalous on this side of the House in being—if the noble Lord Cormack, will allow me to say—in favour of leaving the European Union, none the less, I am sure that many of my colleagues have also respected the hard work and the gracious spirit in which the Minister has presented the case on behalf of the Government.

However, I cannot agree with his commendation of these so-called Commons reasons. It is disappointing for this House that the Commons has dismissed the amendments that your Lordships' House sent to them, with no serious consideration whatever. That represents a failure to recognise and respect the proper constitutional role of this House. In the proceedings on this Bill, this House has not sought to obstruct the Government's purpose in passing the withdrawal legislation. Everybody in this House accepts that the Government have a mandate to do so, and everybody understands the time constraints. None the less, this House sought to improve the legislation in important respects.

My noble friend Lord Dubs, and the noble Baroness, Lady Deech, have made the case very well indeed in respect of the issue raised in the Dubs amendment, but there were also important constitutional issues that arose from the Bill, and they are not negligible. They concern, for example, the formal processes and the spirit in which the Government seek to relate to the devolved institutions as we withdraw from the European Union and develop the new relationship. They concern the excessive Henry VIII powers that the Government have chosen to take in this Bill—one of them, very importantly, providing for the Government

[Lord Howarth of Newport]
to take powers, by regulation, to intervene in the realm of the judges in determining how they should handle European retained law.

There are other areas, including Clause 41, which has provided a very large, very extravagant opportunity for the Government, by regulations, to abolish or amend, in substantial respects, primary legislation. It is not just legitimate but our duty to have considered these matters, and it is disappointing that in the other place, the Government, Ministers and Members of Parliament have not thought it worthwhile to give any significant consideration to these issues. Taking back control of our laws should represent a full restoration of parliamentary government, and a full restoration of parliamentary government should mean a proper working relationship between your Lordships' House and the other place. It should not mean a new excrescence of, to use that memorable term coined by a very distinguished Conservative, Lord Hailsham, the "elective dictatorship."

Baroness Hamwee (LD): My Lords, I simply have one request for the Government. What will shortly become Section 37 provides for a statement of policy within two months. The Minister talked about reassuring noble Lords. Those who need reassurance are EU citizens—those covered by my noble friend's amendment—and those affected by the child refugee situation. I hope that the Government, who have told us that they have been negotiating, can bring forward a statement of policy well before the end of the two months.

Baroness Ludford (LD): My Lords, I am not quite sure why the noble Lord, Lord Callanan, singled me out for mention. I think that I must figure in his worst nightmares—which obviously delights me.

He referred to it taking three years to get the withdrawal agreement approved, but I remind him and the Benches opposite that the failure to approve it sooner was due largely to the refusal of Brexiters to support previous efforts. We remainers do not accept responsibility for Brexit or for the negative consequences that it will entail. We have played our part responsibly in trying to improve the process and the outcome of Brexit, as we have on this Bill.

I am glad that this House was not bullied or intimidated, and that it has improved the Bill. In better times, the thoughtful contributions that we made would have received a more respectful response from the Government—I agree, for once, with the noble Lord, Lord Howarth—but the Government were dogmatically determined to refuse any positive improvement to the Bill. So here we are, and we will see what happens in the months and years to come.

Baroness Hayter of Kentish Town (Lab): Well, I am delighted that the noble Lord, Lord Callanan, has enjoyed this. He has certainly given us some fun on occasions.

The purpose of this debate is to handle Commons "consideration" of Lords amendments. However, as I watched the Commons—after just 60 minutes of debate on what this House had considered with such care—eventually overturn all our five amendments, it was hard to take the word "consideration" seriously. More accurate, as I watched, tweeting as I went, was the reply that I received to one of my tweets from someone who identified themselves only as DeepblueBoy. It read, "That's democracy for ya!" I guess that it was his way of saying—in line with No. 10's view, I imagine—"We've a majority of 80, so we simply don't need to heed the House of Lords."

I regret that. I regret it for the four vital issues that we had raised, covering safeguarding the union with the devolution settlement, safeguarding the independence of our courts and judiciary, safeguarding EU citizens' residency by giving them a document, and of course safeguarding vulnerable, unaccompanied refugee children. Because we take our constitutional obligation seriously, and part of that is to offer MPs the opportunity to give serious consideration to the issues that we have raised. And the issues that we had raised and sent to the Commons would not have delayed Brexit by one second, would not have affected the working of the Bill or the withdrawal agreement, and did not run counter to any Conservative election promise.

So I regret the damage done in those four areas. But I also regret it, as I think I have just heard from my noble friend Lord Howarth, for what it says about the new Government—that No. 10 has decided not to listen, whether to the devolved authorities, to experienced judges and senior officeholders, or to other experienced Members of your Lordships' House. I will just point out—my noble friend Lord Liddle told me this; I had not done the numbers—that in all the votes that we had, the Conservatives had a larger vote than the combined votes of the Liberal Democrats and the Labour Benches. So this was not a political divide; that side of the House still outnumbers us. It was, of course, with the all-important independent Peers that these results were won—an important consideration.

If this is to be the pattern of this Administration, breaking what I think are the conventions, including the recognition that in a bicameral system legislation is meant to be a dual responsibility, then I fear that we are in for an unfortunate time. Let us hope that this is a one-off as a result of the recent election and that normal service will shortly be resumed so that this House can play its full scrutiny role, secure in the understanding that all differing views will not simply be cast aside. As David Davis MP recognised in the other place, there was even a consensual way forward on the CJEU issue, crafted so carefully and expertly, as we would expect, by the noble and learned Lord, Lord Mackay of Clashfern. It would have made sense for the Government to have swept up that solution without even having to give credit to anyone but one of their own. It was not to be, but I hope that they will now take up his new, generous and learned offer.

For now, the Government will have their way. In future, I hope that dialogue and compromise will once again be possible, perhaps even—who knows?—with the noble Lord, Lord Callanan, perhaps in a different guise.

Lord Callanan: My Lords, I thank all noble Lords who have contributed to the discussion. We have debated all these matters at great length and our positions are well known, so I will not try the patience of the House by repeating those arguments.

I restrict myself to two comments. First, I concur completely with all the statements that have been made about the noble Lord, Lord Dubs: we hold him in the highest regard. I know that my noble friend Lady Williams has listened very carefully to his comments and will certainly take them on board. Secondly, we thank the noble Lord, Lord Beith, and the noble and learned Lord, Lord Mackay, for their help and assistance on these controversial clauses. My noble and learned friend Lord Keen will, I am sure, want to take those discussions forward with them both when these matters return to this House, as they probably will in the future.

Motion A agreed.

Motions B to E

Moved by ***Lord Callanan***

Motion B

That this House do not insist on its Amendment 2, to which the Commons have disagreed for their Reason 2A.

2A: Because the provision removed by the Lords Amendment would provide an appropriate means of dealing with the issue of domestic courts departing from the case law of the European Court after IP completion day.

Motion C

That this House do not insist on its Amendment 3, to which the Commons have disagreed for their Reason 3A.

3A: Because it does not deal appropriately with the issue of domestic courts departing from the case law of the European Court after IP completion day.

Motion D

That this House do not insist on its Amendment 4, to which the Commons have disagreed for their Reason 4A.

4A: Because it is not appropriate for the negotiating objectives of Her Majesty's Government to be provided for in legislation.

Motion E

That this House do not insist on its Amendment 5, to which the Commons have disagreed for their Reason 5A.

5A: Because it is unnecessary and inappropriate to refer to the conventions mentioned in the Lords Amendment in Clause 38.

Motions B to E agreed.

House adjourned at 6.17 pm.

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