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PARLIAMENTARY DEBATES
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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

Tuesday 4 February 2020

2.30 pm

Prayers—read by the Lord Bishop of Southwark.

Post Office: Prosecution Powers

Question

2.36 pm

Asked by ***Lord Arbuthnot of Edrom***

To ask Her Majesty's Government what recent assessment they have made of the Post Office's powers to conduct prosecutions.

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 Post Office's powers to bring a private prosecution, which fall under Section 6(1) of the Prosecution of Offences Act 1985, are not specific to that company. It has the same right as any other person, whether an individual or a company, to bring a private prosecution.

Lord Arbuthnot of Edrom (Con): My Lords, I am grateful to my noble friend for that Answer. Last year, the Post Office had to settle litigation brought by 555 sub-postmasters at a cost to it of nearly £60 million. The Court of Appeal described the Post Office as treating sub-postmasters

"in capricious or arbitrary ways which would not be unfamiliar to a mid-Victorian factory-owner."

The judge at first instance held that a Post Office director had set out to mislead him. How can such an organisation possibly conduct its own prosecutions when it cannot command the trust of the courts or, indeed, of the country?

Lord Duncan of Springbank: My noble friend raises challenging points. I must stress that the leadership of the Post Office got it badly wrong and, as a consequence of those actions, people have experienced unfortunate situations. That has changed. There has been a change in culture, a new chief executive and a new recognition that the old ways of doing things cannot go on. That is why the Minister responsible in my department, Kelly Tolhurst, now has quarterly meetings with the National Federation of SubPostmasters as a way of ensuring a better relationship with those who are at the sharp end of the Post Office.

Baroness Burt of Solihull (LD): My Lords, this is far more than "unfortunate"; it is a shocking story of obfuscation, cover-ups and downright abuse of sub-postmasters—the face of arguably the most trusted brand in this country—by the most senior people running it, yet they were able to do this because they had the power to conduct their own prosecutions with no independent assessment of the case for the defence or the prosecution. Can I therefore I join the sub-postmasters in asking the Government to review this and other issues that this sorry case has thrown up through a full, independent public inquiry?

Lord Duncan of Springbank: The individuals affected are indeed the face of the Post Office in towns and villages up and down the land. The situation which arose was unacceptable and the courts have shown that. There needs to be manifest change in the way the Post Office does business and a recognition that that way is not acceptable going forward. We will be doing things differently; we will bring in a new national framework to ensure that the past situation cannot be repeated. This is the time for us to bring about the real change which is required right now.

Lord Morris of Aberavon (Lab): My Lords, when I was a law officer, we brought most governmental and quasi-governmental organisations which did prosecute under the supervision of the Attorney-General. Would that be appropriate in this case?

Lord Duncan of Springbank: I suspect that it will be quite some time before the Post Office embarks upon another adventure of this sort, for many obvious reasons. We need to recognise that a number of manifest failures led to this situation. These need to be understood, and they are being by the new culture inside the Post Office. The reality remains that the Post Office got it wrong. For that, there needs to be a serious change, and at the heart of it must be not just profits but recognising the role of the sub-postmasters themselves.

Baroness Neville-Rolfe (Con): My Lords, as the Minister responsible at the time, I was uneasy because it involved claims of dishonesty by apparently honest citizens. I therefore advised the Post Office to take outside legal counsel to try and get at the truth. Now that we have reached the present stage, what arrangements for compensation have been, are still being or will be made for those affected?

Lord Duncan of Springbank: My noble friend is right to draw attention to this. As my noble friend Lord Arbuthnot said at the outset, there will be a settlement of nearly £60 million for those who brought the class action itself. There will also need to be individual criminal examination for those who have experienced the sharpest end of the law. I cannot comment on these matters, but I recognise how important they are to bring about the justice required.

Lord McNicol of West Kilbride (Lab): My Lords, there are a number of points to pick up on, but I will focus on the £60 million. How much of that will the sub-postmasters themselves receive? My understanding is that, unlike in many other cases, the legal fees have to come out of that £60 million, which is one of the reasons for the settlement. Some clarification of how much the sub-postmasters themselves will receive would be welcomed by all.

Lord Duncan of Springbank: The simple answer to that question is: not enough. The reality is that perhaps only a fraction of the money which has been won in this court case—around £12 million of the £60 million—will end up in the pockets of the sub-postmasters. That is a shocking realisation but it is, unfortunately, the answer to the noble Lord's question.

Lord Berkeley (Lab): My Lords, what action are the Government going to take against the people who were running the Post Office when all this was going on? Have they just been moved to another job and got promotion, or will some action be taken against them? As other noble Lords have said, people have died, committed suicide and lost their businesses.

Lord Duncan of Springbank: There is a new chief executive and a new regime is in place. I cannot comment on the individuals who were in positions of power during that time because I simply do not have the answer. I recognise the anger the noble Lord brings to his question, and that it is shared by the House today.

Lord Polak (Con): My Lords, the department has a representative on the board of directors. What is his exact role?

Lord Duncan of Springbank: We have a non-executive director who is responsible for representing the department and the Government. His role has evolved from a perhaps more passive approach to a much more active one going forward. We have to have a much stronger view about how we manage this area, through the chief executive, the chairman and the non-executive director with responsibility for governance and clear adherence to the responsibilities of the board itself.

Lord Bichard (CB): My Lords, a large corporate organisation such as the Post Office can always point to the fact that it has changed its ways and things will be better in future. Some of these people have lost their lives; £12 million compensation does not seem enough. In fact, no financial compensation would seem enough. Is the Minister satisfied that these people are getting due recompense?

Lord Duncan of Springbank: Those who have lost their lives could not possibly get due recompense throughout this process, no matter what the answer might have been. The situation is clear: during a significant period in the history of the Post Office, wrongdoing took place. It has admitted that it got it wrong and it is bringing about change now. I do not believe you can compensate adequately for those who have lost their lives.

Cash Machines

Question

2.44 pm

Asked by ***Lord Naseby***

To ask Her Majesty's Government what steps they intend to take to ensure free cash machines are available for cash withdrawal for all communities in the United Kingdom.

The Earl of Courtown (Con): My Lords, the Government recognise the importance of free access to cash and so have launched the Joint Authorities Cash Strategy Group, bringing regulators together to ensure comprehensive oversight of the overall cash infrastructure. The government-established Payment Systems Regulator has powers to regulate LINK, the scheme that runs the UK's largest ATM network. The Payment Systems Regulator is holding LINK to account over its commitment to protect the broad geographic spread of free-to-use ATMs in the UK.

Lord Naseby (Con): I am grateful to my noble friend for that quite full Answer. I have had extensive representations on this from Which?, Age Concern, the Association of Convenience Stores and about half a dozen other companies. Is not the nub of the problem twofold? First, convenience stores and places such as garages have to pay business rates on through-the-wall ATMs; secondly, free use of ATMs is being withdrawn because of adverse changes in the ATM interchange fee. In this situation, will my noble friend undertake to make representations to the Chancellor on this aspect of business rates and ask the regulator to sort out the situation on the interchange fees so that the number of free ATMs does not continue to decline but is put back on a full basis to meet the needs of all our rural people in particular?

The Earl of Courtown: My Lords, I understand the concerns my noble friend has expressed. At the moment there are 45,000 free-to-use ATMs, which represent 75% of ATMs. This is 13% higher than it was a decade ago, although I am aware there has been a fall during that period. I will draw his comments on business rates to the attention of my colleagues in the department.

Baroness Kennedy of Cradley (Lab): My Lords, the decline in access to free cash machines, especially in poorer and rural areas, is a significant problem, but in one report I read, a consumer said, "There's no point in having cash if you can't use it in the shops." Will the Government work with our financial institutions and the regulator to address the rising costs of handling and banking cash that lead local retailers to go cashless and work to keep a cash infrastructure for the millions of people who will be left behind without one?

The Earl of Courtown: My Lords, the noble Baroness brings up access to cash. As she will be aware, there was an independent review chaired by Natalie Ceeney, which was a valued contribution to the debate. Her Majesty's Government are considering its recommendations. The review also highlighted that it is not just about ATMs, as the noble Baroness said, but about access to cash. Her Majesty's Government support further industry collaboration to promote alternatives such as cashback and cash collection and delivery services.

Lord Sharkey (LD): My Lords, yesterday the CEO of LINK said in the *Times*:

> "Most parts of the country are just not ready to go cashless and Link is committed to ensuring that every high street has free cash access via ATMs and post offices."

Can the Minister say how many high streets still do not have free access to cash? LINK has also promised

to pay to install free ATMs where they are needed. How many free machines has it paid for and installed to date?

The Earl of Courtown: My Lords, the noble Lord brings up the £5 million fund provided by LINK and its members to fund requests for new ATMs in local areas with poor access to cash. This is an incredibly popular scheme, and there have been a number of successful applications. I do not know the exact numbers that have been installed so far under this scheme, but I will write to him on that issue.

The Lord Bishop of Southwark: My Lords, the Minister will be aware that the research last autumn by Which? indicated that nearly a quarter of people in the poorest areas use only cash. Will he consider a minimum service guarantee for free cash machines to stem this growing injustice?

The Earl of Courtown: My Lords, the right reverend Prelate mentions access to cash in rural and more deprived areas. At the moment, 73% of free-to-use ATMs are within 300 metres of the next one, and 94% are within one kilometre. The right reverend Prelate also talked about minimum standards. I do not have that information to hand at present but I will ensure that he receives it.

Lord Davies of Oldham (Lab): My Lords, should not the Chancellor also be looking at this issue? Is it not quite clear that small shops are having the greatest difficulty in sustaining their ATMs, yet the bigger shops can of course bear the cost? Should not the Chancellor look at business rates, which are causing such a problem for shops in this country? That problem merely exacerbates a quite unacceptable situation.

The Earl of Courtown: The noble Lord brings up business rates, as did my noble friend. As I said, I will draw this to the attention of the department. He also brings up the subject of whether we will legislate in any way to protect access to cash. The Government will consider carefully whether legislation is required. However, steps can be taken to safeguard access to cash, even without making changes to the law.

Lord Kirkhope of Harrogate (Con): My Lords, Knaresborough in North Yorkshire used to have six banks. It is now to have no banks, and each time a bank moves, the cash machine is removed from that location. Can my noble friend speak to the banks and try to make sure that in future, when banks close in vital areas of that kind, some form of ATM or cash removal facility is nevertheless maintained by those organisations? We are relying on retailers such as the Co-op, with its garages, to provide facilities which ought still to be provided by the banks that are leaving.

The Earl of Courtown: My Lords, of course, bank branch closures are a commercial decision for banks. However, the Access to Banking Standard commits banks to inform customers of closures and options for continued access to banking services. The Lloyds Banking Group has announced that it will close 56 branches, but all are within half a mile of a post office, and 53 branches are also within 0.3 miles of a post office. That links in with the banking framework agreement with the Post Office, which allows 95% of business customers and 99% of personal banking customers to carry out everyday banking services at the 11,500 post offices across the country.

Data Science: Government Processes

Question

2.52 pm

Asked by ***Lord Wallace of Saltaire***

To ask Her Majesty's Government what plans they have to consult Parliament on proposals to improve the use of data science in government processes.

Earl Howe (Con): My Lords, as set out in their manifesto, the Government are committed to improving the use of data, data science and evidence in the process of government. The use of data science across government to help improve public service delivery is underpinned by strong regulatory frameworks, which can be found on GOV.UK. We have engaged with the Science and Technology Committee and the Communications and Digital Committee, and will continue to do so.

Lord Wallace of Saltaire (LD): My Lords, the noble Earl will be aware from the Science and Technology Committee report of a feeling that the Government have lost momentum since 2015 in the transition to digital government. Is he aware that many of us welcome an active role in making government more digital, but we are conscious that there is a naturally suspicious public out there? The public are particularly suspicious of the sharing of their data with the private sector, and the Government therefore need to carry Parliament and the public with them by being as open as possible. If data science is pushed by the Government from No. 10, with people who used to work on data mining for Vote Leave, under the manically enthusiastic leadership of Dominic Cummings, we are unlikely to get to where we need to.

Earl Howe: My Lords, public trust goes to the heart of the Government's work on data science. People need to know that data is being used wholly ethically by government. They can be reassured on that score by the data ethics framework, which the public sector has to abide by, by the work of the Centre for Data Ethics and Innovation, which advises government on how innovation in AI and data science can be deployed safely and ethically and, of course, by legislation, which protects personal data and people's privacy.

Lord Maxton (Lab): My Lords, is not the answer—to start with, anyway—a compulsory smart ID card for everybody in this country?

Earl Howe: I am sure the noble Lord is aware of the Government's policy on ID cards. We do not believe they are the answer to any of the problems that noble Lords and others have mentioned.

Lord Fox (LD): My Lords, I understand that we have been promised a national data strategy at some point. What level of scrutiny will Parliament have over that strategy and will it be able to amend and improve it?

Earl Howe: Transparency is very important to DCMS, which is leading the work on the national data strategy. Last June, it published a call for evidence. It also conducted more than 20 round tables, structured around the three themes it had identified—people, the economy and government—with around 250 organisations. That first phase focused on engaging with academics, civil society and small and medium-sized enterprises, but DCMS also intends to hold vision workshops to include the public in discussions of what the strategy should include. I do not doubt that parliamentarians will be included.

Baroness Browning (Con): I assure my noble friend that I do not wish to reopen the identity cards debate, other than to say that, although I voted against them in another place some years ago, I have changed my mind, for this reason. Data is captured at all times, but one of the main reasons given against ID cards last time was that the individual would not have access to the data captured on their own card, whereas third parties, including government, would. Given developments in recent years in the way that many bodies, including government, capture our data—often willingly given by the individual—could we not revisit it to look at what the science has now provided to ensure that individuals are able to access all data captured on their card? That, I think, might change a few minds.

Earl Howe: My noble friend raises some important points of principle, which I think can be addressed other than by issuing a compulsory ID card. We are working hard to ensure that data held on individuals is easily accessible by them and that, more widely, individuals can more easily navigate government websites and be assured that their personal data is not being compromised.

Baroness Hayter of Kentish Town (Lab): My Lords, we welcome the Tory manifesto saying, as we just heard, "We will improve the use of data and evidence in the process of government." Can the Minister explain how the biggest IT project affecting the public, universal credit, was launched despite all the evidence from my noble friends Lady Drake and Lady Sherlock and our late colleague Baroness Hollis that this would not work because of its timescale and complexity? That was done against the evidence. As we have heard and will discuss further, UC is further delayed until 2024. What comfort can the Minister give that the Government can be trusted with our personal data to set up a system that will work for those most vulnerable in society?

Earl Howe: I recognise the noble Baroness's concern on universal credit. It is slightly wide of the Question on which I have been briefed; nevertheless, her points are well made. She asks how people can trust the system. The Government take the privacy of citizens' data extremely seriously. The Government Digital Service is proceeding with work that takes into account both the data protection regime and other guidance, such as the Government's data ethics framework. I want to be absolutely clear that the work being undertaken by the GDS removes personal data before any analysis takes place. It is not about profiling citizens; it is about enabling citizens to have better and easier access to government online systems.

East Africa: Locusts

Question

2.59 pm

Asked by ***The Lord Bishop of St Albans***

To ask Her Majesty's Government what assessment they have made of (1) food security, and (2) food scarcity, in areas affected by locusts in East Africa.

The Minister of State, Department for International Development (Baroness Sugg) (Con): My Lords, we are deeply concerned about the devastating locust outbreak in east Africa. It is destroying crops, livelihoods and essential food supplies. Millions of people already face food insecurity and acute malnutrition caused by humanitarian disasters in the region, and more are displaced by conflict. An outbreak exacerbates these challenges. Anticipatory action is needed to reduce the risks to the upcoming agricultural seasons; UK aid is supporting the UN in controlling the outbreak. We are monitoring the situation closely and stand ready to help further.

The Lord Bishop of St Albans: I thank the noble Baroness for her reply. It is perhaps appropriate that a Member on these Benches is raising issues about plagues of locusts, but a humanitarian crisis is unravelling in front of us. In some parts of Ethiopia, 90% of the crops have already gone and 20 million people face no food. Last Thursday, the UN said that we need $76 million now to begin to address the problems. What are Her Majesty's Government doing to ensure immediate food aid if it is required and, in the longer term, that there is seed for next year's crops so that people have security?

Baroness Sugg: I thank the right reverend Prelate for highlighting this issue and the outbreak in his Question. He is quite right to explain its devastating impact. He asked about DfID's work. Our existing humanitarian development programme works in the region to address food insecurity and poverty challenges. We are ready to flex in response to this crisis. He also spoke about the $76 million appeal to curb the spread of desert locusts. There is still a gap of around £40 million in that fund despite recent contributions from Germany, ECHO and others. UK aid is helping to tackle the outbreak through our funding for the UN Central Emergency Response Fund, but we are considering the case for additional support.

Viscount Ridley (Con): Will my noble friend agree to look into reports that one of the reasons for the re-emergence of massive locust plagues in this part of the world is that, under the banner of agroecology, agencies and non-governmental organisations have increasingly advised farmers not to use pesticides when that is a sensible use of technology?

Baroness Sugg: My Lords, we are clear that the best way to deal with this outbreak is through pesticides. The primary method of controlling the swarms is through vehicle-mounted and aerial sprayers. That is what we will continue to advise and what the FAO, which is leading on the response, recommends as the best option.

Lord Griffiths of Burry Port (Lab): My Lords, I readily recognise the superior intelligence of the right reverend Prelates in the matter of locusts and plagues. I cannot help thinking of all that is happening to combat the coronavirus epidemic, which has activated responses from all the continents of the earth, and contrasting that with foreseeable and regular outbreaks of the pestilence that we have recently seen television shots of—whatever we ascribe as the causes of all this. Many of us have lived in countries where that kind of thing happens and therefore cannot see them other than from the perspective of the people affected. When will the world wake up to the need to address, on behalf of the voiceless, as much of its energy and heartwarming sympathy to areas like this as it does to the other instance—without wanting to simplify or compare them in an inappropriate way? Is it not time for our Government, speaking perhaps for the global community, to increase levels of awareness and response?

Baroness Sugg: My Lords, we have locust swarms on a yearly basis, but this is a larger swarm than has been seen in decades. With the swarm increasing twentyfold over each breeding season and with planting activities for crops taking place, there is a need to undertake effective control measures right now. I certainly agree with the noble Lord that we need to address the global challenges we face, and I point him towards the UK hosting COP 26, which will be a great opportunity for the UK to show our world-leading efforts to get to net zero by 2050 and to address the impacts of climate change.

Lord Chidgey (LD): My Lords, the UN FAO states that Ethiopia, Somalia and Kenya are dealing with desert locust swarms of unprecedented size and destructive potential. They threaten to engulf the whole east African region, with South Sudan and Uganda also at risk. Will the Government investigate the potential linkage of the massive growth of desert locust swarms to unusual climate change conditions? Will they also vigorously support the UN programmes of both pest control and livelihood protection, with the added help of advanced drone technology where needed?

Baroness Sugg: My Lords, we will absolutely support the response to this. One of the main ways in which we are dealing with it is by helping with surveillance—making sure that through DfID support we look at the regional climate so that we can predict these things better. We act particularly through control methods. I mentioned the UN FAO through CERF, which helps with the spraying of pesticides; the UK is the highest donor. I agree completely with the noble Lord that we have to ensure that our humanitarian programmes in the region are sufficiently flexible. We have in place significant programmes there with partners such as the World Food Programme and UNICEF, which are ready to flex and respond to the outbreak.

Automated Facial Recognition Technology (Moratorium and Review) Bill [HL]

First Reading

3.06 pm

A Bill to prohibit the use of automated facial recognition technology in public places and to provide for a review of its use.

The Bill was introduced by Lord Clement-Jones, read a first time and ordered to be printed.

Unaccompanied Asylum Seeking Children (Legal Advice and Appeals) Bill [HL]

First Reading

3.06 pm

A Bill to make provision for unaccompanied asylum seeking children to receive legal advice and for extending the deadline for an unaccompanied asylum seeking child to appeal an asylum decision.

The Bill was introduced by Lord Roberts of Llandudno, read a first time and ordered to be printed.

Period Products (Free Provision) Bill [HL]

First Reading

3.07 pm

A Bill to provide for the provision of free period products.

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

Age of Criminal Responsibility Bill [HL]

First Reading

3.08 pm

A Bill to raise the age of criminal responsibility.

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

Finance Committee
Membership Motion

3.08 pm

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

That Baroness Noakes be appointed a member of the Select Committee, in place of Lord Cope of Berkeley.

Motion agreed.

Pension Schemes Bill [HL]
Order of Consideration Motion

3.08 pm

Moved by ***Baroness Stedman-Scott***

That it be an instruction to the Grand Committee to which the Pension Schemes Bill [HL] has been committed that they consider the bill in the following order:

Clauses 1 to 6; Schedule 1; Clauses 52 to 57; Schedule 4; Clauses 7 to 17; Clauses 58 to 68; Clauses 18 to 23; Clauses 69 to 74; Clauses 24 and 25; Clauses 75 and 76; Clauses 26 to 30; Clauses 77 to 81; Clauses 31 to 44; Schedule 2; Clause 45; Clauses 82 to 95; Schedule 5; Clause 96; Clause 46; Clause 97; Clause 47; Clause 98; Clause 48; Schedule 3; Clause 99; Schedule 6; Clauses 49 to 51; Clauses 100 to 116; Schedule 7; Clause 117; Schedule 8; Clauses 118 to 120; Schedule 9; Clauses 121 to 123; Schedule 10; Clauses 124 to 128; Schedule 11; Clauses 129 to 131; Title.

Motion agreed.

Universal Credit
Statement

3.09 pm

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer given to an Urgent Question in another place on the extension to the universal credit implementation date. The Statement is as follows:

"Mr Speaker, the Secretary of State and I informed Parliament yesterday that we have revisited our forecast for universal credit and are extending its completion date to 2024. Our planning for universal credit relies on assumptions about the number of people whose circumstances will change each day, thereby naturally migrating. Our forecasts to date have relied on 50,000 households experiencing a change in circumstances each month. Based on this, we had predicted that the process of natural migration across to universal credit would be completed by December 2023.

However, the information collected on changes to people's circumstances suggests that natural migration is happening less frequently than we expected. This suggests broad stability in people's lives and can be attributed to a number of reasons, including the robustness of the labour market. We now estimate that 900,000 fewer households will naturally migrate between now and December 2023 than we had forecast. Given that we expect to manage around 100,000 households to universal credit each month, it necessarily follows that if we are to protect the interests of claimants and move them to universal credit safely, it will take a further nine months to complete the implementation of universal credit.

I can assure colleagues that claimants will not lose money from their universal credit award due to this forecasting change. We will always put the best interests of our claimants first and, as we move into the managed migration phase, protecting the vulnerable will be our utmost concern."

3.11 pm

Baroness Sherlock (Lab): My Lords, I thank the Minister for repeating that Answer. Universal credit should have been rolled out by April 2017. It will now be September 2024—seven and a half years late. There have been many delays. After each one, Ministers normally get up and say something like: "We'd rather be right than on time." At this stage, I would settle for either. We are not very close to either of these happening.

We were told in the Statement and the noble Baroness's letter that the reason for the delay this time was that fewer people had had a change in their circumstances that meant they moved across to universal credit early rather than waiting for their benefits to be shut down. That was due to good news, like the labour market. Alongside the official Statement, yesterday the BBC—which is filming in DWP for a series on universal credit—filmed the director-general in charge of universal credit, who said this:

"We've got a lot of anecdotal evidence of people being scared to come to universal credit."

This is another way of thinking about the delay.

People are scared, but in the Commons today the Minister blamed the Opposition for scaremongering, which I find disappointing. I am relieved to be in the House where I know the Minister will not try out a line like that. People are scared because universal credit is full of problems. They are especially scared because you wait five weeks for your first payment. You can get an advance, but that is just debt that gets taken off your universal credit week by week. People can only live on it as it is, so they are scared of that as well. I have only one question for the Minister: will the Government please abolish the five-week wait in universal credit once and for all?

Baroness Stedman-Scott: My Lords, the five-week wait is a cause for concern for many people; I am not denying that at all. I have been out on visits and spoken to various work coaches and Jobcentre Plus staff, and I am assured that if people come with the right paperwork—I accept that some do not—and need an advance there and then, they will get it. I accept that it has to be paid back. At the moment, many people are raising the five-week wait. I hope all noble Lords believe that we are listening. We are aware of the vulnerability of the client group, but our work coaches are doing a great job. We are listening and hearing.

Baroness Janke (LD): My Lords, I do not know whether Ministers are aware, but Macmillan Cancer Support has observed that the five-week wait is preventing cancer patients taking up their entitlement to universal credit. It is not that they would not have a loan—of course they would—but, as a result of their circumstances, they do not have the savings and resources to pay the money back when they have to. People lose a lot of money when they have cancer. They would like to know what the Government will do to look into the causes of this delay, what they will do to look into the five-week wait, what evidence they will provide us of the need for it, and what analysis has been done on the rollout of the universal credit managed migration period altogether. I would be grateful for her answers.

Baroness Stedman-Scott: I accept that people with cancer have enough on their minds without having fiscal worries. If the noble Baroness could give me the details of someone at Macmillan, the best I can do is invite them to the department to have a full and frank discussion about the issues. We will incorporate the remaining questions that she raised. All I can say again and again is that the department is reviewing these matters daily. I know that it cannot come quick enough for people, but we are listening and really researching the points the noble Baroness made, which are valid.

Viscount Hailsham (Con): My noble friend said that those seeking a loan have to bring the appropriate papers. Would my noble friend be good enough to say what those papers are?

Baroness Stedman-Scott: I am not able to give my noble friend a list off the top of my head but I am very happy to write to him. If people do not have the paperwork, they are not just sent away to get it—the work coaches actively try to help them to get it.

Baroness Lister of Burtersett (Lab): My Lords, the Minister's helpful letter to Peers ends by saying that the Government have always said they will proceed with each new phase of universal credit only when it is safe to do so. Civil society organisations working with claimants are clear that it is not safe to proceed further with natural migration because of the recurring problems with it and with universal credit itself, which might explain reports that many people are scared to move to UC. Will the Minister, who I know does listen—I am grateful to her for listening to me this morning—take the message back to the department that it should be using this delay constructively to pause, address these problems and, if necessary, delay further in the best interests of claimants to get it right?

Baroness Stedman-Scott: The noble Baroness knows that I will certainly take that point back to the department. However, I would like to share something with noble Lords. I have been making lots of visits and meeting lots of clients, not just work coaches. We know there are issues with resolving universal credit. That is why we are extending the period, because we are not in the business of going full blast ahead with something that will go wrong and make life more difficult for people. However, one of the things that comes up time and again—I promised that I would say this to noble Lords when I got the chance, but I did not realise that I would get it so quickly—is that work coaches are saying to us that, while there are issues, a lot is going right with universal credit. It is making a difference to people's lives and getting them into work, it is personal and one to one, and it is really doing well, so please can you help by trying to balance the observations made about universal credit? As to a further delay—I never thought I would get that today—it is best to say that I am unable to commit to one and I jolly well hope that it will not be necessary.

The Lord Bishop of Durham: My Lords, can we honour the DWP staff for allowing the BBC in? Many of us look forward to seeing what comes out. They have been very brave; many departments do not do that. I understand that the Minister does listen but some of these things have now been going on since the system's very inception. Yes, many people at food banks and people who talk locally say that the work coaches are doing a wonderful job. That is great, but it is the most vulnerable who are suffering. Could we please listen to their voice and make some changes very rapidly?

Baroness Stedman-Scott: I can give a commitment that we are listening to the most vulnerable. We will make changes as soon as we can, once they have been agreed. There is nothing in it to delay things or to make life worse for people. I certainly do not want to be a Minister who is known for that.

On food banks, I have no doubt, and the previous Secretary of State confirmed it, that usage of food banks was up due in part to universal credit. I do not run away from that point. Last Thursday I sat down in a food bank in Hastings called The Pantry. I will arrange it for any noble Lord who wishes to go there, because it is a most dignified example of a food bank. I asked them: "Why do people use it?" They do so because relationships break down, or because people's priority is to fund their addiction. When their money comes through from universal credit, they are at the cashpoint at 1 am or 2 am to get the next fix or the next drink. One person left a job on a Friday, went to a new job on Monday and by Monday evening it was all over. He found himself in a very difficult position. All credit to the food banks for what they do, but please, do not lay the increase completely at the door of universal credit.

Baroness Watkins of Tavistock (CB): My Lords, are we collecting any central statistics on the increasing rent arrears for some people on universal credit? There is a real challenge, particularly for people in London, where rents are high in relation to universal credit. We are very concerned that some people are going without food in order to pay their rent.

Baroness Stedman-Scott: I thank the noble Baroness for raising what is another very valid point. Rent arrears is a problem, but the majority of arrears were

[Baroness Stedman-Scott]
incurred with the legacy benefits. It is not just universal credit. I am not saying that there is not a contribution, but 12% of social-rented households are on universal credit. It cannot be laid entirely at that door, but the issue is live, and we are on it.

Media and Lobby Briefings
Statement

3.21 pm

Earl Howe (Con): My Lords, I shall now repeat in the form of a Statement an Answer given earlier today by my honourable friend the Minister for the Constitution to an Urgent Question in another place on allegations of the barring of journalists from Civil Service media briefings. The Statement is as follows:

"Thank you, Mr Speaker, for the opportunity to clarify this situation. This Government are committed to being open in their dealings with the press and to the principles of media freedom, and the events of yesterday were a very good example of this. The Prime Minister delivered a speech on the future of the UK-EU relationship. He also took extensive questions from journalists. Following this, there was a further briefing for journalists by the Prime Minister's official spokesperson. This was made available to any journalist who wanted it directly after the speech and was all on the record.

Lobby briefings typically take place twice a day. All those with a Press Gallery pass are able to attend these briefings and to question the Prime Minister's official spokesperson however they wish. No journalists are barred from official media briefings hosted by the Prime Minister's official spokesperson. It is entirely standard practice for the Government to host additional, technical, specialist briefings, as was the case yesterday. This particular briefing which the media have reported on was an additional, smaller meeting, due to be held by a special adviser, in order to improve the understanding of the Government's negotiating aims for the future relationship."

3.23 pm

Lord Griffiths of Burry Port (Lab): My Lords, I am amazed at the straight face the Minister kept throughout that Answer. I had little time to prepare myself to interrogate him and limited my research to visiting the Library. It is clear from the coverage in today's press that a number of senior journalists for very important newspapers take a slightly different view from that expressed a minute ago by the noble Earl, who was repeating the Answer given in the other place. I cannot believe that the disparity between the way in which it was reported in the newspapers and the Statement that this Government are

"committed to being open in its dealings with the press and to the principles of media freedom"

can be easily reconciled. I am trying to avoid my suspicion of paranoia on the part of the Prime Minister by being myself paranoid. Yet I wonder on the basis of yesterday's incident, which exemplifies a number of other well-known and well-reported incidents, whether we should not be a little more frank than the reply given in this particular Statement.

Earl Howe: My Lords, I have to say to the noble Lord and your Lordships that, having myself been briefed earlier today, it became clear to me that a certain amount of disingenuousness has entered the public debate on this matter and in some of the press reporting. Briefings to selected journalists have been common practice across government for many years. I know that myself from my time in the Ministry of Defence. We had regular selected briefings for journalists. The briefing in Downing Street yesterday that has been covered in the press was explicitly billed as one such selected briefing, and I understand that invitations were issued to between five and 10 journalists. There should have been no misunderstanding about that. There is therefore nothing unusual in briefings for selected journalists.

Baroness Jones of Moulsecoomb (GP): My Lords, I declare an interest as the mother of a journalist. Will the noble Earl take back to No. 10 the fact that this House clearly did not believe that Statement? Both sides of the Chamber were laughing at the Statement that has just been given to us. Will he take back the message that, in a democracy, a free press does not have to express loyalty to the Government? In fact, it is their job to critique it.

Earl Howe: My Lords, the Government support a free and open press, and we will continue to do so. I can only re-emphasise that there has been no attempt whatever to deprive journalists of information on any matter of government policy.

Viscount Hailsham (Con): My Lords—

Baroness Bonham-Carter of Yarnbury (LD): My Lords, Downing Street's director of communications, Lee Cain, said:

"We are welcome to brief whoever we want whenever we want".

But does the noble Earl not agree that this democratically elected Government are not welcome to ban whatever news outlet or journalist they want whenever they want? What were the criteria for this smaller meeting and where was the transparency? When does a smaller meeting shrink so much that it becomes Dominic Cummings or some other special adviser on his or her own?

Earl Howe: As I said, my Lords, this was a technical and specialist briefing for selected journalists. There is an opportunity, twice a day, for anyone with a Press Gallery pass to attend lobby briefings and no journalists are barred. There was a lobby briefing yesterday afternoon when journalists had yet another opportunity to ask questions on the UK-EU relationship, which the Prime Minister had been addressing earlier in the day, or indeed to ask questions on any other topic. I am afraid that I cannot identify with the slant that the noble Baroness has put on this matter.

Viscount Hailsham: My Lords, I apologise to the noble Baroness, Lady Bonham-Carter. Unfortunately, I am deaf in one ear and I do not always spot where people are speaking from. I hope that she will forgive me.

I must ask my noble friend: if the facts were so clear and in accordance with precedent, why did several respectable journalists from respectable organisations feel they had to leave as a protest?

Earl Howe: I cannot comment on whether there was a genuine misunderstanding or whether certain people chose to misunderstand the basis on which invitations had been issued.

Baroness Andrews (Lab): My Lords, we are lucky in this House to have a Minister who has the trust of the House, but we are in a situation where trust and transparency are at grave peril for all manner of different reasons, and not just in this country. It behoves the Government at this time to act in as trustworthy and transparent a manner as possible. In the interests of transparency, can the Minister provide a list of those journalists who were invited? Can he tell us whether they were indeed technical and specialist journalists? I would have thought that, if one is doing a technical and specialist briefing, it is more important to get the generalists inside the circle to understand these complex matters. Does he have a list, or did No. 10 compile a list, of people who were not invited and for what reason?

Earl Howe: My Lords, I do not have a list of who was invited. I was merely given the bald statistics on numbers. If I can illuminate the noble Baroness on that matter, I will be happy to write to her.

Lord Campbell of Pittenweem (LD): My Lords, if the Government are committed to freedom of the press, why are government Ministers boycotting the "Today" programme?

Earl Howe: My Lords, there is no boycott of the "Today" programme. It is entirely up to Ministers what programmes they choose to appear on. The "Today" programme does not have a constitutional right for Ministers to appear on it. Government Ministers have appeared on a range of national and regional programmes only this weekend and, indeed, yesterday and today. We have to remember that every government department has communication teams who communicate the work of the Government and Ministers very regularly indeed.

Baroness Wheatcroft (Non-Afl): My Lords, can the Minister tell the House who decided who should be included in the briefing? It seems that, increasingly, decisions in No. 10 are taken by a very limited number of individuals. I wonder whether on this particular occasion it was the man who wants to recruit weirdos or the man who used to be employed to dress as chicken and harass former Prime Ministers.

Earl Howe: My Lords, I come back to the point I made earlier. Briefings for selected journalists are regular occurrences across government, not just in No. 10, and they have been for many years. Who drew up the list for this briefing, I cannot say.

Lord Russell of Liverpool (CB): My Lords, may I gently point out to the noble Earl that I do not think this was just a normal selective briefing? My understanding is that one of the reasons that so many journalists were keen to go to this briefing is that, rather than being one of the Prime Minister's unseen spokesmen, the person who was going to give the briefing was Mr David Frost, the chief negotiator with the European Union, hence the degree of interest.

Earl Howe: The noble Lord may be quite right. There probably was a lot of interest, but I say again that this briefing was to selected journalists. Other journalists had every opportunity yesterday at Greenwich and after the Prime Minister's speech to ask any question they liked through the lobby process.

Lord Puttnam (Lab): My Lords, can the Minister help me with at least this? When I first came to this Chamber, I was taught that the key quality of this House was to spot the slippery slope when it saw it. That has been absolutely true of the 20 years I have been here. Is it reasonable for this House to point out the slippery slope when it becomes obvious?

Earl Howe: If that does become obvious, then of course it is noble Lords' duty to bring it to the Government's attention.

Lord Hamilton of Epsom (Con): My Lords, to return to the point made by the noble Lord, Lord Campbell, about the absence of Ministers on the "Today" programme, I think the "Today" programme has improved enormously. Without having a large number of interviewers interrupting Ministers all the time, it is now much better to listen to.

Earl Howe: I take great encouragement from that, and I shall certainly pass my noble friend's observation on to my colleagues.

Extradition (Provisional Arrest) Bill [HL]

Second Reading

3.34 pm

Moved by ***Baroness Williams of Trafford***

That the Bill be now read a second time.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I start by making clear what this Bill does not do. It does not change our extradition process or any of the existing safeguards in extradition proceedings. It does not make it more or less likely that a person will be extradited. It does not in any way affect the current judicial oversight of the extradition process or the character of the court

[Baroness Williams of Trafford]
proceedings themselves. Nor is it concerned with the UK's extradition relationships with other countries or the recent case of Anne Sacoolas. It is concerned only with how suspects enter the court system. The only thing that this Bill changes is when and how a fugitive wanted for a serious offence by a trusted country is brought before the UK court.

Currently, when UK police have a chance encounter with a suspect who is wanted by a non-EU country, they cannot arrest them. The officer is required to walk away and obtain a warrant from a judge, only to try to relocate that individual later to make the necessary arrest. This means that fugitives known to the police to be wanted for serious offences remain free on our streets to abscond or offend. In 2017, an individual wanted by one of the countries in the scope of the Bill, for the rape of a child, was identified at a routine traffic stop. Without the power to arrest, the police had no power to detain him then and there. That individual is still at large.

This Bill will change that. It will ensure that fugitives identified by the police or at the UK border can be arrested immediately. They can be taken off our streets and brought before a judge within 24 hours. This ability for the police to arrest these fugitives as soon as they are encountered will prevent them escaping and evading justice or harming the UK public. The usual way in which police officers become aware of an international fugitive is the circulation of alerts through Interpol channels. Interpol alerts from all countries are now routinely available to UK police and Border Force officers. This circulation of Interpol alerts has created a situation whereby a police or Border Force officer might encounter an individual whom they can see, by performing a simple database check, is wanted for a serious offence by another country. These front-line officers need the power to act immediately on this information to keep our citizens safe.

Many countries, including most EU member states, afford their police the power of immediate arrest on the basis of Interpol alerts. The Bill will create a limited version of that power, with appropriate safeguards. It will apply only to alerts from countries that do not abuse Interpol systems, that respect the international rules-based system and that have criminal justice systems we trust; and only to alerts relating to sufficiently serious offences.

The need for this immediate arrest power is clear. Noble Lords will no doubt be aware that the European arrest warrant carries an immediate power of arrest for individuals wanted by EU member states. Last year, over 60% of the EAW arrests made by the Metropolitan Police were the result of a chance encounter. Without a similar immediate power of arrest for people wanted by non-EU countries, known fugitives walk free. I will give noble Lords a further example. In 2016, UK authorities were alerted that a fugitive wanted by a country in the scope of this Bill, for crimes involving sexual offences with a minor, had entered the UK. He could not be arrested there and then, although the police did obtain a warrant. However, that suspect was not arrested until he was re-encountered in 2019. For those three years he was at large on our streets. We cannot allow that situation to continue.

I turn to the provisions in the Bill. The Bill proposes a power for UK law enforcement officers to arrest an individual on the basis of an international arrest request, typically an Interpol alert, without a UK warrant having been issued first. The new power will apply only where the request has been issued by a specified country. These countries are ones in whose criminal justice systems and use of Interpol alerts we have a high level of confidence. Initially the power will apply to requests from the USA, Canada, Australia, New Zealand, Liechtenstein and Switzerland. It will also apply only where an individual is wanted for a sufficiently serious offence, one that would be a criminal offence in the UK and which could result in a custodial sentence of three or more years.

It is not front-line police officers who will have to decide whether an Interpol alert is from a specified country or for a sufficiently serious offence. The National Crime Agency receives Interpol requests and it will identify which alerts have been issued by a specified country and for a sufficiently serious offence. The NCA will then certify those alerts as carrying the power of immediate arrest. These certified alerts will be clearly distinguishable on the databases available to police officers and Border Force officers. Those officers will be able to tell which alerts relate to individuals who are eligible for arrest. This process will ensure that the power is used appropriately and as we intend it to be.

The arrested person must be brought before a judge within 24 hours of arrest. Thereafter, this legislation does not change any part of the subsequent extradition process. The safeguards that exist in extradition proceedings, set out under Part 2 of the Extradition Act, will continue to apply. For example, the person will not be extradited if doing so would breach their human rights, if the request is politically motivated or if they would be at risk of facing the death penalty.

Without this power, a potentially dangerous individual who is known to the police can remain at liberty on UK streets, able to offend or abscond. The new power will see people who are wanted for a serious crime by a trusted country, and who may be a danger to the public, off our streets as soon as they are encountered. We will continue to strengthen our security with like-minded security partners across the globe. In future, additional countries whose criminal justice systems and use of Interpol systems we trust can be specified within the legislation, if both Houses approve.

Our commitments to human rights protection and the rule of law remain unchanged. The arrested individual will be in front of a judge within 24 hours of arrest, and the existing safeguards afforded to each and every person before the UK courts for extradition will remain as now. We are not removing any of this judicial oversight from the extradition process; in fact, we are not making any changes at all to extradition law. We are making changes to police powers of arrest for international fugitives.

As a global leader in security, we want to make the best use of our overseas networks and international tools. The new power will enable us to do so. The Government are committed to doing all that we can to protect the public, and the Bill is directed to that end. I beg to move.

3.43 pm

Baroness Hamwee (LD): My Lords, I thank the Minister for her explanation of the Bill. We understand its limited scope but she will understand that the subject of extradition is bound to tempt observations on the whole issue of extradition, not just on the narrow scope of the Bill. No doubt there will be some creative attempts, though not from me, to bring concerns within the scope of the rather cunningly narrow Long Title.

The big question for me, and the immediate one, is not just "why?" but "why now?" The Minister is clear that this has nothing to do with leaving the EU and the unavailability of the European arrest warrants but, frankly, given the timing of the Bill, that defies credibility. The game is given away by the letter from the Metropolitan Police, the National Police Chiefs' Council, Counter Terrorism Policing and the National Crime Agency which the Government have prayed in aid for the need for the Bill. They start their letter to the Home Secretary of 6 January by saying that they are writing to highlight the operational gaps to which the Minister referred. They say:

"The risks in this area are not new, but have been brought into sharp focus as a consequence of our collective efforts to plan for the United Kingdom's exit from the EU. The European Arrest Warrant enables an officer to arrest a wanted subject there and then."

They go on to explain the process used when that is not available.

We will not oppose the Bill from these Benches but we will take opportunities to explore some of the issues it throws up and get some assurances on the record. However, I am afraid it will not be possible to avoid mention of our leaving the EU entirely. I wish we were considering the security and law-enforcement measures that will be needed in the absence of our EU membership as a package, because they are interconnected. However, some of them may be a way off.

The political declaration stated that the EU and the UK should

"establish a broad, comprehensive and balanced security partnership."

Even without the reference to a balanced partnership, however, I would have expected reciprocity in the arrangements between the UK and each other state. In an extremely helpful briefing meeting yesterday, for which I thank the Minister and her officials, the Minister told us that the Government were not seeking reciprocity. Could she unpack what that means and explain why not? Could she tell us the position regarding Germany, whose constitution precludes the extradition of German nationals to a non-EU state? I understand that there are similar issues regarding Austria and Slovenia.

During the transition period, Article 185 of the withdrawal agreement allows any member state that has raised reasons related to fundamental principles of national law to refuse to surrender its nationals to the UK in response to a European arrest warrant. This is an issue for now, not the end of the implementation or transition period. The House would welcome being informed on this.

No two states are the same, so I would be grateful for a specific assurance on the following point; the Minister is aware that I will ask about this. Under the Bill, countries can be added to the schedule through a statutory instrument subject to the affirmative procedure. Of course, statutory instruments are not amendable, so it seems to us that it would be inappropriate for any SI to add more than a single country. It would not be possible for your Lordships to delete one country from a list presented in a statutory instrument, so I hope the Minister can confirm that there will be no bulk orders, if I may put it that way.

I shall make a wider point relating to EU states, but it is relevant to replacements for the EAW. As I said, states are not the same as one another. I recall evidence given to the Select Committee on Extradition Law, which sat in 2014, I think. I was a member and we may hear more from the noble Lord, Lord Inglewood, who chaired it. We heard concerns about the treatment of prisoners in other states, for instance. The extradition power of arrest introduced by the Bill raises human rights issues, as well as political motivations. The courts have applied a human rights lens, including, for instance, on the condition of prisons in EU states.

The Minister mentioned the death penalty. It is a matter for the Secretary of State. There should be no extradition if the person

"could be, will be or has been sentenced to death for the offence"

unless the Secretary of State receives a written assurance, which he considers adequate, that the sentence of death will not be imposed, or that, if it is imposed, will not be carried out. That is in the 2003 Act. However, we have had a recent example, in quite a different context, of where death penalty assurances were not sought by the predecessor to the current Government—which I think of as the same Government.

There are ethical issues, too. Topically, is live facial recognition technology being used to find the subjects of extradition requests? Are the subjects of Interpol red notices on watch lists? The use and reliability of the technology are controversial.

Other noble Lords may refer to the United States and its criminal justice system. That is not a new issue, and it is very important—but I think I have made the general point.

When one thinks about safeguards, that is in part a question about holding to account and the governance of the arrangement. How will the designated authority, the NCA, be held to account? In particular, how will it demonstrate the steps taken before certifying a request? This is the triage process referred to in the impact assessment.

Finally—for today, at any rate—I will ask about consultation. What discussions have there been on the Bill with interested organisations—apart from the police, of course—and what consultation will there be as countries are added? We know that the police are keen to see this implemented and we understand the benefits. What is proposed by way of consultation when it comes to adding category 2 countries?

I am not surprised that this is one of the first Bills of the Session. It will have fitted the Government's agenda well. As I said, we are persuaded that it is right to go ahead, and the police have explained that very

[Baroness Hamwee]

clearly. But I will quote from an article by a solicitor, Rebecca Niblock, to which our ever-excellent Library has pointed us. She wrote:

"Whilst the impact assessment makes reference to the possibility of using the scheme for arrests which would have been EAW arrests but for Brexit, this is painted as an additional benefit, ancillary to the primary one. This seems, at best, disingenuous. Whilst speeding up the apprehension of six serious criminals a year is a laudable aim, a far graver concern is the immediate loss of the EAW scheme. Promoting the Bill as one which is primarily concerned with the problem of arrests from non-EU countries has the benefit of avoiding an emphasis on what will be lost when we leave the EU, whilst giving the appearance of enhancing law and order."

We on these Benches heartily concur.

3.52 pm

Lord Judge (CB): My Lords, there was a beguiling opening to the debate from the Minister. "Really, this is no more than a new extradition-based arrest power." And so it is. Of course, we all want criminals, whether they are British criminals or foreign visitors, to be arrested to face justice. The process envisaged in the Bill for this purpose is on the basis of a warrant issued in a foreign country, and then a certificate issued here by an authority designated by the Secretary of State. You may be arrested by a police constable or others—I need not go through them—without any pre-reference to any domestic judicial authority.

The reference to the domestic judicial authority occurs after you have been arrested. So the entire fairness of the process—its "trustworthiness", to use a word that has been used in the papers—is dependent on the quality of the judicial processes available in the foreign country.

The six countries identified range from tiny Liechtenstein to probably the most powerful nation on earth, the United States of America. Speaking personally, I have no problem with them.

However, the Bill gives the Secretary of State wide powers. When did a modern Bill not give the Secretary of State wide powers? To the six territories currently listed there may be added 16 or 60, or every single country in the world, by the Secretary of State in making his or her decision. While I certainly excuse our present Minister from this, in the real world we are surely not going to be so naive as to believe that all sorts of motives—a possible trade deal, a plea just to be good friends with us, political beliefs, sympathy with a tyrannical regime—may not lead a Minister, at some time in the future, since elections bring different parties to power, to be subordinated to the single imperative that the only question which needs to be answered is that the country to be added to the list should have a credible, independent judicial system, so that when the request is received, it is based on an entirely—to use the word again—trustworthy system of administering justice. This is a huge power being given to the Minister.

Being modern legislation, that is not the end of it, of course. We have that monstrous ogre Henry VIII in full operation, tucked away in paragraph 29(2), by which regulations can be made which would

"amend, repeal or revoke any provision made by primary legislation".

Then, we have the great advantage of the Bill going on to tell us what primary legislation is. I am sure we all know, but it tells us: every Act of this Parliament, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly. All this is to be done by secondary legislation. We have to be tough about extradition, as I said, and the Minister is entitled to point out, as no doubt she will, that all this will be based on affirmative resolution.

I should like to focus attention on paragraph 29(6), which contains a power to annul regulations. That is a welcome addition to any Bill. This Bill would be so much more impressive and hold the balance so much better if all regulation-making powers, including the use of Henry VIII regulation-making powers, were made subject to annulment on the basis of a resolution of either House of Parliament. That, I respectfully suggest, would be proper and sensible parliamentary control over the processes. It would also provide us, the nation and its citizens with a serious safeguard against an overambitious Executive or, as the years unfold, what may become an unduly craven one bowing to a foreign power. Will the Minister consider at least reflecting on the constraints currently imposed on the annulment process? Will she also assure us that in whichever form the annulment process is finally left, the use of it by this House will not be treated as a constitutional outrage?

3.58 pm

Lord King of Bridgwater (Con): My Lords, I am not happy to follow the noble and learned Lord, Lord Judge, into his legal arguments. I will leave the Minister to deal with them because, having listened to the noble and learned Lord, I simply make this point: where are we coming from, where have we been, and to what extent were some of those arguments relevant under the European arrest warrant and current procedures as well?

I strongly support the Bill. My question is not "Why are we doing it now?" but "Why didn't we do it some time ago?" If the European arrest warrant made sense, what about all the other countries where we could have made this possible with, in the phrase used in the literature, a "trusted partner" whose legal systems and the fairness of whose operations we respect? If we look at the situation, although the noble Baroness, Lady Hamwee, saw frightfully sinister timing in it, if we should have done it before, let us get on with it now. Realising the problems that could arise if the European arrest warrant was not proceeded with begs the question: why do we not have a proper procedure to deal with this? The government briefing assumes that the European arrest warrant will continue, but if it does not, we need something to put in its place very quickly, or we will see a huge waste of police time as they chase after people whom they were not allowed to arrest when they saw them and whom they have to try to find again if they can.

I am afraid that I worry very much about the world in which we now live. This has become a much more dangerous world, in which the role of the police becomes ever more important for the maintenance of public confidence and security. Looking at yesterday's *Hansard,*

I was struck that three of the items that occupied the House's business were, respectively: "Coronavirus", "Streatham Incident" and "Terrorism: Contest Strategy", all of them representing in their own different way extra problems and challenges for the police—a police force which I have to say was unfortunately reduced at a time when things seemed a little quieter but which now quite clearly faces serious challenges in making our country safe. The Contest strategy was yesterday discussed in the context of safety in public arenas. Opening the newspapers today, I noticed the argument about the COP—the climate change conference—in Glasgow, where a key issue seems to be the huge cost of policing it, with 200 world leaders turning up, and the amount of additional police responsibility involved. That is not in the original five-year police programme; it has suddenly been introduced and will put enormous extra responsibility on them.

Some noble Lords may have seen the headline in the *Times* today about the unfortunate and terrifying incident in Streatham, and it being the ambition of the perpetrator to murder an MP. What does that mean for extra police responsibility? I had to live for 20 years with police security. As threats and issues arise, I know the extraordinary manpower challenges they represent. We know that the gentleman in Streatham is not a lone eccentric; my understanding is that there are very many in our prisons who might be much like him and pose a similar threat.

Added to that challenge are the complaints of police failure to follow up all the incidents of internet fraud that there are—the number of people being hacked, the amount of money they are losing. They are completely new challenges that certainly did not exist 20 or 25 years ago, but they now put extra demands on the police.

Knife crime is prevalent. I listened with interest to the Question earlier on cash machines. I think that noble Lords are aware that cash machines are not the safest bits of equipment in the world. We need think only of the amount of crime and the number of attacks associated with them, and the difficulties they present for our police as they become more isolated. There is the growth of serious organised crime as well. I noticed in the government briefing on this that, in 2018, 352 arrests were made under the European arrest warrant, half of them after chance encounters. The other half—I make it about 180—came from following up known criminals or someone for whom there was an overseas request for extradition. There is little argument about the extra police hours represented by having to go off and get a warrant then going to look for the person again.

In this troubled world, with the mass migration of people and the growth of transnational crime, the capability gap has been clearly exposed. There is a shortage of manpower to deal with these issues. We should support anything which the Government or the legislature can do to make the police's job more efficient and effective. This should not be without proper safeguards, including the phrase about dealing only with trusted partners, in whose handling we can have confidence. As I understand it, this does not make any difference to the standard extradition arrangements and the requirements that have to be observed. It deals merely with the specific issue of somebody being recognised as being wanted as an established criminal somewhere else and an extradition request existing for them. It would be quite unsatisfactory for the policeman to have to say: "Sorry, I can't do anything about you now. I'm just popping off to see the judge. Make sure you're here when I come back."

Without belittling it, this is an important, sensible step. I hope to goodness that the European arrest warrant remains operational and well. If it does not, the Bill, when it becomes an Act, will be important in replacing it with an effective arrangement. I hope that, with our trusted partners, we can be a reliable ally in fighting crime, wherever it comes from.

4.06 pm

Lord Brown of Eaton-under-Heywood (CB): My Lords, extradition has long been an area of our law in which I have been interested and concerned. For some years before my retirement in 2012, I appeared in most of the cases on this sometimes rather arcane topic. It was, therefore, a great pleasure and privilege to have served, alongside the noble Baroness, Lady Hamwee, on the Extradition Law Select Committee of this House chaired by the noble Lord, Lord Inglewood, in 2014-15. Its report on extradition law and practice, the EAW and our relations with the States and around the world is a sound text on which to consider any future development of this topic.

I speak today not because I have any particularly penetrating questions for the Minister, nor to note particular areas of concern. Rather, in the same spirit as the noble Lord, Lord King—whom it is always a privilege to follow—I lend the Bill my full-hearted support. Various questions will, no doubt, arise in today's debate. My noble and learned friend Lord Judge raised the ever-possible threat that regulation-making powers may be abused. We may need to reconsider aspects of those in Committee; they will then be considered on their merits. Meanwhile, the Government have my backing on a sound, sensible and essentially modest piece of legislation. Despite the Government's disavowals, I rather hope that the Bill is designed, at least in part and prospect, to meet the threats that would arise if we were to lose the EAW scheme following Brexit.

Echoing what the noble Lord, Lord King, said, in the global and all too lawless world in which we now live, cross-border crime is an ever-growing threat to international peace and prosperity. It is difficult to overstate the importance of extradition in the armoury of the law-abiding majority. I emphasise that effective extradition is an imperative for both states in the process. It is essential for both the country where the criminality occurs and the country to which the perpetrators have escaped to bring the fugitive perpetrators of crime back to their home country to stand trial and, if they are convicted, be punished for their offence. If not, one finds oneself with sanctuaries and safe havens, and those countries to which fugitives flee and in which they feel safe will inevitably attract others to do likewise.

[LORD BROWN OF EATON-UNDER-HEYWOOD]

It was those sorts of considerations that led to the framework decision in Europe in 2002, the European arrest warrant and, in turn, the 2003 ruling Act in this country. It is all that which makes the prospective loss of the scheme deeply concerning to so many of us. Plainly, it is therefore sensible to do what we can now in advance to seek to combat the risk that one day we may lose the benefit of that scheme.

This modest Bill will not—and, alas, cannot—fill all the gaps in extradition law to which the loss of the European arrest warrant would give rise, but it can certainly help enormously in at least making this country a less appealing sanctuary for those who have committed crimes and are wanted to be extradited for their trial or to serve a punishment or sentence already imposed abroad. Its initial, immediate effect, as the Minister has explained, is entirely independent of the future fate of the European arrest warrant: to plug a gap which has now existed for some little time in the extradition process with regard to the arrest of those who flee from certain non-EU states. EU states are covered by Part 1 of the 2003 Act; it is the non-EU states that have concerned us hitherto. In the language of the governing 2003 legislation, it is for those fugitive, as explained, from six Part 2 countries: the other four in the Five Eyes agreement—New Zealand, Australia, Canada and America—and Switzerland and Lichtenstein.

As it is now, having initially spotted somebody you need to arrest, you need to obtain in advance a court warrant as a requirement to arrest and extradite them to one of those countries, with the delay and inevitable opportunity to reoffend or, more likely, go to ground to which that gives rise. Under this Bill it will instead be possible, with what I suggest are the ample safeguards put in place, to arrest initially with no court warrant, although of course you have to take that person to court in 24 hours. That then locks in all the safeguards which exist under the legislation.

If we are to lose the European arrest warrant scheme, this Bill cannot improve the prospects of our receiving here those who have fled from criminality in the UK and whom we want back here for trial. For that we will need to look elsewhere. It is my fervent hope that the Government are earnestly in the process of looking elsewhere against the risk that the EAW may all too soon disappear. I support the Bill.

4.14 pm

Lord Anderson of Ipswich (CB): My Lords, the objective of the Bill is worthy and uncontroversial: to enable persons wanted in approved countries to be brought more efficiently into extradition proceedings, so as to reduce the prospect of absconding or further offending while they are in the UK. I entirely accept that, as the Minister said, it does not diminish the safeguards in the extradition proceedings themselves. However, the chosen mechanism is a new power of arrest without warrant. That is sufficiently unusual to require a little more reassurance than appears in the Explanatory Notes, helpful though they are, and I would be grateful if the Minister would comment now, or at any rate before Committee, on six gentle questions on this short Bill.

First, could the Minister explain why the existing powers of urgent arrest under Sections 73 and 74 of the Extradition Act 2003 before an extradition request has been submitted or certified are not considered sufficient? There may be a good reason but it needs to be made known. My understanding is that a request from the issuing state for the accused's provisional arrest can already be the subject of a provisional warrant application by the CPS to the court—an application which, in urgent cases, can be made out of hours to the relevant duty judge, if necessary by email.

Secondly, does the Minister accept that the new procedure will itself take time? The NCA, as designated authority under the Bill, will have to review any extradition request and decide whether to certify it as creating a provisional arrest power. That may be a substantial exercise, given the need not to interfere arbitrarily with the rights of extradition subjects, even for 24 hours, the well-documented abuses of Interpol red notices, and the possibility that the list of category 2 territories may be substantially expanded in the future—to which I will return.

Thirdly, and staying on that subject, can the Minister tell us more about the nature of the triage process that the designated authority will conduct? In particular, will it be part of the NCA's function to verify that extradition requests comply with the human rights requirements under Interpol's constitution, and with any procedural or human rights requirements under the US-UK extradition treaty or its equivalents? Finally, the impact assessment states that the new policy is

"expected to result in 6 individuals entering"

the criminal justice system

"more quickly than would otherwise have been the case."

It seems pretty plain that this Act of Parliament has not been constructed just for those six people, whoever they may turn out to be, and that the list of specified category 2 territories is likely to be significantly expanded.

Therefore, my fourth question is: the Minister spoke of trust, but what precisely are the criteria that will be applied by Ministers in determining to designate a new category 2 territory for new Schedule A1, and, in view of the potential for abuse identified by the noble and learned Lord, Lord Judge, why are they not set out explicitly in the Bill? I remind your Lordships that category 2 territories include the likes of Russia, Turkey and Zimbabwe.

My fifth question: is it envisaged, as the noble Baroness, Lady Hamwee, thought, that the member states of the European Union, or some of them, will find their place in the schedule?

My sixth question: will reciprocal powers to those in the Bill be sought from the EU in negotiations for whatever will replace the European arrest warrant and, more broadly, can the Minister give any further indication of the type of replacement to which we aspire? Are we aiming to adapt the European arrest warrant itself, or the Norway-Iceland agreement with the EU, or are we looking for something of a different nature?

As the noble and learned Lord, Lord Brown, just said, many of us would greatly regret the loss of the European arrest warrant, which, since its political

awakening in the weeks after 9/11, has exemplified both the effort required for meaningful co-operation in Europe and the enormous benefits to be derived from it. We can be particularly grateful to the noble Baroness, Lady Ludford, who will follow me, for her tireless work on improving it over the years.

Forebodings that any replacement will be inferior have already been borne out by the EU's declaration of 31 January that Germany, Austria and Slovenia will not surrender their own nationals to the UK, even during the transition period. But Brexit has happened, its consequences must be faced, and we all share the same objective of ensuring that the best possible alternative is negotiated. I hope that the Minister will at least be able to tell us what we are aiming for.

Lord Bethell (Con): My Lords, there is a technical problem with the clocks. We have moved to using the old-fashioned clocks, which we believe are still working. An engineer has been called and we hope to resolve the problem shortly.

4.19 pm

Baroness Ludford (LD): So I have not already been speaking for 13 minutes.

The justification for the Bill rests on the claim that there is a gap in law enforcement capability which requires primary legislation to create the power for UK police to arrest immediately if an individual is wanted by a trusted partner. We were told in a briefing session yesterday that there are possibly 20 to 30 persons at any one time from across the world in a police "wanted pot", but that does not equate to the number of cases where police actually come into contact with someone—perhaps through a stop due to a traffic offence—discover that the person in front of them is wanted for a serious offence and fear that they may abscond before a judge's warrant can be obtained unless arrested on the spot.

The impact assessment states that the policy is expected to result in six individuals entering the criminal justice system more quickly than would otherwise be the case. As the assessment period is 10 years, this is less than one person a year. In her speech, the Minister gave one example from 2016. It is important to get clear the real necessity for the Bill. As the noble Lord, Lord Anderson, mentioned, the provisional arrest powers under Sections 73 and 74 of the Extradition Act 2003 already adequately cover urgent arrests before a full extradition request is submitted from a category 2 territory, with the CPS able to request a provisional warrant from the court which can be made urgently out of hours.

In addition, the impression conveyed that the Bill will give an instantaneous power of arrest once a warrant is issued in a designated Part 2 country is not true. The warrant would still have to go through a review and certification process at the National Crime Agency and there would be a triage process to ensure that only alerts which conform to legislative intention are certified. Perhaps the Minister can confirm that all those three steps—triage, review and certification—will have to take place. Can she also confirm that the NCA would be able to filter out cases where it has reason to believe that one of the statutory bars to extradition, such as the human rights bar, will apply, and that a victim of a politically motivated request would be able to provide the NCA with advance notification why it should not be certified? Will the NCA also ensure that any requests comply with the human rights requirements under Interpol's constitution and with any procedural or human rights requirements under the US-UK extradition treaty?

While, if all those filter mechanisms apply, it would provide some reassurance, it would also mean that the new process was not necessarily very speedy. It would require careful scrutiny, not an instant, heat-of-the-moment decision after a person is identified entering the country. While that is good from the point of view of the care to be taken in the process, it means that the new power is unlikely to save time, as well as applying only to a handful of people, which makes the power, as justified by the Minister, largely otiose. The new power permits someone to be arrested and their liberty restricted without judicial oversight—a potential interference with Article 5 of the ECHR. The justification is pretty vague. Bypassing the judicial warrant is premised in the impact assessment only on the rather vague aspiration of

"reducing the opportunity for the subject to escape and potentially commit further crime, which may lead to an economic and social impact upon society",

but:

"It is not possible to give a precise estimate of the impact of the legislation as it is unclear how much re-offending will be prevented".

That is hardly convincing in justifying the potential interference with convention rights. Although the Bill covers any international request for extradition, it seems clearly anticipated that an Interpol wanted person alert or a red notice against a person would be the primary trigger. It is crucial that the Bill is not taken as a stamp of approval for such red notices, as they are not trusted enough to be in themselves a basis for an arrest. Under the Bill, the NCA will have to assess the validity of such a notice and the degree to which it is based on evidence, rather than mere assertion, without any judicial, or even prosecutorial, oversight.

Like the UK, many countries do not allow warrantless arrests based on Interpol red notices. The US does not allow them because it does not view red notices as satisfying the probable cause standard required by the US constitution to arrest someone. It is well known that Interpol red notices have been misused for political purposes by a number of its member countries, targeting political opponents, journalists, peaceful protesters, refugees and human rights defenders. The UK should continue to push Interpol to introduce safeguards against abuse. Can the Minister tell us what action the Government have taken in that respect?

It is critical that the list of specified category 2 countries in the Bill is limited to those where there really is a basis of trust—not countries such as Russia, Turkey, Venezuela or Syria. What factors will the Government take into account when proposing to add countries to those covered by new Schedule A1? It is already of concern that the US is on the list. While the ability would still exist to seek assurances that a person

[Baroness Ludford]
would not be subject to the death penalty, there was a case in July 2018 when the Government did not exercise that option, which caused deep concern.

As I have said, the necessity for the new power seems pretty slim in the case of existing trustworthy Part 2 countries but, as other noble Lords have said, in paragraph 7 of the impact assessment we get to what must surely be the real reason for this Bill, even if the Minister demurred at her briefing session yesterday. It is worth reading it out:

"In a 'no deal' scenario or in the event of a Future Security Partnership which does not support the retention of EU Member States in Part 1 of the Extradition Act, the current capability gap would extend to EU Member States. 15,540 requests were made under the EAW process in 2018/19. In that same year, 1,412 arrests were related to EAWs".

That is more than 150,000 EAWs over a 10-year period, compared to the six EAWs forecast for the new procedure under the Bill. I think we can gather what scenario the Bill is really planned for. Can the Minister give us an update on the prospects for future UK-EU criminal justice co-operation, including extradition? Although there are concerns about the operation of the EAW—six years ago, my last project as an MEP was a report calling for its reform; I thank the noble Lord, Lord Anderson, for his kind remarks—it is much better than the alternatives.

Both my noble friend Lady Hamwee and the noble Lord, Lord Anderson, referred to the Commission declaration under Article 185 of the withdrawal agreement in which Germany, Austria and Slovenia may not extradite their own nationals—even during the transition period, let alone after December. This was expected but it is still discouraging. How will we get any reciprocity? If the Bill covers incoming extradition requests, what will happen to outgoing ones to EU and EEA countries?

Finally, how does yesterday's categorical assertion of no alignment advance the prospect of the UK retaining something approaching the EAW without legal challenge if the minimum rights of defendants developed by the European Union are not respected?

4.29 pm

Lord Hannay of Chiswick (CB): My Lords, some seven years ago I chaired, together with the noble Lord, Lord Bowness, an inquiry at whose heart was the issue of whether it was in this country's interest to remain within the scope of the European arrest warrant. The evidence we took demonstrated overwhelmingly that it was in Britain's interest to do so. I am glad to say that that view was shared by massive majorities in both Houses and we did, indeed, stay within the European arrest warrant.

I note from the impact assessment with which we have been provided for the Bill—for which I express my gratitude as impact assessments for Brexit-related Bills are rare birds indeed—that in 2018 and 2019, as the noble Baroness, Lady Ludford, just mentioned, 1,412 arrests related to European arrest warrants were made and a substantial number of possible criminals returned to their own countries for trial. I suggest that those figures show that the European arrest warrant has come through with flying colours. It is for that reason, if for no other, that I personally welcome the Bill, one of whose objectives, if I understand it rightly, is to enable us to continue to operate something that could perhaps loosely be called a European arrest warrant-type procedure, even now that we are no longer a member—and will no longer be a member—of the European Union. I would be most grateful if the Minister, when she winds up, could answer the following questions. They cover similar ground to those of my noble and learned friend Lord Brown and my noble friend Lord Anderson.

First, is it correct to think that the Bill will enable us to operate something that could loosely be described as an EAW-type procedure, even after we have left the European Union and even after we have exited the transition period?

Secondly, will the powers in the Bill actually be needed during 2020 with respect to EU member states, while we are still in the transitional period provided for in the withdrawal agreement, or does that agreement suffice for the calendar year 2020?

Thirdly, if by mischance—I think no one who has read the Prime Minister's speech made in Greenwich yesterday could doubt that mischance could happen—we found ourselves without a new relationship agreement with the EU at the end of this year, would the powers in the Bill enable us to respond to requests from any of the 27 EU member states in a manner similar to the way we have responded to European arrest warrants?

Fourthly, as several noble Lords have asked, will we, in the negotiations that will begin in March, try to achieve some degree of reciprocity with the 27 member states so that they too will operate something similar to a European arrest warrant procedure, even if the conditions for that are not yet agreed in the new relationship, or if the possibility of a new relationship has collapsed? I know that the answer for this Bill is that it does not and cannot provide those powers.

These are important matters. I think we can reasonably ask the Government simply to say now that, yes, when we sit down in March and work with the European Union on a security agreement that covers this area, we will be asking for reciprocity and we will be offering procedures that are as solid as we can make them and similar to the European arrest warrant. If, as I hope, the answer to all four questions I have posed is positive, I would be a strong supporter of the Bill. It will send a good signal that we are entering the post-Brexit negotiations in a positive spirit and with a determination to continue the closest possible co-operation with our former EU partners in the fight against serious international crime.

Lord Bethell: My Lords, I can confirm that the new clocks are now working, and those are the ones we will use.

4.34 pm

Lord Robathan (Con): My Lords, I am delighted to follow the noble Lord, Lord Hannay, because I agree with most of what he said—which, I think he will accept, has not always been the case. My noble friend the Minister has a galaxy of learned and expert people to speak on this Bill. It seems to me that the Government

should be grateful that they are getting legal advice from three very learned retired judges. It would cost the Government a great deal of money if they had to ask for the advice, so I think she should be grateful.

My contribution will be much more modest. I say to the noble and learned Lord, Lord Judge, who speaks with great authority and expertise on these things, that I do not see that we need to be particularly concerned that China, let us say, should be allowed to extradite people under this measure. Given the problems that China has had with Hong Kong, which started off with extradition from Hong Kong to China, we would be unlikely to take that sort of decision. It seems to me, and others have said, that the Bill rightly and sensibly caters for the changes to the European arrest warrant now that we have left. The 24 hours within which somebody arrested under this has to be seen by a judge is reasonable. I agree with the noble and learned Lord—I will come to this later—that not all countries share the same standards as us. That also applies to European Union countries.

I support the Bill because it is sensible and very modest. So far it is certainly countries that we trust to abide by the rule of law that are included. For instance, Australia, New Zealand and Canada all take a great deal of their legal systems from us anyway—so, given the situation, it is not controversial.

Part 1 of the Extradition Act 2003 was about the European arrest warrant. I will concentrate on that, because it is more controversial. Like the noble Lord, Lord Hannay, I think the European arrest warrant can be hugely valuable. For instance, it gets nasty criminals out of the UK to face justice—paedophiles, drug dealers, murderers, whoever. That is all to be welcomed. I think the noble Baroness, Lady Ludford, said that in 2017 there were 15,000 or so requests to the UK; I thought it was more like 17,000, but I may be wrong. I think we issued fewer than 400, but with my limited knowledge of the internet I had some trouble getting the correct details.

I will concentrate on Romania, which I think is the country that issues the greatest or second-greatest number of European arrest warrants in the European Union. That may be a reflection of crime in Romania. I will concentrate first on the general situation and then on one case, which shows why we should be very wary of believing that, just because a country is in the European Union, it follows all the rules and values that we have in this country and follows the rule of law as we do. We assume that because a country is in the European Union, it abides by the rule of law.

I will not mention the case I know of for two reasons. First, it is sub judice and, although I believe that under parliamentary privilege I could mention it, it would be improper to do so. Secondly, I used to have—I stress that I used to have—a financial interest in the case, in that I was advising somebody on this. That ended several months ago, but again it would be straying into difficult territory if I were to mention the case in particular.

The issues I will raise now on Romania have all been covered in the press. I start with a newspaper article from 10 April last year. I mention only this one—there are many others—because its headline is: "Romania's child traffickers walk free to mock the British police". It was an operation called Golf, and the person in charge of it said:

> "Let me tell you, there was tonnes of evidence against that gang … Dozens of child witnesses were interviewed, and we found hundreds of forged birth certificates. It beggars belief that all 26 suspects have walked free. On our side, we secured convictions, but Romania has not … If we cannot get Romanian courts to convict the most serious crimes it has an impact across the whole of Europe."

The case that I know about concerns political interference and deaths in prison. The Prime Minister of Romania stated on television before an arrest that an arrest would happen. I think we would all agree that that would be completely improper in this country. The same person died in prison. That was surely political interference. I would say so, but so does the European Bar Association—the Fédération des Barreaux d'Europe—which mentioned in a resolution on 19 April 2018

> "the right of access of Romanian citizens to a free and independent court and about the situation of judges, prosecutors and lawyers from Romania, noting that there is an interference with the independence of judges, prosecutors, lawyers and the administration of justice due to the intervention of Romanian Intelligence Service"

and called on the justice organisations to "cease the secret protocols" with the intelligence services

> "and to restore independence of the judicial system by destroying also secret Protocols and … respect the right of Romanian citizens to a fair trial."

If that was said about the United Kingdom, we would rightly be horrified.

The issue of prison conditions is more difficult. We would wish to send back a murderer from Romania, but I note that the European Court of Human Rights said some two and a half years ago that the detention conditions in Romanian prisons are in breach of the convention and

> "a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights."

As I said, the case with which I am dealing involved somebody dying in custody because he was not given proper treatment. In his judgment on that case, which, again, I will not name, a UK judge said not two years ago, after the events I have cited, that Romania was a signatory to the European Convention on Human Rights and that he was

> "entirely satisfied that it will abide by its Convention obligations",

which the European Bar Association and the European Court of Human Rights did not agree with.

I ask my noble friend the Minister: should we see some changes to the European arrest warrant, as I believe is likely, could we look very closely at the conditions in each country in Europe and at how they follow the rule of law? It is not just Romania, but I will not spread my wings too far on this. We need to make sure that other European countries are abiding by the rule of law as we see it before we admit them into what is already working under the European arrest warrant.

4.42 pm

Baroness Clark of Calton (Non-Afl): My Lords, it is a great privilege to appear again and speak in your Lordships' House after a long absence. I listened with

[Baroness Clark of Calton]
interest to the Minister's speech about the Bill's context and purpose. I also thank her for being so open and willing to meet with people to discuss it.

The extradition Bill might appear deceptively modest, but does it propose a mere technical amendment? In essence, it sets out a new system to justify arrest without advance judicial scrutiny and will give sweeping powers to the Secretary of State to change extradition law by delegated legislation.

The Bill seeks to amend complex legislation in the Extradition Act 2003. Many Members of this House know how complicated that Act is. It was the result of detailed domestic review, public consultation and development in international criminal law that introduced fast-track extradition arrangements, mainly for EU states, using the European arrest warrant. The 2003 Act introduced two very different systems of extradition. It distinguished between category 1 territories, based on the European arrest warrant, and category 2 territories, where there was no agreed reciprocal recognition of the judicial process.

The concept of provisional arrest in this Bill will no doubt take many people by surprise, particularly if they are reflecting on that concept from a police cell. A person is either under arrest or at liberty. There is nothing provisional about the consequences of being arrested. The 24-hour limitation period provided in the Bill excludes weekends and bank holidays. The consequences of provisional arrest are serious and would not be eradicated by any subsequent decision of a judge to discharge the person.

I share the concern of noble Lords who have queried the Government's justification for introducing this Bill: that there might be a delay of some hours in obtaining an arrest warrant from a judge, creating the possibility that the person concerned could offend or abscond before being detained. We hear that the numbers are tiny. However, Section 73 of the 2003 Act already allows a provisional warrant for arrest to be issued by a justice of the peace. This may be used by the police in an emergency, for example. Can the Minister tell us what the difficulty is with using it in the circumstances she has talked about?

So far, I am not persuaded by the factual evidence that there has been a problem in the extradition process caused by police and judicial delay, resulting in an inability to bring to justice individuals sought for extradition. To assist our understanding, if possible I would like some statistics to be provided before Committee stage: the number of arrests over the last three years under Sections 4 and 5 of the Extradition Act 2003, and the number of cases refused a certificate by the designated authority when performing its statutory function in relation to category 1 territories under Section 2. In relation to category 2 territories, I would be grateful for similar statistics for warrants issued under Sections 71 and 73 respectively.

If, as the Government contend, there is a problem in relation to extradition to category 2 territories, any solution may lie in better co-ordination between the police and the judiciary to enable a warrant to be obtained at an early stage. Another solution might be the involvement of the judiciary in a screening process, instead of the designated authority which the Bill seeks to establish.

I understand that the Government intend that the National Crime Agency be appointed, in regulations made by the Secretary of State, as the designated authority. The NCA is essentially a police body, not a judicial authority. Such a body is not a proper substitute for the independent scrutiny and decision-making of a judge in the UK. In any event, it is surely unacceptable that a body meant to carry out a function which directly affects individual liberty is not even named in this Bill.

The Government may seek to rely on the existence of a screening process by a designated authority—the National Crime Agency—in Part 1 of the Extradition Act 2003 in relation to category 1 territories. However, this is very misleading and does not bear scrutiny.

It is clear from the history and development of the Part 1 legislation that the justification for arrest flows directly from a judicial source: the judicial grant of a European arrest warrant by the foreign territory. The European arrest warrant scheme is complex, with detailed codes of procedure. Extradition to category 1 territories has become exclusively a judicial procedure; that contrasts with category 2 territories. The category 1 scheme in the 2003 Act is tied to that. The legal basis for arrest is founded on the decision by a judge from the foreign territory to issue a European arrest warrant. Any later screening process by the designated authority in the UK postdates that earlier judicial decision, and it is the judicial decision which provides the legal basis for the arrest.

The scheme applying to category 2 territories under the 2003 Act is very different. There is a total lack of that agreed basis of common rules and the complex safeguards which have been built into the European arrest warrant scheme. A decision by a judge from one of the UK jurisdictions provides the legal basis for arrest in category 2 territory cases. This Bill seeks to introduce a form of arrest where there is no advance judicial scrutiny and no judicial warrant from this country to justify arrest.

I am particularly concerned about the terms of new Sections 74A and 74B. I note that there is no limitation in the wording to restrict this to an emergency situation where obtaining a judicial warrant is somehow impossible. In summary, the new sections allow a provisional arrest to be made provided that the designated authority has issued a certificate. The designated authority is required to apply legal tests which can be complex and are appropriate for judicial determination.

There is nothing in the Bill to stop this easy certification process becoming the normal procedure in all or most cases. So, if someone somewhere sends the appropriate paperwork to the designated authority and this non-judicial authority issues a certificate, many people may find themselves in custody without any judicial consideration in this country. All of this affects the system of justice in Scotland. I would be very grateful to learn from the Minister the views of the Scottish Government. I would be surprised if there was support in Scotland for a system of arrest being legally justified by certification by a police body, rather than a judge.

I also note with concern, as have other noble Lords, the terms of paragraph 29, which gives the Secretary of State powers, including the power to

"amend, repeal or revoke any provision made by primary legislation"

in certain circumstances. None of this is acceptable in such wide terms.

It is plain that we are all aware that there may be problems for the Government if, as a result of their Brexit policies, the UK is unable or unwilling to participate in the European arrest warrant scheme. But in that event, we need a mature debate about extradition to find a way forward. We cannot permit the Secretary of State merely to certify any territory that he or she wishes, and allow the arrest by the police of potentially thousands of people, including many UK citizens, on the certification of the National Crime Agency or some other non-judicial authority thought up by the Secretary of State.

I am not opposed to reform of the Extradition Act, and I am certainly not opposed to a system of extradition that works effectively. But the proposed changes in the Bill cause me concern in their present form and I hope that in Committee, we will be able to consider them further.

4.52 pm

Lord Hogan-Howe (CB): My Lords, I support the Bill and have just one suggestion for how it could be improved. Martin Hewitt, chair of the National Police Chiefs' Council, described this legislation as filling a loophole in the law, which is a fair description. It is also supported by Lynne Owen, the Director-General of the National Crime Agency. Neither person would generally want to widen police powers, but they do want to make them effective.

Presently, police officers have powers of arrest only for category 1 countries, which includes all members of the European Union, so it is not a radical departure to give them powers to arrest before the extradition warrant has been agreed. Although people have expressed concerns about that, in this sense, it is a power that exists already for category 1 countries, unless a judicial warrant has already been sworn.

The problem is that in category 2 countries, an officer may become aware that a person has been notified as wanted for extradition, but until the warrant has been sworn out, they cannot arrest. Of course, there is no warrant because the UK was not previously aware that the person was in the UK—or I guess police would have been looking for them—and therefore no one has been able to apply for a warrant of extradition. I wonder whether the comments of the noble Lord, Lord Anderson, and the noble Baroness, Lady Ludford, about Sections 73 and 74—neither of which I am an expert on—rely on the fact that someone knows that those people are in the country. These changes are merely to cope with the fact that an officer may come upon or discover that someone who was not previously known to be in the country is available and may therefore need to be taken into custody for a warrant to be applied for.

A series of helpful and reasonable steps have been put into this Bill. It does not cover all category 2 countries—it is the Five Eyes countries. They are all our significant partners, relying on jurisprudential rules which are very similar to ours, as well as Switzerland—I do not think anybody would doubt that it observes the rule of law—and Liechtenstein. Some people have expressed a view that perhaps Russia might be included as a category 2 country. It is not. We have no extradition agreement with Russia. In fact, I think its constitution prevents anybody being extradited from Russia, so even if we were to decide to have an extradition treaty, it would have something of an obstacle to overcome should it decide to agree with us.

The circumstances in which this power might be involved are: a stop and search of a pedestrian or a vehicle, which has already been mentioned; an arrest for another offence when the arrest is refused or when the person is released before the warrant can be sworn out; or when an officer starts an investigation, during which they come across a suspect or witness who is wanted.

Although it has not been mentioned tonight, it is possible to argue that the officer should not advise the person that there is a notice in place and that there is to be a hearing to avoid warning him and him absconding. However, if that was a strong argument we would not already have this power for category 1 countries, so I do not think that is the best argument to pursue. It is quite possible that if someone is arrested in this country from a category 2 country for an offence that is nothing to do with the extradition and is then released it might put him on notice that the police might start checking to see whether there is an extradition warrant and if the individual knows he is wanted for a serious offence he may then abscond, or certainly be hard to find, so there are good reasons why the arrest power for category 2 countries is a good idea. It creates a level playing field with category 1 countries. I do not think that is unfair or unreasonable.

A further safeguard is to be added for category 2 offences, which is that the offence for which the suspect is wanted needs to be classified as serious. That test is whether somebody in this country would serve three years' imprisonment. That is not available for category 1 countries, such as those in the European Union. Poland has not been mentioned today, but it has been criticised for seeking extradition of its citizens for very minor offences, such as shoplifting, and clearly wasting everyone's time. Poland is a member of the European Union and a category 1 country.

The first test is whether a three-year term of imprisonment is available. If it passes that test the second test is whether the National Crime Agency is prepared to certify that the offence remains serious. Someone can go to prison for 10 years for criminal damage, but criminal damage worth £25 will not lead to a 10-year prison sentence. It would lead to a minor outcome. It is therefore very unlikely that the NCA would certify that it was an offence that should be put on the police national computer to make sure that that person was excluded from the country.

Some people expressed the view that the NCA may not apply human rights conventions. It already does that, even with European Union extradition warrants. Those rules will not change. It has excluded some applications on those grounds, such as sexual orientation, political affiliations or things that are disproportionate.

Baroness Hamwee: I do not doubt what the noble Lord is saying, but my question was about how we can be assured about transparency in holding to account those issues. We may know that things are hunky-dory now, but I am sure that the noble Lord would accept that that is not quite the same as having the procedures available to test them.

Lord Hogan-Howe: I agree. We should be reassured in two senses. The NCA is one arbiter. It has been putting things on the police national computer for many years. Individuals can pursue their civil rights if they think or find they have been wronged. If an arrest is made, these cases will of course be heard in a court, where suspects are legally represented and able to make the case that this is an improper allocation of a notice. It is a fair challenge, but there are systems in place that would provide a remedy within a fairly short period of time.

We all understand why it is difficult to calculate how often the power of arrest for category 2 countries will be used. However, we know that in 2018 there were 1,394 arrests in England and Wales for category 1 offences. Interestingly, only 28% of those cases would pass the seriousness test if they were moved to category 2. Fewer people would be affected by the powers of arrest and extradition if any European countries were to come within category 2.

Some may argue—and have argued—that, in negotiating with other countries, we put ourselves at a disadvantage by unilaterally helping another country to extradite criminals it takes to its country. However, for serious offences, the UK has the benefit of excluding a suspect from the UK until their criminal justice process is completed; we get a definite benefit from that.

It is also true that the constitutions of some countries require another country to have constitutional arrangements in place to enable extradition before they can reciprocate. In that sense, this is an enabling provision; it allows a country to respond to the fact that the UK would have this in place.

I have a quick suggestion for improving the extradition process—which, in my view, has long been unhelpful. All those arrested, with or without warrant, have to be transported to one court in Westminster. These are long journeys for the suspect, their families and everybody else involved in the case—the police, witnesses et cetera. It takes time and money, and with weekends, this potentially extends to a four or five-day period. Surely it should be possible to have regional courts in our big cities, which could hear these cases. I think it has been suggested in the past that, due to its specialised nature, the London Bar is the best place to respond to these cases. However, surely there should be a system designed for the suspects and, in this instance perhaps, not for the Bar.

I agree with the noble and learned Lord, Lord Judge, that we do not want to see countries added to the list if they have systems that we do not respect. I also agree with the noble Lord, Lord Robathan, that there are already at least two countries in the European Union which we might challenge as to whether they would pass that test. In one country—we do not need to name it—political interference, or attempted interference, has been apparent in the selection of judges, yet there is a very low bar for getting an extradition warrant. In another country, both politicians and police are corrupt. Noble Lords may ask why we have extradition treaties with these countries, but we do—we still allow for extradition to these countries. That seems quite a challenge in the European Union, let alone somewhere else; we have to be careful and ensure that we are on a level playing field with everyone.

I support the Bill, which will create a level playing field and, in part, provide a flexible opportunity to retain an effective process as we leave the European Union—although I acknowledge that the Government have said that that is not their intention.

5.02 pm

Lord Inglewood (Non-Afl): My Lords, as a number of noble Lords have commented, it was my privilege and pleasure five years ago to chair the House of Lords committee on the workings of the Extradition Act 2003. I found it a challenging assignment; while once upon a time, long ago, I knew a bit of law, I had forgotten most of that and this involved areas I had never known about in the first place. However, we reached the conclusion—shared, I believe, not only by members of the committee but the House—that our extradition arrangements were, essentially, systemically acceptable, albeit involving a series of problems and shortcomings and, in some respects, less than perfect.

I remember becoming very clear on the importance of understanding that extradition is based on the principle of comity; in other words, it is based on a recognition of other people's criminal laws, which may be a bit different from your own. At the same time, this recognition has to be locked together with recognising the importance of human rights; the one thing you cannot do is triangulate one off against the other. That is why in my view, when thinking about the extradition system generally, it is important to be clear about what bars exist under our system regarding people who otherwise would be extradited, and the protections that that confers.

Against that background, the essential case for the Bill has been that we should change the basis on which a person subject to extradition proceedings abroad could be arrested when identified. The basic principle seems to me, as for almost all Members of the House, to be a sound one, and to bring Part 2 of the legislation in line with the reality of the processes in Part 1 is a good step. However, as a number of your Lordships have said, this particular Bill really falls into two parts: there are the specific provisions about provisional arrest that are contained within the title of the Bill, and then there is the dog that does not bark, or perhaps the dog that just whines in the corner: paragraph 29 at the end of the Schedule, which in my view is a completely separate issue from the specific one.

In his remarks at the beginning of the proceedings, the noble and learned Lord, Lord Judge, rightly focused on the potential mischief that these provisions, as drafted, could bring about. After all, we know that we are in a world where any piece of legislation that the word "European" comes into is as toxic to the Government as the coronavirus. The reality, which has been accepted

by almost all the speakers this afternoon, is that the workings of the system of the European arrest warrant are to everyone's advantage, yet we are living at a time when we are almost certainly going to see changes introduced to that. Exactly what they will be, no one knows—anything from a slightly tweaked version of the existing form of arrangements through to, I suspect, adding some or all the European countries to Part 2 of the Bill. Who knows? This issue is very important for this country, and I do not think that kind of thing should be determined by secondary legislation.

There is an important fundamental principle here, quite separate from the specific business about provisional arrest, that this House ought to take extremely seriously. To encapsulate it in a few words, it seems strange that we need an Act of Parliament to bring about changes regarding provisional arrest while by secondary legislation we can turn the system of extradition law that we have in this country on its head.

5.07 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I have very much enjoyed the contributions to this debate—particularly the ones that I agreed with, obviously. I do not have the legal knowledge that so many of the noble and learned Lords in this House do; on the other hand, I have quite a lot of common sense, and I can spot something that is a complete nonsense.

Noble Lords have called this measure modest; well, it is so modest that it is almost invisible. The biggest question facing the Bill is why we even need it. The size of the problem that we are seeking to resolve—the seriousness of the threat—has still not really been fully explained to us. The Minister might explain in exactly how many cases the police and other authorities have failed to lawfully detain a suspect as a result of the current legal requirement to obtain an arrest warrant. Put simply, how many people have got away? We have heard about two cases from the Minister and both of them involved paedophilia offences, which of course are a red flag. I would like to know exactly how many people have escaped.

The Home Office explains in its analysis in the published full economic impact:

"The policy is expected to result in 6 individuals entering the CJS more quickly than would otherwise have been the case."

Is it correct that the Home Office is saying that only six people a year will be arrested under the powers in the Bill? Even then, it is only a question of that happening more quickly regarding these six people who would otherwise have escaped. If that is the case, is the size of the problem really so substantial that the Bill is necessary or even a worthwhile use of precious legislative time when so many other much more important Bills are coming to us in this House? I would like to know just how serious the threat is. It would also be good to have some idea of the threats that offenders have posed under the current system which would be fixed by this power to arrest six individuals.

The threat has to be real and significant if we are expected to remove the judicial process of granting an arrest warrant. However, at the same time, the Government cannot perceive the threat to be too great because they have chosen to limit this arrest power to extraditions to only a handful of countries. If a dangerous criminal is wanted in America or Australia, then they will be arrested without a warrant. However, the same dangerous criminal could, according to the Government, escape as long as they are wanted in countries that we do not consider trustworthy.

In this debate, some noble Lords have suggested that this is a sort of backstop to the European arrest warrant. If that is so, the Government ought to be open about this. We should know exactly why they want to introduce it. That would certainly make a lot more sense than this forecast of six people. We cannot have a Government asking for powers without being honest about what they are for. The Bill poses an ineffective solution to a tiny, or even imaginary, problem. There is absolutely no justification for removing the arrest warrant process and, if there were, it would be applied to a much longer list of countries. I suggest that the Government drop this Bill, do not bring it back for any further stages and stop wasting our time.

5.11 pm

Lord Ricketts (CB): My Lords, I have followed this debate with enormous interest. I feel a little daunted, given the enormous experience of many of the speakers so far. In fact, it has been so fascinating a debate that I thought time had stood still, but then I discovered that actually the clocks were not working.

I am here really as an informal emissary from your Lordships' European Union Select Committee, chaired by the noble Earl, Lord Kinnoull, and the EU Home Affairs Sub-Committee, chaired by the noble Lord, Lord Jay, neither of whom can be here. As a member of both committees, I wanted to at least draw attention to the work on the issue of extradition done over a number of years by the two committees and, in particular, do a little plug for two of the committee reports done under the chairmanship of the noble Lord, Lord Jay: *Brexit: Judicial Oversight of the European Arrest Warrant* of July 2017 and *Brexit: The Proposed UK-EU Security Treaty* of July 2018. Both are very relevant to the wider context of this debate.

Like others, I wanted to explore a little the relationship between the powers sought in this Bill and the EAW world—this has been a theme throughout the debate. As other noble Lords have noted, there is a somewhat delphic remark in paragraph 7 of the Explanatory Notes which says that, should the UK lose access to the EAW, a statutory instrument could be made to designate some or all EU members. This has been the elephant in the room throughout this debate, but it appears only very briefly in the explanatory material. I think it deserves a little more explanation.

There is a lot of useful detail about the value of the EAW in the reports that I have mentioned, as was apparent in the statement we had this afternoon. As a layman, it has always seemed to me that it is a way of making extradition far easier, more rapid and more straightforward than the alternative, the 1957 Council of Europe convention. Under that, it took an average of 18 months to achieve an extradition; that fell to below two months with the arrival of the EAW. Given that we are talking about exporting—to use that word—up to 1,000 people a year under the EAW, the idea of

[Lord Ricketts]
going back to the 1957 convention arrangements seemed to us and all the expert practitioners we heard from in the sub-committee to be an enormous retrograde step. I think of my own period as ambassador in France. A regional procureur's office in a small French city will have got completely out of practice with the 1957 arrangements, which involve diplomatic notes and passage through interior ministries. This risks a considerable delay in what has been a very effective process.

A number of noble Lords spoke in the conditional tense about "if we lose access" to the EAW arrangements. But it is clear that, at the end of the transition period, Britain will not be in the EAW process, which is for EU member states, and that, as others have made clear, the process of disengagement has already begun, with the operation of Article 185 and the own-national provision. Germany, Slovenia and Austria have already applied it—so even now, in the transition period, we are already seeing a restriction of our access under the EAW. The issue therefore is whether we will be able to negotiate an agreement with the EU that allows what the then Minister of State in the Home Office, Nick Hurd, spoke to the committee about in 2018: "effective arrangements" on the lines of the EAW.

The only precedent for this is the agreement that the EU has with Norway and Iceland. But we should not hold our breath—that negotiation took 13 years. It was finally agreed in 2014 but, as far as I know, is not yet in force. So there is potentially a very long time gap between us leaving the transition period at the end of this year and reaching an agreement.

The European Commission published its draft negotiating mandate yesterday, which indeed contains a reference to continued extradition arrangements. It uses the term "effective arrangements" but there are markers about judicial control and the own-national provision.

Given the importance of the EAW for the whole law enforcement process in this country, I therefore think that it is worth the Minister responding to a number of the questions that have been asked in this debate. I too came armed with many of them, but I have tried to filter mine, given that a number of other noble Lords on the list asked them. It would be helpful if the Minister could make it clear that, as from 1 January 2021, we will not be part of the EAW, and whether it is still the Government's intention to negotiate effective arrangements to parallel it as far as possible. If so, what is the likely timescale and what about judicial control, given the EU's attachment to ECJ involvement in the arrangement?

Secondly, given that it is very likely that we will not have an agreement by the end of the year, will the Minister accept that the designation arrangements in the Bill are in no sense a substitute for the speedy and effective arrangements in the EAW, and that they do not begin to address the issues of mutual recognition and the own-national problem. Personally, I can see the importance of the Bill for closing a gap in the UK domestic arrangements for arrest, but it is very important that it should be recognised that it can be only a very small step in addressing the much larger and more difficult problem of how to replace the many advantages we have had through the EAW.

5.18 pm

Lord Paddick (LD): My Lords, this has been a fascinating debate, as the noble Lord, Lord Ricketts, has just said. The Minister said in her briefing yesterday to noble Lords and again today that the Bill was nothing to do with the UK leaving the European Union and nothing to do with losing the European arrest warrant. She will certainly correct me in her summing up if that is not the case, but she is nodding. So, despite what the noble Lord, Lord Ricketts, has just said—I was very grateful for his contribution—I think that it is very relevant, despite what the Government say. As my noble friend Lady Ludford asked, if that is the case, is this legislation therefore really necessary?

In the briefing yesterday was the lead on this for the National Police Chiefs' Council. We asked him—I think before the Minister arrived in the room—"What is the biggest problem in this area?" He said, "The biggest problem is getting police forces to take international criminality seriously." Arresting people wanted for crimes committed overseas is not seen as a priority by forces, according to him. Yet it seems to be a priority for the Government, to the extent that they need to bring forward this legislation.

The question we have to ask is: if it is nothing to do with the European arrest warrant, what problem is the Bill trying to fix? The noble Lord, Lord King of Bridgwater, and the noble and learned Lord, Lord Brown of Eaton-under-Heywood, asked why this has not been done before if it closes a loophole. But how many Interpol red notices are there from countries listed in the Bill? In how many live cases of Interpol red notices was there intelligence that the person wanted may be in the UK? We were told it was between 20 and 30; as other noble Lords pointed out, the impact assessment refers to perhaps six people being brought to justice under these provisions. When we asked how many instances there were of people subject to red notices being encountered by police who could not arrest the person there and then, and where the police then sought a warrant but were subsequently unable to locate that person—the loophole that this legislation is supposed to close—nobody knew; not even the police, or the lead for the National Police Chiefs' Council, knew what problem the Bill is aimed at fixing.

The Minister mentioned a case where intelligence was received in 2016 that a person who was wanted for sexual offences was in the UK; a warrant was obtained but the subject was not re-encountered until 2019. She said that the Government could not allow such a dangerous person to be on our streets for so long, but that begs the question: how dangerous was this individual? How many offences did that person commit between 2016 and 2019, while at large in the UK? I did not hear—perhaps the Minister can enlighten me—whether that person was encountered in 2016.

Other noble Lords, including the noble and learned Baroness, Lady Clark of Calton, and the noble Lord, Lord Anderson of Ipswich, mentioned the urgent

applications for provisional warrants under Section 73 of the 2003 Act. Can the Minister explain whether a warrant can be issued on the basis of intelligence that a person who is wanted under a red notice is in the UK, even if they have not been encountered by the police? If that warrant can be issued, why is the Bill necessary?

My noble friend Lady Hamwee asked: why now? Until recently, the fact that someone was subject to an Interpol red notice was not recorded on the police national computer; that is what we were told in the briefing. So a police officer could have been talking to someone who was wanted but did not know that, and now they would know.

As I said, the Minister assures us it has nothing to do with the European arrest warrant. But I will refer to the letter written to the Home Secretary by the Metropolitan Police, the National Police Chiefs' Council, and the heads of counterterrorism policing and the National Crime Agency—and here I fear that I may take issue with the comments made by the noble Lord, Lord Hogan-Howe. Contrary to what the Government say, the letter keeps referring to the European arrest warrant and the loss of it. The letter says:

> "The risks in this area are not new, but have been brought into sharp focus as a consequence of our collective efforts to plan for the United Kingdom's exit from the EU. The European Arrest Warrant enables an officer to arrest a wanted subject there and then. Outside of this mechanism a domestic warrant must be obtained; a process that can take up to 24 hours and sometimes longer."

That translates to me as, "We've been asked to write this letter to support a government move", but apart from the European arrest warrant—noble Lords have said how many cases there have been under that—they seem to be scratching around and wondering why the Government are bringing forward this legislation.

The noble and learned Lord, Lord Judge, and the noble and learned Baroness, Lady Clark of Calton, pointed out that the Bill places a lot of power in the hands of Ministers in terms of adding countries that could be included in the list. As the noble and learned Lord, Lord Judge, said, countries could be added for ulterior motives, perhaps because we want to have a free trade agreement with them and want to be in their good books. As my noble friend Lady Hamwee said, if a group of countries is included in the statutory instrument that comes forward under the affirmative procedure, we cannot edit the list. The question asked by my noble friend is therefore important: will those additional countries come in one at a time or will more than one country be in those statutory instruments?

The noble Lord, Lord Ricketts, and others said that we will definitely lose the European arrest warrant because it covers only European Union members. The noble Lord mentioned Norway and Iceland. After 13 years, they now have an agreement—it came into effect on 1 November last year—but that agreement says that European Union countries do not have to extradite their own nationals. That is completely different from what the European arrest warrant says. Not only do we not know how long it will take for us to get a replacement for the European arrest warrant but the best that we can hope for is that it will be a shadow of its former self in that we are unlikely to be able to extradite own nationals from other countries.

The noble and learned Baroness, Lady Clark, made the important point that, in respect of category 1 countries, the warrant issued by that foreign country which leads to a European arrest warrant is issued by a judge there, whereas category 2 requests—red notices—are not necessarily at the request of a judge; presumably in the United States of America the district attorney can make the request for somebody to be arrested, without the judicial oversight. That is a crucial difference between category 1 and category 2 countries. This legislation fundamentally changes that. At the request of a foreign country, somebody can be arrested without warrant or any judicial input, whereas at the moment all requests from foreign countries for somebody to be arrested, whether it is under the European arrest warrant or otherwise, must have judicial involvement before the person is arrested. Yes, we are talking about 24 hours before it comes before a judge, but it fundamentally changes the situation.

Despite all this, the Government still try to give the impression that this has nothing to do with leaving the European Union, in the same way as letting other countries use e-gates at UK airports has nothing to do with the European Union. Suddenly e-gates at UK airports become available to American, Australian, Canadian, Japanese, New Zealand and South Korean nationals. Why and why now? It is perhaps because, as part of taking back control of our borders, the Government promised that we would not give EU citizens preferential treatment, but, instead of curbing the right of EU citizens to free movement across the UK border, they give it to the citizens of half a dozen other countries just to prove that they are not giving EU citizens preferential treatment. Of course, if every EU citizen had to be spoken to by an immigration officer, the system would collapse under the pressure. Meanwhile, while American citizens can use the e-gates at UK airports, if UK citizens go to the United States they have to convince the immigration officer that they are not going to stay longer than they said they were, and have their photograph and fingerprints taken. However, as the Minister said, we are not seeking reciprocity.

The noble and learned Lord, Lord Brown of Eaton-under-Heywood, talked about the importance of extradition, which is absolutely right. However, the Bill is a unilateral move, with no attempt to encourage other countries to do the same—a point also made by my noble friend Lady Ludford. Now, suddenly, one serious foreign fugitive on the streets of the UK—who might be stopped by the police, but the officer cannot make an immediate arrest because they need to get a warrant, and the person has not committed an arrestable offence in the UK—is one too many. That was the explanation given yesterday, and the Government try to tell this House that this is nothing to do with losing the European arrest warrant. We are not as green as we are cabbage looking. The noble Lord, Lord Hogan-Howe, also mentioned people being extradited using the European arrest warrant for minor offences such as shoplifting. Will the Minister confirm that the maximum penalty for theft is 10 years' imprisonment, so it would be covered by the three-year maximum in this legislation?

[Lord Paddick]

Most science is accepted as fact when in fact it is the simplest and most plausible theory that fits the facts. My theory is that this is everything to do with losing the European arrest warrant. If it is not, then there are far more important matters that this House should be considering, as the noble Baroness, Lady Jones of Moulsecoomb, has said. It is time for the Government to decide. Is it to close our side of the gaping hole left in our security by losing the European arrest warrant, in which case we should support it, or is it to catch little more than a handful of foreign fugitives who might otherwise escape justice? I look forward to the Minister's response.

5.31 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, this Bill is short, but has important implications and will need careful consideration in your Lordships' House. As has been said, the Bill creates a power of arrest, without warrant, for the purpose of extraditing people for serious offences, particularly as a result of an Interpol alert. It will apply to the countries specified in the Schedule to the Bill. I can, generally, support what is being proposed here but that is not to say that I will not propose amendments—or support those proposed by other noble Lords—that seek to provide protections, and conserve important freedoms and rights, highlighted by many noble Lords this afternoon.

We are told that the Government have identified a problem with category 2 territories under the present system which means that it can take at least a matter of hours. This creates the possibility that an individual could abscond or commit further offences in the UK. The Minister gave one example in her opening remarks. We need more than one. Can she give the House some more examples when she responds to this debate?

The Bill proposes to amend the Extradition Act 2003 to get over this problem so that constables, customs officers or service police officers, on receipt of a certificate, following a valid request from a country listed in the Schedule to the Bill, can make an arrest quickly. Can the Minister set out what the designated authority in the UK—I believe it is going to be the National Crime Agency—will be required to do to satisfy itself about the request received before action is taken? What does she expect the timescales will be from receiving a request to an arrest being sought? I get the point about speed, but we must also be satisfied that due care and consideration is given to the request before a certificate is issued to authorise the arrest.

The noble and learned Baroness, Lady Clark of Calton, questioned the need for the powers in the Bill. Apparently, we already have the powers. I would be interested to hear the Minister's response to that. When a person is brought before the court, having been arrested, the court is making a judgement on the evidence before it and, if necessary, the proceedings can be adjourned for more evidence to be provided before a decision is made. If the proceedings are being adjourned for more evidence to be provided, what would be needed by the National Crime Agency to issue the certificate in the first place? How do we ensure that, as far as possible, the evidence to issue a certificate would be at a level to satisfy a court without the need for adjournments? What I am trying to get at—I am probably not being very clear—is that the National Crime Agency can issue a certificate only where, among other things, it is satisfied that the seriousness of the conduct constituting the offence makes it appropriate to do so. That should be at the level we have today; I hope we are not proposing a lower level just to be able to issue more certificates. It is just not very clear and it would be helpful if the Minister could explain it further, to reassure me and other noble Lords.

I further understand that powers taken in the Bill would enable a process to be put in place with some EU member states if we lose access to the European arrest warrant. It seems many noble Lords think it is lost already. That is a terrible situation. We have to have something in place. The only beneficiaries will be criminals if we end up with less than we have now. I note the concern of the noble Lord, Lord Ricketts, in that regard. The noble Baroness, Lady Hamwee, asked "Why now?", and the noble Lord, Lord Paddick, referred to this. She made a valid point about the European arrest warrant and the risk that losing these powers will entail to our safety and security. I fear that she was right to voice her concerns. I agree with the noble and learned Lord, Lord Brown of Eaton-under-Heywood, that the Bill will help make the country a less attractive place to find refuge from the authorities in the countries in the Schedule. If we lose the power of the European arrest warrant, we have to have something in place; this is about that as well. I also support his call for the Government to look for mechanisms to ensure that we can get individuals wanted in the UK back to the UK if we lose the powers we have presently.

I agree with the noble Lord, Lord Hannay of Chiswick, about reciprocity. It will be a very important principle if we find ourselves outside the European arrest warrant scheme in the coming months.

A number of category 2 countries are specified in the Schedule, and there is a power to add further countries. Can the Minister confirm the UK Government's position on this in respect of the death penalty in the United States? I think she said to us that that will never happen but, as other noble Lords have said, in one case we did not ask for the assurance, so we need to know the Government's position on this. As the noble Baroness, Lady Hamwee, referred to in her contribution, can the Minister set out the process to add new countries to this list?

The noble and learned Lord, Lord Judge, made an important contribution on the constraints in the Bill, specifically the Henry VIII powers set out in paragraph 29(2) of the Schedule. I am drawn to support his suggestion to allow all powers to be subject to the annulment procedures.

The noble Lord, Lord Hogan-Howe, made a valid point suggesting a reasonable change to allow courts in our major cities to hear these matters in addition to the courts in London, particularly where suspects are arrested many miles from London.

I am happy to support the Bill generally but will seek further reassurances from the Minister as it proceeds through the House, and support amendments that in my opinion strengthen the Bill and introduce necessary safeguards and protections.

5.39 pm

Baroness Williams of Trafford: My Lords, I thank all noble Lords across the House for their very good contributions to this debate. We should not forget that without this new power a potentially dangerous individual encountered by the police, whom they establish is a fugitive, might remain at liberty on UK streets, able to offend or abscond before they can be arrested. I can confirm that in both the cases I voiced today the individuals were encountered by chance; the police did not have the power to arrest them and had to let them go.

I am sure everyone in this House will agree that we should unite across parties to give the police the power they need to protect the public, while always ensuring that the appropriate safeguards are in place. My noble friend Lord King and the noble and learned Lord, Lord Brown of Eaton-under-Heywood, described in great clarity not only the changing face of crime and the huge demands on the police but the international aspect of crime in all its forms.

Several noble Lords have voiced concerns that this Bill is an attempt by the Government to replicate the capability of the EAW. As I hope I have explained, this is not the case. The new power is about only how wanted individuals enter the court system, not how the courts will conduct their extradition proceedings. I emphasise that, with or without access to the EAW, UK police officers are unable immediately to arrest these fugitives wanted by countries outside the EU without first going to the court for a warrant.

The noble Lord, Lord Ricketts, rightly raised the future of the EAW post transition period. The UK will approach the negotiations on these issues with practicality and pragmatism. The political declaration calls for practical operational co-operation, data-driven law enforcement and multilateral co-operation through EU agencies. The detail of this agreement will be a matter for negotiation, but it does not just apply to the EAW. It applies to several other instruments of the EU. I absolutely acknowledge his concern.

The noble Baroness, Lady Hamwee, and the noble Lord, Lord Anderson, asked whether the EAW would continue to be enforced during the transition period; they talked specifically about Germany, Slovenia and Austria. It applies during the transition period, but where a member state cannot for reasons related to the principles of their national law surrender an own national to the UK during the transition period, they will be expected—as they have been—to take over the trial or sentence of the person concerned. UK policing and courts have extensive experience of working with these countries to ensure that justice is carried out. By way of background, since 2009 five German nationals, one Austrian national and no Slovenian nationals have been extradited to the UK from those countries. We are well used to the situation. It is nothing to do with this Bill. The power of provisional arrest is for Part 2 non-EU countries.

The noble Lord, Lord Hannay, asked about replacing other aspects of the EAW. He asked whether the power will replicate other aspects of capability from the EAW such as the expedited extradition process. It will not. This new power is similar to the EAW only in so far as it provides for an immediate power of arrest. It does not change the subsequent extradition proceedings or the role of the Home Secretary in extraditions, which are dealt with under Part 2 of the Extradition Act. The person who has been arrested must be brought before a judge within 24 hours of arrest—although I take the point of the noble and learned Baroness, Lady Clark, that if it happens on a Saturday night it might be a bit more than that—and the subsequent extradition process remains as it exists now.

The noble Baroness, Lady Hamwee, and my noble friend Lord King of Bridgwater asked two equal and opposite questions: why now, and why not before now? Interpol data is now routinely uploaded to UK systems to make it available to front-line law enforcement officers. This means that the UK police might encounter an individual who, by performing a simple database check, they can see is wanted for a serious crime abroad. That was not previously the case. As I said, within the current system, the police are unable to arrest the individual immediately. There is an obvious gap, we have responded to that with the Bill, and Interpol is now available to front-line police.

A couple of noble Lords asked about reciprocity. Why is the power being extended to cover countries that will not arrest on the basis of an Interpol notice issued in the UK? Why is there not a reciprocal arrangement? We need to be clear that under the Bill we are creating powers for the UK police, not obligations to the countries concerned. The Bill will enable UK police officers to protect the public more effectively. It is about ensuring that UK police officers have the power to remove dangerous individuals from our streets before they can abscond or offend, not about bringing more wanted individuals back to the UK from other countries. Were this new power restricted to operating on a reciprocal basis, police officers could be put in a situation of encountering a dangerous individual on the street but being unable to arrest them due to the legal provisions of another country, and that does not make any sense.

The noble Baroness, Lady Hamwee, and the noble Lord, Lord Kennedy, asked what safeguards there are to show what steps the NCA has taken. It is a requirement of the Bill that the NCA issues a certificate setting out the category 2 territory, confirms that it is a valid request, certifies that it has reasonable grounds for believing that the offence is a serious extradition offence, and that the conduct is sufficiently serious that the certificate must be given to the arrested person as soon as is practicable after that arrest. The noble Lord, Lord Paddick, talked about sentences such as 10 years for theft. In fact, this not only applies to prison sentences of at least three years but, as I said, it applies to sufficiently serious offences. Offences such as stealing a bike or shoplifting would not satisfy that second point.

The noble Baroness, Lady Hamwee, and the noble Lord, Lord Kennedy, talked about human rights considerations. It is right that noble Lords interrogate this point, but the Bill is purely about shifting the point at which the police can intervene and arrest a wanted person. It in no way reduces the safeguards that must apply to any subsequent extradition proceedings

[Baroness Williams of Trafford]
considered by the court or the Home Secretary. Judicial oversight will continue as it does now after any arrest. The courts will continue to assess extradition requests as they do now, to determine, for example, whether extradition would be compatible with the individual's human rights or whether the person would receive a fair trial. If they would not do so, extradition would be barred. That would include things such as the prison conditions that they might face and of course the death penalty, which the noble Lord, Lord Kennedy, raised.

The noble Lord, Lord Anderson, asked about the triage process. First, it applies only to specified countries; countries with a poor human rights record are not in scope. The addition of any other country will require the consent of both Houses of Parliament. Secondly, it applies only to sufficiently serious offences; the power will be available only in relation to offences that would be criminal in the UK and for which an offender could receive a prison sentence of at least three years.

The noble Lord, Lord Anderson, the noble and learned Baroness, Lady Clark of Calton, my noble friend Lord Inglewood and the noble Baroness, Lady Jones of Moulsecoomb, asked whether we already have the power to get an emergency warrant in urgent cases under the current mechanism for provisional warrants—basically, do we not already have the correct provisions in place? Crucially, however, under the current mechanism the police must already be aware that the individual is in the UK. It is not relevant here, as this legislation is concerned with chance encounters. The Bill creates an additional, different mechanism, which deals with these chance cases.

The noble Baroness, Lady Ludford, the noble and learned Baroness, Lady Clark of Calton, my noble friend Lord Inglewood and the noble Baroness, Lady Jones of Moulsecoomb, interrogated again the necessity for the Bill because of the numbers that might be involved. Obviously, it is a new power, so there is no accurate way to predict how many people it will apply to, and there is no quota, which makes this the right thing to do for security and public safety. It is about ensuring that UK police officers have the power to arrest dangerous individuals whenever they come across them on the street, to prevent them offending or absconding. However, I am clear today, as I was yesterday, that one dangerous fugitive on the streets of the UK whom we cannot arrest is one too many.

On some of the figures we have now, as of 31 December last year, over 4,000 Interpol alerts were in circulation from the countries specified in the Bill. Not all will be for fugitives in the UK, and not all will meet the seriousness criteria for this new arrest power. However, they include requests relating to terrorism, rape and murder, and if any of these wanted fugitives enter the UK or are encountered by police on UK streets, the police would not currently be able to arrest the individual. One dangerous fugitive is one too many.

The other question about necessity relates to the point made by my noble friend Lord King, which I echoed, on the international nature of crime now.

The number six in the impact assessment has been interrogated widely. It is not an indication of the number of dangerous individuals who would be arrested under this power; it is an analysis to assess the economic impact on the wider system. It is not a prediction of arrest numbers; that is to misunderstand the analysis. We cannot quantify how many opportunities to arrest dangerous fugitives have been missed because they have been missed. We can quantify the 4,000 Interpol alerts currently on the UK systems from specified countries; of course, the police would not have powers to arrest without the Bill.

Baroness Ludford: I put it to the noble Baroness that the statement in the impact assessment seems pretty clear. It says:

"The policy is expected to result in 6 individuals entering the CJS more quickly than would otherwise have been the case."

That seems pretty simple. How can it mean anything but that?

Baroness Williams of Trafford: I am clarifying why that is not the case but if I am not clear, I will write in further detail to noble Lords before Committee. I am aware that time is pressing and I have a few more points to cover.

The noble and learned Baroness, Lady Clark, mentioned the lack of judicial scrutiny. That will come after the 24-hour period through the courts.

The noble Lord, Lord Anderson, talked about abuse of Interpol channels. International organisations such as Interpol are critical to our vision of a global Britain and international law enforcement co-operation beyond the EU. Interpol provides a secure channel through which we exchange information on a police-to-police basis for action. The UK continues to work with Interpol to ensure that its rules are robust. The former chief constable of Essex was recently made the executive director of policing services for Interpol—the most senior operational role in that organisation. Also, a UK Government lawyer was seconded to the Interpol legal service to work with it to ensure that Interpol rules are properly robust and adhered to by Interpol member states. I know the issue to which the noble Lord refers, but I hope that this gives him some comfort.

Baroness Jones of Moulsecoomb: My question is crucial to my understanding of the Bill. If it not a replacement for the European arrest warrant, can the Minister confirm that the Government will not add the list of EU countries to the list we have already?

Baroness Williams of Trafford: I said that it is not a replacement for the EAW, but of course the Government can make that request of Parliament. I was going to come to that point a bit later; in fact, no, I think I answered it. The Government can request Parliament, through the affirmative procedure, to add countries.

Lord Hannay of Chiswick: I am sorry to interrupt the noble Baroness but I simply do not understand why she spent a huge amount of time telling us that this has nothing whatever to do with the European arrest warrant—that it has no relevance and is not in

the same context. She has told us that again and again. Why on earth did this point elude police officers who wrote about this measure? Why did it elude a large number of extremely well-informed—much better informed than me—people in this House who think it relevant? I simply do not understand why she is so determined to say so. All my questions, which she has not answered, were designed to get a positive answer, which would increase support for this measure—for example, if she said that it was a step that would enable us, in certain circumstances, where we have definitively lost the European arrest warrant, to do things that might then enable us to have reciprocal arrangements with other members of the European Union. She has not said a word about the security negotiations with the European Union.

Nobody asked that this measure should not be reciprocal; I did not and neither did any other noble Lord. We asked whether we will use this legislation—these powers—to persuade the other members of the European Union that we need a solid reciprocal arrangement if, by any chance, we get to the end of this year and such an arrangement has not been negotiated. Can the Minister explain why she is so keen not to refer to any of these issues?

Baroness Williams of Trafford: I hope that I talked about the other EU instruments we are negotiating on; I think I did so at the beginning of my closing speech. I was asked about reciprocity twice, which is why I answered. I also stated quite clearly that it was our intention to do this with or without our membership of the European Union, which is why the Bill was put forward. I am not trying to deny anything about the European arrest warrant; all I am saying is that we are doing this with or without our European Union membership because it is a gap in our capabilities regarding category 2 countries.

Lord King of Bridgwater: My Lords, as I understand my noble friend's position, she is not going to stand at the Dispatch Box and say that she is sure that all the negotiations that are now going to be conducted will go wrong. For a Minister to admit that in the House of Lords would be a remarkable headline, and if I may say so, her position is exactly right. At the moment, we hope that we will travel happily and arrive successfully. If we do not, then the Bill will come into play and obviously it will make sense.

Baroness Williams of Trafford: I thank my noble friend for being much clearer than I can be. The whole point is that we have identified a gap. The police now have access to the Interpol red notice system, and we should use it to pick up international criminals who are walking our streets.

I have gone over my time, and because of the interventions I cannot respond to the further points noble Lords have made. I shall answer those points in a letter, and I will follow up on any further questions. On that basis, I beg to move.

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

Paterson Inquiry

Statement

6.01 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, with permission, I will now repeat a Statement made by my honourable friend the Minister for Mental Health, Suicide Prevention and Patient Safety regarding the Paterson inquiry. The Statement is as follows:

"This morning, the independent inquiry into the issues raised by the disgraced surgeon Ian Paterson published its report. The inquiry was tasked with reviewing the circumstances surrounding the jailed surgeon's malpractice that affected so many patients in the most appalling way. As the report states, between 1997 and 2011, Paterson saw 6,617 patients, of whom 4,077 underwent a surgical procedure in the independent sector; and between 1998 and 2011, Paterson saw 4,424 patients at HEFT, of whom 1,207 underwent a mastectomy.

The report contains a shocking and sobering analysis of the circumstances surrounding Ian Paterson's malpractice. It sets out the failures in the NHS, the independent sector and the regulatory and indemnity systems. As a result of these failures, patients suffered unnecessary harm. Their testimonies in the report make harrowing and appalling reading and, as such, it is with deep regret that we acknowledge the failure of the entire healthcare system to protect patients from Ian Paterson's malpractice and to remedy the harms.

Nothing that I say today can lessen the horrendous suffering that patients and their families experienced and continue to go through. I can only start to imagine the sense of violation and betrayal of patients who put their trust in Ian Paterson when they were at their most vulnerable. That the inquiry reports today, World Cancer Day, makes this all the more poignant, and I apologise on behalf of the Government and the NHS for what happened, not least that Ian Paterson was able to practise unchecked for so long.

I would also like to pay tribute to the bravery of all those former patients who came forward to tell their stories to the inquiry and whose anonymised accounts have been recorded in the report. I know that this will make for difficult reading, as it highlights the human cost of our failure to detect and put a stop to Ian Paterson's malpractice. A catalogue of failings resulted in harm to thousands of patients, causing devastation to countless lives. Some of these patients were let down several times, not least by the providers and the regulatory system that should have protected them, and by the failure of the medical indemnity system to provide any kind of redress at the first time of asking.

From the outset, Bishop Graham wanted patients and their families to be central to the inquiry's work and to be heard. It was right, therefore, that patients and their families saw the report first—early this morning, shortly before it was presented to Parliament. Two aspects of the report are particularly striking: that the various regulatory bodies failed in their main tasks;

[Baroness Blackwood of North Oxford]
and the absence of curiosity on the part of those in positions of authority in the healthcare providers, in the face of concerns voiced by other health professionals.

The report presents a tangled set of processes. Accountability was not exercised when it should have been, and some of the problems arose from not following through on established procedures, as opposed to insufficient procedures being in place, so we must take full responsibility for what happened in the past if we are to provide reassurance to patients about their protection in the future. I am therefore grateful that the suite of recommendations based on the patient journey presents a route map to government. The recommendations are extremely sensible and we will study them in detail; I can promise the House a full response in a few months' time. That response will need to consider the answers to some very important questions that cut right across the healthcare sector. Unequivocally, regardless of where patients are treated and how their care is funded, all patients should be confident that the care they receive is safe and meets the highest standards, with appropriate protections, and that they are supported by clinicians to make informed decisions about the most appropriate course of care.

I am also very aware that it is not the first time that regulatory failure has been highlighted in an inquiry report. We have done much to make the NHS a safer system in recent years: revalidation, a reformed CQC and the work by the Independent Healthcare Providers Network to establish a medical practitioners assurance framework to oversee medical practitioners in the independent acute sector. However, in the case of Ian Paterson, the system did not work for patients and recent events at Spire show that there are still serious problems to address.

Patient safety is a continual process of vigilance and improvement. The inquiry does not jump to a demand for the NHS and the independent sector to invent multiple new processes, but to actually get the basics right, to implement existing processes and for all professional people to behave better and to take responsibility.

Last summer, NHSE/I published a new patient safety strategy, led by the national patient safety director, Dr Aidan Fowler. It focused on better culture, systems and regulation—very sensible but familiar words; all things that today's inquiry says were not delivered. What we need now is action across the NHS and its regulatory bodies, and the same determination to change the independent sector.

We are absolutely committed to ensuring that lessons are learned and acted on from the findings of this shocking inquiry, in the interests of enhancing patient protection and safety in both the NHS and the independent sector. For today, I apologise again on behalf of the Government and the NHS, and send my heartfelt sympathy to the patients and their families for the suffering they have endured."

6.07 pm

Baroness Thornton (Lab): My Lords, I thank the Minister for repeating the Statement made by the Health Minister in the Commons today. Two hundred and eleven former patients of Paterson, or their relatives, shared their experience with this inquiry. This report makes for harrowing and appalling reading, as the Minister said. Ian Paterson wilfully abused the trust placed in him by patients at their most vulnerable. At his hands, hundreds of women underwent extensive, life-changing operations for no medically justifiable reason. His unregulated cleavage-sparing mastectomies, in which breast tissue was left behind, meant the disease returned in many of his patients. Others had surgery they did not need and needlessly lived under the shadow of cancer for many years. This should never have been able to happen, let alone go on unchecked for so long.

As the Minister has done, I pay tribute to the courage, tenacity and persistence of many of these women and their families in exposing the injustice. I thank the panel, under the leadership of its chair, the right reverend Graham James, for uncovering the extent of Paterson's malpractice and the systems that allowed it to continue despite repeated warnings.

The victims of Paterson's malpractice were let down time and again by the NHS trust and an independent healthcare provider, which failed to supervise him appropriately and did not respond correctly to well-evidenced complaints about his practice, and by the wholly inadequate recall procedures in both the NHS and the private sector. The report identifies failures on the part of individuals and institutions, saying that

"a culture of avoidance and denial"

meant that those working closely with Ian Paterson did not spot his behaviour or were unwilling to challenge it. On the contrary, the report concluded that

"Paterson's behaviour and aberrant clinical practice was excused or even favoured."

What action does the Minister propose to support a change in the culture of the health service that encourages staff to speak up?

There is a potent example on page 130 of this report:

"The operation and awarding of practising privileges is defined in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 … Practising privileges are based on the 'scope of practice'—that is, the procedures a consultant is competent to perform in the independent sector are based on what they undertake in the NHS … In Paterson's case … he did not limit himself to operations he was competent to perform in the independent sector. He was undertaking operations and procedures he did not do in the NHS. Measures to monitor and limit this at Spire were inadequate."

What has changed? Is this still the practice in the private sector? Indeed, is it still the case that private hospitals incentivise referrals from consultants who have been given shares in their private hospitals? That is what the report suggests.

Can the Minister confirm that the Government will urgently bring forward legislation to give private patients the same protection provided by the NHS, as called for by the lawyers representing hundreds of Paterson's victims? The Centre for Health and the Public Interest has called for Paterson's income and earnings, as well as the profits made by Spire Healthcare, to be treated as income from criminal acts, which could mean that they could be reclaimed. Can the Minister advise on whether this aspect has been referred to the CPS?

The Independent Healthcare Providers Network, which represents the sector, has already said that more needs to be done to ensure that information is shared between the NHS and private companies about their doctors. What action are the Government taking to facilitate this information sharing?

We cannot undo the awful harm that Paterson's criminal action has caused so many, but we must act to ensure that lessons are learned and changes made so that something like this does not happen again. This report must not remain on a shelf to be forgotten, because it is clear: this was not just the act of a rogue, lone surgeon; systemic organisational failures were at fault as well. Fundamentally, it is time we addressed the question of safety in private healthcare providers and the way in which clinicians can operate in private providers with little oversight. I would be grateful if the Minister could share her thinking about this with the House.

The inquiry makes a number of recommendations about transparency and accountability, and I hope the Government mandate health bodies to implement those quickly. As the Minister said, the fight that the patients had to make for compensation was shameful.

Around a third of all private hospital income now comes from NHS procedures such as hip replacements, hernia repairs and cataract procedures, yet safety standards in the private sector often leave much to be desired. How is the NHS addressing patient safety in this regard? Apart from anything else, there are very few critical care facilities available in private hospitals, so patients are transferred to NHS hospitals when things go wrong and complications occur. I would like to know whether private hospitals can be held liable for this use of the NHS. The previous Secretary of State wrote to the private hospital sector in 2018, telling it to get its house in order on patient safety, and he was absolutely right.

If it is decided that the Government wish to legislate on this matter, I urge them to do so swiftly and bring forward proposals. I promise the Minister that she will have constructive co-operation from these Benches, so let us get on with it.

Baroness Brinton (LD): My Lords, I echo the points just made about the speed of the Government's reporting. It is extremely helpful that the Minister in another place apologised clearly for the failures in the system and paid tribute to the victims. I too pay tribute to them and their families for their tenacity over many years, when it was clear that something was going wrong but the people who were in a position to gather information and do something chose not to.

The Statement says:

"I can promise the House a full response in a few months' time."

This public inquiry has rightly taken two years—it was slightly delayed by the general election and purdah—but it was clear in 2017 what many of the issues were. The excellent report from the Centre for Health and the Public Interest published in November 2017 entitled *No Safety Without Liability: Reforming Private Hospitals in England after the Ian Paterson Scandal* set out in a slightly different format many of the recommendations in front of us. I am sure that the Department of Health, the NHS and the independent hospitals will have looked at those recommendations.

I ask the Minister right up front: how long will it take before recommendations come back to the House from the Government on where they want to take things? After all, we have a Bill that is almost ready to go—or perhaps, as I said yesterday on the Second Reading of the Birmingham Commonwealth Games Bill, Groundhog Day is coming around again for us. Let us use that opportunity, at the very least, to remedy the obvious shortfalls in the system.

One of our major concerns is regulation of indemnity procedures for healthcare. There are serious shortcomings that must be dealt with as soon as possible. I was extremely concerned to read in the recommendations about the arrangements private hospitals have with clinicians to carry out their own activities that are rather like self-employed contractors almost renting an out-patient desk and in-patient beds. That is similar to renting a barber's seat but without the overseeing regulations you need when people's lives and health are absolutely at risk. That must be managed immediately.

Independent hospitals must take responsibility for their actions, so it is good that one of the key recommendations tries to focus minds on filling the gap between responsibility and liability. The report from CHPI two years ago said that this was vital and that independent hospitals must employ doctors and healthcare professionals, because without that responsibility on their behalf they will continue to wriggle out of liabilities and choose not to monitor clinical practice, missing either ill-meaning or incompetent surgeons. That cannot happen in the NHS and trusts have to take responsibility, as they do when things come to light. This hole in the current system needs to be remedied swiftly.

The inquiry also makes the important point that boards must apologise meaningfully and as early as possible. The UK health system, whether NHS or independent, has an extremely poor record of apologising, or of even commenting at all. Worse, it often tries to bury problems, denying whistleblowers any access. I am afraid that this is part of the systematic culture exposed in this very important inquiry—one that fears liability above apology and, equally importantly, does not learn well from mistakes, especially if through malpractice.

It is shocking that patients were often not guided to the Parliamentary and Health Service Ombudsman or the Independent Sector Complaints Adjudication Service. Compare that with the Financial Ombudsman Service: financial services companies must signpost access to the ombudsman at every step of the way when people buy financial products. A financial service problem could result in a loss of money, but a medical problem could end up changing lives for ever, as in the Paterson cases, so when will the Government deal with this issue? Will there be compulsory signposting for patients and clarity over whether all independent hospitals have to sign up to an independent complaints adjudicator—preferably just one, but I understood from what the Minister said in another place that they

[Baroness Brinton]
cannot regulate the independent sector completely? Frankly, as far as healthcare is concerned, my party believes we should.

Once again, the Paterson case demonstrates the need for effective whistleblowing processes. Will the Government commit to an office of the whistleblower to, through legislation, give more protection to patients, whether they are in the NHS or the independent sector? Spire Healthcare has said that it has put more measures in place to encourage staff and patients to speak out since the Paterson case, but even the Statement refers to there still being problems in Spire Healthcare. This just demonstrates that this is not working. Paterson's victims are very clear: we need a system within the NHS that protects patients and staff. That is equally true of the independent sector.

I end by repeating my initial question: can we please have a timetable for the Government to come back to Parliament with proposed changes, given that a Bill is waiting that could easily be amended for both Houses to attend to speedily?

Baroness Blackwood of North Oxford: My Lords, I thank the noble Baronesses for those very important questions on this very serious inquiry. I will try to respond to as many as I can in detail, bearing in mind that the Government are carefully considering the recommendations on an issue that deserves serious consideration.

I will reply first to the question on the Government's responsibility for the independent sector. As I stated, patients in England have a right to safe and proper healthcare regardless of where it is provided and how it is funded. We are committed to ensuring that public and private sector providers adopt proper measures for protection of their patients, as was rightly raised by the noble Baroness, Lady Brinton. As she said, following a CQC report on acute care in the independent sector, my right honourable friend Jeremy Hunt wrote to the NHS Partners Network and chief executives, seeking their co-operation on a range of safety and quality issues, which will be followed up. Further, the independent sector has published a medical practitioner framework requiring consultants' practising privilege to be reviewed regularly. Furthermore, the regulatory system has evolved since Paterson was practising, with fundamental standards of care, intelligence-led inspections and greater scrutiny of clinical governance as part of the well-led domain. However, this report is a rightful challenge to us to take a more strategic approach, and to regulate smarter and not harder when problems arise so that we can make sure these issues do not arise.

I would like in particular to pick up on the point made by the noble Baroness, Lady Brinton, that it is vital that the NHS has excellent directors to ensure that it can deliver the right standard of care. The Government have accepted in principle recommendations 1 and 2 of the Kark review,

"to develop specified standards of competence that all directors who sit on the board of any health-providing organisation should meet, and to create a central database of directors."

The noble Baroness, Lady Harding, the chair of NHS Improvement, is taking this work forward as part of the people plan. This should also improve the standards available.

I must make the point that Paterson is in jail. This demonstrates that action has been taken. We have moved further from where we were. The GMC introduced revalidation in 2012 and the CQC started inspecting the independent sector in 2014. However, we will never be complacent because we recognise that there is much more to do, as the report makes clear. The staff and clinicians need to be more open, as has been stated. That is one reason why we introduced the 500 "freedom to speak up" guardians in 2015. When we speak to people, we know earlier where there are problems. As the inquiry says, we need better systems. I will go back to the national guardian, Henrietta Hughes, to ensure that she is as supported as possible in making these systems work effectively.

Regarding indemnity products, we understand how important it is, not only that patients are able to obtain compensation but that the process for assessing that compensation is easy to understand. We are considering this carefully as part of the response, and whether regulation is an appropriate means of addressing concerns about the indemnity cover of health professionals not covered by a state-backed scheme. This includes the consideration of clarity for patients seeking redress. I hope this reassures the noble Baroness.

There are widespread considerations about how cosmetic procedures not currently covered by the CQC are regulated. I hope I have answered most of the questions. We also recognise that while ISCAS is a second line of complaints system for independent patients, it may not be working for PPUs in the NHS. We will be considering that as part of our response. As for the timeframe for that response, we are looking at a three-month window, but want to ensure that we respond appropriately, carefully taking into account the points raised. As pointed out by the noble Baronesses, there are some quite knotty questions to take into account, which may require regulatory or even legislative responses. We must ensure that we get that right and respond in an appropriate timeframe.

The one further point to put into the mix is that it is still appropriate to take into account that there are many good-quality care providers in the private sector, so NHS commissioning through those providers is still appropriate. We must ensure that the regulatory system works in an appropriate manner and that, where there are concerns, people feel free to speak up and action is taken to protect any patients who may be at risk.

6.26 pm

Lord Ribeiro (Con): My Lords, as a past president of the Royal College of Surgeons, I wish to associate myself with the comments of the current president, Professor Derek Alderson. In response to the report, he said:

"The horrific experience of patients at Paterson's hands is laid bare in today's report. The healthcare system has failed hundreds of patients and their families, and we must learn from what went wrong. Following their thorough investigation, we welcome the inquiry's recommendations today, designed to improve patient safety.

We have repeatedly called for the same safety standards to be enforced across both the NHS and private healthcare sector. The inquiry has also stressed this and agreed with our recommendation that a single repository of information about consultants' practice should be created. We recommended this in our evidence to the inquiry because it allows the NHS and private sector to share information and raise any concerns about patient safety much more quickly."

When the Bill comes before us, we will be discussing the health service safety investigation body—HSSIB. Can the Minister say whether, in the light of the Paterson inquiry, the Bill might be amended to ensure that HSSIB has the power to investigate all patient safety incidents that occur in the independent private sector as well as in the NHS, not just NHS patients referred to the private sector?

In his introduction, Bishop Graham says:

"It is wishful thinking that this could not happen again."

Well, this week the *British Medical Journal* reports on an orthopaedic shoulder surgeon working in the same Spire Parkway Hospital who has had 217 patients recalled because of concerns about his practice. A solicitor for the patients involved said:

"The main concern seems to be that people were having unnecessary surgery under general anaesthetic."

There are echoes of Paterson's behaviour. Another recall at the same hospital suggests systemic failings. Given the outcome of the Paterson inquiry, which showed that lessons have still to be learned, how can we ensure that these lessons are learned?

Baroness Blackwood of North Oxford: I thank my noble friend for that question, and for his important contribution. He is of course very experienced in this area. Obviously we are looking for time in the legislative agenda to bring forward HSSIB. It is appropriate that we consider the patient safety elements of this report's recommendations in the context of that Bill. In the previous Second Reading debate, which we look forward to repeating, we discussed the issues around the independent sector. But we will also separately, and perhaps in conjunction with that, consult on the key changes necessary to enable data on admitted patient care to be transferred from the Private Healthcare Information Network and independent providers directly to NHS Digital, which should start to take us in the direction of closing the gap, which I know that many noble Lords in the House are rightly concerned about.

Lord Hunt of Kings Heath (Lab): My Lords, I declare an interest as a board member of the GMC. I also chaired the Heart of England Foundation Trust from 2011 to 2014. Mr Paterson worked for the trust as well as in the private sector hospital that the Minister mentioned. I would like to add my personal apology to that of the Minister to the patients and families for the suffering that they endured. Mr Paterson was suspended shortly after I became chairman and we instituted Sir Ian Kennedy's review. We now have a second inquiry and I pay tribute to Bishop Graham for his work. I have only had the chance to read the Statement quickly, but it seems a thorough piece of work and has many far-reaching lessons and recommendations for the health service.

I have a couple of suggestions for the Minister. First, one of the recommendations is around the way that regulators work together, or not. At the moment, legislation is rather out of date and sometimes gets in the way of collaborative working, although one should never use that as an excuse. As part of the legislative review, I wondered whether the need for reform of the whole regulatory system will be kept closely under review.

Secondly, I want to follow the Minister on this issue of NHS bodies being reluctant to own up to things that have gone wrong because of the potential legal liability. I have discussed this with bodies at the national level and they all say that that is nonsense and organisations should not fear apologising, but it is heavily in the culture of the NHS not to apologise because of potential liability. As part of the consideration of these recommendations, I suggest that the Government seriously look at giving an explicit statement to the NHS on the facts of this and encourage those working in the NHS always to be open about things that have gone wrong.

Baroness Blackwood of North Oxford: I thank the noble Lord for that important and knowledgeable contribution. His point about the sharing of lessons between regulators was well made. Part of the reason for proposing HSSIB is for systemic learning of lessons that might otherwise not be available because an inquiry might happen in one trust or group of trusts and lessons might not transfer across the entire system. The whole principle of HSSIB is cross-system learning. We already have evidence that that is working.

Furthermore, the principles at the heart of the patient safety agenda that my right honourable friend Jeremy Hunt put in place were to embed a culture of learning and not blame within the NHS so that apologies can be forthcoming. We have some way to go in achieving that change of culture, but the noble Lord is quite right that leadership starts from the top and having the right statements is a good start. The principles around the place of safety, the protection of whistleblowers and allowing people to come forward and say when they think that things are going wrong without fear of retribution are steps in the right direction. The right action after that is transparency and the recommendations in this report about transparency lead to the right actions being taken from that point.

Eating Disorders: Provision of Care

Question for Short Debate

6.34 pm

Asked by ***Baroness Parminter***

To ask Her Majesty's Government what steps they are taking to improve the care offered to sufferers of eating disorders.

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): My Lords, since this business is time limited, I draw noble Lords' attention to the fact that the clocks that normally flash are not doing so, so we have reverted back to the older model which will

[Baroness McIntosh of Hudnall]
require noble Lords taking part in the debate to exercise the customary discipline in recognising when their time is up.

6.35 pm

Baroness Parminter (LD): My Lords, I declare an interest: one of my daughters suffers from anorexia. We have experienced NHS eating disorder services both for children and young people and for adults in the community, and specialist in-patient care, and it is clear to me that while advances have been made, insufficient progress has been made to date in improving the care for people suffering from these life-threatening diseases. Noble Lords should be in no doubt that they are serious mental illnesses. They can cripple lives physically, emotionally, socially and can ultimately take them. Anorexia has the highest mortality rate of any mental illness and, like cancer, if eating disorders are not caught early, they are much harder to treat.

There are waiting-time targets for children and young people to access eating disorder services, but none for adults. The Royal College of Psychiatrists found that people can wait up to 41 months for treatment, with adults waiting up to 30% longer than those under 18 years of age. Those delays to get treatment have devastating and life-threatening results, like the death of Averil Hart aged just 19 from anorexia. Her death and those of two other young women were investigated by the Parliamentary and Health Service Ombudsman in 2017 and followed up by the House of Commons Public Administration and Constitutional Affairs Committee in 2019. Both those inquiries found that it was time to ensure that young people and children's services were in parity with those provided for adults. I am delighted that the Government are now piloting a waiting time for adults to receive eating disorder services. But when those eight pilots end next year, there is no ring-fenced money in the budget for adult mental health up until 2024 to roll out a national scheme for adults for a waiting time standard. Given that it is now three years since the first inquiry said that this was a matter to be treated with urgency, will the Minister say when the Government think it will be possible to roll out a national waiting time standard for adults with eating disorders?

It is not just about having access to early treatment. It also about ensuring that when people go to their GP there are medics who know how to identify, manage and safely refer those patients. Research in 2018 by Dr Agnes Ayton showed that on average there is less than two hours of medical training on eating disorders, with one in five medical schools offering no training whatever. Ellen Macpherson, a final-year medical student in Manchester, says:

"I've had around 10 hours of teaching on schizophrenia, which affects one-fifth of the numbers affected by an eating disorder and has half the mortality rate."

A survey of medical schools by the General Medical Council echoed Dr Ayton's research. It concluded that doctors are not sufficiently prepared to manage patients with eating disorders. Recent initiatives by the GMC are welcome, but progress is painfully slow. When she responds, will the Minister tell us how the Government are ensuring that the GMC, medical schools and the royal colleges are undertaking their responsibility to ensure that medical professionals are teaching people properly about these life-threatening diseases?

There is also a need for more research. There are excellent examples of clinic-based treatment here in the UK. When I recently visited the South London and Maudsley NHS Foundation Trust I heard about FREED—first episode and rapid early intervention for eating disorders—and I was told about how early intervention and evidence-based treatments can work, but we still do not have a full understanding of, or know how best to treat, eating disorders.

Research levels for mental health are woefully low. Analysis from the charity MQ recently identified that just 96p per person affected is spent on eating disorder research, whereas a physical health condition which affects twice the number of people receives £228 per person affected. When will the Government review the level of funding given to mental health research? Only by looking at funding as well as services will we deliver the parity of esteem for mental health enshrined in legislation by the coalition Government, and the Government have made welcome signs that they are still committed to that.

Recruiting and retaining staff is also a real challenge, given the pressures, especially in adult services. The Royal College of Psychiatrists survey showed that vacancy rates for psychiatrists have more than doubled in the past six years and eating disorder services are among the most seriously affected services. In England, there are only 81 psychiatric posts in eating disorder services, and last year 12 of them were vacant. This directly impacts on the time people wait for treatment. While NHS England and NHS Improvement have been tasked with ensuring that local plans are drawn up to meet staffing requirements for mental health, they will not be able to deliver them unless some of the underlying reasons causing those shortfalls are addressed. This may be an issue that the noble Baroness, Lady Hollins, will touch on, so I shall not say much more: only two things. First, increasing the pipeline of medics by creating more psychiatric foundation training places with direct experience of eating disorders would help and, secondly, better resourcing eating disorder services would allow workloads to be managed better and stop people leaving as they are overworked and carrying risks that are too high.

Those risks are exacerbated by dangerously low in-patient capacity. As some Members of the House will know, 19,000 people needed hospitalisation in England last year for eating disorders. That figure has doubled in 10 years but no extra beds have been provided. There are only 649 beds in England. That means that patients with BMIs of under 12 are sent to units while they wait for hospital beds to become available and that patients, who are often children, are sent hundreds of miles away from their families for months on end. When our daughter needed specialist in-patient care there were no beds available anywhere in the country. She was kept alive by the local hospital for a month until a bed became available 144 miles away. She received excellent care, for which I am truly grateful, but I am in no doubt that the distances that people have to suffer at these very difficult times often make it an unbearable situation.

What makes it, frankly, shocking is that commissioning decisions about how many beds and services we have are being made without the NHS having even basic data on the number of people suffering from eating disorders in the UK. You cannot manage what you do not measure. I call on the Government to institute a review of eating disorder services, informed by accurate prevalence data.

While there is much more to do to improve the lives of sufferers of these diseases, there is much to be thankful for: the staff who care and battle on despite the workforce shortages and resource limitations; voluntary organisations, such as Beat and TasteLife; the families and carers who may rage in private but refuse to give up on their loved ones; campaigners, such as Hope Virgo and others, who use their lived experiences to offer much-needed hope of a better tomorrow; and—if I may say so—the Minister, whose willingness to listen is genuinely appreciated.

With the help of this Government, we can take the actions necessary to improve the lives of people suffering from these dreadfully cruel diseases. They deserve nothing less.

6.46 pm

Lord Giddens (Lab): My Lords, I congratulate the noble Baroness, Lady Parminter, on having secured this debate and introducing it so ably.

I start, somewhat improbably, in China—a part of the world currently in the news for reasons other than what I want to talk about. Only some four decades ago, 40 million people starved to death in the country during Mao's rule; far greater numbers suffered from pronounced malnutrition. Switch to the present and things look very different indeed. Some 800 million people have been brought out of poverty over that period. Huge urban centres—several far larger than London—have emerged where there was once barren countryside.

I do not know whether noble Lords saw the TV programme on Shenzhen the other night. It was amazing—40 years ago nothing was there but green fields and a river; now, it is a massive high-tech centre, outstripping Silicon Valley. As noble Lords will learn in a moment, I am not in the wrong debate. Nothing like this has ever been accomplished before. Yet not all such change is positive. Some 30% of the population in China today—300 million people—are overweight or obese. An estimated 50 million still suffer from food deprivation, but now as a result of anorexia. A whole spectrum of online "vomit bars" has sprung up in which people encourage each other to vomit after eating.

As China goes, so goes much of the rest the globe. The number of people either overweight or obese in the world now surpasses those who live at near-starvation levels—an amazing, but not wholly positive, turnaround. What a reversal of history this is, and, totally unlike in the past, the vast majority of obese people are not the rich but those in lower income groups. The poor used to be the ones who were undernourished or starved to death. Today, in complete contrast to starvation in the past, anorexia across the world is mostly a pathology of the more affluent.

All this may seem a bit remote from the Question posed by the noble Baroness, Lady Parminter, and indeed from the UK. However, I see it as an essential backdrop. It shows the sheer scale of the issues involved, based on a sort of global reversal of traditional diets and eating habits. It was good to see Health Secretary Matt Hancock taking a similarly macroscopic view in a speech to a recent conference on eating disorders.

The term "eating disorder" is usually reserved for those suffering from anorexia and/or bulimia. Yet the only genetic factor involved in these conditions is dispositional, not causative, which is exactly the same in the case of obesity. The health implications are far-reaching indeed. Two-thirds of adults in the UK are classified as overweight or obese, with a full third in the second of these categories. Anorexia and obesity used to be thought of as two distinct populations; to some degree this is true, since the former is more often linked to high levels of distress and malfunction. However, the incidence of anorexia is much lower. Recent research indicates that those at the more extreme levels of obesity show comparable levels of anxiety, stress and depression to those with anorexia, particularly in the case of female sufferers.

I welcome the Government's initiatives for raising consciousness in schools about eating disorders and their parallel reforms to provide early treatment within the NHS. More than one report in the Commons has warned about the serious lack of training on eating disorders for doctors. Just as important is ensuring that GPs are up to date with the most recent research in a field that has a strong medical pathology yet is closely embedded in lifestyle.

Since the Minister has strong Oxford connections—and speaking as an academic myself—I should like to ask her views on the avant-garde research into anorectic disorders being carried out by the Department of Psychiatry at Oxford University. The interest of this work is the attempt to link the biological, emotional and somatic processes involved in anorexia. There is a shortage of evidence-based treatments for anorexia and eating disorders more generally. The Oxford Centre for Human Brain Activity—a really interesting research organisation—is working together with psychiatrists and social scientists on this.

We need further long-term studies of eating disorders, in the wide sense in which I am using the term. A study carried out at Harvard University showed that fewer than half of adults in the US achieve recovery from anorexia or bulimia nervosa over the long term. It is good to see that this research explores the links between those apparent opposites—anorexia and obesity—which I am saying are part of a connected syndrome. The common link is a compulsive relationship to food coupled with distorted but powerful body imagery. Some of the underlying neural mechanisms seem to be the same. One piece of research in the US describes anorexia and obesity as—going back to Chinese—the yin and yang of bodily weight control.

"Go on a diet!" That is the common-sense response to obesity. However, both anorexia and obesity stem from the fact that we live in a world where we are all on a diet. For the first time in history, an almost endless array of foods is available on a daily basis.

[LORD GIDDENS]

Every day, consciously or not, we have to decide what to eat in relation to how to be. Even noble Lords have to take these decisions since there are so many cafés on site here; I never quite know which one to go to at a particular time.

I have a couple of questions for the Minister in concluding, as one is supposed to. First, what procedures have the Government established to track and assimilate cutting-edge research on the diagnosis and treatment of eating disorders? By that I mean international research, not simply research in this country; as I am trying to stress, this is an amazing global reversal in human beings' relationship to food and the body, so the research needs to be transnational. Secondly, and in conclusion, will the UK follow the lead of other countries in recognising the need to explore the aetiological parallels between anorexia and obesity?

6.54 pm

Lord Lexden (Con): My Lords, I cannot claim to be an expert on the subject of this very important debate, for which we are indebted to the noble Baroness, Lady Parminter, who has done so much to help make known the extent of the suffering associated with eating disorders and involved herself so fully in the work of bringing relief to those who suffer, while promoting greater understanding of the causes of this deeply distressing condition.

My participation in this debate stems from my admiration for all that is being done by our remarkable health professionals—often in difficult circumstances, as we have heard from the noble Baroness—and by so many members of staff in our country's schools to help those afflicted by eating disorders. It is on education that I will concentrate, drawing on the work and great experience of my friend and close colleague, Neil Roskilly, chief executive of the Independent Schools Association, a body that represents the interests of some 550 smaller independent schools, and of which I am president. Our member schools are increasingly sensitive to the needs of children who develop eating disorders or are at risk of doing so. Forming small, closely knit communities, they are only too ready to share the expertise that they are accumulating with state schools in the spirit of partnership that increasingly characterises the relationship between the two sectors of education. The more closely that they can be drawn together, the more our country will gain.

Schools in many parts of the country can now benefit from the excellent work being done by the charity Beat, which was mentioned by the noble Baroness, Lady Parminter, and with which she is closely associated. It is making a major contribution, particularly through its expanding programme of training for schools, and is keen to do more. I shall return to it later in my remarks.

Schools are inevitably in the front line where eating disorders are concerned. Teachers and others in the school community, including of course catering staff, occupy a key position. They can spot the warning signs and so secure early recognition and intervention, which are vital if young people are to gain access to the expert support that they need in the early stages of their difficulties. As we all know, eating disorders are ultimately not about food; rather, they are symptoms of underlying mental health needs that, through training the key people, can be recognised and addressed, so the resources must be adequate to provide the essential training in schools.

Public discussion and debate are essential too in helping sufferers overcome the shame and the need for secrecy that they often feel. Weight loss is only one of the possible symptoms. No less important can be indicators such as mood and behaviour. Irritability, restlessness and difficulty in concentrating in class can all too easily be explained away if school staff have not received the training that is needed to probe the real difficulties successfully, so equipping school staff with the skills to encourage children in the most sensitive way to talk openly about their feelings must be a central part of any training.

It is so very important to combat the stigma that still attaches to eating disorders, the stigma that treats them as a sign of vanity or a means of gaining attention. The Government's recognition that more needs to be done in training schools to banish stigma and identify the early signs of trouble is to be warmly welcomed. The funding announced last year for the national mental health programme, working with the NHS, is an important start, although the target of training a senior member of staff to lead on mental health issues in all schools over the next four years is not perhaps as ambitious as many hoped.

More thought needs to be given to the long-term improvement of clinical referral services for children. With more teachers trained to lead on mental health issues in schools, demand for early access to expert NHS clinical support will increase. At the moment services vary far too much in quality and extent across the country. Instances of children being turned away by the NHS because their condition has not become life-threatening are a cause for grave concern.

A mentally ill child faces an almost insurmountable barrier to learning. In view of the need for early intervention, and the large potential cost to the NHS and families of the growing number of severe cases, the vital work of charities such as Beat in schools should be recognised and supported.

Working in co-operation and in partnership with the Government, charities can help achieve the progress we all want to see accomplished. Beat's Spotting the Signs training for schools is now available widely in the north and in some other parts of our country. It will be extended as further resources allow. Beat is also working with organisations such as the Independent Schools Association, which I mentioned at the outset, to make more teachers aware that a child's mental health is just as important as their physical health. That surely is an absolutely fundamental point.

It is in schools that part—a significant part—of the answer to the urgent problems at the centre of this important debate can be found. I end by thanking the noble Baroness, Lady Parminter, again for initiating it.

7 pm

Baroness Hollins (CB): My Lords, I will speak a bit more about workforce issues in this very important debate. As the noble Baroness, Lady Parminter, mentioned, nearly one in seven consultant posts in this specialty in England is vacant. I think this reflects the state of the psychiatry workforce across all of its subspecialties. In 2019, the Royal College of Psychiatrists found that around one in 10 consultant psychiatrist posts in England were unfilled. These "missing" psychiatrists in our NHS have an obvious and detrimental effect on patient care in eating disorders and across the rest of psychiatry too.

This also has a secondary and confounding effect on the psychiatric profession itself. A report this year by the BMA found that more than three in five mental health professionals worked in teams with gaps in the rota and that more than half reported feeling too busy to provide the care they wanted to on the last shift they worked. No wonder psychiatry has perennial recruitment problems. I will share an interesting statistic. Of 74 medical subspecialties, 50 are more competitive than general psychiatry and 72 are more competitive than my specialty of the psychiatry of learning disability.

The shortfall in psychiatrists cannot be resolved without addressing the ongoing underresourcing and understaffing of mental health services, especially when people's lives are at stake. The noble Baroness, Lady Parminter, made a very important point about the high mortality rate in eating disorders compared with, for example, schizophrenia, which people think of as a serious psychiatric disorder. Reversing the workforce shortfall requires a joined-up and concerted effort. Could the Minister comment on the Government's current plan to improve the recruitment and retention of psychiatrists?

Doctors will choose psychiatry when they feel that mental health is given the same priority and concern as physical health. Although that is now policy, mental health care is still treated as physical health's poor cousin. In 2019, the OECD estimated that mental ill-health costs the UK £94 billion a year. Contrast this with the £2.3 billion extra pledged by this Government for mental health by 2023-24. It is clear that more needs to be done now; the human and economic costs are far too high. Can the Minister advise the House on what steps the Government are taking to address the shortfall in spending on mental health?

It is not just the medical workforce which has suffered over the last 10 years. Since 2009, the mental health workforce has also lost 7,000 nurses and 6,000 clinical support staff, and more than one in 10 clinical psychology posts is vacant. The sorry state of the workforce is only one part of the story. The noble Baroness, Lady Parminter, emphasised that early intervention is key to success in the treatment of eating disorders and spoke clearly about the need to introduce waiting-list standards for adult services. However, early identification of eating disorders has to happen before anybody can intervene. That means that all doctors need basic knowledge about how to recognise them. The noble Baroness notes that one in five UK medical schools seems to teach very little about eating disorders, although I understand that the GMC has specified that all medical schools should teach this. It is crucial that staff across the health service, including in primary care and general hospitals, have a basic working knowledge of eating disorders and other common mental health presentations. It is not something to leave just to specialists in psychiatric services.

On 10 February, I will be asking the Minister about the Government's plans for mandatory training for health and social care staff in learning disability and autism. There is a relationship between eating disorders and learning disability and autism. As many as 90% of children diagnosed with autism have some form of disordered eating, and some estimates suggest that up to one in five women with anorexia has autism. The situation is complex when multiple mental health conditions coincide; there is no substitute for better trained and supervised staff.

There are many possible responses to the issue of training. The House of Commons Public Administration and Constitutional Affairs Committee recommended last year that all newly qualified doctors should work in psychiatry in one of their six foundation placements and gain some experience of eating disorders. This request has been made many times before by the Royal College of Psychiatrists and others, including when I was president earlier this century. The Government's response to the committee's recommendations in August 2019 stated that

"the GMC will host a roundtable with HEE, NHS England and NHS Improvement, key bodies within the Devolved Administrations, the AoMRC and individual royal colleges, the Medical Schools Council and other key bodies."

Could the Minister provide an update on the status of these discussions?

I will end by commenting on the importance of generalism. A suggestion is gaining ground that all subspecialists should be generalists as well, with the aim of minimising the gaps that can arise between specialisms—whether the specialism is eating disorders, learning disabilities, autism or anything else. Is it time to consider additional postgraduate qualifications for generalists, while ensuring that all general psychiatrists have training in these conditions?

I congratulate the noble Baroness, Lady Parminter, on securing this important debate, on speaking so frankly, honestly and powerfully about the subject, and on allowing me to speak about some broader, related issues in the mental health workforce.

7.08 pm

Baroness Janke (LD): My Lords, I too am grateful to my noble friend Lady Parminter for the debate today. I will speak particularly about anorexia, a killer disease that frequently affects young girls and women between 14 and 25. That is the area I have had most experience of, although, as other noble Lords have said, anorexia also affects adults.

As other noble Lords have said, anorexia has the highest mortality rate of any psychiatric disorder. The death rate associated with anorexia nervosa is 12 times higher than the rate for all other causes of death for females aged 15 to 24. Yet, as other noble Lords have said, there is much to be grateful for in that there can be a recovery, with enough support and treatment.

[Baroness Janke]
Research suggests that 46% of anorexia patients fully recover, 33% improve and 20% suffer chronically. I am grateful that my daughter was one of the 46% who recovered.

According to Beat, the eating disorders charity, the average duration of the illness is eight years, but it can become severe and enduring, lasting for many years and having a hugely debilitating effect on the sufferer and their family. Thinking about people at the younger end of that age group, we know that the teenage period is a time of such emotional development as well as physical growth. It is a time of intellectual development and moving into the adult world. For sufferers of anorexia, isolated not only in their body but socially, the illness brings this growth and development to a halt. Cognitive development at this age is of huge importance, as it is often much more difficult to catch up afterwards, even if there is a full recovery. Eight years is the average time it takes to recover. Eight years in the life of a 14 year-old is a lifetime, and a huge loss of a key period in anyone's life.

The disease is sometimes considered not so much a disease as a life choice. There is perhaps a lack of awareness that the obsession with weight and body is so compulsive; that there is an overwhelming fear of gaining weight, and a distorted body image. Sufferers will do anything to get thinner, and the thinner they get, the more they think they need to become even thinner.

Sufferers also change personality. If somebody in your house is suffering from anorexia, you will find that your cheerful, open teenager can become aggressive, abusive, deceitful and manipulative, and an expert in inflicting pain on their loved ones. It is very hard for anyone who has not had first-hand experience of this debilitating and vicious disease to imagine what it is like to have to keep up surveillance and constant care just to keep your precious child alive. It is a deadly disease but, as the noble Lord, Lord Lexden, said, it is often seen as an extension of vanity—the obsession with image and appearance. It is far more complex than that, as other noble Lords have said in the debate.

It is alarming that the January NHS figures show that hospital admissions for eating disorders have risen by 37% across all age groups in the last two years. Hospital admissions are only for those who have to be prevented from starving themselves to death, so this is just the tip of the iceberg. It is a huge issue, and sufferers need intensive support and early intervention. As other noble Lords have said, the sooner they get the treatment they need, the more likely they are to make a full recovery. Prompt access to high-quality treatment and support can prevent people getting to the point where hospital admission is the only course of action that will keep them alive.

I agree with what has already been said: research has been starved of funding. My experience was quite some time ago, but there was very much a feeling that this was not really an illness but the teenage behaviour of adolescent girls, and a failure to recognise the results that could occur when people did not get the care that they needed.

I was interested to hear that research has proposed the idea that there may be a hereditary aspect, for example, and also that people are now looking into a metabolic dimension. As has been said, the relation to obesity is something that appears to be being looked into more. Certain individuals may be much more likely to suffer from anorexia when they experience stress, bullying or very severe pressure. I feel that we need to raise awareness of this as a disease that kills people, not a lifestyle choice, affectation or folly of teenage girls.

I hope that treatment and support will be made available consistently across the country. Whether you survive this disease should not be a matter for a postcode lottery. In my opinion, eating disorders have for many years been a Cinderella service within mental health, which is itself a Cinderella service. I hope, from the information we have had, that the Minister will reassure us that this will not continue to be the case. If not, there will be more and more tragic and unnecessary deaths, as sufferers' lives continue to be at risk. Again, families and carers live with that risk of death every day. I hope that we are to get assurances from the Minister, as more and more families will be torn apart if there is not very prompt and urgent action to provide support and treatment for people suffering from all eating disorders. However, I make a special plea for anorexia.

7.15 pm

Lord Brooke of Alverthorpe (Lab): My Lords, I too am extremely grateful to the noble Baroness, Lady Parminter, for securing this debate, for the great knowledge she has on the topic and for the great campaigning she has done. I am also grateful to the group that she accompanied last week, when we met the head of Public Health England to talk about this issue and some others. We were pressing PHE to perhaps review its approach.

I am also grateful to others who have contributed to this quality debate, and to my noble friend Lord Giddens. We once had a debate in his name on this topic. I looked it up today and way back on 25 February 2013, we identified some issues arising that needed addressing; here we are in 2020, with many of the same problems around. They may be on a bigger scale but call for similar solutions. Back in April 2013, I was one of those who helped create the All-Party Parliamentary Group on Obesity. We had not had one before but it got off the ground then. Look at what has happened between 2013 and 2020: on almost every count, obesity is now worse. There are very few areas in which we can point to progress.

I was at the London School of Economics last night—my noble friend Lord Giddens has strong past connections with it, as he was the head of the LSE. I was there to listen to an address by Professor Richard Layard—my noble friend Lord Layard, one of our colleagues. He was speaking on the publication of his latest book, which is on the topic of happiness. That relates directly to what we are debating this evening. What are we about with health? We seek a better life and happiness. My noble friend has done much work in this area in the past, particularly on mental health, and was closely associated with the introduction of

talking therapies under the Blair Government. I think over 20,000 new staff came in to work especially in that area; it was not enough, but it was a major change. We now find many people complaining of having to wait too long before they get assistance on talking therapies, while the length of many courses on talking therapies has been reduced to a point where their impact is perhaps not quite so significant as previously.

I will not repeat all the points that my friend, the noble Baroness, Lady Hollins, made but we have a grave shortage, right across the board. We have shortages in addiction generally; in psychiatrists; in doctors, nurses and staff at many levels right across the mental health field. We look forward to having some comforting response, I am sure, from the Minister on how we are going to see improvements in those areas. They are sorely needed because we seem to have a shift from physical health into mental health, and the caseload is growing all the time.

I spent many years working on addictive issues. I have a personal history of problems with alcohol and drugs. I was on my knees and had to find a way forward, and I did that nearly 40 years ago. Since then, I have spent much of my life working with people with addictions—not just in alcohol and drugs but food, too, and at both ends of the spectrum with food. My dismay is that we have a divide between the approach on obesity and that often taken on eating disorders, when in fact there is so much commonality between them. As others have said, it is time that we started trying to bring some of these elements together, and to work closely in a more overarching way than in the past.

I am pleased that the Government have announced that they are to introduce a cross-departmental approach on a number of addictive issues. Can the Minister say why the subject we are talking about and obesity have not, so far as I can see, been specifically included? They are not being addressed within that approach. When will the work get under way? Can she give us a little more information about its timescale and who will be involved with it? What does she expect to come out from the new review that is being established? But overall, I welcome that development.

Having examined some different types of addiction, my experience is that in many areas they seem to have common themes running through them. Look at how we address it within Public Health England; it is interesting that it has separate units dealing with drugs, alcohol and the problems arising with food. We should look at the structures within that major organisation to see whether it is properly set up for prevention, given that the Government have now decided that they need a cross-departmental approach on reviewing addiction.

It is not easy to find solutions, particularly on anorexia. Among the addictions I have looked at, it is one that hits quickly and is very difficult to reverse. It also has quite dramatic impacts on families, relatives and other people around them. In looking for solutions we should not limit ourselves to dealing with the individual; families should be involved, too. We should look to have the widest possible participation, not just from professionals—we are short of them and need more—but more across the voluntary sectors. We should look at what alternatives may be available.

I am quite open in saying that I believe that there is a requirement for a spiritual approach. That is not something that we frequently talk about in the Chamber, but I have certainly seen many people whose lives have been written off yet who have found by one means or another, using the 12-step recovery programme, their way to a better, fruitful life. I am pleased to report that, in March, we will set up for the first time an all-party parliamentary group on this topic. The inaugural meeting will look at the 12-step recovery programme on addictions to see how it might be applied over the widest possible area to help people who have problems which seem difficult to resolve and who may find an answer in it. I would like to hear whether the Minister welcomes that development.

7.23 pm

Baroness Murphy (CB): My Lords, I think that it was Walling Simpson who famously said that you cannot be too rich or too thin. We never in this House debate being too rich, but we occasionally debate the problems of those who aspire to be too thin. Walling Simpson, famously, ate almost nothing and was probably mildly anorexic.

The noble Baroness, Lady Parminter, has outlined the terrible situation that families find themselves in when they have a child or young person suffering from this terrible disorder, whether or not it is anorexia nervosa, obesity or bulimia—bulimia in particular is very difficult to treat, as is anorexia.

While I was driving down from Norfolk this morning, I listened to an excellent edition of "Woman's Hour", on which a young woman called Hannah described her own anorexia and how it felt to her. She had been waiting for treatment in the Greater Manchester area for 18 months, and she was offered just one of a group of services that were available in the area, with no thought as to whether it was appropriate for her. Even then, it was a great time coming. Dr Agnes Ayton, chair of the eating disorders faculty at the Royal College of Psychiatrists, made many of the points, brilliantly and articulately, about the difficulties that people have in accessing services, saying that while we have invested in young people's and children's services through child and adolescent mental health services, we have left young adults far behind in their ability to gain access.

Having re-read the debate instigated by the noble Lord, Lord Giddens, back in 2013, it strikes me that we have repeated this evening exactly what was said during that debate: that there has been very little improvement—and, of course, the numbers have gone up. As to why the numbers have gone up, the noble Lord's own specialty has told us: they have perhaps been rising since the 1960s. We are very keen to say that it is not a lifestyle choice, but it is lifestyle factors that have made people want to go down this route in the first place. Biological triggers turn a normal seeking of a slim, elegant, beautiful figure into something much more pathological. That is the thing that we really do not understand.

[Baroness Murphy]

As the noble Baroness, Lady Parminter, said, the report by the NHS ombudsman on how patients are failed was truly shocking. Since then, we have had much better guidance in commissioning, but those documents are often ambitious, noble but pie in the sky and are not widely taken up, for all the reasons which have been articulated. Eating disorders are more common than people realise. Some 80% of people who have them never go to a doctor, and many episodes are managed in families with no access to specialist services. Such services may not be needed, because, within a few weeks or months, the child or young woman has tackled the disorder themselves and has been able to get to grips with what has become a pathological desire to be thin without flipping over into something that does not get better. It is important to remember that, because those who are referred are therefore often in great need of specialist care, and that is the thing that is so difficult.

Eating disorders are of course prevalent in young men as well, particularly those with a gender disorder of some kind or who are troubled by their sexuality. I have treated at least two young men with anorexia nervosa and found them quite as difficult as young women to reach and help through their disorder. It is also common—and getting commoner—in older people. My Aunt Florence never recovered, and died when she was in her 90s. She was slim, but healthily so, all her life until she was in her 80s, when she started to adopt strategies identical to those of a much younger woman. This was similarly pathological, and she starved herself almost to death. Elderly people who get these disorders are often inappropriately investigated, because of the link between physical ill-health in old age and loss of appetite. Perhaps "inappropriately investigated" is not fair, but these things are much commoner in later life than one might imagine.

We have had the commissioning help after the ombudsman's report and we got the extra £30 million put into young people's services, but it has simply not touched adult services. Other noble Lords have already mentioned the mortality rate, so I will not stress that.

Historically, such disorders were a lot commoner than we think. There is a description of an illness suffered by Mary Queen of Scots which is a classic eating disorder. There are explicit medical descriptions from about 1670. In the 19th century an awful lot of young women had a condition called chlorosis. People turned slightly green because they had iron deficiency, but it is also thought that this was largely caused by anorexia. There were pressures on young women then which they too addressed in that way.

Treatment is extremely difficult. Evidence-based treatments are few and far between. What we try to do is keep people alive and at a healthy weight long enough for them to get a grip on it and recover for themselves. That is true not just for anorexia nervosa but for many other mental health disorders, for which we do not have the specific treatments we have for psychoses. People need a lot of help, support and psychotherapeutic approaches. The ones that are good for some people may not be for others. The commissioning document makes it clear how important it is for people to be given choices.

My time is up. I stress that we need more investment in a choice of services which are readily accessible for people locally, so that they do not have to just accept what their local service provides. That is the major thing the Government should be doing. What are they intending to do?

7.33 pm

Baroness Brinton (LD): My Lords, I too offer my thanks to my noble friend Lady Parminter for securing this important debate. For many years, this has been an invisible disease without enough resources to ensure that those who present to doctors get the vital support that they need immediately. I pay tribute to my noble friend for her tireless work on eating disorders, based on her own family's experience. I also pay tribute to my noble friend Lady Janke for speaking of her family experience. My noble friend Lady Parminter talked about the lived experience of sufferers who are champions but my noble friends both showed, through their contributions, the effort it takes to hold a family together while supporting a child going through this terrible disease. I remember a friend of mine disappearing from school some 50 years ago at the age of 14 and never returning to mainstream school. Until I met her sister, some 30 years later, we never knew that she had had anorexia. It was not spoken about and there was hardly any treatment at all.

It is important to recognise that support and treatment have improved substantially in recent years, including the extra £30 million for young people with eating disorders, but it is clear from this debate that the context of resources is vital. Clinical approaches to eating disorders have changed, but the number of patients and the support they need is at crisis point. We have heard that in 2018-19 there were more than 19,000 patients admitted to hospital with eating disorders but only 649 beds in England. That is an astonishing two patients per hour per day, yet we know that resources are so scarce that patients are now routinely turned away for not being sick enough.

The noble Baroness, Lady Murphy, spoke about Hannah on "Woman's Hour" today. I suspect it was the same Hannah whom the *Sunday Times* talked to last Sunday; she was turned away from the Greater Manchester Mental Health NHS Foundation Trust because she was not ill enough and her BMI had not dropped to the point at which it would automatically guarantee entrance, even though in her experience of the disease there was evidence that she was deteriorating rapidly. She is very brave in speaking up. We need to know the reality of what is happening. I am afraid that one of the reasons for this—other noble Lords have been discreet, but I will not be—is that clinicians are having to ration support for eating disorders. The parity of esteem enshrined in legislation under the coalition is still a pipe dream.

A further problem is touched on in some of the helpful briefing we have had, including that from the GMC and the Library: the transition of young people from CAMHS to adult services. In my family's experience of CAMHS—everyone should recognise that there is usually some experience of mental health services—the transition period was a complete nightmare, even though

we got an extra year after the age of 18 to transition through. The attitude and approach were completely different and led to a crisis within a year. That problem of transition, which has been recognised and understood in education and children's services for the most vulnerable young people who are looked after or have learning disabilities, also needs to be applied to children with mental health problems, particularly those with eating disorders since we know that this disease targets those aged between 15 and 25. To suddenly change everything at 18 is an extremely traumatic experience for the young people and their families. What plans are there to extend access to children and young people's mental health services up to the age of 25, obviously transitioning as is best for the individual concerned?

While the Government discuss abolishing the four-hour accident and emergency targets overall, what plans are there to introduce waiting time targets for adults as well as children in accessing mental health services, and specifically for eating disorders? Currently only a third of young people with diagnosable conditions get NHS treatment without long delays. Liberal Democrats believe that we should ensure that 50% of children and young people with diagnosable conditions should have treatment by the end of this year, improving to 100% by 2025. Currently, only four in 10 adults get access to treatment. We believe that seven in 10 adults should get access to treatment by 2022. We must set an ambition that everyone who needs treatment gets it by 2025. That will be the point at which we can believe that we have parity of esteem in mental health services.

Other noble Lords have spoken about the importance of early diagnosis. Currently, medical students receive on average less than two hours' teaching on eating disorders throughout their undergraduate training. By improving training, we will be able greatly to improve early intervention, especially for those on the front line—GPs and more general physicians. Other noble Lords, including the noble Baroness, Lady Hollins, have spoken with experience and expertise on this.

There are other workforce issues. The helpful briefing from the GMC pointed out that there are only 70 posts, mainly in CAMHS, of which a substantial number are vacant. Both the noble Baroness, Lady Hollins, and the noble Lord, Lord Brooke, talked about the practicalities of gaps in the rota, which inevitably impact on patient care. How on earth can you attract young medics to psychiatry if candidates know that resources are not just scarce but will rely on them turning away those patients they know need urgent intervention?

The noble Lord, Lord Lexden, spoke about the importance of educating school staff in recognising the difficulties that some young people face and in helping to signpost them to their families to get help. I too pay tribute to Beat and other charities that provide that expertise to those who can help. However, above all, it is the patients and their families who need help and support. We are overcoming the burden of secrecy in eating disorders, which is good, and the voice of Hannah and many others who have a lived experience of eating disorders is vital. However, we also have a duty to provide the resources for beds, access to clinics, staff and support staff to help people overcome this disease. None of that can happen without money. Therefore, my final question to the Minister is to ask about the increase of funding for adult services and treatment of eating disorders more generally in this area over the next five years.

7.40 pm

Baroness Thornton (Lab): My Lords, I congratulate the noble Baroness, Lady Parminter, on securing this debate and on her moving opening remarks, as well as all other noble Lords who have participated in the debate today on this important and growing challenge.

As we have heard today, eating disorders are complex mental illnesses. I absolutely agree with my noble friend Lord Brooke that we need to see progress. I spent a few minutes looking on my iPad to see whether I had answered the debate in 2013 from this Dispatch Box. I am sure that I would have remembered if I had, and indeed, I did not—one of my colleagues dealt with that issue. But it is remarkable that that debate very much reflected the things that have been said this evening, and it is a bit depressing that we still need to make some progress today.

The thing about eating disorders is that you can develop one no matter your age, gender or background. Some examples of eating disorders have been mentioned: bulimia, binge eating, anorexia and obesity. There is no single cause of this, as noble Lords have said; it can be very complex, and people might not have all the symptoms for any one eating disorder. I echo the thanks expressed by other noble Lords to the General Medical Council and Beat in particular for their information about this matter.

The General Medical Council noted at one of the round tables that it organised on this in November 2019 that there is a lack of eating disorder specialists in the UK. There are only 70 posts, mostly in child and adolescent mental health, with some in adult, and approximately 15% of posts are vacant. Coupled with the lack of beds and the stories that noble Lords have recounted, that makes this situation very serious indeed.

We know that there is an important link between obesity, mental health and eating disorders. My noble friend Lord Giddens definitely expressed this eloquently and in greater depth, but this relationship is often neglected. Awareness of this is neglected as well, as several noble Lords said. Medical training across the board does not adequately recognise the seriousness of this condition.

I think we all welcome that the NHS long-term plan and related initiatives which emphasise mental health provide a unique opportunity to make progress on improvements to eating disorder services and the relationship with education and training. For example, I am pleased to hear that the General Medical Council is now working with the Faculty of Eating Disorders Psychiatry and other key stakeholders. That is some comfort, but I was very disturbed by the contribution by the noble Baroness, Lady Hollins, when she addressed the workforce situation; she posed some serious questions to the Minister.

In December 2017, the Parliamentary and Health Service Ombudsman published *Ignoring the Alarms: How NHS Eating Disorder Services are Failing Patients*. The report made five recommendations for improvements

[Baroness Thornton]
in NHS eating disorder services. Indeed, the Public Accounts Committee went on to say that this was important and needed to be acted on. We all know, as noble Lords have said, that collaboration is needed at both service level—as the PHSO report highlighted in terms of, for example, handover and continuity of care—and at system-wide level with regulators, commissioners and others working jointly to identify and implement improvements. The PHSO also recommended a public health campaign, which would help to raise awareness of the impact of this condition. Is that likely to happen?

Noble Lords will know that a *Guardian* investigation established that coroners in England and Wales have served a prevention of future deaths notice in at least 12 cases, identifying problems that have been mentioned tonight, including a lack of staff or beds. Coroners were so alarmed by these failings that they sent official warnings to 11 trusts that provided care for people with anorexia and bulimia between 2013 and 2019. Grace Freeman, a policy and campaigns officer for the mental health charity Mind, said that the cases were a

"shocking reminder of the poor quality of care too many young people receive from mental health services, particularly those living with eating disorders."

The noble Baroness, Lady Parminter, made a plea, saying that science and research needs investment to provide the evidence base that the Government want, to make sure that eating disorders are dealt with with the seriousness they deserve. For example, there is no official data on deaths due to eating disorders; at a recent inquest, a doctor said cases were not being properly recorded by the NHS. As we know, suicide is one of the biggest risk factors for people with the condition, with between one-fifth and one-third of patients taking their own lives.

As far as I, aged 67, can see, if I develop an eating disorder, it depends on where I live but I would not be eligible for treatment in one of the 49 adult eating disorder clinics in England and Wales. According to an investigation by the "Victoria Derbyshire" programme, three have a cut-off age of 65, with older patients referred to general geriatric mental health units, which are likely to be unable to provide the same level of tailored care as would be required.

Finally, I agree with the noble Baroness, Lady Brinton, that it is awful that our clinicians face rationing treatment for eating disorders. It is completely unacceptable. This condition requires more investment, more choice and more money being available to combat it.

7.47 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, I thank noble Lords for their expert contributions. In particular, I thank the noble Baroness, Lady Parminter, for securing what has been a significant debate, and those noble Lords who spoke of their lived experience tonight. That is brave and an important contribution, both to inform policy and to let people outside this place know that there should be no stigma in speaking up. I wish to thank each and every noble Lord who has contributed tonight.

We know that eating disorders can be utterly devastating for the people suffering from these conditions and for those around them, including their families and friends. We know that they are not an aspect of vanity, as the noble Baroness, Lady Janke, said, but serious, life-threatening conditions with some of the highest mortality rates of any mental health disorder. They can have severe psychological, physical and social consequences—sometimes for a lifetime—and are more prevalent in young people but can occur at any time in life and in someone from any background. That is why we want to ensure that people have access to the right mental health support in the right place at the right time. We know that we have more work to do to ensure that we get there.

Improving eating disorder treatment services is a key priority for the Government; it is a vital part of our work on improving mental health services. As the noble Baroness, Lady Janke, rightly said, we know that the earlier an intervention is made and treatment provided, the greater the chance of recovery. That is why the Government set up the first standards to improve access to eating disorder services for children and young people, which will ensure that by 2020-21, 95% of children with an eating disorder will receive treatment within one week for urgent cases and within four weeks for non-urgent cases. We are on track to meet that commitment.

As raised first by the noble Baroness, Lady Parminter, and subsequently by others, in-patient treatment is also important, although we want it to be a last resort. That is why in 2014 we announced that we would invest £150 million to expand community-based care and why we are making good on that promise. It has resulted in 70 dedicated new or extended community services now either open or in development, which has led to faster access to eating disorder treatment in the community, with the number of children and young people accessing earlier treatment up from 5,234 in 2016-17 to 6,867 in 2017-18. The services are designed to give young people early access to services in their communities with properly trained teams. They include extended access to talking therapies, which, as the noble Lord, Lord Brooke, pointed out, are very important. In that way we can avoid extended hospital stays wherever possible.

Although eating disorders are commonly first experienced by people when they are young, conditions can continue into adulthood, as has been noted. Following the PHSO's report, NHS England has convened a working group with NHS Improvement, Health Education England, the Department for Health and Social Care and other partners to address recommendations to take into account planning for improvements in adult eating disorder services.

As has been mentioned, there are currently 649 beds for treating eating disorders. We recognise that there is demand for extra beds, which is why we have developed a comprehensive activity dashboard—it is not very well named—which provides current and trend data regarding the use of in-patient services for adults with eating disorders. We shall use this to inform decisions regarding in-patient capacity requirements for local populations both in the short term and over the longer term to improve access.

In addition, for children and young people, the national accelerated bed programme for Child and Adolescent Mental Health Services is already supporting the delivery of care closer to home, and we hope that this is starting to improve the situation. Issues regarding geographical variation were raised by the noble Baronesses, Lady Murphy and Lady Thornton. We want to ensure that patients with eating disorders can receive treatment as close to home as possible. NHS England has recently created a review of NHS in-patient and community eating disorder services so that it can understand current provision, measure levels of geographic variation and allow the modelling of workforce implications to try to respond to those services.

I want to respond to the point raised by the noble Baronesses, Lady Hollins and Lady Brinton, as well as by others, regarding investment in mental health services. As I have already said, we have increased funding for eating disorder services, but we have also ensured that investment in mental health services must rise at a faster rate than in overall published funding. Each CCG must meet the mental health investment standard by which their 2018-19 investment in mental health rises, at a faster rate than the overall published programme of funding. CCG auditors will be required to validate their 2018-19 year-end position in meeting the mental health investment standard. In 2018-19, 100% of CCGs met that mental health investment standard. This is to ensure that we see an increase in the mental health investment standard, so that improvements can be made to access times, to the workforce and to all the other areas which have been referred to in the debate.

I would like to move on to the questions raised regarding access and waiting times for adult services. As the noble Baronesses, Lady Brinton and Lady Parminter, will know, we have brought in the eating disorder waiting time for children, but we are also trialling a four-week waiting time for adults and older people community mental health teams in local areas in order to understand how they should best be introduced. I understand the impatience for waiting time standards to be introduced immediately. Given the nature of our debate today, I ask for some understanding; we are building on a low base across the mental health system. We want to make sure that the waiting time standards we introduce are clinically appropriate, that the system is able to respond and that they are on track for delivery and sustained once brought in. I am happy to respond in a more detailed way subsequently if that is not a sufficient answer, but that is why we are bringing in the waiting time standards in that way.

On the question regarding transition that the noble Baroness, Lady Brinton, asked—rightly, given the questions identified across not only health but education and social care systems—two areas of the country with eating disorder services that are new care models, including West Yorkshire and Harrogate, are starting to make important progress in joining up young people's and adults' eating disorder services and improving the treatment and care received as close to home as possible. They are modelling services that, as we evaluate them, we hope could be rolled out in other parts of the country. I hope that answers the question of how we are trying to improve that.

On the question about workforce raised by a number of Peers—the noble Baronesses, Lady Thornton and Lady Hollins, and others—it is quite right that we recognise the need to recruit more mental health nurses and psychiatrists into the system. As was rightly said, there have historically been challenges in bringing in psychiatry trainees. We now have 300 more consultant psychiatrists than in 2010, so we are starting to make progress. We have focused on driving forward work to improve recruitment into psychiatry, working with the Royal College of Psychiatrists on its Choose Psychiatry campaign. To attract more junior doctors into psychiatry, the new junior doctor contract gives psychiatry trainees a £21,017 pay premium in addition to their normal pay. This is an additional £3,507 per annum for a typical six-year training programme. We also have additional support and similar additional payments in the nursing arena to attract nurses into specific specialties, because we recognise the need to do so.

In addition to this, questions were raised about prevalence. The important question was asked: how can we possibly make policy if we do not have up-to-date and accurate data on which to make that policy? As a data geek, I could not agree more. Therefore, while we have some useful data from the 2017 mental health of children and young people in England survey, which is helpful, we want to improve the information we have, so we have included—I am really sorry to use this acronym—the SCOFF eating disorder questionnaire in the 2019 health survey for England, due for publication in December 2020. We are working on securing a financial agreement for the next APMS in 2021. Content for the survey will be prioritised during the scoping phase, which I know will provide important prevalence data—something we want to see.

I have two final points regarding training and research funding, both of which are essential if we are to move forward. We certainly agree that mental health should be an integral part of medical education, and we thank the GMC for the work it has been doing to explain and illustrate by professional experience the principles of identification, self-management and referral of patients with mental health conditions. We are committed to providing the best training experience for all junior doctors. We will work with the GMC and relevant stakeholders to try to improve the training available. I know that the noble Baronesses, Lady Parminter and Lady Hollins, have been particularly involved in this. Perhaps we could take up this point afterwards.

When it comes to the questions of research raised in particular by the noble Lord, Lord Giddens, but also by the noble Lord, Lord Brooke, of course we need to understand these questions with much more granularity if we are to improve services, be more targeted with our policies and spend money more effectively. This year, we invested about £93.4 million in mental health research, which is up from last year. We are committed to having mental health research as a priority area. In particular, I was always very proud that the only biomedical research centre that focused on mental health was at Oxford Health. I was very proud to have opened that as the previous Mental Health Minister.

[Baroness Blackwood of North Oxford]

I am not aware of the specific research paper that the noble Lord, Lord Giddens, raised, but I am very happy to look it up after this debate and come back to him on it. When it comes to what I think he referred to as the ecological relationship between obesity and eating disorders, as a department we definitely consider that we must work very hard on making sure our prevention agenda works holistically across the entire addiction panoply. Indeed, we will be taking forward the prevention Green Paper in a way that ensures joined-up policy, not only in the department, but across government. I am very happy to follow up on the question regarding the 12-step approach.

I think I have touched on the majority of the commitments in the long-term plan, so I will not go into details because I have come to the end of my time, but I conclude by thanking all Members who contributed, in particular the noble Baroness, Lady Parminter. I hope I have reassured noble Lords about the Government's commitment to improving eating disorder services, that we recognise the devastating impact of eating disorders and that we want to ensure that all those with eating disorders can access high-quality and vital mental health support much earlier, because we understand the impact this can have.

House adjourned at 8 pm.

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