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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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In Hybrid sittings, [V] after a Member's name indicates that they contributed by video call.

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

Monday 29 June 2020

The House met in a Hybrid Sitting.

1 pm

Prayers—read by the Lord Bishop of Coventry.

Arrangement of Business

Announcement

1.06 pm

The Deputy Speaker (Lord Bates) (Con): My Lords, the Hybrid Sitting of the House will now begin. A limited number of Members are here in the Chamber, respecting social distancing. Other Members will be participating remotely, but all Members will be treated equally wherever they are. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. Microphones will be muted after each speech. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants.

Death of a Member: Baroness Maddock

Announcement

1.07 pm

The Deputy Speaker (Lord Bates) (Con): My Lords, I regret to inform the House of the death of Baroness Maddock on 26 June. On behalf of the House, I extend our condolences to her family and friends, and particularly the noble Lord, Lord Beith, at this time.

Retirement of a Member: Lord Luce

Announcement

1.07 pm

The Deputy Speaker (Lord Bates) (Con): My Lords, I should also like to notify the House of the retirement with effect from today of the noble Lord, Lord Luce, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I thank the noble Lord for his much-valued service to the House.

Oral Questions will now commence. I ask those asking supplementary questions to keep them short and confined to two points, and I ask that Ministers' answers are also brief.

Covid-19: Domestic Abuse

Question

1.08 pm

Asked by ***Baroness Gale***

To ask Her Majesty's Government what measures they are taking to support victims of domestic abuse during the COVID-19 pandemic.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Government are working closely with domestic abuse organisations, the domestic abuse commissioner and the police to understand and tackle the impact of Covid-19 on victims. The Government have launched a publicity campaign to raise awareness of domestic abuse and to signpost victims to the appropriate support services. We are also ensuring that charities are able to continue to provide such services, with £76 million announced to support survivors of domestic abuse and sexual violence, vulnerable children and victims of modern slavery.

Baroness Gale (Lab) [V]: My Lords, I thank the Minister for her reply, but does she agree that urgent action is needed for victims of domestic abuse, since in the first three weeks of lockdown 16 women and some children were killed in their own homes? As lockdown is eased, that is the time when women will decide to escape, and they must know where to get information and support. What plans are being made to deal with the anticipated surge in demand? Will the £76 million already announced in May to support victims of domestic abuse during Covid-19 be distributed speedily, as only £1.2 million had been allocated by 2 June? Perhaps the Minister could update the House on this matter.

Baroness Williams of Trafford: I am very happy to update the noble Baroness and the House on this issue. The danger that women were in was well appreciated by the Government even before lockdown began, and from that point moves were afoot to try to support, help and raise awareness about this awful crime. The noble Baroness will know that the #YouAreNotAlone campaign has been running since almost the beginning of lockdown, and I think it has had 120 million hits on online media. She will also probably know that £2 million was allocated for infrastructure and communications for the online helpline for domestic violence victims to access. No lady or, indeed, man should feel that they do not have anywhere to turn and that the funds are not available for the help that they might need during this very difficult period, particularly, as the noble Baroness says, after the lockdown is lifted.

Baroness Bryan of Partick (Lab) [V]: Can the Minister give an assurance that the Government will continue to deliver sustainable national funding for women's refuges beyond the Covid-19 crisis, so that there will be no repeat of the situation in 2019, when some services were just days away from having to close their doors before additional funding was announced?

Baroness Williams of Trafford: My Lords, funding has been announced for the coming year. The noble Baroness is right that sustainable sources of funding need to be there in order for charities to be able to plan. Since 2016, £100 million has been awarded to VAWG services.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, speaking of a recent report on family courts, the Victims' Commissioner recently said:

"This panel of experts has dug deep to understand, and address, the serious harm to domestic abuse victims and their children caused over many years by the presumption of"

the right of contact, and that

"victims and children are in need of better protections from abusive perpetrators."

[Lord Mackenzie of Framwellgate]
Does the Minister agree, and do the Government intend to act on this report?

Baroness Williams of Trafford: I totally agree with the noble Lord that perpetrators will use the family courts to abuse their victims yet further by putting pressure on them and by appearing in court. The Government are absolutely aware of that, and moves are in place to ensure that perpetrators cannot cross-examine their victims in court.

Lord Polak (Con): Growing up in a household where there is domestic abuse is traumatic for children. It can normalise harmful behaviour and warp a child's understanding of what relationships should be, and so the cycle of abuse continues. Does my noble friend the Minister therefore agree that there should be reference to children in the statutory definition of domestic abuse in the Bill, because it is clear that children who see, hear or experience abuse by one adult against another are themselves victims of abuse?

Baroness Williams of Trafford: I could not agree more with my noble friend. We fully recognise the devastating impact that domestic abuse can have on children and will of course reflect this in the accompanying statutory guidance. The Government have listened very carefully to the very strong views expressed on this during the passage of the Bill in the other place. I can update him: we have undertaken to reflect further on this issue.

Baroness Burt of Solihull (LD) [V]: Has the Minister seen the briefing produced by Birmingham University on domestic violence and child maltreatment during Covid? It proposes repurposing existing NHS surveillance methods, such as scheduled emails and text messages for health surveys, to include questions to see whether anyone at risk of domestic violence or child maltreatment is being victimised. If she has not seen it, could she have a look?

Baroness Williams of Trafford: I have to confess to not having seen it, but I can recognise what the noble Baroness says and therefore what the report might contain. I shall have a look at it, but I do not disagree with that point. I will take this moment to correct a number that I gave to the noble Baroness, Lady Gale. The #YouAreNotAlone campaign has not received 120 million online impressions; it has received 220 online impressions.

Baroness Fookes (Con) [V]: Turning to practicalities, how many women's refuges are there in the United Kingdom—or at least in England—and how easy or not is it to get temporary accommodation for women who may want to flee an abusive situation, but also to know where they are going to rest their heads next?

Baroness Williams of Trafford: There are 3,898 bed spaces in refuges in England. That figure is from 2018, but it is a 10 % increase on that for 2010. During this Covid crisis, certainly, no woman who is fleeing domestic violence will find herself without food, shelter and support.

The Deputy Speaker (Lord Bates) (Con): I call the noble Baroness, Lady Greengross. Baroness Greengross?

We will move on to the noble Lord, Lord Kennedy of Southwark.

Lord Kennedy of Southwark (Lab Co-op) [V]: My Lords, additional funding is welcome, but I do not believe that it is enough to cope with the surge of domestic abuse during the pandemic. Following on from the noble Lord, Lord Polak, what specific additional work are the Government funding to help children who could be victims or who witness this criminal behaviour, because of the trauma it causes and the risk that it will be normalised in the home as acceptable behaviour and carried on into future generations?

Baroness Williams of Trafford: I agree with the noble Lord. He is absolutely right that what an adult experiences as domestic violence the child will also feel, whether directly or indirectly, from that domestic violence. Children are part of the support package, so if the mother is safe—it is usually the mother—the child will be safe. But various charities are working with women and children to ensure their safety during this pandemic.

Baroness Barker (LD) [V]: I declare an interest as patron of the Albert Kennedy Trust, which looks after LGBT youth who are homeless. It reports an increase in domestic violence perpetrated by parents during the Covid lockdown. Will the Government include parental violence in the definition of domestic violence, and will they start to collect data on this?

Baroness Williams of Trafford: Whatever type of violence it is, I think it will be captured within the definition. I agree about parental violence on children. I have also seen a couple of cases reported of children, not necessarily small children, committing child violence upon parents—it goes both ways—during the pandemic, when people are all cooped up together.

The Deputy Speaker: My Lords, I am afraid that the time allowed for this Question has now elapsed. There will be a short pause while we allow Front-Bench teams to change place before the next Question.

Prison Sentences

Question

1.18 pm

Asked by ***Lord German***

To ask Her Majesty's Government what plans they have to reduce the number of short prison sentences.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): Custody is always a last resort, but courts should have the option of imposing short custodial sentences where appropriate. Community sentences also have a part to play in our efforts to break the cycle of reoffending. Our plans for new sentencing legislation include more robust community sentences, which both punish and address offenders' needs.

Lord German (LD) [V]: Bearing in mind that this Question is about reducing the number of short prison sentences—and bearing in mind the Minister's review of the number and application of these sentences—does he accept the evidence, much of it from his own department, that for many offenders a short prison sentence will lead to a higher rate of reoffending? Remember that, just last year, the Justice Secretary told Parliament that a reduction of 32,000 reoffences could be achieved. What are the Government now going to do about this evidence? Are they going to inform the courts about what they could do?

Lord Keen of Elie: On the basis of figures from research in 2016, it is suggested that if offenders received a prison sentence of up to 12 months, they were something like four percentage points more likely to re-offend than if they had received a community sentence. However, noble Lords must bear in mind that those receiving a prison sentence of up to 12 months are very frequently those who have already received a community sentence and then re-offended.

Lord Judd (Lab) [V]: My Lords, this is a very important question. It is absolute economic nonsense to put so much concentration on short sentences when the money could be used much more constructively towards rehabilitation. The reconstituted probation service will have a key role to play, but do the Government accept that, apart from establishing that crime is crime and cannot be tolerated, the task overall is to rehabilitate? Many of these short sentences are dealing with people whose lives are in chaos. Without proper rehabilitation facilities, their lives become more chaotic; it does not help towards rehabilitation.

Lord Keen of Elie: Rehabilitation is of course an important aim, but it is not the sole aim in the context of criminal justice. At present there are no plans to end short-term prison sentences. Of course, short sentences do not help some offenders turn their backs on crime, but protecting the public has to be our priority.

Baroness Hamwee (LD) [V]: My Lords, is the Minister satisfied that the rehabilitation provided during a short sentence can be sufficient to enable an offender to learn to live a better life, rather than learn to do crime better?

Lord Keen of Elie: It is very difficult to estimate the extent to which rehabilitation can be effective during a short prison sentence. Indeed, where someone is sentenced to a period of less than six months in prison, the median period actually spent in custody is about six weeks.

Lord Garnier (Con) [V]: My Lords, I refer to my interest in the register as a trustee of the Prison Reform Trust. Does the Minister accept that short-term sentences of imprisonment are in normal times of little use in protecting the public and of no use in reforming the offender, who is frequently a mentally ill drug user? However, now they are positively counter-productive. The impact of Covid-19 means that prisoners are in their cells for 23 hours a day, essentially living in a shared lavatory with no access to purposeful activity, fresh air or rehabilitation courses. Should not all custodial sentences of six months or less be immediately suspended, with strict supervision conditions attached?

Lord Keen of Elie: The Court of Appeal recently set out in its judgement in the case of Regina v Christopher Manning that

> "Judges and magistrates … should keep in mind that the impact of a custodial sentence is likely to be heavier during the current emergency",

and we acknowledge that to be the case. However, that does not alter our position with regard to the ability of the judiciary to impose short sentences.

Lord Ramsbotham (CB) [V]: My Lords, can the Minister tell the House whether the Prison Service is happy with the current situation regarding short sentences?

Lord Keen of Elie: My Lords, I am not in a position to judge the happiness or unhappiness of the Prison Service, whether in this context or any other. However, clearly, where the independent judiciary finds it appropriate to impose a prison sentence of 12 months or less, we know that the Prison Service will respond positively and deal with that.

Lord Ponsonby of Shulbrede (Lab) [V]: My Lords, does the Minister agree that the vast majority of short-term prison sentences are given to people who have been on community sentences, sometimes a number of times? How do the Government propose to make community sentences more robust, because surely the key is for the judiciary and the general public to have greater faith in them?

Lord Keen of Elie: The noble Lord makes a very good point. Of adults sentenced to six months custody or less, about 84% have previously received a community order, and, indeed, a very large proportion of those have received repeated community orders before finally the court has imposed a custodial sentence. I also acknowledge the noble Lord's point regarding community sentences. That is one of the things our imminent White Paper is going to do, and we will seek to make community sentences tougher, for example through longer curfews and more hours of unpaid work. We are also, of course, developing the whole area of GPS monitoring with regard to community sentences.

Lord Dholakia (LD) [V]: My Lords, the pandemic has once again focused attention on short-term sentences or their abolition in favour of community-based penalties. As of 29 May 2020, according to the Library Note, only 95 prisoners have been released under the End of

[Lord Dholakia]
Custody Temporary Release scheme, commonly referred to as ECTR. To what does the Minister attribute the higher sentencing tariff in our courts, and could the Sentencing Council be asked look again at the way judges are using the sentencing tariffs?

Lord Keen of Elie: We consider that the independent judiciary should be in a position to impose the sentence they consider appropriate in an individual case. Releases under the early release scheme have of course been done on an individual basis and in addition, female prisoners have been released under the scheme—pregnant prisoners and those in mother and baby units. According to my figures, as of 22 June a total of 23 women had been released under that scheme.

Lord Dubs (Lab) [V]: May I refer the Minister again to the Ministry of Justice research report, published last year, on the impact of short prison sentences and community sentences? Did not that research show fairly clearly that replacing short prison sentences with community sentences would prevent many, many crimes? Would not that be the best way forward?

Lord Keen of Elie: We are not satisfied, on the basis of available evidence, that replacing short custodial sentences with community sentences would prevent many, many crimes. As I indicated earlier, a very, very large proportion of those who do receive a short prison sentence have received repeated community orders and gone on to re-offend. It is a very difficult issue, but we plan to improve the whole area of community sentences, and that will play a part, we hope, in reducing re-offending.

Lord Randall of Uxbridge (Con) [V]: Further to the reply given to my noble and learned friend Lord Garnier, perhaps the Minister will consider whether we should be looking again at the efficacy of short sentences as a result of the pandemic?

Lord Keen of Elie: We do not consider that the pandemic is, in itself, a reason to re-examine the whole issue of short sentences, and we have no plans at present to review the ability of the judiciary to impose them.

Lord Woolf (CB) [V]: In view of what the Minister has said, does he agree with me that it would be sensible to follow the example, set in Scotland, of having a presumption against short sentences? That does not interfere with the judiciary's discretion but it confines it to the minimum of cases, where it is appropriate.

Lord Keen of Elie: We consider that the judiciary is in a position to exercise its own independent judgment with regard to the imposition of short sentences, without the need for further guidance.

The Deputy Speaker (Lord Bates) (Con): My Lords, I am afraid that the time allowed for this Question has now elapsed, so we will move to the third Oral Question.

Covid-19: Airline Sector

Question

1.29 pm

Asked by ***Baroness McIntosh of Pickering***

To ask Her Majesty's Government what assessment they have made of the impact of COVID-19 on the airline sector; and what steps they are taking to support that sector.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con) [V]: My Lords, the Government recognise the challenging times facing the airline sector because of Covid-19. They have announced an unprecedented package of measures that the sector can draw upon, including a Bank of England scheme for firms to raise capital, time-to-pay flexibilities, and financial support for employees.

Baroness McIntosh of Pickering (Con) [V]: My Lords, given the parlous state of the airline industry and the fact that it is a major employer and driver of the economy and vital for delivering the project of global Britain, does my noble friend recognise that a further package of emergency measures, such as a 12-month waiver for air passenger duty and an extension of the furlough scheme for aviation, is vital to safeguard the sector's future, to stimulate demand and to safeguard airline jobs?

Baroness Vere of Norbiton [V]: My noble friend is quite right that it is important that we give all necessary support to the aviation sector. She mentioned two possible things that could be done. On air passenger duty, that is paid by passengers, of whom there are of course very few at the moment, but to the extent to which an airline might have had previous liabilities, they have been allowed to delay paying that under the Government's time-to-pay arrangements. On furlough, that scheme is already in place until October.

Lord Caine (Con) [V]: My Lords, with the aviation industry not expecting demand to rise to pre-lockdown levels until 2023-24, and companies such as British Airways currently haemorrhaging nearly £30 million a day, does my noble friend agree that what the sector now needs above all is certainty? Does she accept that, while the proposed air bridges are welcome, each day's delay in introducing them means significant and potentially crippling further losses to the industry, and that these air bridges need to be fully functional as a matter of urgency?

Baroness Vere of Norbiton [V]: My noble friend will be aware that the Government are considering international travel corridors not just for air travel but all forms of international travel. We are looking at exemptions in respect of particular countries and particular routes. Many options are under consideration and there will be an announcement in due course.

Baroness Hayman (CB) [V]: My Lords, I declare my interest as co-chair of Peers for the Planet. The noble Baroness, Lady Penn, recently assured the House that climate change plays a central role in government decision-making. In any further support for the aviation industry, will the Government make sure that green strings are attached, as other countries such as France, Holland and Austria have recently done? In particular, will there be effectively enforced conditionality in areas including reducing emissions per passenger mile and developing and promoting more sustainable aviation fuels?

Baroness Vere of Norbiton [V]: I would not like to prejudge what conditions would be put on any bespoke funding for any particular airline that might be under consideration, but I reassure the noble Baroness that we are investing in greener fuels for the aviation sector. On 12 June, the Secretary of State set up the Jet Zero Council, which consists of the Government, aviation and environmental groups to look at how we are going to achieve net zero emission flight as soon as possible.

Lord Whitty (Lab) [V]: My Lords, I declare an interest as vice-president of BALPA and as a member of the GMB. Given that the Government have rightly set up an aviation restart and recovery group, would it not be sensible for Ministers to ask all UK airlines and the aerospace sector to agree a moratorium on all major redundancy and restructuring plans until a clear strategy emerges from that group? Otherwise, they will risk losing vital skills and experience which will be essential in the new situation. When can we expect a clear strategy to emerge from that group?

Baroness Vere of Norbiton [V]: The noble Lord is quite right that there is a tension at the moment in that the aviation sector is suffering and jobs are being lost and we must look to the future as quickly as possible. Certainly, the aviation sector is going to have to shrink—one hopes, temporarily. As the noble Lord pointed out, the restart, recovery and engagement unit within the Department for Transport is working at great speed with the sector and many others including the unions to come up with a recovery plan.

Baroness Randerson (LD) [V]: Airports have been very badly hit, but, unlike airlines, they have to continue to operate and employ staff although there are very few flights. All airports pay millions in business rates. There is one simple thing that the Government could do today to assist airports in England: follow the lead of Northern Ireland and Scotland and cancel business rates for the next year at least. Will the Minister agree to that?

Baroness Vere of Norbiton [V]: Airports have been able to take advantage of a number of interventions by the Government. For example, 2,600 workers are currently on furlough under the Coronavirus Job Retention Scheme. As for business rates, while airports as a whole are not included in the business rates holiday, individual airports can discuss their circumstances with their relevant local authority.

Lord Taylor of Warwick (Non-Afl) [V]: My Lords, the Government should not allow a UK airline to be on the breadline. The airline sector contributes £40 billion to the UK economy and employs more than 600,000 people. Bearing in mind that 13 of our 15 most popular destinations have a lower R rate than we do, will the Government commit to reviewing the 14-day quarantine rule?

Baroness Vere of Norbiton [V]: As I was able to confirm in an earlier answer, the Government are working at pace in looking at possible exemptions for particular countries or routes, not just for the aviation sector but for any other international travel sector.

Baroness Pidding (Con) [V]: My Lords, I am sure that all noble Lords appreciate the importance of regional connectivity using regional airlines to link places such as Teesside to Heathrow, as included in Heathrow's expansion plans. Despite the challenges presented by the Covid-19 crisis, does such connectivity remain a priority for the Government and how will they make sure that the regions still have connectivity into the capital?

Baroness Vere of Norbiton [V]: My noble friend is absolutely right in that regional connectivity was, and remains, a priority for the Government. The restart, recovery and engagement unit within DfT is working with the aviation sector to look not only at international travel but at how we make sure our regions stay connected. I am sure that my noble friend is aware that we already have public service obligation routes between Londonderry and Dundee and London; previously, before the demise of Flybe, we had such a route from Newquay. We take regional air connectivity very seriously and will come forward with a review in due course.

Lord Craig of Radley (CB) [V]: My Lords, the airlines' hated 14-day quarantine, introduced by regional government regulations, is due to be eased. Should the airlines and countries concerned be confident that the Government and devolved Administrations will amend their regulations to remain in step on a national basis? If a so-called handbrake change were applied either by a foreign country or by the United Kingdom Government to reintroduce quarantine, would it affect the whole of the United Kingdom?

Baroness Vere of Norbiton [V]: I thank the noble and gallant Lord for that question. The Government have worked, and continue to work, closely with the devolved Administrations throughout the Covid-19 pandemic to ensure as coherent an approach as possible across the four nations. We will announce further details on the regulations, including a full list of the countries and territories from which arriving passengers will be exempted from self-isolation requirements, later this week.

Lord Rosser (Lab) [V]: In response to my noble friend Lord Tunnicliffe on 4 June, the Minister said that if a firm sought any bespoke financial support from the Government, it might be subject to conditions

[Lord Rosser]
that included some of those which had been outlined by my noble friend, which were: protecting jobs, salaries and workers' rights; taking steps to tackle climate change; maintaining their tax base in the UK; not paying dividends until doing so was liable; and fully complying with consumer law, particularly in relation to refunds. Can the Minister confirm that that remains the Government's position, and say whether any discussions have taken place with airlines or air operators over bespoke financial support and what progress has been made on that support being subject to conditions?

Baroness Vere of Norbiton [V]: I am not able to comment on any particular conversations we may or may not be having with individual companies. However, I can confirm that the Government stand ready to support individual companies seeking bespoke support if they have exhausted all other measures, either from the Government or through private sources—for example, their shareholders. It remains the case that such support might come with the sort of conditions that the noble Lord mentioned. However, I would not want to prejudge that and, as I have said, any ongoing discussions about support would be subject to all sorts of terms.

The Deputy Speaker (Lord Bates) (Con): My Lords, I am afraid that the time allowed for this question has now elapsed. We move now to the fourth Oral Question.

China

Question

1.40 pm

Asked by ***Baroness Falkner of Margravine***

To ask Her Majesty's Government what plans they have to reassess their relationship with the government of China.

The Minister of State, Foreign and Commonwealth Office and Department for International Development (Lord Ahmad of Wimbledon) (Con): My Lords, as I updated the House on 17 June, our approach is already rooted in our values and strategic interests. When engaging China, we stand up for our principles, including international law, human rights and national security. We want a mature relationship, which means collaborating where our interests align, being clear where they do not and working to resolve our differences.

Baroness Falkner of Margravine (Non-Afl): My Lords, first, I pay tribute to Sir Simon McDonald as he stands down from the FCO. He has been a remarkable leader and an exceptional head of our foreign service, and I wish him well in his future roles.

There is a pattern in Chinese policy, which is increasingly assertive towards countries which do not bend to its will—take the experience of Australia, Sweden, Norway, France or even ours over Hong Kong. Does the Minister agree that as the international environment changes, the UK, too, needs to be clearer with China about engaging constructively where we can but taking a clear and united stand with our allies where our interests diverge from China's? History tells us that statecraft and ambiguity are not always the best bedfellows.

Lord Ahmad of Wimbledon: My Lords, first, I fully align myself with the sentiments the noble Baroness expressed about Sir Simon. He had a very distinguished career in the Foreign Office. On a personal level, he has been an excellent Permanent Under-Secretary and guided me through my early days as a Minister and continues to do so to this date.

On the noble Baroness's point about the approach of having a balanced relationship with China, calling out Chinese activities, whether it is on Hong Kong or the situation as we see it in Shenzhen, we have done so. I agree with her comments in that respect.

The Lord Bishop of Coventry: My Lords, with Christian pastors made to preach on patriotism as a condition for restoring worship after Covid-19, the new ethnic unity law to sinicize Tibetan Buddhism, and reports of birth control forced on Uighur Muslims, does the Minister accept that firm, co-ordinated international effort is required to challenge Beijing's abuses of its religious minorities and that such human rights abuses should not be overlooked in our trade negotiations with China?

Lord Ahmad of Wimbledon: My Lords, I agree with the right reverend Prelate. As he will be aware, in international fora such as the 43rd Human Rights Council in March, we have made our position very clear. He also raises the importance of working with international partners in this respect, and we have done so on the situation with the Uighurs, as we have with the situation in Hong Kong.

Lord Hayward (Con) [V]: My Lords, there is a litany of cases, whether concerning international relations or human rights, where China's contribution to the world is going backwards. In the past 12 months, is there any aspect of international relations with the Chinese that has actually got better rather than worse?

Lord Ahmad of Wimbledon: My Lords, in the current pandemic, I have deliberately used the phrase "the interdependency of humanity" when we have seen the response on Covid-19. We have worked very closely with China, particularly on the procurement of equipment such as PPE. We continue to work closely as we prepare for COP 26 next November. Both countries, the United Kingdom and China, will be hosting international events in this respect, and collaboration is important.

Lord Boyce (CB) [V]: My Lords, while agreeing on the need to establish a sound relationship with China, does the Minister agree that it is of the utmost importance that we continue to exercise most robustly, through the Royal Navy among others, our right to freedom of navigation on the high seas in those waters of the South China Sea illegally claimed by China to be its own, in contravention of the United Nations Convention

on the Law of the Sea? Incidentally, that contravention was once again highlighted last Friday at the south-east Asian leaders' conference.

Lord Ahmad of Wimbledon: My Lords, I agree with the noble and gallant Lord. Our position on UNCLOS and the South China Sea, working with other allies in the region, is very clear. We call on China to respect international law in this respect.

Baroness Warwick of Undercliffe (Lab) [V]: My Lords, the approval by China's National People's Congress of the new national security laws for Hong Kong was immediately followed by worldwide condemnation. However, the *Guardian* reported that the National People's Congress standing committee is currently holding a three-day deliberation and the law is expected to pass tomorrow. So China is clearly not standing down. Given the Prime Minister's offer on 3 June that any Hong Kong citizen eligible to apply for a British National Overseas passport would have the right to live and work in the UK—although that has not been fully corroborated by our Foreign Secretary—how many might qualify for visas and how many will be allowed to claim full citizenship?

Lord Ahmad of Wimbledon: My Lords, the noble Baroness is quite right. The standing committee is currently debating this very issue and the decision is awaited. On BNOs, the Prime Minister has been very clear. I am sure that the noble Baroness also saw his article at the beginning of this month, where he made it clear that anyone eligible for BNO status—which is the larger number of more than 2.9 million people—would qualify for citizenship.

Baroness Northover (LD) [V]: My Lords, with which countries is the United Kingdom working to counter China's threats to Hong Kong, Taiwan in the South China Sea and elsewhere, and how is that progressing?

Lord Ahmad of Wimbledon: My Lords, as the noble Baroness will be aware—I am sure she follows this—we have worked very closely with our European allies, including the likes of Germany and France. Allies remain allies: the noble Lord may not agree with me, but they do. We will continue to work also with others in the region. An earlier question pointed at the South China Sea. We work with other key partners, including the likes of Australia.

Lord Robathan (Con) [V]: My Lords, we are now faced with an authoritarian and expansionist regime in China, which is buying up Africa and elsewhere, and threatening our ally Australia, as we heard, and others. It is threatening Australia for the temerity of asking for an independent inquiry into Covid-19. We have to live with China, but we need to sup with a very long spoon. Will Her Majesty's Government stand resolute with Australia, Hong Kong and others against the threatening and bullying behaviour of the Chinese regime?

Lord Ahmad of Wimbledon: My Lords, as my noble friend will know, we are very clear-eyed in our relationship with China. He points out the important relationship that we have with the likes of Australia. We stand with Australia. It is a key partner through security and other, wider strategic interests in the region. He also mentioned Hong Kong. I have made the Government's position on that quite clear.

Lord Alton of Liverpool (CB): My Lords, following the question asked by the noble Baroness, Lady Warwick, what are we doing to support the seven United Nations special rapporteurs who last week expressed serious concern that Beijing's new security law fails to comply with international human rights law? Do we regard that new security law as a formal breach of the Sino-British joint declaration?

Lord Ahmad of Wimbledon: My Lords, in answer to the noble Lord's second question, we have made our position quite clear: it is a breach of that agreement, as well as a basic breach of Hong Kong's own laws. On working in the UN and supporting what it is doing, he will be aware that we raised the issue at the UN Security Council on 29 May and continue to work with international partners on the issue of Hong Kong.

Lord Collins of Highbury (Lab): My Lords, the final report of the independent tribunal into forced organ harvesting in China described the practice as a crime against humanity. Last July, the Minister shared my concern that the evidence on which the WHO cleared China was based on self-assessment by China. What is the Government's assessment now of the tribunal's full report and what has been the result of the United Kingdom's representations to both the WHO and the Chinese authorities?

Lord Ahmad of Wimbledon: My Lords, the noble Lord is quite correct: the final report was issued on 1 March, and we noted that the testimonies added to the growing body of evidence about the disturbing situation that the Falun Gong practitioners, Uighurs and other minorities are facing. The Government's position remains that the practice of systematic state-sponsored organ harvesting would constitute a serious violation of human rights, and I assure the noble Lord that we regularly raise these concerns with China. We have also consulted the World Health Organization in both Geneva and Beijing, although it maintains its view that China is implementing an ethical system. We will continue to keep this policy under review.

Lord Howell of Guildford (Con) [V]: My Lords, I fully agree that we should be both fearful of and careful about Chinese bullying methods, of course, but if we are thinking about Hong Kong's real, longer-term interests and prosperity, should we not be a bit hesitant about equating continued mindless street violence with the causes of freedom and democracy?

Lord Ahmad of Wimbledon: My Lords, any violence is condemned by us; I am sure that all noble Lords share that sentiment. There are rights to protest, which should be respected, but anyone protesting should observe the rule of law.

The Deputy Speaker (Lord Bates) (Con): My Lords, the time allowed for this Question has now elapsed. That concludes the Hybrid Sitting on Oral Questions.

1.51 pm

Sitting suspended.

Arrangement of Business

Announcement

2.01 pm

The Deputy Speaker (Lord Bates) (Con): My Lords, the proceedings will now commence. Some Members are here in the Chamber, others are participating virtually, but all Members will be treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies of debate apply.

Covid-19: Local Government Finance

Private Notice Question

2.02 pm

Asked by ***Baroness Pinnock***

To ask Her Majesty's Government what is their response to reports that five of the largest councils in the United Kingdom may have to issue a notice under section 114 of the Local Government Finance Act 1988, as a result of a loss of income due to the COVID-19 pandemic.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): The Government have made £3.2 billion available to local authorities through an unring-fenced grant so that they can address the pressures they are facing in response to the Covid-19 pandemic. We are working on a comprehensive plan to ensure councils' financial sustainability for the year ahead, and we will continue to work closely with them to understand the costs that they are facing.

Baroness Pinnock (LD) [V]: Despite what the Minister has said, *Hansard* of 28 April records the firm commitment of the Government to

"back councils with the financial resources they need",—[*Official Report*, Commons, 28/4/20; col. 203]

including support for the loss of income as a result of Covid. Can the Minister please provide a firm assurance that the financial resources will be made available in any such comprehensive plan?

Lord Greenhalgh: My Lords, I can give an assurance that a comprehensive plan will be announced shortly. It is a little unfortunate that the timing of this Question is before that announcement. Of course, these general measures will support the vast majority of councils through the difficult process ahead; any individual councils that have problems should contact the department, or myself or other Ministers responsible.

Lord Rooker (Lab) [V]: How would a chief financial officer judge the Secretary of State's view at the No. 10 press conference on 18 April when he said:

"At the beginning of this emergency I told local councils that we would give them the resources they need to do the job. And I meant it."

Would the Government consider asking CIPFA and the NAO to conduct a study of local government extra expenditure so there can be trust on both sides before any council declares bankruptcy?

Lord Greenhalgh: We need to recognise that monthly reports are now provided to the ministry by all local authorities so we can keep track of expenditure. Broadly speaking, the first two tranches, totalling some £3.2 billion, are in line with—or approximately the same as—the money spent to address demand pressures related to Covid-19. In addition, a number of other steps have been taken to deal with cash-flow emergencies and other pressures. As I said in response to the previous question, the definitive financial plan will be made but we will continue to keep close contact with councils.

Lord Shipley (LD) [V]: Will the Minister confirm that the Government will not try to push a greater financial burden on to council tax payers to meet the current funding gap, which should be met nationally?

Lord Greenhalgh: As we have said, our focus is on covering both the demand pressures and the income deficit and on providing the comprehensive package that will ensure that council tax payers do not face that unnecessary burden.

Lord Naseby (Con) [V]: Is the Minister aware, as a former leader of the London Borough of Islington, that key revenue streams in summer come from recreation, particularly by cricket clubs using council-owned pitches? Why on earth are the Government preventing men, women and young cricketers from playing just club cricket?

Lord Greenhalgh: I know of my noble friend's love of the game of cricket. I am sure that we can take that up with the Ministers responsible.

The Lord Bishop of St Albans [V]: My Lords, it is not only these five councils who are facing severe challenges. Luton Borough Council in my own diocese, which is one of the most innovative and forward-looking councils in the country, owns Luton Airport. Due to the lockdown, the collapse of this income stream is resulting in a massive hole in the council's revenue. What conversations have Her Majesty's Government had with Luton Borough Council? What are the Government intending to do to support Luton?

Lord Greenhalgh: I agree with the right reverend Prelate. A number of local authorities will feel impacts as a result of Covid-19 pressures, particularly Luton

Airport. This was raised with me by officials who have been dealing with the local council. As I mentioned before, if there are specific councils that face unique problems, as in the case of Luton Airport, they should contact officials. These will be dealt with on an individual, case-by-case basis.

Lord Kennedy of Southwark (Lab Co-op) [V]: My Lords, I first refer the House to my relevant registered interest as a vice-president of the Local Government Association. Looking back on his time as a local authority leader, what words of advice does the Minister have for local authorities facing these challenges?

Lord Greenhalgh: I thank the noble Lord for drawing attention to our respective backgrounds in local government. Clearly, the most important thing is to keep the important services of councils running—their care for the vulnerable and these other things. That is why 90% of the money given so far has been directed to those authorities with adult social care budgets, which provide such a large proportion of the cost-base of a council.

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, these are exceptional circumstances. Can the Minister tells us whether, in order to prevent council bankruptcy, the Government would consider allowing local government the same privilege as the NHS of carrying its deficit forward into future years?

Lord Greenhalgh: At the moment, all I can point to is the commitment by the department to ensure that the cost and demand pressures, as well as the income pressures, are covered by a comprehensive plan. In addition to the increase in funding for local authorities, that would obviate the need to change the way that local government is financed for the time being.

Baroness Altmann (Con) [V]: My Lords, can my noble friend confirm that the Government will not countenance local authorities becoming bankrupt, particularly in light of the enormous increase in pension deficits that councils will face and the fact that these pension schemes are not covered by the Pension Protection Fund? Members' pensions would potentially be at risk should there be an insolvency.

Lord Greenhalgh: My Lords, there is an absolute commitment to provide support for local councils through this extremely difficult period. My noble friend is right to point out the pressures we face in pension fund deficits, but that was there before the Covid-19 pandemic. Rest assured that there will shortly be an announcement of a comprehensive plan to support all our local authorities through this pandemic.

Lord Truscott (Ind Lab) [V]: My Lords, the dire financial situation facing local authorities is yet another indication of the economic meltdown facing the country as a result of the pandemic. Does the Minister not agree that, rather than an ad hoc approach, this is the time for an emergency Budget?

Lord Greenhalgh: My Lords, this is the time for a comprehensive plan to stabilise finances. As I have said, that announcement will be made shortly.

Baroness Bonham-Carter of Yarnbury (LD) [V]: Does the Minister not accept that one of the consequences of this is the risk that cultural venues will be decimated in the areas affected? With them go not just the institutions themselves but their vital outreach programmes; the Minister mentioned them in an earlier answer. Will the Government commit to adequate funding being put in place to ensure that this essential engagement with vulnerable groups can and will continue?

Lord Greenhalgh: My Lords, there is no doubt that there is pressure on the funding of our cultural institutions, but we must recognise that there has already been a commitment of £27 billion to local areas to support councils and their communities, including the £3.2 billion to deal with demand pressures. I recognise the important role played by cultural institutions in supporting many in our communities.

Baroness Jones of Moulsecoomb (GP) [V]: One option for the Government to see their way clearly through this financial crisis would be to undertake an equality impact assessment of taking no action—that is, assess the risk of a sudden halt in services to vulnerable groups. That would make it quite clear that it is more expensive to do nothing.

Lord Greenhalgh: My Lords, I have made clear that this is far from a do-nothing Government. In just two months we have already provided £3.2 billion—an extraordinary sum—to deal with the demand pressures of Covid-19. I have also made quite clear that an announcement will be forthcoming in a few days to provide the support that councils need for the rest of the financial year.

Lord Holmes of Richmond (Non-Afl) [V]: My Lords, does my noble friend agree that, as well as providing the resource to help councils through this Covid crisis, local and national government need to come together after that and have a plan for the future and how best to benefit from all the opportunities from new technologies, not least artificial intelligence, distributed ledger technology, quantum computing and all the things that could deliver better services to residents by more cost-effective means?

Lord Greenhalgh: My Lords, my noble friend is quite right that we need to think about how we can deliver services differently. The use of artificial intelligence and other technologies will provide an important way of being able to do that.

The Deputy Speaker (Lord Bates) (Con): That has completed all the supplementary questions available. I now call on the Government Whip to move the adjournment.

2.13 pm

Sitting suspended.

Arrangement of Business

Announcement

2.31 pm

The Deputy Speaker (Lord Bates) (Con): My Lords, some Members are here in the Chamber and others are participating remotely, but all Members will be treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. Microphones will be muted again after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies of debate apply. Please ensure that questions and answers are short.

Universal Credit: Court of Appeal Judgment

Commons Urgent Question

The following Answer to an Urgent Question was given on Thursday 25 June in the House of Commons.

"I can today confirm my department's intention not to appeal against the judgment of the Court of Appeal of 22 June 2020 in the case of Johnson, Woods, Barrett and Stewart v the Secretary of State for Work and Pensions. The judgment relates to an appeal made in January 2019 by the department against the High Court decision.

As we told the court, identifying claimants is hard; it is a difficult issue. To date, we are aware of around 1,000 claimants who have disputed their earnings and fall within the relevant cohort. We are looking at how we can further identify people in this group. I stress that many people affected by two salary payments will not suffer a financial loss, as their universal credit award will increase in the following month to balance the reduction. However, we do recognise the budgeting issues that may have been caused, and we are now assessing the remedial options. That is not straightforward—it is not the simple click of a switch—particularly at a time when the department is focused on meeting the challenges of unprecedented demand for its services.

I hope Members will appreciate that as the judgment was passed down on Monday, it would be remiss not to afford more consideration before we press on, particularly when the court has not called for immediate action. We will now begin the process of carefully considering possible solutions, and we will keep the House updated as progress is made. There are, however, immediate actions that can be taken. We are already working closely with Her Majesty's Revenue and Customs to work with employers on how to report their employees' earnings correctly. HMRC has issued updated guidance for employers which, if followed correctly, will further reduce the small numbers affected."

2.31 pm

Baroness Sherlock (Lab) [V]: My Lords, universal credit works on fixed assessment periods. But if, like NHS workers, you get paid at the end of the month, you can find two pay days falling in one universal credit period. The system then assumes that you have had a 100% pay rise and slashes your benefit, or even stops it altogether, thinking that you are now too rich to need it. We have raised this with Ministers repeatedly, but to no avail. It should not take four single mums going all the way to the Court of Appeal to have this obviously daft policy declared irrational. How will the Government find and compensate all those who have lost out? When will the system be changed to stop this happening in future?

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Stedman-Scott) (Con) [V]: I can advise the noble Baroness that, during our consideration of the outcome of the court's verdict, we will consider any necessary retrospective payments.

Baroness Janke (LD) [V]: Will the Minister confirm that as many as 85,000 claimants are affected by this judgment? Will she confirm that the Government will publish an action list, detailing when and how the claimants affected by this ruling will cease to be subject to these wild fluctuations in income? Will she also undertake to look into the support available to people in arrears with their rent, or suffering from other financial penalties, as a result of this "irrational and unlawful" action, to use the words of the judge who delivered the verdict, Lady Justice Rose?

Baroness Stedman-Scott [V]: I am pleased to say that the figure of 85,000 that the noble Baroness refers to is not one that resonates with us. We believe that the number of people impacted by this judgment is in the region of 1,000. We are assessing the situation. We got the judgment only on Monday, but we will keep the House fully up to date with decisions made in relation to it.

Baroness Stroud (Con) [V]: Will my noble friend the Minister outline what assessment has been made of the resilience and ability of the universal credit system to process such significant increases in applications in recent weeks? Has the digital design of universal credit enabled it to support an unprecedented number of people in recent months?

Baroness Stedman-Scott [V]: I can tell my noble friend Lady Stroud that we have been amazed and pleased that the universal credit digital system has shown enormous resilience. We have had a 600% increase in claims, and the vast majority of people have been paid in full and on time. Without wishing to be disrespectful in any way, this would never have happened under the legacy system.

Baroness Lister of Burtersett (Lab) [V]: My Lords, last week, the Minister promised MPs that

"everything is on the table",—[*Official Report*, Commons, 25/6/20; col. 1462.]

except, it would seem, the monthly assessment itself, even though it does not align with the reality of the working lives of the many claimants paid more frequently, and bases a month's entitlement on personal circumstances

from a single day. This is another example of irrationality and inflexibility. As well as fixing the immediate problem urgently, will the Government undertake a longer-term review of the monthly assessment?

Baroness Stedman-Scott [V]: It may be helpful if I repeat for the House the Answer that my friend the Minister for Welfare Delivery gave in the other place last week. He said:

"I am absolutely determined to find a fix to this issue … a number of items are in the pipeline, ready to be changed on universal credit. Despite criticism from Opposition Members, we have made significant changes to universal credit, and much more is to come, such as the roll-on of legacy benefits next month, which will benefit people to the tune of £200. Those are all in the pipeline to be done, and this will be added to that. I will try to expedite it as much as I possibly can".—[*Official Report*, Commons, 25/6/20; col. 1460.]

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, will the Minister, along with her ministerial colleagues in the DWP, use this opportunity to have a root and branch review of social security policy, to ensure a refocus on the needs of people—many of whom have been reliant on food banks for a long time—a financial uplift of universal credit benefit and caution on the use of the digital system?

Baroness Stedman-Scott [V]: I assure the noble Baroness that the issues and successes coming out of universal credit are continually under review. However, I will take her specific question back to the department and will write to her with an answer.

Baroness Neville-Rolfe (Con) [V]: My Lords, it is clear that the department should put right the particular matter identified by the Court of Appeal. I note that the Minister thinks that some 1,000 cases are involved. However, does she agree that the universal credit system has stood up very well to the severe challenges posed by the consequences of coronavirus?

Baroness Stedman-Scott [V]: I assure my noble friend and the whole House that the universal credit system has stood up well to the increased demand of 600% additional cost. I have repeated the Answer that my ministerial colleague gave in the other House. We are determined to find a fix for this. We will keep the House updated, but we will need time to consider the judgment, which was issued only last Monday.

Lord Foulkes of Cumnock (Lab Co-op) [V]: My Lords, the Minister, who is usually very helpful on these kinds of questions, has not answered the questions put by my noble friend. If the computer system is as agile as she and her colleagues keep claiming it is, why can it not resolve this single issue quickly and give these people the justice they deserve? When will she answer the single, simple question: when will it be resolved?

Baroness Stedman-Scott [V]: I say again to the noble Lord that we are considering the judgment. We are working at pace to find a fix. The universal credit system, which has dealt with a massive increase in applicants, who have been paid, has been agile and flexible to do so. Some issues need to be overcome. They need a digital solution rather than a manual one. We have concentrated on paying people in these very difficult times, but I assure the noble Lord that a digital fix will be found as soon as it can.

Lord Balfe (Con) [V]: My Lords, people made severe criticism of the digital system of universal credit when it was introduced, but it seems that this design has enabled it to support an unprecedented number of people in recent months—the huge increase the Minister referred to. Would she agree that we could not possibly have done this without the digital changes made by this Government?

Baroness Stedman-Scott [V]: I completely agree with my noble friend. We would never have coped with the increase in demand in universal credit claimants had we not had the digital UC system.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, the problem has been evident for years, so the Government have yet to explain why they kept fighting to defend this "unlawful" and "unfair" system, in the words of the judge. Crucially, would the Minister accept that whenever you have a conditional payment scheme, some people will unfairly miss out? No system can be "agile and flexible", in her words, to ensure that everyone has a fair, secure payment. Only a universal basic income would do that.

Baroness Stedman-Scott [V]: The noble Baroness makes a good point. We have never, ever suggested that the universal credit system is 100% perfect, but it has absolutely delivered in terms of paying the increased numbers we have. She has raised universal basic income on previous occasions. Our position has not changed: we have no plans to bring it in because it would disincentivise people to look for work and the cost would be astronomical.

Baroness Altmann (Con) [V]: I congratulate my noble friend on the tremendous work of her department in coping with the unprecedented number of new universal credit claims. Could she confirm that more than 1 million people have been able to receive an advanced first payment, giving them support in just a few days? Does she agree that this has been vital to prevent hardship during this crisis period?

Baroness Stedman-Scott [V]: The Government have worked at pace to ensure that money gets to people in a timely manner to avoid hardship and as many difficulties as we can. I can confirm that 1 million applications for advances have been made available to people who need them quickly. The advances are interest-free and repayable over 12 months at the moment, but as of next year this will go up to 24 months.

The Deputy Speaker (Lord Bates) (Con): My Lords, that completes all the supplementary questions on the Urgent Question repeat.

2.43 pm

Sitting suspended.

Arrangement of Business

Announcement

2.50 pm

The Deputy Speaker (Lord Bates) (Con): My Lords, a limited number of Members are here in the Chamber, respecting social distancing, and if the capacity of the Chamber is exceeded I will immediately adjourn the House. Other Members will participate remotely, but all Members will be treated equally, wherever they are. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. Microphones will be muted after each speech. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. I remind the House that our normal courtesies in debate still very much apply in this new hybrid way of working.

I will call Members to speak in the order listed on page three of my brief, which Members will have received. Members' microphones will be muted by the broadcasters, except when I call them to speak. Interventions during speeches or before a noble Lord sits down are not permitted, and uncalled speakers will not be heard. Other than the Minister, Members may speak only once. Short questions of elucidation after the Minister's response are permitted but discouraged. A Member wishing to ask such a question, including Members in the Chamber, must email the Clerk.

Private International Law (Implementation of Agreements) Bill [HL]

Third Reading

2.51 pm

Clause 2: Crown application

Amendment 1

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

1: Clause 2, page 2, line 33, leave out subsections (2) and (3)

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I am grateful to the House for Members' engagement on the Bill throughout its passage. The amendments in this group are all consequential on the removal of the delegated power contained in the former Clause 2 of the Bill. I am moving Amendment 1, and support Amendments 2 and 3, as the provisions to which they relate do not function without the delegated power.

Before I turn to the detail of the amendments, I wish to make clear from the outset that we believe that the delegated power contained in the former Clause 2 of the Bill was a necessary, proportionate and constitutionally appropriate measure, for the timely implementation in domestic law of future private international law agreements which the Government had decided that the UK should join. Subject to a successful application, this could have included the Lugano Convention 2007.

Any decision for the United Kingdom to join a treaty or agreement in this area of law would still have been subject to successful completion of parliamentary scrutiny procedures under the provisions of the Constitutional Reform and Governance Act 2010. The former delegated power in the Bill did not alter the well-established approaches to parliamentary scrutiny of treaties and wider ratification processes under CRaG. Instead, it was simply a mechanism to draw down the treaty obligations into domestic law in readiness for ratifying the treaty.

I will now speak to Amendment 1, in my name, which seeks to remove from the Bill subsections (2) and (3) of Clause 2, formerly Clause 3, which establishes the Crown application of the Bill. These provisions were consequential on what was, originally, Clause 2, containing the delegated power. They provided that regulations made in the exercise of the delegated power in former Clause 2 could bind the Crown, subject to exceptions which reflect those contained in Section 51 of the Civil Jurisdiction and Judgments Act 1982, as referred to in subsection (1).

The Government are bringing forward this amendment to remove these subsections from the Bill, as these two interlinked provisions were originally intended to apply to regulations made under the delegated power and therefore serve no function following its removal. As I have indicated, this is purely to ensure that the Bill is workable for its introduction into the other place, given the outcome of our deliberations in this House.

I have also put my name to Amendment 2, in the name of the noble and learned Lord, Lord Falconer of Thoroton. The amendment seeks to remove Schedule 6 from the Bill. It details how the delegated power could be exercised in practice, including the parliamentary procedures to be followed for making regulations. I accept that the House has made its view clear, and without the delegated power in the former Clause 2, Schedule 6 serves no useful purpose. In these circumstances, purely to enable the tidying up of the Bill, we support the amendment to remove Schedule 6 from the Bill at this point.

Amendment 3, also in the name of the noble and learned Lord, Lord Falconer, seeks to amend the Long Title of the Bill. Again, this is a consequence of the removal of the delegated power. Given that the new title more accurately reflects the content of the Bill as amended by the House, namely the implementation of the 1996, 2005 and 2007 Hague Conventions under Clause 1, in these circumstances the Government are content to support the amendment.

I beg to move.

Lord Falconer of Thoroton (Lab): I am obliged to the noble and learned Lord. There is no dispute between us; all three amendments should be approved, to reflect the changes resulting from removing the wider power. The Minister repeated his argument for why that power should be there. We have had this argument three times now. It was rejected when he put it to the Delegated Powers Committee, rejected when it was put to the Constitution Committee, and massively rejected when it was put before your Lordships' House, so there is no point repeating it again.

The Minister said that we should be dealing with subsequent conventions by secondary legislation. We have made amendments in this Bill to the three conventions that we are bringing in today. We could not have done so if his Clause 2 powers had been there. I hope that he will bring back what was the view of everybody in the Chamber, apart from him—namely that the Clause 2 power should not be there.

Lord Garnier (Con) [V]: My Lords, as is often the case with legislation bringing treaties into domestic law, the meat of this Bill is to be found in the schedules rather than the clauses. Unfortunately, there was some gristle in Clause 2 that made it less palatable. That said, there has been a universal desire to see the three conventions in question come into our post-EU domestic law, and, subject to the already-announced recognition of the points made on Report on 17 June by the noble and learned Lord, Lord Wallace of Tankerness, in relation to the Hague Convention 2000, the real substance of this Bill has been agreed. I congratulate my noble and learned friend the Advocate-General, who has been carrying the Bill more or less on his own.

However, I also commiserate with him on coping with the gristle. He has not looked, still less asked, for sympathy from any of us. I dare say that he might have hoped for more voluble support from this side of the House, but as the experienced advocate that he is, he has not revealed his disappointment, even when the noble and learned lord, Lord Mance, disobligingly compared him to Monty Python's armless and legless Black Knight.

Unquestionably, the provisions in Clause 2, which gave the Executive the extensive future law-making powers originally in the Bill, have been shown to be constitutionally awkward and unwelcome, by the Constitution Committee, the Delegated Powers Committee and contributors to these debates. When the Bill goes to the other place, I trust that the Government will not use their large majority there to restore the Bill to its original form.

Having said that, I would not want the noble and learned Lord, Lord Falconer of Thoroton—who is just as much a politician as he ever was in government 15 years ago—or the Labour Party, to claim that the amended Bill shows them in an altogether angelic light. In these proceedings they have no halo to burnish. As they know only too well, and as was graciously accepted by the noble Lord, Lord Blunkett, in Committee, there were times when the noble and learned Lord, Lord Falconer, and his colleagues in government enthusiastically gave the Executive extensive Henry VIII powers—powers he now decries. The same could be said of my Liberal Democrat partners in the coalition Government and, I readily confess, of me.

However, let us in a Bill of this type and content, cast political point-scoring aside and do two things. First, we should send this Bill to the other place with our strong advice that those Henry VIII powers that were once in the Bill should stay out of it so that the three conventions can be brought back into our national law as soon as can be sensibly arranged. Secondly, we should invite a Joint Committee of both Houses thoroughly to investigate and review the use of Henry VIII powers and make recommendations on their future use. The Clause 2 powers were by no means the most egregious example of them, but I am not alone in thinking that Ministers should not make or amend the criminal law or the substantive law more generally by secondary legislation. That should be confined to administrative and simple regulatory matters.

3 pm

Lord Thomas of Cwmgiedd (CB) [V]: I too warmly support these necessary amendments. I do not wish to traverse the arguments that took place on Report or prior to that. I merely add a word about the Lugano convention. It is universally agreed among lawyers that although it may not be the best solution, it is probably the best available solution to the position that we are likely to find ourselves in at the end of the year. It is of the upmost importance to many in the United Kingdom economy, but in particular also to those who conduct legal business in London, that we adhere to the Lugano convention. I see no reason why the other parties to the convention will not agree. I therefore express my earnest hope that if that takes place there will be no delay whatever in bringing forward the necessary legislation to make it part of our law. Any delay in the matter of the reciprocal enforcement and recognition of judgments can do nothing but damage the position of the United Kingdom as a whole and in particular London as a dispute resolution centre.

Lord Foulkes of Cumnock (Lab Co-op) [V]: My Lords, I enjoyed the speech of the noble and learned Lord, Lord Garnier, especially when, having made a couple of political points, he asked us to cast political points aside. It is nice to see that he is in his usual jolly form.

I am very pleased that the Government have decided to remove Clause 2 and Schedule 6 from the Bill. I agree with my noble and learned friend Lord Falconer. We would not want to give the Government carte blanche on any agreement, especially at a time when the Civil Service is being taken over by political ideologues—friends of Mr Cummings. But, like the noble and learned Lord, Lord Garnier, having made a couple of political points, I have two specific questions for the Minister. First, on the state of play in discussions with the Crown Dependencies and Overseas Territories, have any memoranda of understanding been agreed, and what does he expect the final outcome to be?

Secondly, as a delegate from this Parliament to the Parliamentary Assembly of the Council of Europe I noted that paragraph 5 of the Explanatory Note states that

> "Agreements containing PIL rules may also be negotiated through the Council of Europe."

I am keen to know what agreements would come into that category. I would be grateful if the Minister could respond today, but if he cannot, I would appreciate his response in writing.

Lord Thomas of Gresford (LD) [V]: My Lords, I too am glad to see that Clause 2 and the schedule will go and I fully support the amendments brought forward by the noble and learned Lord, Lord Falconer. Is it the Government's intention to replace Clause 2 and in particular Schedule 6 when the matter goes to the

[Lord Thomas of Gresford]
other place? If so, is it their intention to have criminal offences, which are punishable by imprisonment, by secondary legislation? I made that point at an earlier stage of the Bill. In principle, it is quite wrong for imprisonment to be imposed as a result of secondary legislation. In this particular instance it is even worse, because the scope of private international law is so wide that anything could be the subject of it within the principles of private international law. There is no clarity at all about where a criminal sanction involving imprisonment would be imposed. I would be grateful if the Minister could deal with that point.

Lord McConnell of Glenscorrodale (Lab): My Lords, these are sensible amendments and I support the Bill as it now stands. There was an interesting exchange on Report in relation to devolution issues, particularly in relation to Wales following the amendment moved by my noble friend Lord Hain. It was an informative debate. During that discussion, I raised the issue of the arrangements in place to involve the devolved Governments in the discussion of international treaties. There is a commitment in the concordat between the UK Government and the devolved Governments to ensure that there is prior consultation in relation to appropriate international treaties.

In that debate on my noble friend's amendment, I asked specifically if it might be appropriate at some stage for us to move towards an institutional framework for the involvement of the devolved Governments in the agreement of negotiating mandates for international treaties, rather than simply a preference from Government to Government on consultation. I heard the response of the noble and learned Lord, Lord Keen, on that day and I read it again afterwards. The Government's wording is carefully chosen. He said:

"We are very conscious of our responsibilities under the devolution settlements, and our approach in this area is always to seek to engage early and often when any questions arise. It is my view that such an approach of early engagement is the best way to make consultation genuinely meaningful."—[*Official Report*, 17/6/20; col. 2251.]

That is of course very sensible. But will the Minister reflect on the opportunity for this and other Bills that will come before us as a result of our departure from the European Union and other factors to prompt us along the road of a better institutional framework for the engagement of the devolved Governments in negotiating mandates for international treaties? Perhaps, outwith a piece of legislation that might just polarise us in debate, there might be scope for a debate on this in your Lordships' House in the future.

Lord Holmes of Richmond (Non-Afl) [V]: My Lords, I support the three amendments, largely for the reasons already eloquently elucidated by other noble Lords. I spare a word for my noble and learned friend the Minister in his dogged determination in the way that he has taken this Bill through. Perhaps he, like others, will agree that the Bill will now leave this place in a better state than when it arrived. We all hope that we are bidding au revoir to Clause 2 and hope that when the Bill appears in the other place it will in no sense be à bientôt.

In making those points, I underscore the important place of London as a centre for international dispute resolution. I ask my noble and learned friend, as I have on each occasion, to underline our gift—a gleaming jewel—in having English law and the jurisdiction of the courts of England and Wales.

Lord Mann (Non-Afl) [V]: My Lords, it is a little disconcerting to end up being thought by the noble and learned Lords, Lord Garnier and Lord Falconer, to be on the side of the angels, but I concur with the consensus that has emerged on the Bill. When we left the European Union, we did not leave in order to give the Executive more power. The argument that was put was that power would be transferred back to the British Parliament. There is a substantive difference between Parliament and the Executive in our democracy, and it would behove the Government in future to be significantly less reliant on so-called Henry VIII powers. That is not taking back control of democracy; it is ceding control to the Executive. That will come back and bite the Executive politically in the view of the general public at some stage in future. I am pleased that we have a consensus today.

Finally, I add to the question posed by the noble Lord, Lord Foulkes, to clarify what the situation will be in relation to Northern Cyprus.

Lord Marks of Henley-on-Thames (LD) [V]: I welcome these sensible amendments which tidy up the Bill, but I also welcome them for an important reason, which is that in removing Clause 2 this House made an important constitutional decision. I welcome the thrust of much of what the noble and learned Lord, Lord Garnier, said. However, I doubt that we need a thoroughgoing review of delegated legislation or the powers to delegate legislation. What we need is to respect more thoroughly the views of the Delegated Powers and Regulatory Reform Committee and the principles that it applies, which are well known and are often stated and applied by this House and were importantly so stated and applied during debates on the removal of Clause 2.

I regard it as a shame that the Minister opened this afternoon's discussion with a reassertion of the position that he enunciated during earlier stages of the Bill—that Clause 2 was constitutionally proper and not inappropriate. This House decisively rejected that view. I hope that the Government will listen to what has been said today and, more importantly, will consider the arguments that were advanced during the earlier stages of the Bill, change their mind and decide not to reinstate Clause 2 and send it back to this House, taking advantage of their majority; and, rather than having a thoroughgoing review, will decide to exercise some self-control in future and not put before us Bills which contain delegated powers that most of us regard as entirely wrong and inappropriate.

Lord Keen of Elie: My Lords, as the noble and learned Lord, Lord Thomas of Cwmgiedd, and my noble friend Lord Holmes observed, it is important that we maintain the position of English law and the jurisdiction, particularly in London, with regard to commercial dispute resolution just as it is maintained

under the New York convention with respect to arbitration. That is why we have made our application to the council of the Lugano convention to join that body, but it is step that can be taken only with the consent of the member states and the EU. We recognise that if our application is accepted it is a matter of urgency for us to draw down that treaty into domestic law, which in part explains the position that we have adopted with regard to Clause 2.

It is not often that I find myself in a position where I have to correct the noble Lord, Lord Foulkes of Cumnock. Indeed, I regard this as highly unusual, but I observe that where he said that the Government had decided not to proceed with Clause 2 that was not entirely accurate. It was decided for us, and there is a distinction to be drawn there. As regards the state of play with the Crown dependencies, the provision with respect to the Isle of Man fell with the amendments to the Bill in this House. As regards the Council of Europe, while in theory it may seek to promote some issues in respect of private international law, I do not understand that it has done so or that it imminently intends to do so, but I will make further inquiry and if necessary write to the noble Lord.

The noble Lord, Lord Thomas of Gresford, talked about a matter of principle with regard to the introduction of what would amount to a criminal offence of some limited penalty by way of secondary legislation or something other than primary legislation, a situation that has obtained for almost 50 years since the European Communities Act 1972.

The noble Lord, Lord McConnell of Glenscorrodale, raised prior consultation. I reiterate the points I made at an earlier stage with regard to that. Both the Government of Wales and the Government of Scotland granted an LCM to the Bill in its original form, so they appeared to be relatively content with its provisions.

I am not clear about the reference made by the noble Lord, Lord Mann, to Northern Cyprus in the context of the Bill, but I understand the complications that arise with regard there to private international law, and I would be content to speak to him later if there is a further point that he would like to elucidate, and I would be happy to consider it.

The Government are content to support this group of amendments as they relate to elements of the Bill which no longer function without the delegated power previously in Clause 2. However, as I have made clear, the Government's position on the Clause 2 delegated power has not changed.

Amendment 1 agreed.

Schedule 6: Regulations under section [clause removed]

Amendment 2

Moved by ***Lord Falconer of Thoroton***

2: Schedule 6, leave out Schedule 6

Amendment 2 agreed.

In the Title

Amendment 3

Moved by ***Lord Falconer of Thoroton***

3: In the Title, line 1, leave out from "2007" to end of line 3

Amendment 3 agreed.

3.17 pm

Bill passed and sent to the Commons.

3.18 pm

Sitting suspended.

Telecommunications Infrastructure (Leasehold Property) Bill

Report

4 pm

The Deputy Speaker (Baroness Henig) (Lab): My Lords, a limited number of Members are here in the Chamber, respecting social distancing, and if the capacity of the Chamber is exceeded, I will immediately adjourn the House. Other Members will participate remotely, but all Members will be treated equally, wherever they are. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Microphones will be muted after each speech. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. I remind the House that our normal courtesies in debate still very much apply in this new hybrid way of working.

A participants list for today's proceedings has been published and is in my brief, which Members should have received. I also have lists of Members who have put their names to amendments or who have expressed an interest in speaking on each group. I will call Members to speak in the order listed. Members' microphones will be muted by the broadcasters, except when I call a Member to speak. Interventions during speeches or "before the noble Lord sits down" are not permitted, and uncalled speakers will not be heard. Other than the mover of an amendment or the Minister, Members may speak only once on each group. Short questions of elucidation after the Minister's response are permitted but discouraged; a Member wishing to ask such a question, including Members in the Chamber, must email the clerk.

The groupings are binding and it will not be possible to degroup an amendment for separate debate. A Member intending to press an amendment already debated to a Division should give notice in the debate. Leave should be given to withdraw amendments. When putting the Question, I will collect voices in the Chamber only. If a Member taking part remotely intends to trigger a Division, they should make this clear when speaking on the group. We will now begin.

Clause 1: Code rights in respect of land connected to leased premises

Amendment 1

Moved by ***Lord Clement-Jones (LD)***

1: Clause 1, page 1, line 11, after "premises" insert "(which include premises where a tenant is in exclusive possession)"

Member's explanatory statement

This amendment would clarify that tenanted premises are included under the provisions of this bill.

Lord Clement-Jones (LD): My Lords, it is a mixed pleasure to be back in the Chamber. In her speech in Committee on 19 May, the Minister said in response to my amendment:

"I believe that the noble Lords who have tabled the amendment are seeking to ensure that tenants are covered by the Bill. If noble Lords are indeed seeking clarification on that point, I am able to confirm that as currently drafted, the provisions in this Bill can be used by people who rent their homes."

She went on to say:

"This includes people with assured shorthold tenancy or assured tenancy agreements which, as many noble Lords will be aware, are the most common forms of tenancy agreement."—[*Official Report*, 19/5/20; col. 1030.]

In her subsequent letter, the Minister said:

"As drafted, this Bill allows a lessee in occupation—i.e. someone who has a leasehold agreement with a person able to confer on an operator or otherwise be bound by a code right—to request that an operator provide an electronic communications service to the premises so occupied. It is that which is the trigger for the whole process set out in the Bill. It is for that reason that the Bill does not use the language of landlord and tenant law, which was one of the—entirely understandable—points made during the first Committee session."

The Minister then referred to the definition of lease set out in Street v Mountford cited at [1985] UKHL 4:

"An agreement is a lease if it provides for (i) exclusive possession, (ii) of defined premises, (iii) for a fixed or periodic term and (iv) at a rent."

She said:

"The distinguishing feature of a lease, as opposed to a licence, is that the tenant has exclusive possession of the let property."

The letter continued:

"My understanding is that a tenant at will could be a person able to make a request that would trigger the Part 4A process… If an agreement for occupation constitutes a lease, then the fact that it is renewable does not change the Government's intended approach. As I mentioned at the first Committee session ... My understanding is that the impact of that would therefore be that so long as a renewable tenancy has the hallmarks of a lease then it would not fall outside the scope of this Bill. I must stress again, though, that this will be both a matter of substance that will turn on the facts of each case and ultimately, the interpretation of the law will be a matter for the courts."

All this added some clarity but, in the view of my noble friends and I, not enough. The noble Baroness, Lady McIntosh of Pickering, said quite rightly in Committee:

"Leasehold properties are a very grey and disaffected area of property rights."—[*Official Report*, 19/5/20; col. 1025.]

I agree with the noble Baroness. The noble Lord, Lord Liddle, referred to his concern for

"young people, including students, living in short-term lets in multi-occupier buildings—for instance, in old council blocks where someone has bought a flat to rent it out and their main occupiers are students on short-term tenancies."—[*Official Report*, 19/5/20; col. 1032.]

This amendment is designed, as crisply as possible, to dispel any lack of clarity or misapprehension to ensure that we have as inclusive as possible a definition of those who could be regarded as tenants, without straying into the territory of licensees or licences, which do not grant exclusive possession. If there is exclusive possession, even if the language of "a licence" is used, the occupier will be covered by the code. I am concerned to ensure that all tenancies are included, even if not, strictly speaking, leases.

Tenancies in the public sector are of a particular nature, and we need to make sure that they are clearly covered. For instance, the amendment would make sure that introductory or probationary tenancies in local authority housing, flexible or joint tenancies, and what are called demoted tenancies are all covered, as well as tenancies by succession and starter tenancies from housing associations. It would include written or verbal agreements. The position of a tenant at will or renewable tenancy, if there is such a residential status, may also demonstrate the need for this clarification. All these tenancies will have exclusive possession and it needs to be made clear that they qualify, for the purposes of the code.

What could an objection to any of these examples be? If the amendment is unnecessary or tautologous, it is innocuous. If I am right, however, and clarification is needed for a number of ordinary tenancies to be covered, the case is made for its inclusion. I beg to move.

Lord Fox (LD): There is nothing I can add to the comprehensive speech of my noble friend Lord Clement-Jones, so I shall sit on my hands.

The Deputy Speaker: I understand that the noble Lord, Lord Stevenson of Balmacara, does not wish to speak, so I call the noble Baroness, Lady Meacher.

Baroness Meacher (CB) [V]: My Lords, I support the Bill because it provides an opportunity for some residents to obtain telecommunications infrastructure for their properties, even when their landlord cannot be contacted to give permission for such installations. The problem is I do not think that many tenants would be included. I added my name to Amendments 2 and 3 tabled by the noble Lord, Lord Stevenson, because they would enable further, badly needed, additions to our telecommunications infrastructure.

The essential issue here is the need to extend the availability of telecoms infrastructure as widely as possible, while providing sufficient protection for landlords to avoid unnecessary damage to, or interference with, their property. The protections for landlords in the Bill are more than adequate, albeit that some of the detail of those protections will be specified in regulations and be up to Ministers.

The most important protection for the landlord is that the operator must convince the First-tier Tribunal (Property Chamber) of the justification for the installation of telecommunications infrastructure. Only then will permission be given for the installation to go ahead. The Bill makes it clear that the tribunal will require an enormous amount of information before making its decision, and at the start of the process the operator

must make multiple attempts to contact the landlord and gain their approval if they possibly can. The amendment provides for Ministers to extend the scope of the Bill.

The Government's justification to the Delegated Powers Committee—I declare my interest as a member of that committee—for restricting the scope of the Bill at the outset is simply that multi-occupied blocks of flats are the most common source of demand for the provisions of the Bill. However, I agree with the noble Lord, Lord Stevenson, that it would be sensible to extend the scope of the Bill to tenants with a rental contract, for example, even if it turns out that the demand from those tenants is not all that great.

The Government refer to business parks and office blocks as potential candidates for the powers under the Bill to obtain telecommunications infrastructure. Perhaps the Minister could explain if there is any reason not to include such premises within the scope of the Bill now, and by that I mean rental situations as well as lessee situations.

Amendment 3, in the name of the noble Lord, Lord Stevenson, affords an operator the right to initiate proceedings to provide infrastructure on a site where they see a public interest in doing so. Again, I welcome the proposal; the safeguards for the landlord are so extensive, including the need to convince the tribunal of the merits of the case, that this extension of the scope of the Bill could only be beneficial.

I hope very much that the Minister will consider these amendments sympathetically. They are not party-political issues at all but rather a genuine concern for the general improvement of the country's infrastructure.

Lord Adonis (Lab) [V]: My Lords, I entirely agree with all the arguments that have been made by the noble Lord, Lord Clement-Jones, and have nothing to add. I hope the Government will accept this amendment.

Baroness McIntosh of Pickering (Con) [V]: My Lords, I would like to clarify some of the arguments that have arisen on the sidelines since Committee regarding how Amendments 1 and 2, which I am inclined to support, would function.

It is probably fair to say that in rural areas the connections are slower and less secure, as we have seen in a number of our own parliamentary proceedings. Amendment 2 refers to who can request an operator to provide an electronic telecommunications service; that would include rural tenants. I am concerned that many tenants are trying to conduct a business from home in the current circumstances surrounding Covid-19; I have found myself in such circumstances.

Can we have an assurance today from the Minister that, given what other noble Lords have said about the assurances and powers that landlords have in this regard, consent being sought from a landlord could not possibly delay connections to a fibre network? Fibre is very slow to be delivered, particularly in upland areas, and it would be regrettable if there were any further delay due to consent being sought from a landlord who may not be immediately available in that regard. I would be grateful to learn what my noble friend's thinking is in that regard.

Lord Naseby (Con) [V]: My Lords, I was once chairman of a housing committee in the London borough of Islington. I remember that in those days I thought that tenancies were quite complicated, but they were are absolutely nothing to what we have today. The degree of complication that has been highlighted by the noble Lord, Lord Clement-Jones, makes me wonder a bit. Not only are tenancies incredibly complicated now but the code that we are looking at, which is being amended in the Bill, is pretty old and the nature of the business that we are talking about is changing incredibly. As my noble friend Lady McIntosh has just said, who would have envisaged even six months ago the sheer volume of people who are now working from home, many of whom have very different requirements?

4.15 pm

The more that I think about it—and I know quite a lot about the housing association movement—the more problems I foresee. With starter tenancies, I can see someone being difficult about the fact that people are not going to be there very long—"Are you married or not married," and so on?

I say to my noble friend on the Front Bench that I hope we as a Government are in a position to reconfirm that this huge variety of tenancies and this huge variety of new electronic services can be married up within the confines of the Bill; otherwise, we will be in deep trouble, with people not being able to operate from home because of some vagary in the legislation. I feel that this issue needs clarification, and I will listen carefully to what my noble friend on the Front Bench says.

Lord Livermore (Lab) [V]: My Lords, I am grateful to the noble Lords, Lord Clement-Jones and Lord Fox, for tabling Amendment 1, which would have a very similar practical effect to Labour's Amendment 2. My noble friend Lord Stevenson and I also tabled Amendment 3, which would enable operators themselves to initiate their Part 4A process. While we feel very strongly about this, it is one of the many issues that could be addressed as part of the review envisaged by Amendment 7, so I will not detain the House by repeating past arguments.

Returning to Amendments 1 and 2, this is an area that has been probed extensively during the Bill's Commons stages and in Committee here, and where fundamental differences remain. Despite what I feel are very clear arguments in favour of amendments giving certainty to those who rent, the Government have resisted changing the Bill at all stages. When responding to a similar group of amendments in Committee, the Minister said:

> "Our concern is that the amendments as tabled would have a significant effect on the Bill. They would significantly expand the scope of who is able to make a service request".—[*Official Report*, 19/5/20; col. 1031.]

That is, after all, what we are trying to achieve, and I therefore find it puzzling that we find ourselves in this position.

The Minister went on to suggest that broadening the Bill's scope could, for example, enable a tenant renting from an individual who is illegally subletting a property to request a broadband connection. While we do not condone such practices, there are, in my view, several issues with this argument. First, I do not

[Lord Livermore]
believe that the number of such cases would be particularly high, whereas the number of renters who would benefit from the right to request a service is likely to be significant. The risk is very definitely outweighed by the reward. Secondly, the existence of such issues should not preclude people who are renting a property in good faith from being able to access quality telecommunications services. If there are issues with particular landlords, that is for local authorities to resolve. If the problem is bigger than that, Whitehall has responsibilities too. Thirdly, if the department felt that there were legitimate deficiencies in the drafting of earlier amendments, it would have been possible for the Government to table their own text for consideration today. No amendment was offered because renters do not seem to figure in the department's so-called balanced and proportionate approach.

I do not think any of those arguments from the Government are particularly convincing, and the strength of the Government's opposition to straightforward, well-intentioned amendments casts doubt on Ministers' insistence that they will take any and all available opportunities to widen access to high-quality broadband and mobile connections. I hope the Minister feels able to accept either Amendment 1 or 2 today. She could do so and, if necessary, table tidying-up amendments at Third Reading. If that is not the case, I urge your Lordships to back the noble Lord, Lord Clement-Jones, should he choose to test the opinion of the House.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, I shall speak first to Amendments 1 and 2. I thank noble Lords for again bringing forward these amendments, one of which is identical to an amendment tabled in Committee. I note that amendments to this effect were also tabled in Committee and on Report in the other place. At the fourth go around, I will do my best to clarify our arguments more effectively.

As I said earlier, I believe that the intention in tabling this amendment is to ensure that this Bill benefits those who rent their homes. The noble Lord, Lord Clement-Jones, quoted from my letter on this, and I agree entirely. However, as I stated in Committee and then in the correspondence with which I followed up, the Bill already has within its scope many of those who rent by virtue of the term "lessee in occupation". The Bill makes it clear, in paragraph 27B(1)(a) of the code it inserts, that

"premises within the scope of this Part are occupied under a lease".

A tenancy agreement, which also provides for exclusive possession, is a form of lease. Any tenant with exclusive possession is therefore in scope of this Bill, and no further provision needs to be made in this Bill for such a person.

The noble Lord, Lord Livermore, and my noble friend Lord Naseby both questioned the Government's commitment to expanding access to broadband, and my noble friend Lord Naseby and the noble Lord, Lord Clement-Jones, quoted multiple examples of complexities in tenancies, but this Bill is about simplicity. There is one principle on which the ability to use a Part 4A order stands or falls: exclusive possession.

Conversely, a tenant who holds a licence—a lodger, for example—is not within the scope of the Bill, because a licence does not give exclusive possession. To be clear: that does not preclude them from contacting their licensor to request a service. I do not think it is possible to be much clearer than this. I realise that the noble Lords may be seeking to ensure that there is no ambiguity and that the legislation provides judges with all the information they might need to enable a swift and easy decision; I understand that motivation. However, I believe we need to trust the specialist judges in the First-tier Tribunal in England and Wales and those sitting in equivalent courts elsewhere in Scotland and Northern Ireland, who deal regularly with such matters.

To be as clear as possible, I will cover some of the points that I alluded to in my letter and that the noble Lord, Lord Clement-Jones, raised. For the avoidance of doubt, not all tenancies need to be in writing or formed by deed, and the case law is relatively settled in relation to this. As the noble Lord, Lord Clement-Jones, mentioned, the Appellate Committee of the House of Lords, in its judgment in Street v Mountford in 1985, found that an agreement is a lease if it provides for the following four things: first, exclusive possession; secondly, of a defined premises; thirdly, for a fixed or periodic term; and fourthly, at a rent. This is a matter of substance rather than form; it does not become a lease simply if the parties describe it as a lease. In a later case, the Court of Appeal held in Ashburn Anstalt v Walter John Arnold and WJ Arnold & Company Limited in 1989 that there is no requirement that a lease reserve a rent. As I said earlier, the distinguishing feature of a lease is that the tenant has exclusive possession of a property.

Pegging the Bill to the concept of a lessee in occupation therefore ensures that the Bill includes tenants who rent under assured shorthold tenancy or assured tenancy agreements—which, as many noble Lords will be aware, are the most common forms of tenancy agreements. It also includes tenants at will and renewable tenancies, in so far as the tenancies that are renewable had provided for exclusive possession in the first place.

To be clear: we believe Amendment 2 would expand the scope—that is clearly its intention. It would be extended to include those who occupy a property without exclusive possession and therefore under a licence, which would include lodgers, people staying in holiday cottages and those staying in hostels. That is to say, the amendment would provide someone who may be a temporary guest in someone else's home with powers over that property. I am sure your Lordships would agree that this is neither fair nor appropriate. The "lessee in occupation" allows this Bill to fit within the Electronic Communications Code while also describing that limited but nevertheless still important role for the person living in the property.

Amendment 2 would considerably increase the ambit of the Bill and make it very different from the model consulted on. This is something one should be mindful of when dealing with matters that consider property rights. It should also be noted that, for the reasons I have previously set out, Amendment 1 is not necessary because if the target premises are already "occupied under a lease", it follows that the person so occupying

will have exclusive possession. That is because the existence of exclusive possession is one of the key elements of a tenancy agreement constituting a lease rather than a licence. In a letter dated 9 June 2020, we sought to explain this to all noble Lords who had expressed an interest in this Bill in Committee. To be clear once again: the Government's intention in bringing forward this legislation is that those who occupy a flat or apartment under a tenancy agreement are in scope of this policy.

The noble Baroness, Lady Meacher, asked about the criteria for including things such as business parks. I think I said at an earlier stage of our debates that we would wait for evidence that there is a genuine demand and need to do that. The spirit of this Bill remains: we want to expand access to broadband while maintaining the balance in the relationship between landowner, operator and tenant.

My noble friend Lady McIntosh asked whether this would create further delay from the landlord. The whole point of this Bill is to try to make sure that people living in blocks of flats can access broadband in the timeliest way possible. I hope noble Lords are now assured by the fact that the Bill as drafted already works in respect of tenants and understand the reason behind "lessee in occupation" and why it may be a mistake to seek to extend the scope in the manner proposed.

I now move on to Amendment 3, which would allow telecommunications operators to apply to the courts for a Part 4A order without requiring a lessee in occupation in the property to request the provision of a service from an operator. It would therefore allow the operators themselves to determine whether the connection of the property to their network is in the public interest, in order to commence the Part 4A process. I note again that this amendment is identical to one tabled in Committee and similar in concept to others tabled throughout this Bill's passage in both this House and another place.

I appreciate the intention behind the amendment, which is to remove what noble Lords see as an unnecessary step in the process, and I am well aware that this is a point on which telecoms operators have been particularly active. However, I cannot support the amendment.

4.30 pm

In Committee, it was intimated that the Government should listen more to the operators and less to landowners, and that we should abandon our pursuit of balance with regard to telecommunications installations or else be accused of not fully supporting our own commitment to bring gigabit-capable networks to every home and business in the country as soon as possible. However, it is entirely possible to go further without upsetting that balance. Providing balance is the way in which we will end up achieving our goals, and we ignore the landowner community at our peril. We need to create a legislative environment that encourages co-operation and understanding, rather than any sense of coercion or unfairness.

The amendment has the potential to undermine the balance in the Electronic Communications Code between the rights of the landowner, the rights of the operator and the broader public interest. Unbalancing the code would erode the landowner's ability to enjoy their property and would require careful consideration, evidence and justification. The service request is an unequivocal demonstration that the interests of parties other than those of the operator alone are reflected. Again, that goes to the heart of the Bill's policy, taking into account and balancing as carefully as possible the respective interests of tenants, landowners and operators. As drafted, the Bill continues that balance. When a landowner is, for whatever reason, unresponsive, it asks for some form of evidence that an interest other than that of the operator is being served.

The Government believe that access to fast, reliable and resilient connectivity is crucial for business and society. In our opinion, it is in the public interest. However, giving operators carte blanche in every situation, regardless of context and without any oversight or proof, is disproportionate. Even the police need to demonstrate grounds to enter someone's property.

I am sure that noble Lords will agree that asking operators simply to prove, by way of someone asking for a service, that their entry into a property is to fulfil a demand is an exceptionally small burden. I am confident that any operator worth their salt would have the ingenuity to find people to take up the offer of faster, more reliable and more resilient broadband. In short, the amendment tips the balance too far in the favour of operators. It could even be so tempting as to become potentially open to abuse.

Alongside those significant concerns, I am also mindful that the amendment would mark a significant shift from the policy that was consulted on. This is something to be particularly cautious of when dealing with issues around property rights. Finally, but very importantly, it is important to note that the Bill already contains provisions that are supportive of operators while maintaining the balance that I have described.

I draw your Lordships' attention to new paragraph 27F(1)(b) of the code inserted by the Bill. It permits an operator who has successfully applied for a Part 4A order to connect not only the property of the individual who made the initial service request but, provided that there is no additional burden on the landowner, all the other premises. In the context of a multiple-dwelling building, that could therefore mean the rest of that block of flats. Therefore, I hope that it is clear that the Bill already makes significant provision for the interests of operators. With that, I ask the noble Lord to withdraw his amendment.

Lord Clement-Jones: My Lords, I thank the Minister for her response. I particularly thank the noble Baroness, Lady McIntosh of Pickering, and the noble Lord, Lord Adonis, and the noble Lord, Lord Naseby, for his reflections on tenancies and the complexities of that subject.

I agree with Amendments 2 and 3 in terms of the desirability of expanding the definition of those who have access to fibre broadband. However, I also agree with the noble Lord, Lord Livermore, that perhaps the most convenient point for the examination of expansion of rights under the Electronic Communications Code is at a point of review, such as proposed in our Amendment 7, which we will discuss later.

[Lord Clement-Jones]

Probably my first comment in response to the Minister is that I would not really have started from here regarding the way in which the definitions are provided under the Electronic Communications Code. That is borne out by the very fact that on many occasions in the Commons and in Committee here we have debated the width or not of the definition of "lessee" and "lease". We have tried to refine that and make sure that what it covers is utterly clear beyond peradventure. I believe that it is important to send a very clear signal to tenants who rent that they are covered by the Bill.

The noble Lord, Lord Livermore, was also correct to say that, if the Government felt so strongly about it, they should have offered an amendment of their own. We need to be absolutely clear about who has access to the rights under the Bill. We need to make that simple and put it on the face of the Bill. As I said earlier, if, according to the Government, our proposal is belt and braces and is not necessary, there is no harm in that, because it would give a clear signal and the interpretation of the Electronic Communications Code would be that much clearer. Therefore, I wish to test the opinion of the House.

4.36 pm

Division conducted remotely on Amendment 1

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Amendment 1 agreed.

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4.52 pm

Amendments 2 and 3 not moved.

The Deputy Speaker: We now come to the group consisting of Amendment 4. I remind noble Lords that Members other than the mover and the Minister may speak only once and that short questions of elucidation are discouraged. Anyone wishing to press this amendment to a Division should make that clear in debate.

Amendment 4

Moved by ***Lord Stevenson of Balmacara***

4: Clause 1, page 2, line 2, after "premises" insert "either—

(i) via a traditional standalone connection, or

(ii) as part of a community fibre partnership"

Member's explanatory statement

This amendment makes clear that a lessee may request a connection when acting as an individual customer or when their shared dwelling forms part of a community fibre partnership.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, Amendment 4 is in my name and that of my noble friend Lord Livermore. The amendment is an attempt to get the Government to say more about what happens to people who feel that they qualify for an upgrade to the standard set, apparently, by the USO, which is 10 megabits per second. Who pays for what, and what alternatives exist, such as the perhaps too little-known community fibre partnerships?

Shortly after Committee, I received an email from someone caught up in this issue. He told me about his experiences, which, I suspect, are not unique. He had to prove, first, that his existing service fell below the standards set by the USO. The official figures seemed to indicate that he was receiving a better service, and therefore did not qualify—apparently quite a common mistake. Who decides this? It seems that Openreach is both judge and jury in its own case. What rights do individuals have?

Having proved that he did in fact fall below the USO, alternatives were suggested to my correspondent, but they proved technically infeasible. He was, therefore, left with no option but to consider a co-payment approach that would cost him just over £18,000—not an insubstantial sum.

None of this seems very fair, so I have some questions. What alternatives do people living in isolated, and indeed not so isolated, houses have? Who decides on co-payment costs: what they are and how they should be shared? The legislation suggests "reasonable" costs: who defines "reasonable"? Is there any appeal or ombudsman process to this? What role might community fibre partnerships play in sharing costs and offering a better service? Should they not be given more prominence than they have had until now, in this area?

I do not necessarily need a detailed response to these questions. I know that the department is already in correspondence with the person who contacted me, and I am grateful for that. A letter would be sufficient at this stage. I will not be pressing this amendment to a vote, but I beg to move.

The Deputy Speaker (Baroness Garden of Frognal) (LD): The noble Lord, Lord Livermore, will not be speaking, so I call the noble Baroness, Lady McIntosh of Pickering.

Baroness McIntosh of Pickering [V]: My Lords, I am grateful to the noble Lord, Lord Stevenson, for giving us the opportunity to look at this very vexed area. Is the Minister aware of the situation and the fact that many living in isolated situations and deeply rural areas, as described by the noble Lord, feel that they are being disadvantaged in this regard? It would be helpful to know that. I entirely endorse what my noble friend said about seeking a balanced relationship between the landowner, the operator and the tenant, but can she confirm the point that I made earlier—I do not know whether she addressed it—that the landowner cannot use any delay, in any way, to prevent the service and the upgrade to a fibre network that would benefit the tenant? She would surely agree with that.

Lord Adonis [V]: I have nothing to add to what my noble friend has said.

The Deputy Speaker: Lord Naseby? Do we have Lord Naseby? Is Lord Naseby not available? In that case we will go to the Minister.

Lord Parkinson of Whitley Bay (Con): My Lords, that was quicker than I expected. I shall speak to Amendment 4. The Bill aims to support lessees to access the services that they request from the providers they want. Nothing in the Bill prevents a tenant requesting a stand-alone connection or taking part in a community-led scheme such as a community fibre partnership with their neighbours.

Community-led schemes, including community fibre partnerships, to which this amendment specifically refers, allow a group of premises to work together to upgrade their broadband connection through a joint funding arrangement with any broadband supplier that offers it. Community fibre partnerships are offered only by Openreach and are just one example of a community-led broadband scheme. Such schemes can take a variety of forms, to suit the needs of individual communities. The DDCMS itself lists six broad categories that such schemes might fall into, details of which can be found on the GOV.UK website.

It might be helpful to give some examples of successful community-led schemes. These include Broadband for the Rural North, a non-profit community benefit society run by a local team of landowners and volunteers. The scheme has so far delivered gigabit connectivity to 13,000 premises in parts of rural Lancashire and Cumbria, with further schemes planned for parts of Cheshire and Northumberland—and indeed further afield, including East Anglia.

If my noble friend Lord Naseby had managed to join this part of the debate I would have drawn his attention to Tove Valley Broadband, a community-owned and operated group in Northamptonshire—close to the constituency that he represented in another place for a long time—that has delivered fixed wireless access broadband to 650 premises. In this context I mention also Cybermoor, which provided a broadband service to some 300 premises in the South Tyne Valley, and continues to own and operate the network.

5 pm

While I appreciate the concern of the noble Lord, Lord Stevenson, about the need for more premises to be able to access such partnerships, they are not the only solution. There may also be better ways for community-led schemes to be promoted to residents so that they can take advantage of the benefits that these might offer. A variety of funding sources are available to help communities start up a community-led scheme. Grants and local authority funding are often available to help pay towards some of the costs incurred as part of a community-led scheme. The Government would therefore encourage anyone looking to form a community-led scheme to talk to their local authority—their local council—and local broadband delivery partner to find out more about the help that is available. Furthermore, we would not want this legislation to promote just one scheme, available from a single supplier, over others.

The Government have set out a number of schemes to help residents and businesses upgrade their broadband connection. These include the rural gigabit voucher scheme, in areas such as that represented for many years in another place by my noble friend Lady McIntosh, and the universal service obligation which came into effect in March this year. As noble Lords will recall from our earlier debates on the Bill, that allows householders and businesses with connections below a 10 Mbps download speed and a 1 Mbps upload speed to request a decent broadband connection. Each scheme provides a different avenue for residents and businesses to explore, depending on their individual circumstances. Subject to their terms and conditions, some of the schemes can be combined.

I am grateful to the noble Lord, Lord Stevenson, for the offer about writing with the answers to the specific questions that he raised and to continue the correspondence with the individual whom he mentioned which promoted his interest in this area. While I appreciate, understand and welcome the intention behind his amendment in drawing attention to the valuable role of community fibre partnerships and analogous schemes and promoting them to more people, I nevertheless encourage him to withdraw his amendment.

Lord Stevenson of Balmacara [V]: My Lords, I am grateful to the Minister for his comprehensive response and look forward to receiving further information in any letter that he chooses to send us. It is encouraging to hear about the initiatives that are happening around the north and around the country more generally. It is good that people are getting together, organising themselves and finding ways of reaching out to the schemes available. However, I am still struck by the phrase that nothing prevents people doing things; that is often code for "We have made money available, but somehow nobody seems to have found it." I worry that this might be the case.

I am still left with the concern that remote rural dwellers, who have done nothing wrong in their lives except to choose somewhere to live away from urban congregations, will miss out, while larger, urban centres benefit because that is where the operators can make their profits. But at this stage, I do not wish to press the amendment and I am grateful to those who participated. I beg leave to withdraw the amendment.

Amendment 4 withdrawn.

The Deputy Speaker: We now come to the group consisting of Amendment 5. I remind noble Lords that Members, other than the mover and the Minister, may speak only once and that short questions of elucidation are discouraged. Anyone wishing to press this amendment to a Division should make that clear in debate.

Amendment 5

Moved by ***Lord Alton of Liverpool***

5: Clause 1, page 2, line 14, at end insert—

"( ) there are no grounds to suspect the operator intends to use the telecommunications infrastructure, or any part of it, to breach human rights after 31 December 2023."

Member's explanatory statement

The amendment seeks to prevent companies from using UK telecommunications infrastructure to facilitate human rights abuse. This seeks to build on the transparency in supply chain provisions of the Modern Slavery Act 2015 by including the digital supply chain in telecommunications infrastructure.

Lord Alton of Liverpool (CB): My Lords, in returning to an issue which I raised in Committee on 19 May, I first thank the Minister the noble Baroness, Lady Barran, for making good on her promise to meet and to draw in Ministers from the Home Office and Foreign Office. We have held three such meetings and had several other conversations to scope out the issues. Throughout, she has been attentive, courteous and generous with her time. I am grateful to her.

I also thank the co-sponsors of this cross-party amendment: the noble Lord, Lord Forsyth, the noble Lord, Lord Adonis, and my noble friend Lady Falkner of Margravine. Their advice and that of Luke de Pulford, the founder of both the anti-slavery charity Arise and the Inter-Parliamentary Alliance on China, whose work in defence of the Uighur people has been outstanding, has been invaluable.

I greatly appreciate the encouragement of all noble Lords who have indicated their support for this amendment, some of whom we will hear from during the debate. My noble friends Lady Cox, Lady Finlay and Lady O'Loan will speak with great knowledge and conviction about why a human rights threshold must be placed in this legislation. The noble Lord, Lord Clement-Jones, who is in his place, kindly emailed me to say that he and his noble friend Lord Fox would

[Lord Alton of Liverpool]
be encouraging their Liberal Democrat colleagues to support the amendment; the noble Baroness, Lady Bennett, has indicated the support of the Green Party parliamentarians; and the noble Lord, Lord Stevenson of Balmacara, has given wise advice in seeking to persuade the Government to accept the principle, if not the detail, of the amendment. I am also heartened to have the vocal support of senior members of the Conservative Party, including that of one former party leader. I should declare that I am vice-chairman of the All-Party Parliamentary Group on Xinjiang and the Uighurs.

Noble Lords should be prepared during the debate for opponents to claim, as Governments always claim about Back-Bench amendments, that there are technical issues with the drafting and that the time is not right—but the time is never right. If the Government agree with the principle and believe that it is something that should be enshrined in legislation, I hope that during our debate they will be persuaded that it should be given further thought, and avail themselves of the opportunity which Third Reading presents in your Lordships' House to make good on the principles, if not the detail, of amendments.

Let me divide my remarks into three parts: what the amendment actually does; what the arguments are for and against it; and why a human rights threshold is needed at all. Turning to the first of those, the amendment is necessarily limited to the scope of this Bill, which deals with leased properties—for example, blocks of flats. If accepted, Amendment 5 would introduce a human rights threshold which would prevent companies involved in human rights abuses using such buildings' telecommunications infrastructure to carry out such violations. On the face of it, this feels a very narrow Bill for an amendment that is conceptually extremely broad. I will explain later why that is not so.

The broader context to this amendment will not have passed noble Lords by. It was drawn up in response to mounting evidence that certain companies are complicit in the atrocities suffered by Uighur Muslims in Xinjiang. Its purpose is to prevent such companies gaining further access, however small, to our telecommunications infrastructure. Our amendment couples with new paragraph 27B, which sets out conditions under which providers may supply internet to leasehold properties. By preventing companies using "any part" of this telecommunications infrastructure in procuring human rights abuse, the amendment necessarily includes the digital supply chain. Let us consider that for a moment.

It may not be plainly obvious to all that, when we speak of telecommunications infrastructure, we are not speaking merely about hardware. "Digital infrastructure" does not just mean wires, lest noble Lords were thinking that this amendment would prevent companies using only our actual wires or the boxes containing them to perpetrate abuses. As one common definition has it, telecommunications infrastructure means:

> "Organizations, personnel, procedures, facilities and networks employed to transmit and receive information by electrical or electronic means."

To some extent, the Government must concede this because the Bill before us also deals with personnel and facilities, not just hardware. I mention this merely to make a simple point: if companies supplying our leasehold infrastructure with internet services are also abusing human rights, our infrastructure therefore becomes a tool in that abuse.

The notion that we can carve up a digital company into the parts that are abusing human rights and the parts that are not is palpably absurd. This argument might have more credibility in a different industry, but against a background of allegations about Huawei maintaining a repository of data in China on those who use their mobile devices in other countries, it quickly falls apart.

The amendment does two significant things. It would empower the Government to deny infrastructure access to operators that they believe are abusing human rights, and it begins an important new conversation about how our modern slavery legislation might apply to the digital economy, especially regarding supply chain transparency.

I move to the second part of what I want to say to your Lordships: the arguments for and against the amendment. In Committee and during the meetings with the noble Baroness and other Ministers, it was readily conceded that Huawei poses significant human rights concerns. A principal argument was that we should kick this down the road to the telecommunications security Bill. However, one of the benefits of those meetings is that I learned from the Bill manager of the telecommunications security Bill that it will not be wide enough for such a human rights amendment to be placed on its face and to be in scope. Fortunately, this amendment is in scope and gives us an immediate opportunity to act and to set a precedent for what follows.

Two former Conservative Cabinet Ministers who support the amendment have both said, one directly to the Minister, that telling parliamentarians to wait for some other vehicle is the oldest argument in the book—they both said that they had used it in their time. We all know that kicking things down the road rarely brings a result. Indeed, it was suggested that an entirely new Bill based on the Modern Slavery Act 2015 might be the appropriate vehicle, but there is no timetable, no certainty and no urgency. An imperfect vehicle it may be, but this is the legislative vehicle currently before your Lordships' House. It can and should be used to preclude further involvement of human rights-abusing companies in our telecommunications industry.

A further argument is that the Government would not wish to introduce a human rights standard for one sector that would be different from that for other sectors. They mentioned the garment sector and said that a single set of human rights principles is required, not piecemeal legislation. This was the very argument used to justify excluding more concrete measures from Section 54 of the Modern Slavery Act 2015, which, incidentally, does not apply to all business, just those with a turnover in excess of £36 million—a point regularly made by the noble Baroness, Lady Kennedy of Cradley, who we will hear from later, and by me. In addition, one of the failings of the Act is that the supply chain transparency provisions do not really make sense to industries, such as financial services or telecommunications, that do not have traditional supply mechanisms.

A strengthening of the modern slavery legislation would be very welcome, but it is not an argument for not taking action in this sector now. I am, as the Minister knows, an incrementalist by nature—I have used the phrase to her in our conversations. If this amendment became a benchmark for other measures and industries, it would set a fine precedent, not create an anomaly. Waiting for new Acts of Parliament is like waiting for Godot. We have an opportunity to make a start by passing a declaratory amendment that will have an immediate impact—an opportunity we should take.

We have also been told that operators will face "uncertainty" because of "undefined terminology". This will therefore have a "chilling effect", which would lead to court cases. The noble Lord, Lord Forsyth, with his huge experience of serving on the boards of major companies, has said to me that any company offered such advice should sack the person who gave it. All of us can distinguish between minor infringements of human rights and egregious violations of human rights, such as those involving the use of slave labour in Xinjiang. Operators would have only to read *Hansard*, which is often cited in legal actions, to see what Parliament's intention had been in incorporating this amendment or one like it. If the issue ever did go to the courts, a judge would have no difficulty in marking the difference. This will not be a problem unless all our telecommunications operators are perpetrating human rights abuses. I certainly do not believe that is the case.

Throughout, I have made clear to the Government my willingness to withdraw the amendment in favour of one from them if it would help to better target and catch the sharks. I was initially told that that would not be possible because the department had been given legal advice that it would not be able to get an amendment in scope, but how can that be when this amendment is in scope? Even at this late hour it is still open to the Government to come forward with their own amendments at Third Reading. If the Minister can concede the principle and give such an assurance, I am sure it would be possible to postpone a Division today while further work is undertaken on a human rights threshold.

5.15 pm

I will also deal with the argument that the amendment, if it has a chilling effect, could undermine the opportunity of millions of people living in flats to access the technology. That implies a willingness of users themselves to put technology before all other considerations. In the early 19th century it was the populace who rose up against slavery. By boycotting sugar from the plantations, ordinary people gave force to the courageous but faltering parliamentary campaign to abolish slavery. I was brought up in a council flat and I know, from having represented thousands of tenants of flats in Liverpool, that Ministers should not underestimate the instinctive hatred of exploitation felt by ordinary people with no vested interest at stake. As those tenants come to an increasing awareness of the enormities being committed against Uighurs and others, they will ask why we, who have the power to act, failed to do so.

Opponents of the amendment also say that Huawei is already involved in our telecommunications structure. Yes, but that is not an argument to allow it to be involved further. When we allowed Huawei in, we did not know about its involvement in the treatment of Uighurs and other minorities, but we know now. Our question should not be: "How can we involve it further?" but: "How can we get as far away from the infamies of Xinjiang as possible?"

That brings me to the third and final leg of my remarks: why do we need a human rights threshold at all? Since the current legislation was first mooted there has been a sea change in the political climate and the mood in Parliament, in both Houses. That has been reinforced by the emergence of more and more evidence. It is why Members of another place want a Lords amendment, which would give them the chance to consider this further.

The known partnership between Huawei and Xinjiang's security bureau is not in dispute. A Xinjiang news press release quoted a Huawei director as saying:

> "Together with the Public Security Bureau, Huawei will unlock a new era of smart policing and help build a safer, smarter society".

This "smarter society" has been described by Professor Adrian Zenz, a German scholar, as

> "the largest detention of an ethno-religious minority since World War II."

The Australian Strategic Policy Institute meticulously details the global expansion of 23 key Chinese technology companies. One of its researchers, Vicky Xu, says that the idea that Huawei is not working directly with the local governments in Xinjiang is "just straight-up nonsense".

The Government do not have to believe an institute in Australia or a scholar from Germany. Senior Members of the House of Commons, including the chair of the Foreign Affairs Select Committee, have written to Dominic Raab, the Foreign Secretary, urging him—in the words of their letter—to

> "cease consideration of Huawei as a contractor or partner for the UK's 5G infrastructure until investigations have been conducted into Huawei's work in Xinjiang and its relationship to the mass persecution".

Our amendment would give flesh to those bones.

Our Government do not dispute any of this. Home Office Ministers tell us:

> "The UK Government expressed its concerns about China's systematic human rights violations in Xinjiang, including credible and growing reports of forced labour, during the recent UN Human Rights Council."

The phrase—

> "credible and growing reports of forced labour"—

and an expression voiced by our representatives at the United Nations Human Rights Council surely cannot mean that it is a case of simply business as usual. Two Foreign Office Ministers have reinforced the same message. Our own colleague, the noble Lord, Lord Ahmad of Wimbledon, has said:

> "Recent reports indicating that Uyghurs are being used as a source of forced labour add to the growing body of evidence about the disturbing situation that Uyghurs and other minorities are facing in Xinjiang."

Meanwhile, his colleague in the Commons, Nigel Adams MP, has said that there is

> "credible evidence to suggest that Uighurs are being used as a source of forced labour in Xinjiang and across China, and that if individuals refuse to participate, they and their families are threatened with extra-judicial detention."—[*Official Report*, Commons, 11/3/20; col. 149WH.]

[Lord Alton of Liverpool]

This morning, the German scholar, Professor Adrian Zenz, set out further previously unpublished evidence about the relationship between Huawei and the communist state, saying:

"We must conclude that Huawei is directly implicated in Beijing police state and related human rights violations in Xinjiang, and that it has lied to the public about this fact on at least two different occasions."

He added:

"The company does engage in business with the security services in Xinjiang, worked with them for years on dedicated, custom-made security solutions, and it even proudly advertises how they are being operated. In 2014, Huawei received an award from Xinjiang's Ministry of Public Security for its role in establishing citywide surveillance systems."

Professor Zenz has also published a new paper suggesting that the dramatic decline in the birth rate among the ethnic minority communities in Xinjiang may indicate the promotion of a targeted birth prevention strategy which, along with the destruction of cemeteries, reports of mass incarceration, indoctrination, extrajudicial detention, invasive surveillance, forced labour and other crimes could point towards the crime of genocide. In an Associated Press report this morning, a Newcastle University academic describes what she calls"

"a slow, painful, creeping genocide."

Other noble Lords will explore these questions further and spell out why a human rights threshold is so urgently needed.

Given all that we now know, the question for Parliament is whether it is willing to turn a blind eye and let Huawei march on regardless. In Committee, I drew a parallel with Siemens and its role in the Reich when, 80 years ago, it built its vast commercial interests on the backs of slave labour in Ravensbrück. Do not let us pretend to ourselves that this is any different; it is not. While a delay may suit the Government, it does not suit the Turkic Muslims in western China. For all these reasons, I commend the amendment to the House.

Baroness Falkner of Margravine (Non-Afl): My Lords, it is a pleasure to have added my name to the amendment moved by the noble Lord, Lord Alton of Liverpool, whose expertise on human rights is paralleled by no one else in this House.

Deng Xiaoping, one of China's most impressive leaders, had a lesson for his countrymen: "Hide your light and bide your time," he told them. What he meant by that was that China's power was extant but that it needed to be cautious as it became more important to the world for fear that the disruption that rising powers bring to the international system might paradoxically damage its interests. Under President Xi Jinping, this has been thrown aside as China stakes out its ambition as a global hegemon.

The current impasse between the United States and China is often referred to as the "Thucydides trap", from his description of the Peloponnesian war. The idea is that, when two great powers are rivals for the top place, they will inevitably come into conflict. The choice then for middle-level powers, like the United Kingdom, is to decide on which side of the conflict they sit. I do not subscribe to this view of the inevitability of conflict, not least because the US is a democracy that operates with public accountability and checks and balances. The Chinese people not only have no such right of democratic consent, but for many of them the fact of their birth seals their fate—think of Xinjiang or, to a lesser degree, the Hong Kong of the future.

As we enter a harsher state of international relations, the display of Chinese power, some would say assertiveness, poses choices for the rest of us—those who are middle-ranking powers, be they Germany, France or even India—as we will have to confront it in the years ahead. The choices will be around values, economics and the rule of law.

If this Parliament has any meaning, it is as the expression of constitutional democracy. Its very purpose is to protect the citizens of this country from harm, be it their national security, however narrowly defined, or, more broadly, their privacy, their finances and their jobs. It is the job of the Government today to partner with Parliament in order to uphold those functions. We are not seeking to undermine the Government through this amendment; we are simply asking them to uphold their own responsibilities in the protection of the interests of the United Kingdom. That is the context in which the Modern Slavery Act and this amendment should be seen.

So let me speak of our values. I have not heard anyone outside China deny that, without trial, it has thrown more than 1 million people in Xinjiang province, the ethnic Uighur Muslims, into gulags. It has built internment camps, carried out a programme of forced and compulsory re-education and, as the *Economist* magazine put it this week,

"They have been selected … because of habits such as praying too often to Allah, showing too much enthusiasm for their Turkic culture or refusing to watch state television."

Add to this the fact that men are not allowed to grow a beard, even during Ramadan, women are not allowed to wear headscarves—something I have witnessed myself in Beijing—and they are forced to eat pork, which is reminiscent of the treatment afforded to the Muslims of Spain during the Spanish Inquisition. This is the largest round-up of a minority anywhere since the Second World War who, since these people do not face charges in a court of law, do not know when they will be released. Today, we have also seen evidence that Uighur women are undergoing forced sterilisation.

According to several different reports from academics in the US, Australia and Germany, one of which has already been mentioned by the noble Lord, Lord Alton, the Chinese have official schemes to send tens of thousands of ethnic Uighurs from the camps to perform forced labour all across China. Factories are paid by the Government for each worker taken. They live in dormitories with watch-towers and undergo forced indoctrination—we called it brainwashing in the old days—and are unlikely to be paid. All of this is in violation of international human rights law.

The Australian Strategic Policy Institute has named 83 companies which have used this forced labour. When the firms are challenged on their supply chains, they ask us to work with them to change behaviour through legislation. They are so frightened of Chinese economic power that they need essentially to hide behind us, the western countries, to pressurise China. The Chinese companies whose products we use have

no such qualms. While the US is moving towards stronger legislation as regards the use of Uighur forced labour by firms, we are not asking for that in this amendment; we are merely asking the House to vote to uphold legislation that it has passed previously, the Modern Slavery Act 2015.

Let me turn to the potential harm that high-risk vendors can pose to our citizens. As Eric Schmidt, the former CEO of Google, has explained with regard to the future of the internet and telecommunications, the most likely scenario that we in the West are facing is bifurcation of the internet into a Chinese-led internet and a non Chinese-led internet led by America. When describing the Chinese alternative, he has said:

"There's a real danger that along with those products and services comes a different leadership regime from government, with censorship, controls, etc."

That should serve as a warning about defending our rights.

At the heart of Chinese attitudes towards its tech dominance is a view of cybersecurity. At the second World Internet Conference held in 2015 in Wuzhen in China, President Xi Jinping defined cyber sovereignty as something that

"covers all aspects of state-to-state relations, which also includes cyberspace. We should respect the right of individual countries to independently choose their own path of cyber development, model of cyber regulation and Internet public policies, and participate in international cyberspace governance on an equal footing."

Of course, we know that there is no international cyberspace governance that China subscribes to. It pushes us to incorporate its firms into our markets, but it does not give our firms market access. It is a vision of global corporate dominance that is based on unfair competition, data capture and flagrant breaches of commercial law. What is evident is that this idea of cyber sovereignty does not extend to other countries following their own path, as he advocated. No sooner did Australia announce that it did not want high-risk vendors such as Huawei and ZTE in its 5G network than it got the most vociferous bullying campaign directed against it.

Huawei—the high-risk vendor in question here—tells us that it is

"a private company wholly owned by its employees"

and therefore independent of the Chinese state. I think that the notion of independence is stretched in this description. Huawei is headquartered in China, regulated in China, while the lack of transparency in its financial and technological rise is not verifiable in terms of the transparency in corporate governance that we subscribe to here in the West. The founder, Mr Ren Zhengfei, and his daughter, Ms Meng Wanzhou, are members of the supervisory board, while almost all the members of that board have been at Huawei since the 1990s—something that corporate governance norms would frown at. We can safely deduce that the very fact that they have been there for some 25 to 30 years implies that they are party men and women.

5.30 pm

Leaving all that aside, the Chinese national intelligence law of 2017 provides for its national intelligence institution to request assistance from the country's firms. This entirely compromises Huawei's ability to respect our firewalls or laws. It cannot give us an assurance that, if and when it is asked by the Chinese state to divulge our citizens' data and usage to the Chinese intelligence service, it will not do so. Lest anyone is confused about which state's law has primacy in this regard, it may be instructive for the House to know that when China kidnapped a Swedish citizen recently, it justified it on the basis that a Chinese citizen who goes on to adopt a different nationality is, in Chinese eyes, still a Chinese citizen. You cannot simply repudiate the citizenship of your birth, as the people in Hong Kong well know; you cannot be safe in any foreign jurisdiction.

Sir John Sawers recently told the "Today" programme that, as we enter this period of difficult international relations, we need to be aware of the costs. The real battle, he predicted, will be 6G or 7G; by the time we need to make those choices, we will inevitably be locked into what economists describe as path dependency. There will be no choice but to do our master's bidding, as we will have voluntarily, and with our eyes open, given away our interests—and, yes, our cyber sovereignty.

Finally, let me touch on the argument that is bound to be made during this debate: that this amendment is not for this Bill, which is merely about getting broadband into flats. My question to those speakers is this: why do they think that a short delay to allow other western companies to compete for this business is not worth it? Why do they no longer have confidence in our western companies to produce technology? Do they think that those flat dwellers who might benefit from 5G will thank them when they discover that the product they are using has been made with slave labour and could jeopardise their future cybersecurity?

The issue before the House is simply a matter of understanding that the choices we make have consequences. The consequences here are: that we are endorsing slave labour; the risk that we are compromising our citizens' security; and that we are on the wrong side of risk when we give privileged access to our national infrastructure to players who not only do not play on a level playing field but in fact have fixed the game before our players even reach the pitch.

I have been asked to indicate how I expect to vote. I will reserve my judgment until I hear what the Minister has to say. I will then decide whether or not to press our amendment.

Lord Forsyth of Drumlean (Con) [V]: My Lords, I am speaking to the House virtually, using equipment manufactured by a company which is central to the Communist Party of China's surveillance state, and, as such, to the egregious oppression of religious and other minorities. My BT Openreach equipment is made by Huawei, one of whose directors openly boasted that:

"Together with the Public Security Bureau, Huawei will unlock a new era of smart policing and help build a safer, smarter society."

It will be "a new era" indeed: an era of detention without trial for bloggers, journalists, academics and dissidents; an era of televised forced confessions; an era of torture, enforced organ harvesting, compulsory sterilisation, and the destruction of crosses and their churches.

I commend to the House the evidence-based report by the Conservative Party Human Rights Commission entitled *The Darkest Moment: The Crackdown in Human*

[Lord Forsyth of Drumlean]

Rights in China, 2013-16. It makes for very disturbing reading. It details how a pastor's wife was buried alive while protesting at the demolition of a church in Henan province, and how Falun Gong prisoners were forced to donate organs to high-ranking Chinese officials.

Giving evidence to the commission on organ harvesting, the Chinese-born actress Anastasia Lin said that such acts force us

"to confront the question of how humans—doctors trained to heal, no less—could possibly do such great evil".

Her answer was that:

"The aggressors in China were not born to be monsters who take out organs from their people … It's the system that made them do that. It's the system that made them so cold-bloodedly able to cut people open and take out their organs and watch them die."

As a consequence of her criticism of the regime, Miss Lin's family were threatened by state security agents, and her Canadian sponsors were asked by the Chinese consulate to withdraw their support to her. I believe that a new report, under the chairmanship of Fiona Bruce MP, is to be published shortly. It concludes that the situation is worse now in China, not better.

Of course I understand the importance of getting the nation connected with fibre; I support this Bill in its objectives. However, I congratulate the noble Lord, Lord Alton of Liverpool, on his ingenuity in bringing forward this amendment, and on the courage and courtesy he has shown in bringing it to this stage. I also thank the Minister, who has been diligent in listening to arguments and representations.

As the noble Lord, Lord Alton, predicted, the Minister will say that this is not the right vehicle to address my concerns for national security and human rights. I was a Minister for 10 years, and I would love a pound for every time I used that particular argument. If, however, the argument is correct, an undertaking to bring forward in future legislation an amendment to exclude Huawei and other high-risk vendors from our network should be given by the Minister, with a commitment to introduce it quickly. In that case, there would be no need to press the matter today. So far, the Government have failed to give such a commitment, but it is not so difficult. After all, speaking from the Front Bench on 27 January, my noble friend Lady Morgan of Cotes—who we will hear from shortly—gave the whole House an assurance that

"high-risk vendors never have been and never will be involved in our most sensitive networks".—[*Official Report,* 27/1/20; col. 1300.]

If so, all that is required is dropping the qualification "most sensitive", and recognising the difficulty of maintaining effective security with 5G systems which are software-based.

The Australian Strategic Policy Institute has detailed how Huawei is implicated in the world's most far-reaching surveillance state. In a BBC "Panorama" documentary, Adrian Zenz, a German academic who the noble Lord, Lord Alton, referred to, spoke of the Chinese Government's actions in Xinjiang:

"The world should acknowledge this for what it is: the largest detainment of an ethnic minority since the holocaust."

I repeat: "since the holocaust". Our Five Eyes allies have rejected Huawei. As was pointed out by the previous speaker and fellow signatory to this amendment, the noble Baroness, Lady Falkner, if we allow our dependency on Huawei to grow, how much more difficult it will be for us to take a stand for national security, decency and human rights.

Huawei is not without friends in high places. The noble Lord, Lord Browne of Madingley, chairs the UK board, and in April it was announced that Sir Mike Rake, former chairman of BT and president of the CBI, was joining the board. Other members include the Lord Lieutenant of London, Sir Ken Olisa, and Sir Andrew Cahn, the former head of UK Trade & Investment. From a quick online search, I could not find what the UK board of Huawei does, or what roles the directors carry out. However, championing the human rights of oppressed groups in China is certainly not one of them.

This amendment would simply require the Chinese Communist Party and its state-controlled company, Huawei, to meet fundamental standards of humanity if they wished to operate in UK telecommunications in the future. It is hard to see how anyone in your Lordships' House could be against that. As the noble Lord, Lord Alton, pointed out, Ministers and officials have confirmed that the telecommunications security Bill will not be amendable to secure human rights obligations, so, in the absence of a government commitment to bring forward an amendment at Third Reading, this is our only chance to stand up for the millions of people in communist China who have been robbed of their freedom and whose lives are a misery because of their beliefs and ethnicity. I urge all noble Lords to support the amendment in the name of humanity.

Lord Adonis [V]: My Lords, I support the amendment and applaud the noble Lord, Lord Alton, for consistently drawing the attention of the House to systematic and unsupportable violations of human rights in respect not only of China but so many troubled regions in the world.

The key issue in respect of Huawei and this Bill is how we balance two priorities. The first is the modernisation of our national infrastructure and the second is seeking to support improvements in human rights in China. I have come to human rights issues relating to China only fairly recently, because of the obviously worsening situation. The key issue is that just raised by the noble Lord, Lord Forsyth: whether human rights in China are getting significantly better or significantly worse. It is clear that it is the latter.

My prime concern previously as the founding chairman of the National Infrastructure Commission, working with all parties in the House, has been the modernisation of our infrastructure. In that role, I published two reports, one on the importance of a rapid rollout of 5G, so that we could be world leaders in that respect—as we need to be—and the second on the poor state of our 4G coverage, where we are well below international benchmarks and have been strongly engaged with Huawei. I am therefore very mindful of the importance of infrastructure modernisation and working with international partners in that regard.

However, it is clear to me at this crucial juncture, as we start the rollout of 5G and seek to improve 4G, that we have to do so sustainably. I do not believe that

it will be sustainable over the medium term, which is what we need to look to in the rollout of 5G and what comes after it, if we are dealing with a Chinese regime not only systematically abusing human rights but doing so to a steadily worsening degree. If that is the situation we face, we need to move sooner rather than later in looking for alternative suppliers. I can say to the House from my experience of chairing the National Infrastructure Commission that we would not be putting ourselves at a significant disadvantage if we did not engage with Chinese suppliers. There are plenty of very good European suppliers of telecoms equipment. Our German friends—I always look to Germany as a model for how we should develop in these areas because it is normally ahead of us—have managed to engage in this technological development without the need to engage with Chinese suppliers. I am also mindful that our security partners, notably the United States and Australia, have given us strong public, and even stronger private, advice not to go with Chinese suppliers in respect of 5G.

We have heard in shocking detail from the noble Lord, Lord Alton, about systemic human rights abuses in respect of the Uighurs as well as within the traditional territory of China, but the House is mindful that we face an escalating crisis in respect of Hong Kong which is taking on a human rights dimension. It is the Hong Kong dimension that has most strongly alerted me to the fact that the situation may be unsustainable.

5.45 pm

I have sat through several debates on Hong Kong in the House during the past year without participating. Until the recent security legislation was introduced in the national people's assembly of China, it was striking how our debates took the form of concerns being raised at the treatment of democracy protesters in Hong Kong but reassurance being given by Members of the House, particularly legal Members, that we should not worry unduly because, under the Sino-British agreement on the return of Hong Kong to China, the Court of Final Appeal in Hong Kong, the majority of whose members are not drawn from Hong Kong but include overseas judges, including a number of distinguished UK judges, constituted the final court of appeal in this matter and it was absolutely observant of the need for human rights.

In one debate in the House which had a great influence on me, on 10 April 2019, the noble Lord, Lord Ahmad, the Minister of State at the Foreign and Commonwealth Office, said that

"it remains our position that Hong Kong's rule of law remains robust, largely thanks to its world-class independent judiciary. Many Members know that Baroness Hale, Lord Hoffmann and others are members of that independent judiciary … Hong Kong citizens are guaranteed the right … of assembly and demonstration under the Sino-British declaration of 1984 and the Basic Law, and in a democracy it is important that these things are respected."

Many other noble Lords and noble and learned Lords made similar remarks. The noble Baroness, Lady Northover, from the Liberal Democrat Benches, asked the Minister whether he agreed

"that any sign that members of the independent judiciary … feel unable to continue would be very serious indeed? The Minister will know … of proposals to change Hong Kong's extradition laws to enable suspected criminals to be extradited from Hong Kong to the mainland. Does he agree that that is extremely concerning?"

The Minister did agree, but again said that the role of the independent judges in Hong Kong's Court of Final Appeal would see that these issues were properly safeguarded. The noble Lord, Lord Pannick, whom the House holds in extremely high regard in these matters, intervened in the same debate to ask the Minister whether he would emphasise that

"the Basic Law protects the independence of the judiciary; and … in practice, the Hong Kong judiciary is as independent as any judiciary in the world? I declare an interest as a frequent advocate in the Hong Kong courts both for and against the Government of Hong Kong."

The noble and learned Lord, Lord Woolf, a former Lord Chief Justice, who has also been a member of that court, said that

"having been a judge of the Court of Final Appeal in Hong Kong and having served my term there … my experience is the same as the other experiences the House has heard about. Hong Kong deserves great credit for the way it has ensured that the rule of law functions efficiently".—[*Official Report*, 10/4/19; cols. 502-5.]

The problem is that the new security law, which has not yet been published but has been agreed in principle by the congress of people's deputies, which is what passes for a parliament in China, specifically overrides this Court of Final Appeal, which we have been told is our assurance that we will not see systematic human rights abuses in Hong Kong as well as in the wider territory of China. We are told that it is quite likely that the independent judges of the Hong Kong Court of Final Appeal will not play a role in dealing with national security cases and that the court might not be the ultimate public body that judges such cases. A Reuters special report from 14 April this year, as the law was being prepared for the congress of people's deputies, stated:

"The state-controlled press on the mainland has warned Hong Kong judges not to 'absolve' protesters arrested during last year's demonstrations. Judges and lawyers say there are signs Beijing is trying to limit the authority of Hong Kong courts to rule on core constitutional matters. And people close to the city's top judge, Geoffrey Ma, say he has to contend with Communist Party officials pushing Beijing's view that the rule of law ultimately must be a tool to preserve one-party rule."

We know that that is the view of Xi Jinping, the increasingly totalitarian ruler of China, because he said that the law in China should serve the purpose of the one-party state. When I interviewed Kevin Rudd—who is enormously experienced in these matters and not alarmist to any degree—for the *New European* recently, he told me of his view that Xi Jinping's approach to law and the assertion of the one-party status of the Chinese Communist Party is in a wholly different category from the tradition set up by Deng Xiaoping in the years after Mao and is a return to the Maoist assertion of one-party rule.

We appear to face a position on human rights that is getting systemically worse, not better—especially in respect of Hong Kong, where we, the United Kingdom, have treaty obligations to maintain its liberty and see that the Sino-British declaration is observed, and where, in a short period of time, we could be faced with major breaches of that joint declaration. In that context, it seems a sensible precautionary step for us to prepare

[Lord Adonis]
for the development of our next phase of national infrastructure without needing to depend crucially on Chinese state companies. The sooner we do that, the better.

Finally, I note that when the law we have referred to, which threatens to abrogate the fundamental human rights of Hong Kong, was submitted to the National People's Congress on 28 May this year, it was agreed by a vote of 2,878 to one. That tells us all we need to know about the safeguards for the rule of law and improvements in human rights in China. It should make us extremely alarmed.

Baroness Morgan of Cotes (Con) [V]: My Lords, I thank your Lordships for the opportunity to speak in this important part of the debate. I agree with much of what the previous four speakers have said with great power and conviction, although I reach a different conclusion from theirs on this amendment.

This House and the other House are signalling to the Government that both this issue and broader ones—such as the UK's relationship with China in the light of recent events, security considerations, telecoms considerations and the involvement of Chinese companies in the UK—need serious review by the Government. I would argue that that review is best led in a calm and sober way by the Foreign Office and senior Ministers, with them not necessarily spending too much time on it. It is impossible to do that important review justice in the context of this Bill; I hope to set out why that is the case in the few moments that are available to me.

In Committee, I said that the noble Lord, Lord Alton, raised an important issue. He has spoken about setting a human rights threshold; he is right to do so and to remind us that, in terms of our international relationships—including investment by foreign companies in the UK's infrastructure—it is right to think about sustainable investment, as the noble Lord, Lord Adonis, just talked about, and that that has to include human rights considerations.

The noble Lord, Lord Alton, is also right to talk about transparent supply chains. There is no reason why the digital supply chain or the telecoms supply chain, which we are talking about today, should be different from other supply chains. That means that they should be considered as a whole, rather than sector by sector. The UK has led the way on modern slavery, particularly under the previous Prime Minister. Many people in both Houses, including the noble Lord, Lord Alton, have quite rightly campaigned on it for many years. Again, the UK should consider this area soberly and as a whole.

The noble Baroness, Lady Falkner, talked about data capture and mentioned one particular company, which I will come back to. There is a lot of concern about the data that is captured from everybody's mobile infrastructure, computers and networks by big tech companies. Again, that is another area of debate that it would serve us all well to consider as a whole.

This is a particularly short and focused Bill. The noble Lord, Lord Alton, and others rightly anticipated the arguments that would be made about why this is neither the right time nor the right place for this amendment. Just because that has been anticipated does not mean that the arguments that I suspect the Minister will put in her response are not the correct ones. The Bill is about helping around 10 million people living in flats and apartments to have the right to ask their landlords to help them get better internet connectivity. In recent weeks, we have seen just how important better connectivity is and how things will continue like that. More people will work from home and more young people will probably end up doing more online schooling from home in the years to come. Obviously, we do not know for how long Virtual Proceedings or remote voting will continue in this House, but we need resilient and stable broadband connectivity to be able to participate. Those 10 million people are entitled to ask for that to be applied to them too.

The Bill was originally drafted to remove a specific barrier: that of landlords not engaging with telecoms operators. Other pieces of legislation will remove other specific barriers as well. The amendment talks about operators but, as noble Lords have talked about, the concerns that are outlined stem from one particular company and one particular country, neither of which is a telecoms operator. What is happening is that operators in the UK are seeking to use some Huawei equipment for 4G and 5G capability.

As the noble Lord, Lord Alton, said, the phrase "human rights" is extremely broad. Anybody who has ever dealt with the local planning process will know that, at some point, somebody comes along and says, "I'm going to object to this on the grounds of my human rights." That is a very different set of human rights considerations from the human rights that, as noble Lords have set out, are being abused and where what is happening in China is seriously concerning.

As I said, this broad and important debate needs to happen but I would argue that making this amendment to the Bill will stop those who want to rely on better connectivity being able to do so. The noble Baroness, Lady Falkner, asked why those people could not perhaps have a short delay while other companies were found. The noble Lord, Lord Adonis, rightly pointed to other suppliers that may be able to replace Huawei in the buying of equipment. From looking at this very closely when I was the Digital Secretary, I can tell noble Lords that, while there is the possibility of other companies wanting to enter this market, none is yet in a position to do so. The Government have rightly committed to working with other suppliers to make sure that we are not in this position again in future, but it will take some time.

On delays, the amendment talks about these restrictions not coming in until 2023. So, some scope for delay was already built in and we are apparently saying that it is okay for operators to work with the companies under concern until 2023, but that cannot be right if the concerns outlined by noble Lords are absolutely valid and urgent, as they have suggested.

As I say, this debate is obviously about one company and one country. The concerns are all perfectly valid but they would be better placed in a broader debate. To those who have talked about our dependency on Huawei growing, I say this: that is absolutely not what the UK Government have committed to. The Government

have made it very clear that dependency on Huawei is to be reduced. I absolutely understand this and think that we should push the Government to make sure that that commitment is followed up on; we should also see what the glide path down to zero involvement by Huawei is and how quickly that is going to be achieved.

As I say, our relationship with China needs a proper broader debate; this is a short and focused Bill that does not need any more barriers put in its way, when it is designed to remove a barrier in order to enable millions more people to have a chance to have better, faster broadband. I hope that discussions can continue between the proposers of the amendment and the Government. There may well be an opportunity to revisit this amendment, and certainly the broader debate, in future. However, if this amendment is put to a vote tonight, I will not support it.

6 pm

Lord Parkinson of Whitley Bay: My Lords, I am conscious that we have had nearly an hour's debate already on this and have a large number of noble Lords who wish to speak to this amendment. I appreciate that one of the difficulties of our current arrangements is that noble Lords might feel they have to make speeches of considerable length to pre-empt what my noble friend the Minister might say. The *Companion* allows a Minister to speak early if it might assist the House so, with the leave of the House, I suggest that she makes her speech at this point, to cover points that noble Lords might be anticipating.

Baroness Barran: My Lords, I thank the House for the opportunity to respond to this important debate at this stage, and the noble Lord, Lord Alton, for his very generous words. I found the meetings with him and the noble Baroness, Lady Falkner, really important and valuable. Again, I reiterate my respect for everything that he and his co-sponsors are doing to raise awareness of human rights abuses all around the world, even though many of the examples that we have listened to this afternoon are hard to hear.

In responding to the contributions from your Lordships, I will first address the invitation from the noble Lord, Lord Alton, and his co-sponsors to bring this issue back to the House on Third Reading—in his words, "at this late hour". Then I will turn to the implications that this amendment would have on the operability of the Bill. This Government take human rights immensely seriously, and that is why I entirely support all noble Lords in bringing these issues to the fore, and I understand why they are bringing forward this amendment so that this important discussion can take place.

From the outset, I say that I have definitely felt the strength of feeling conveyed by your Lordships, whether virtually or physically, in the debate today. I very much welcome the invitation from the noble Lord, Lord Alton, to meet to work on this issue ahead of Third Reading, and to discuss it with him and his co-sponsors in greater detail, with the aim of addressing it in a manner acceptable to the House. I hope that clears up that point at this stage.

I return to the amendment. It is difficult when all my arguments have already been put so eloquently by your Lordships, but I will try and explain, genuinely, that we face twin difficulties in accepting the amendment as it stands. The first, importantly, is that we do not believe that it will achieve the aims of the noble Lords who support it. Secondly—and I absolutely understand that this is not your Lordships' intent—it will wreck the purpose of the Bill, which is to facilitate the provision of fibre broadband to leasehold properties, starting with blocks of flats.

Perhaps I should repeat at this point that the Bill is about broadband, not about 5G. A number of noble Lords referred to 5G in their speeches and, to be clear, the Bill does not cover 5G.

Regarding the impact of the amendment in practice on human rights abuses, I urge your Lordships to note that the Bill is not about awarding contracts to particular vendors of equipment; as we have discussed, it is about making it easier for telecoms operators—the companies that, as my noble friend Lady Morgan said, are working so hard to keep this country connected during a public health emergency—to apply property rights to install a connection when a landlord is repeatedly failing to engage with them.

The noble Lord, Lord Adonis, mentioned the importance of finding alternative providers of equipment and, as my noble friend Lady Morgan pointed out, we are actively working on that. We have plans in process to promote it, but this is not a quick or instant win. Rather—I think the noble Lord, Lord Alton, referred to this—the amendment will impact companies such as Openreach and Virgin Media, which I think account for about 96% of the infrastructure in this country. It will not bite directly on the companies about which noble Lords have expressed their concern today.

My noble friend Lord Forsyth suggested that companies such as Huawei and, I assume he implied, other high-risk vendors could grow in the network. My noble friend will remember that in January the National Cyber Security Centre put a limit of 35% in our networks for high-risk vendors and is banning those vendors from the core of the network.

I will come back in more detail to the upcoming telecoms security Bill, which a number of your Lordships mentioned, but it is fair to say that it will give more clarity and certainty to operators about the use of high-risk vendors. Therefore, until that legislation has been passed, it is unlikely that operators would make firm commitments with regard to the future procurement of equipment, so the trend is down rather than up.

I hope this helps to clarify why the amendment will not address the truly awful practices raised by the noble Lord, Lord Alton, and others and will not affect the equipment manufacturers that may be complicit in human rights violations. This leads me to my second point, which is the inadvertent outcome of the amendment. That will be to take away the safety net we seek to provide to those living in blocks of flats who, due to an unresponsive landlord, are being left behind in our national upgrade to gigabit-capable broadband. Our concern is simply that operators will not use Part 4A orders and will continue their activity of seeking to expand their networks across the country. That will almost certainly leave behind the 14% of the population who live in blocks of flats, because there is an undoubted chilling effect that the uncertainty in the law created by the amendment will have.

[Baroness Barran]

Noble Lords will be aware that the Internet Service Providers' Association, which represents the operators in the field, has expressed its concern that,

"in its current wording, amendment 5 would introduce legal uncertainties and as drafted could open network operators to unforeseeable legal challenges. As a result, we believe it would be less likely that operators would seek to make use of the powers in the Bill. This would reduce the effectiveness of the Bill and obstruct the delivery of gigabit connectivity across the UK".

Our understanding is that these challenges would relate to potential breaches of different human rights from those debated today. Due to the ambiguity of the amendment's drafting, the disputes over its wording could generate legal wrangling over whether the amendment relates to domestic human rights such as the right to "peaceful enjoyment of property". I am happy to give your Lordships examples of this, but the key point is the uncertainty that would be created. That uncertainty is mirrored in the fact that there is currently no agreed definition of telecoms infrastructure, so the operators would be concerned, given the inter-operability of different parts of the network. The noble Lord, Lord Alton, gave an example of exactly that—there are parts of the network over which they have no control. I stress that we do not believe that this is what the noble Lords who tabled the amendment intended but it is the consequence that we see in practice. We believe that, to define telecoms infrastructure, litigation would need to be relied upon to provide that clarity, which could take a long time. In the meantime, many families would miss out on access to broadband. So, our concern is that the Bill would not be used, which means that the amendment would not have the intended effect.

I hear your Lordships' claims that the issue requires urgent redress. That is why it is being been raised in this Bill. I understand and have sympathy for what they are saying in this regard; as I said at the beginning of my remarks, I would be very happy to meet to find a way to bring this issue back at Third Reading, in a manner that is acceptable to the House. However, we are saying that this amendment risks restricting broadband access for 10 million people living in blocks of flats—people who, as we have discussed several times recently in the House, are most in need of the opportunity to participate in society, particularly in these extraordinary times.

We want respect for human rights to be at the centre of all business that takes place in this country. It is not right, nor, in our opinion, good lawmaking, to have a provision in legislation focused on a very narrow and specific problem faced by residents of blocks of flats who are currently struggling to get a broadband connection. The Government absolutely share noble Lords' concerns about human rights and modern slavery. We are fully committed to promoting respect for human rights in business and eliminating modern slavery from the global economy. Where we have concerns, we always raise them in national and international forums.

Given the provenance of some telecommunications equipment, I understand that noble Lords are particularly concerned about the situation facing the Uighur population in China. The Government have raised serious concerns about the situation in Xinjiang on numerous occasions, including with the Chinese Government directly. We have serious concerns about the human rights situation in Xinjiang, including the extra-judicial detention of over a million Uighur Muslims and other minorities in so-called political re-education camps, the systematic restrictions that we have heard described today on Uighur culture and the practice of Islam, credible reports of forced labour and extensive and invasive surveillance targeting minorities.

We have consistently demonstrated global leadership in our efforts and continue to evolve our approach. The UK was the first state to produce a national plan to respond to the UN's guiding principles on business and human rights. The plan sets out our expectations of UK businesses' conduct; we updated it in 2016 and continue to develop our approach, particularly concerning how we incentivise business action to prevent modern slavery in global supply chains.

6.15 pm

As many noble Lords will be aware, under Section 54 of the Modern Slavery Act the UK became the first country in the world to require businesses to report on how they identify and address risks of modern slavery in their operations and supply chains. We are well aware that, due to the complexity of global supply chains and the prevalence of modern slavery across the world, almost no company can consider its supply chains immune from this crime. That is why we believe that transparency in supply chains is key—we agree with the noble Lord, Lord Alton, on that point—and that we need businesses to be as transparent as possible about the risks in their supply chains, to take meaningful action and to commit to long-term improvements as the threat of modern slavery constantly evolves.

It is also crucial that the Government adapt and learn from our approach. That is why in July 2018 the Government commissioned the noble and learned Baroness, Lady Butler-Sloss, Maria Miller MP and Frank Field to undertake an independent review of the Modern Slavery Act 2015 to look at the effectiveness of the Act and at whether specific areas of the legislation, including Section 54, needed to be strengthened. The Government responded to the independent review in July 2019 and accepted or partially accepted the majority of the review's recommendations. My colleagues at the Home Office are taking forward these recommendations. Work is under way to develop a new GOV.UK registry for modern slavery statements. This service will raise the bar for transparency and make it easier for consumers, investors and civil society to hold businesses to account.

The Home Office has also consulted on proposed measures to strengthen the transparency in supply chains reporting requirement, including an extension of the legislation to large public bodies—an issue raised by your Lordships in Committee—the introduction of mandatory reporting topics and stronger enforcement mechanisms for non-compliance. I am pleased to confirm that the Government will be publishing their response to the consultation this summer. The Modern Slavery Act 2015 remains the right place to address forced labour and modern slavery abuses of the type that this amendment seeks to address. As I have already said, all businesses that operate in this country should respect human rights law.

As I said earlier, noble Lords are aware that the Bill in front of the House today is in its practical operation focused on fixed-line—that is, broadband—connections, rather than 5G or mobile infrastructure, but I will now make reference to 5G and the important matter of network security. I assure noble Lords that the forthcoming telecoms security Bill and the security of our 5G infrastructure as a whole is a priority for this Government, now more than ever. We are working as rapidly as we possibly can, both to make sure that the implications for us of recent action by the United States are fully understood and, above all, that we more broadly are able to take the appropriate course of action in relation to high-risk vendors. As my honourable friend the Minister for Digital Infrastructure said at the conclusion of Third Reading in the other place:

"The Government have heard loud and clear the points made in all parts of the House."—[*Official Report*, Commons, 10/3/20; col. 214.]

When the telecoms security Bill comes forward soon, it will create one of the strongest regulatory frameworks for telecoms security in the world and give the Government powers to address the presence of high-risk vendors in our network. The telecoms security Bill will help drive forward the extensive work that the Government, and in particular my department, are urgently leading on diversifying the supply chain of companies in our 5G networks, as we heard from my noble friend Lady Morgan. This is ever more important as we press forward our nationwide rollout of 5G and full fibre.

I have been talking for some time, so I will conclude by asking the noble Lords, Lord Alton and Lord Adonis, the noble Baroness, Lady Falkner of Margravine, and my noble friend Lord Forsyth to consider five points. First, the amendment would severely damage the rollout of broadband to 10 million people living in blocks of flats. Secondly, the impact of the amendment would fall on the operators and not the vendors, who the sponsors of the amendment seek to impact. Thirdly, it would create an unlevel playing field in terms of human rights, with a different standard in this element of the telecoms industry compared with others. Fourthly, we now have clarity on the timing of the Home Office response to the modern slavery consultation, and finally—this is the third time I have said this—I gladly accept the offer made by the noble Lord, Lord Alton, to meet and discuss this issue with a view to bringing it back at Third Reading. Again, I thank noble Lords for allowing me to speak at this point in the debate.

Baroness Kennedy of Cradley (Non-Afl) [V]: My Lords, I thank the Minister for her comments. In response, I will cut my remarks short.

I very much support the amendment in the name of the noble Lord, Lord Alton, and I am sure that he and other noble Lords will welcome the Minister's offer to discuss this further before Third Reading. The Minister says that this will wreck the purpose of the Bill, but I do not accept that. As the noble Lord, Lord Alton, has said, he welcomes a government amendment setting a human rights threshold that has support across this House and does not wreck the Bill but supports its purpose. We could then achieve both recommendations.

For me the issue is very simple. As the Minister set out, the Government see themselves as leaders in the fight against modern slavery. However, if you have world-leading legislation on modern slavery, it is incongruous not to seek to stop any part of our digital supply chain for the UK being used to prop up forced labour in human rights abuses in other countries.

I am very pleased to hear the Minister's commitment to discussing this further and to bring it back at Third Reading. Obviously, whether we divide on this issue tonight is a matter for the noble Lord, Lord Alton. If we do, he will have my support. If we do not, he will have my support at Third Reading.

Lord Cormack (Con) [V]: My Lords, I must begin by saying that it was unfortunate that the Minister intervened at the point that she did. It illustrates to me how unsatisfactory a virtual or hybrid Parliament is. There is no real opportunity to hold the Government to account, and that is what Parliament is about. Had she come in at the end, my inclination would probably have been to say that the noble Lord, Lord Alton, should not put his amendment to the House this evening, but I am bound to say that if he does, he certainly will have my support, if only to send a signal that we are not content with the way in which Parliament is conducting its business at the moment.

I will say just a few words about the issue. My parliamentary hero was William Wilberforce. I even wrote a short biography of him to mark the 150th anniversary of his death, way back in 1983. Above all things, his career showed that determination and persistence are essential if you are going to triumph in a great cause.

I shall always be proud of what our country achieved in abolishing the slave trade and then the institution of slavery itself and of the part our Royal Navy played in seeking to stamp it out around the world. But slavery still exists, and it seems quite extraordinary that, at a time when all manner of things are being said outside this House, we should be contemplating any sort of alliance with a company that is an arm of a totalitarian state.

When I came into the other place 50 years ago, the first post I took on was chairman of the Committee for the Release of Soviet Jewry, a persecuted minority within the then Soviet Union in the middle of the Cold War. I always remember sending a Jewish Bible to a young man at his bar mitzvah signed by virtually every Member of the other place, including the Prime Minister, Edward Heath, and the Leader of the Opposition, Harold Wilson. It was sent back.

That showed that gestures made in Parliament have a role and an importance. Inserting this amendment, or something very like it, into the Bill, although it might be a little inconvenient, would say something fundamentally right, important and true. We cannot allow ourselves to appear weak as China gathers in strength and importance. We must also remember that we have a treaty obligation to the people of Hong Kong. It is important that we do all we can to ensure that the Chinese honour that international treaty.

I move off the subject merely because I am rather cross and because I do not believe that this is the way to conduct parliamentary business. The future might

[Lord Cormack]
be very bleak unless we are prepared to show the Chinese that if they want real respect, they must have regard for the rule of law and the way in which they treat their people. Less than 20 years after we sent that Jewish Bible to Moscow, the Berlin Wall came down. I rest my case.

Lord Blunkett (Lab) [V]: My Lords, I had intended to make a substantive contribution on human rights, the much broader foreign policy and trade implications, and on where this country stands, but in light of the intervention of the noble Lord, Lord Parkinson, and the wind-up of the Minister, I see no point making that speech this evening. Therefore, I will rest for another day.

Baroness O'Loan (CB) [V]: My Lords, I support the cross-party amendment in the name of my noble friend Lord Alton. I do so as a lawyer who held the Jean Monnet Chair in European Law at the University of Ulster and who has been involved in work on human rights throughout my professional life. Monnet once said that

"beyond differences and geographical boundaries there lies a common interest."

Humanity's common interest in fundamental human rights is at the heart of this amendment, flowing as it does from the 1948 Universal Declaration of Human Rights. The preamble to that declaration proclaims

"the inherent dignity and … the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world … disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind".

That was 72 years ago. It was the outrage at the crimes of the Nazis that led to the promulgation of the 30 articles, the first being the right to life itself.

The declaration states:

"No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms … No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment … No one shall be subjected to arbitrary arrest, detention or exile … The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

There is a right to believe, not to believe or to change belief. There are employment rights, including the right to just and favourable conditions at work.

6.30 pm

Monnet's insistence that we have a common interest in upholding civilised standards was a belief shared with Eleanor Roosevelt, one of the key figures in crafting the universal declaration. In 1948 she reminded us:

"Democracy, freedom, human rights have come to have a definite meaning to the people of the world which we must not allow any nation to so change that they are made synonymous with suppression and dictatorship."

Yet that is what is happening in China at this time, and that is what the amendment enables us to address.

As we have heard from my noble friend Lord Alton and many others, these human rights are routinely violated by the Chinese Communist Party, and the well-documented horrors faced by the Uighurs in western China are simply the latest well-known example. Think of the last words of a Uighur father to his son: "Son, they are taking me." The father of 34 year-old Kuzzat Altay is believed to be among the estimated 1 million people forced into political prison camps in the most severe clampdown on human rights since the Cultural Revolution. Altay said, "I don't know if he is still alive. None of my relatives now are outside the concentration camps."

Claims that perhaps 1 million—perhaps as many as 3 million—Uighurs, Kazakhs and other ethnic groups have been driven into these camps have been made by respected human rights organisations such as Human Rights Watch and have been accepted by the United Nations and many others. Satellite images show the scale of the camps, and British diplomats who have visited Xinjiang state say that these reports are broadly accurate. The UN Committee on the Elimination of Racial Discrimination has described the region as

"a massive internment camp shrouded in secrecy, a 'no rights' zone, while members of the Xinjiang Uyghur minority, along with others who were identified as Muslim, were being treated as enemies of the State based on nothing more than their ethno-religious identity."

Uighurs have been arrested and sent to the camps for simply having WhatsApp on their mobile phones, for having relatives living abroad, for accessing religious materials online, for visiting particular countries or for engaging in religious activities. Often no reason is given at all. They have no access to legal counsel or mechanism for appeal, and often the family are not told where the detainee is held or when they might be released. They do not know whether their loved ones are alive or dead.

Mihrigul Tursun, a Uighur who managed to escape, testified at a hearing at the United States Congress. She said:

"I was taken to a cell, which was built underground with no windows … There were around 60 people kept in a 430 square feet cell … We had seven days to memorise the rules of the concentration camp and 14 days to memorise all the lines in a book that hails the Communist ideology … They forced us to take some unknown pills and drink some kind of white liquid. The pill caused us to lose consciousness … I clearly remember the torture … I was taken to a special room with an electrical chair … There were belts and whips hanging on the wall. I was placed in a high chair that clicked to lock my arms and legs in place and tightened when they press a button. My head was shaved … The authorities put a helmet-like thing on my head. Each time I was electrocuted, my whole body would shake violently and I could feel the pain in my veins. I thought I would rather die than go through this torture and begged them to kill me."

There are increasing concerns that the Uighurs are subject to DNA tests, and there is significant suspicion that they have been targeted for forced organ donation and biometric surveillance. Little wonder that commentators have said that it is hard to read that as anything other than a declaration of genocidal intent.

It was to combat the recurrence of such horrors that the 1948 universal declaration was crafted. Those drafting it, one a Confucian philosopher from China, are long dead and the idealism that drove them can barely be heard in a climate in which commerce trumps human rights abuses, as it inevitably does in our relationship with the People's Republic of China.

The imbalance between the value of commerce to a country such as ours and the reality of the human rights abuses happening in the People's Republic of

China challenges our government Ministers. They have to respond to proven findings about gross human rights abuses, false arrest and imprisonment, torture, the murder of citizen detainees for forced organ harvesting and other state murder by the People's Republic of China of some of its citizens. Such unfathomable cruelty and abuse of human rights is beginning to be accepted by our Government; we heard the Minister today acknowledge some of that abuse.

The China Tribunal, chaired by Sir Geoffrey Nice QC, released its report in March this year. It contains shocking new evidence of a continuing state-run programme of forced organ harvesting in China. The inquiry says that the organised butchery of living people to sell body parts could be compared to the

"worst atrocities committed in conflicts of the 20th century"

such as the Nazi gassing of the Jews and the Khmer Rouge massacres in Cambodia. The People's Republic of China shows no sign of moderating its abuses and the Uighurs and others in Xinjiang suffer gross abuses of their human rights. They are vulnerable to the destruction of their identity by enforced birth control and are at risk of becoming human organ banks. But nothing, or nothing much, will be done by the Government because the damage caused by even trying to extinguish such abuses comes at what seems to be perceived as an unacceptable cost to trade, and ultimately to our other legitimate interests.

The public's ability to access truth is now becoming recognised as what should be a new human right—the right to know what actually goes on in such difficult and troubled times. By this amendment, which has been endorsed by senior Queen's Counsel, the reality of what is happening can be made known to our people through our national processes. Our parliamentary processes can save us from collaborating with a company empowered and enriched by the mass crimes it facilitates elsewhere. That will show the People's Republic of China and the Chinese Communist Party that the balance between human rights abuses and commerce will change and that the human rights violations in which they routinely engage will be rejected.

Better connectivity can come about for the 10 million people about whom the Minister has spoken. It does not need to have the input of companies that base their profitability on abuse of human rights. Huawei is not the only company that might tender, but it is surely a basic premise of our international trading arrangements that we do not exploit those such as the people about whom noble Lords have spoken in our own commercial interests.

We have the power to act. The 10 million will still get their better connectivity if we do so. We all understand what we mean by human rights. We must now have the courage to act. My noble friend's amendment allows us to have that courage and, if a Division is called, I will vote content.

Baroness Cox (CB) [V]: My Lords, I shall speak very strongly in support of the amendment, and I welcome the strong cross-party support for this defence of the values of freedom, human rights and dignity. Because of time constraints, I have excised much of my speech, so I ask noble Lords to forgive me if it is a little disjointed.

I particularly pay tribute to my noble friend Lord Alton, who tirelessly champions the cause of human rights for many parts of the world. I have had the privilege of travelling with him to China and North Korea on three occasions, and we have worked together on human trafficking, modern slavery and freedom of religion or belief. I declare an interest as co-chair of the All-Party Parliamentary Group for International Freedom of Religion or Belief.

In that context, I have become increasingly alarmed about the escalating tragedy facing the Uighur people in Xinjiang. This has been well documented by the renowned expert Professor Adrian Zenz, who has already been mentioned, the Australian Strategic Policy Institute, Human Rights Watch, the Uyghur Human Rights Project and other human rights organisations. The Uighurs are being subjected to a campaign of ethnic and religious persecution that has resulted in an estimated 1 million—and perhaps as many as 3 million—being incarcerated in prison camps. We have heard details of some of the terrible tragedies from the noble Baroness, Lady O'Loan.

Last November, over 400 pages of leaked Chinese government documents exposed the regime's intention towards the Uighurs. Urging that "absolutely no mercy" be shown, the so-called Xinjiang papers provide an insight into thinking at the very top of the Chinese regime towards the Uighurs, other minorities and all forms of dissent or difference. There is abundant evidence, which I do not have time to give examples of.

Regarding mass atrocities, let us not ignore the judgment of the independent China Tribunal, chaired by the distinguished barrister Sir Geoffrey Nice. Last year it found that the forced harvesting of human organs from prisoners of conscience in China has been widespread, and there is no reason to believe that it has stopped. It is the judgment of a seven-member tribunal that this amounts to a crime against humanity. I hope that in due course the Minister will update the House on the Government's response to the findings of the China Tribunal.

Although much of the focus is, rightly, on the Uighurs, it should not be forgotten that China is undertaking a massive crackdown on religious freedom. A new report by CSW entitled *Repressed, Removed, Re-Educated: The Stranglehold on Religious Life in China* details violations of freedom of religion or belief endured by all faith communities. I have time to give only one example. Just after Christmas, Pastor Wang Yi was sentenced to nine years in prison on charges of subversion simply because he suggested that Xi Jinping is not God.

These examples of suffering and human rights violations are relevant to this debate because of, for example, the use of surveillance technology to monitor religious practice. Surveillance cameras have been placed on church altars; facial recognition technology has spread throughout Xinjiang; and artificial intelligence has been deployed in an Orwellian re-enactment of *Nineteen Eighty-Four*, with consequences for all forms of dissent, especially religious practice.

In a debate in the other place on the question of Huawei, Sir Iain Duncan Smith said:

[Baroness Cox]

"Imagine that in 1939 we had been developing our radar systems and decided to have one of the Nazi companies in Germany directly involved."—[*Official Report*, Commons, 4/3/20; col. 274WH.]

I understand that the engagement of Siemens in Nazi concentration camps has now come to light. Corrie ten Boom, in her powerful book *The Hiding Place*, provides a warning for us all. If we choose to turn a blind eye to the mass atrocities in the concentration camps in Xinjiang, and we welcome Huawei and other companies complicit in human rights atrocities without adequate safeguards, we potentially open ourselves up to comparable complicity.

I end with a fundamental concern. This is not about China or Chinese companies as such; it is about human freedom. I have visited China many times, and I love and deeply respect the majority of Chinese people. I admire their dynamism and entrepreneurialism. This is not, and must never be, a battle between nations, and certainly not a battle between peoples. It is a conflict of values between open, democratic societies and repressive, cruel regimes, which repress their own peoples and threaten others.

That is why I strongly support the amendment and would certainly vote for it. Although people everywhere might benefit from advances in technology, which are so important, those who seek to misuse such technology to harm and enslave their own people and to compromise our values must not be allowed to succeed.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, I fully support this amendment and am grateful to the noble Lord, Lord Alton, and his colleagues for pursuing it so strongly. My particular interest is in stopping the systematic killing of prisoners of conscience for the commercial exploitation of organ transplants. Chinese transplant volume grew thirtyfold between 1999 and 2005, and the number of transplant hospitals increased from about 150 to over 1,000 by 2007. China quickly came to perform the most transplants in the world, despite the absence of a voluntary organ donation system. The industry has continued to grow.

My particular concern with this amendment is that it was reported that between January 2017 and spring 2018, approximately 5 million Uighur Muslims were arbitrarily detained for unwanted blood, tissue and DNA tests. These were followed by the recent mass detention of Uighur Muslims in Xinjiang province and fuelled suspicions that tests were part of a commercial organ drive by China.

6.45 pm

In 2018 an independent inquiry into forced organ harvesting from prisoners of conscience was begun in London. Known as the China Tribunal, it was chaired by Sir Geoffrey Nice QC. In its final judgment it concluded:

"Forced organ harvesting has been committed for years throughout China on a significant scale and … Falun Gong practitioners have been one—and probably the main—source of organ supply. … Crimes Against Humanity against the Falun Gong and Uyghurs has been proved beyond reasonable doubt".

There is even more concern following a report from the Australian Strategic Policy Institute that Huawei has developed a monitoring system used in a network of detention camps holding Uighur Muslims in China's north-western Xinjiang region. The noble Lord, Lord Forsyth, has already quoted the chilling words from a Huawei director in support of what that person described as an "era of smart policing" to

"help build a safer, smarter society."

Chilling words indeed.

Unfortunately, like many other countries, the UK has pulled its punches when talking to China about these abhorrent practices. Of course, as the *Economist* pointed out this week, China's economic power has helped it to avoid censure regarding its abuse of the Uighurs. Many companies in the West appear reluctant to use any leverage they may have to put pressure on China. That is not helped by the reluctance of so many countries to upset China. I agree with my noble friend Lord Adonis: we have to develop other suppliers before it is too late.

The Minister gave us a very positive response during our debate. She said she recognises the strength of feeling among Members and is prepared to meet with the noble Lord, Lord Alton, and colleagues before Third Reading. Those are very generous offers. She also spoke about her objections: that the amendment as drafted does not meet the intent, not least because the Bill is about broadband and not 5G; and that the Bill is essentially about broadband connections where the landlord is not co-operating, and the amendment would inhibit that. I have no doubt that the noble Lord, Lord Alton, and his fellow sponsors of the amendment will consider carefully these serious points—but was the noble Lord, Lord Cormack, not right when he said that ultimately the time has come for the UK Government to make a stand? The fact is that this is the Bill before us; it is an opportunity for us to do so. If the Government do not want this amendment, it is up to them to come forward with something else at Third Reading to show some teeth—including, as the noble Lord, Lord Alton, has said, a human rights threshold.

Lord Blencathra (Con) [V]: My Lords, I can be reasonably brief since the key points have been very well made by the noble Lord, Lord Alton, my noble friend Lord Forsyth and others who have spoken in favour of the amendment. I hope noble Lords will not feel constrained to curtail their remarks, since we have only one other item of business tonight and nothing better or more important to do than this amendment. I strongly support its purpose: to stop companies complicit in the atrocities suffered by Uighur Muslims in Xinjiang province from gaining further access to our telecommunications infrastructure.

There is no doubt that Huawei works hand in glove with the People's Liberation Army—indeed, it was founded by an officer of the PLA—and if anyone believes that Huawei could have grown to the size that it has without complying with every instruction of the communist regime, then please continue living on Mars. Huawei is a tool of the communist regime's security forces. As has been said, it has boasted of working with the security bureau to build a safer society. Of course, what it means by "safer" is hundreds of thousands of Uighurs locked up in concentration camps, where they will be forcibly re-educated from

believing in their God. This amendment would debar any companies from participating in our digital networks if they are involved in human rights abuses.

I also remind my noble friend the Minister and this Conservative Government of the 70-page authoritative report published in 2016, outlining countless human rights abuses in China. It has already been referred to by the noble Lord, Lord Alton, and my noble friend Lord Forsyth. As part of its conclusions, the report refers to

"the scope of human rights abuses in China and the Chinese Communist Party's infiltration and expansion in the world reaching a level unprecedented since the Tiananmen Massacre in 1989."

It goes on to say that perhaps the most noticeable development

"is how China has turned state-owned mass media into a quasi court to convict detained human rights defenders before they appear for trial."

As my noble friend Lord Forsyth said, I understand that the Conservative Party Human Rights Commission is finalising a new report that will come to even more devastating conclusions about the appalling human rights abuses perpetrated by the communist regime.

Huawei is involved in human rights abuses with the Chinese Communist Party regime's security services. Note that nearly all of us in this debate are not criticising the Chinese people; we are referring to the Chinese communist government regime. Thus, the amendment would debar Huawei in this country and I commend it to the House. If the Government do not accept it, I hope that the noble Lord, Lord Alton, will push it to a vote. I am afraid that I will have to support him. I also hope that all those people active in the Twittersphere will mount a massive campaign to draw attention to every Huawei user that they are supporting slave labour by using its products. It is more important to tear down the edifices of current abuse, rather than ancient statues.

Lord Empey (UUP) [V]: My Lords, I am sure that my noble friend the Minister realises that, in proposing a Bill which I support in principle, she finds herself caught up in a vast argument about not only rights but the security implications of using a company that is hand in glove with the Government of China.

I am not anti-Chinese. I have great admiration for what they have done. I am aware of the privations that they suffered during World War II, for example. The current regime has got so powerful largely because we in the West exported our manufacturing capacity to China, but it now poses a threat to many of its neighbours. There are the situations on the border with India and in the South China Sea. It is creating island bases for its military. A whole range of things is happening.

What does that have to do with the Bill? I hear what the Minister says and I understand what she is trying to tell us. Yes, she legitimately raises issues, in particular about people's ability to access broadband, which we all want. However, she also has to recognise that many of the complications she highlighted could be resolved if the Government brought forward their own amendment. The unusual actions to, in effect, try to close down the debate at such an early stage were unfortunate and are backfiring on the Government, because Members are angry about how this country seems to be ambivalent about how it handles its relationship with the Chinese Government, and not only on security issues.

It is not, however, only about China. Our electricity infrastructure is owned largely by the French Government. Lots of our transport infrastructure is owned by the German Government. Very soon, moreover, significant slices of our telecoms infrastructure will be owned by the Chinese Government. This country has to decide what it wants. The fact that this amendment is passing by Parliament at the moment is why so many of us feel that we have to send a signal.

With regard to scope, and whether things are appropriate in a particular Bill, I also draw my noble friend's attention to the Northern Ireland (Executive Formation etc) Bill, which came before this House with virtually no proper parliamentary processes and dealt with very significant social issues—in a Bill that had nothing whatever to do with the subject matter before the House. The Government can, therefore, in many respects do what they want, and I say to my noble friend that the solution to this problem is for the Government to bring forward their own amendment. If I caught what she said correctly, however, she does not seem prepared to do that. She is prepared to meet the noble Lord, Lord Alton; that is good, but she is hoping to steer him and the House away from sending a signal.

The Chinese Government need to get the message that the patience of the West is not infinite and that there are circumstances in which we are ready to act. While this may seem a very minor issue in comparison with others, I believe that the significance of sending a signal is probably worth the downsides that she has pointed out. The Government themselves can resolve this at Third Reading. I would be very happy to take guidance from the noble Lord, Lord Alton, at the end of this debate. Should he call a Division, I will support him.

The Deputy Speaker (Lord McNicol of West Kilbride): Following the earlier intervention of the Minister, the noble Baroness, Lady McIntosh, and the noble Viscount, Lord Waverley, have withdrawn. I now call the noble Lord, Lord Hain.

Lord Hain (Lab) [V]: My Lords, I thank the Minister for her gracious and generous intervention—or speech. Having long campaigned for human rights globally, especially against apartheid, where I called for commercial sanctions against the regime and complicit companies, I applaud the noble Lord, Lord Alton, for his compelling speech and for co-ordinating Amendment 5 and tabling it on a cross-party basis.

I support, to the point of voting for it if he calls for a vote, its objective, which is to ensure that Huawei has to respect human rights in order to operate within the terms of the Bill. The Chinese state, which sponsors Huawei, has made at least 1 million Uighur Muslims in Xinjiang the victims of mass internment, torture and a brutal assault on their human rights. President Xi is now also, some say deliberately, allowing a coronavirus outbreak to plague Uighur Muslims, who are herded into these internment camps—cramped, with terrible sanitation and medical facilities—and are

[LORD HAIN]
therefore very vulnerable, in what is an ideal breeding ground for Covid-19. The important point is—I end on this—that, as the German scholar Adrian Zenz shows in his report, Huawei is a part of the security services in Xinjiang; in other words, this giant corporation is complicit in all the horror, and this amendment seeks to end at least that, within the terms of this Bill.

Baroness Northover (LD) [V]: My Lords, the noble Lord, Lord Alton, and others have laid out the human rights abuses that are emerging from China, particularly in relation to the Uighurs. The possible complicity of Huawei in this is a charge that it must answer. We cannot turn a blind eye to this, which is why we support the amendment.

I hear what the Minister has said about engaging with the movers of this amendment prior to Third Reading. I look forward to hearing whether the noble Lord, Lord Alton, feels that this is likely to address his, and our, concerns.

7 pm

Lord Balfe (Con) [V]: My Lords, there is never a best time to do these sorts of things, is there? However, I want to start by agreeing strongly with my noble friend Lord Cormack that this has been a most unsatisfactory way of conducting a debate. We have lost all the spontaneity that we get in the House and it is a very false atmosphere.

Let me move on. Huawei is a commercial company. I have done a lot of reading during this lockdown. One of my recent books has been the last volume of Volker Ullrich's German account of the life of Hitler—*Hitler: Downfall 1939-45*. It showed that not only Siemens but a vast quantity—virtually all—of German industry was behind the Government, using slave labour and knowing exactly what it was doing. I do not believe that Huawei does not know exactly what it is doing, and if we deal with them, we are complicit.

I noted with pleasure the dissertation on Monnet by the noble Baroness, Lady O'Loan. I had 10 years in the European Parliament and was its representative on the board of governors of the Jean Monnet Foundation. I remind the House that the other great notable invention of the late 1940s was Eleanor Roosevelt and the ILO, setting down standards of labour which are blatantly abused by the Chinese Government. The ILO and China do not appear to be on the same paragraph or even on the same page.

This morning, as a member of the legal affairs committee of the Council of Europe, I attended a virtual meeting where one of the matters of report was the charging of Hashim Thaci from Kosovo. He has been indicted by the International Court of Justice in The Hague on charges of organ harvesting, so there is no doubt that not only is that practice disallowed in Europe, it is seen as a war crime. We need to bear in mind all those points.

As they say in the police service, China has form. Years ago, I was the joint chair of the Hong Kong friendship group of the European Parliament. We had constant pressure from China. It did not like us going to Hong Kong or our support for the democratic structures, and it certainly did not like Governor Chris Patten when he was there trying to push a democratic agenda. I also went to Taiwan. An official protest was lodged by the Chinese Government with the European Parliament at the mere fact that I had gone there. So there is a lot of form; many of us will remember that anyone who meets the Dalai Lama very quickly gets the black spot put on them, including our former Prime Minister David Cameron; when he met the Dalai Lama, he was subject to two years of freeze from the Chinese Government.

I think we have to draw the line. At some point, we have to recognise that China is not on our side and we have to re-evaluate. It is not just the case of Huawei, but of getting together our colleagues in the Five Eyes, where we are already on the wrong side, in the European Union and elsewhere in what we always used to call the free world to join together and recognise that the performance, values and behaviour of the people of the Republic of China are anti everything we stand for.

We are supporting this amendment. Perhaps the Minister is right that it is not the most appropriate Bill to tack in on to, but my good colleague, my noble friend Lord Forsyth, is also right that Ministers have to use the best argument they can find. This is the only Bill we have. I must say I am suspicious about what we will get at Third Reading and about whether we will get a proper opportunity. I would rather send this back to the Commons, let the Commons debate it and let the Commons—the elected House—come up with a solution. I hope very much that the noble Lord, Lord Alton, will divide the House because I think the Government would benefit from having the opinion of the Commons much more than a Third Reading debate in this House where it all might still go wrong.

Lord Holmes of Richmond (Non-Afl) [V]: My Lords, the mover of the amendment has spoken, the Minister has spoken and now I have spoken.

The Earl of Sandwich (CB) [V]: My Lords, the Minister said in Committee that she would be getting the latest advice from the National Cyber Security Centre. I appreciate that she will give a fuller answer on the security Bill—when it comes—on high-risk vendors, such as Huawei, and the level at which the UK will tolerate them. So that is good.

I admire my noble friends and all noble Lords supporting this amendment, because every opportunity should be taken to highlight the atrocities going on in China, whether in Tibet, Hong Kong or Xinjiang. I still bear a grudge from the time when the noble Lord, Lord Goodlad, and I, as Cambridge students, were denied entry to China, despite the support of sponsors and known sinologists, such as Joan Robinson and Dr Joseph Needham. A friend of mine, Christian Tyler, wrote a book about Xinjiang 15 years ago, describing the emergence of a Uighur people rich in their own cultural and religious traditions. How could Beijing turn 10 million people into potential terrorists? No wonder some turned into freedom fighters. One of them came here—the Uighur leader of some 1 million people in exile, Rebiya Kadeer—at the invitation of myself and Lord Avebury.

All noble Lords heard how the Minister shares these concerns. Mass detention and brainwashing are the latest stage only of a long campaign by Beijing to suffocate the Uighurs, and to eradicate their culture, history, language and religion. The basic aim is to secure China's penetration and economic control of central Asia, northern Xinjiang being the key crossing point for the belt and road initiative. We have already heard of Huawei's work in that area.

China's GDP per capita has risen, mainly because of this enormous trade and investment outreach, much of which is with this country, despite the international sanctions. In business, such as the telecoms Bill before us, it seems our international contact is still at its most active. That is surely good reason for this amendment. Human rights should be on the Explanatory Memorandum and impact assessment of every treaty and business agreement we look at in this House. As my noble friend said, this amendment provokes a new conversation, involving our own Human Rights Minister, the present Minister, and strengthening the Modern Slavery Act and its reporting requirements—as the Minister said. I hope the telecom authorities and the Government will think seriously about the necessity for the amendment, and that my noble friend divides the House.

Baroness Finlay of Llandaff (CB) [V]: My Lords, I appreciate the way that the House authorities and all Benches have worked to enable us to challenge the Government safely, and am glad to conduct our business from the safety of isolation.

I support this amendment introduced by the powerful speeches of those sponsoring it and that of my noble friend Lady O'Loan. She described the horrors, yet many more as yet undescribed are happening. We are horrified at home by even small acts of violence towards people whose characteristics are protected in our laws, so how can we ignore gross violations elsewhere, turn a blind eye and pretend all is well out of convenience to ourselves?

History repeats itself. In the Second World War, in the early 1940s, concentration camp victims were used as workers by Siemens and many others. Now, we have ever-growing evidence of gross abuses of human rights in China. The chilling evidence from the independent tribunal of Geoffrey Nice QC found overwhelming evidence of forced organ harvesting. Yet we fail to act on its findings. We need legislative teeth, not sympathetic noises and wringing of hands. Professor Zenz's report, published today, reveals the forced sterilisation of Uighur women in Xinjiang and the high internment rate of women in retraining camps. His supplementary paper on the relationship with Huawei, also published today, finishes:

"We must conclude that Huawei is directly implicated in Beijing police state and related human rights violations in Xinjiang, and that it has lied to the public about this fact on at least two different occasions."

We must not be actors in history repeating itself because anything looks convenient or a bargain. We must not become complicit in human rights abuses on a massive scale. I will borrow the words of Andrew Griffiths, the then honourable Member for Burton, in a debate last March on forced organ harvesting:

"we have seen this before ... If we look at history, we see that there were opportunities for Governments to intervene and act, but they did not".—[*Official Report,* Commons, 21/3/19; col. 46WH.]

Now is the time to say "This must stop" and to uphold our values in all our commercial dealings. We must develop other supply chains. We must produce our own consumables, PPE and hospital equipment, not only telecoms equipment. However, as the noble Lord, Lord Balfe, said, we must start somewhere. If my noble friends, led by the noble Lord, Lord Alton, test the opinion of the House, I will vote "Content" with them. If not, we must hold the Government to account to bring forward proper protection of human rights, and it will be to our shame if we do not act.

Lord Fox (LD): My Lords, I was going to promise to be brief but, after the attempt of the noble Lord, Lord Holmes of Richmond, I am not quite going to match his brevity. We have heard some very powerful speeches and some very broad speeches today, and noble Lords are to be commended for that. However, there is one group of people who have not yet been mentioned, and that is the management and the directors of the companies potentially sourcing equipment to deliver the infrastructure in this country. Every company, in any business sector, has the potential to impact a range of human rights issues, and it is up to the board of that company to understand the impact it is having and to deal with it. This amendment, powerfully spoken to by the noble Lord, Lord Alton, and others, sends an important signal to businesses in this sector.

In her speech, I think I heard the Minister say that the impact was transferred from the equipment suppliers to the operators. Well, the operators are the people who source this equipment. Their boards have a responsibility to their shareholders and wider society to make sure that they do the right thing. It is clear that more boards are taking these issues more seriously, and this debate and subsequent changes should provide more emphasis for future boards and those future discussions. It has also permeated into the fund management world. Increasingly, investors look to invest in companies that act ethically and do the right thing.

This has been a huge debate but, narrowly speaking, we should expect our companies in this country to act ethically, and we should, as legislators, give companies as much guidance as we can regarding what that means in principle. That has been the nature of this debate.

Therefore, if the noble Lord, Lord Alton, decides to press this vote, we will support this amendment from these Benches, as we have said. If, however, he chooses to discuss with the Minister bringing something back on Third Reading, we would also support that—but what is brought back has to be substantive; it has to be real. I do not think the mood of the House can be satisfied by something that seems to push this into the long grass.

7.15 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, this has been a very interesting debate, not least, as others have said, because of the way in which it has been structured. I do not think anybody who has seen "Hamlet" will have seen the death of Hamlet and the

[Lord Stevenson of Balmacara]
ensuing chaos placed right at the beginning of the play, but things seem a bit like that tonight. I jest—I should not do so because it is a very serious issue—but in some ways it was not unhelpful to have heard the Minister earlier on. She was certainly able to reassure us that it is in her mind to make an opportunity for this issue to come back at Third Reading; I hope that the Government back this when she responds.

Between now and then we may have a bit more time than we originally thought to engage with those who have spoken today, as I believe there is no date yet set for Third Reading. The noble Lord, Lord Alton, in particular made a wonderful speech and covered the ground so carefully, but others came in behind him and raised issues of substance. I hope these will be put forward in the best possible spirit as a rallying call for those who have concerns in this area to seize this opportunity, even though it is not perfect, to begin to stake out ground that should be at the heart of all our engagements with manufacturers and others concerned with the sorts of issues that have been raised today.

I ask the Minister to be as explicit as possible in her responses to a number of points. Is she content for this issue to come back to the House at Third Reading in a form that allows the noble Lord, Lord Alton, to raise the issues covered by his amendment? We do not have a date for that. Can she assure us that we will have time to meet the noble Lord, Lord Alton, and his co-sponsors, and to engage with other voices in your Lordships' House who care about this, with the aim of finding sufficient common ground to table an amendment that will do justice to the case that has been made today? Will she confirm that her earlier statement, mid-debate, did not stifle this process? I suggest that, as a result of the amendment which we hope to get together to discuss, we start by ensuring that at least we have a process in Parliament that clearly demonstrates that Ministers take Section 54 of the Modern Slavery Act seriously, and are prepared to bring their decisions to Parliament for discussion.

Baroness Barran: My Lords, I start again by thanking your Lordships for giving me the opportunity to speak, rather unusually, in the middle of this very important debate. In no way was there any intention to shut down the debate. I hoped that clarifying the Government's position would allow noble Lords to focus their remarks. I offer my thanks again for that flexibility.

I would like to address two things. First, a number of noble Lords raised the point about companies needing to do the right thing. Of course the companies that we are talking about are in compliance with the Modern Slavery Act and Section 54 but, as the noble Lord, Lord Alton, knows better than probably the rest of us put together, there are problems and issues with the teeth of Section 54; that is, in a way, at the heart of his amendment and will be at the heart of our response to the consultation later this summer. Secondly, I would like to reflect on the comments of the noble Lord, Lord Stevenson, and others, so as to bring absolute clarity to my remarks.

I hope that I echo exactly the suggestions of the noble Lord, Lord Stevenson, if I confirm that I am happy and content to bring this issue back at Third Reading. We will also allow time for the noble Lords, Lord Alton and Lord Stevenson, and others who have spoken today to address the issues raised by the noble Lord, Lord Alton, in his amendment. We will endeavour to find all the time possible to have sufficient ground to bring back a government amendment. I hope that the concerns of the noble Lord, Lord Alton, will be rooted in that amendment and with that, I ask him to withdraw his amendment.

Lord Alton of Liverpool: My Lords, we have been privileged to hear outstanding speeches from many outstanding Members of your Lordships' House. We have heard moving, powerful and well-informed contributions throughout the debate. I have great admiration for the sincerity and integrity of the Minister, and the House will be relieved to know that the word "but" does not now follow—at least, not just yet.

I am not precious about the wording of the amendment but I am determined about the principle. The Minister will understand that the House has been determined about that in speech after speech today. The frustration that her noble friends Lord Cormack and Lord Balfe expressed about our procedures and the inadequate way—inevitably, because of the current circumstances—in which we have dealt with this has, I think, not been lost on her either. I have to tell the Minister that a flurry of messages I have been receiving, from those who contributed to the debate and people outside the Chamber, are saying "Please press this to a vote". It is therefore a tricky thing to decide what to do in these circumstances. After 40 years of battles on the Floors of both our Houses, I am long enough in the tooth to recognise a change of heart when I see it. I see the beginning of a change of heart in what the Minister has said to us today. I am pragmatic about these things; I believe one should accept that in the spirit in which it has been given and try to build on it.

This is where the "but" falls. The four sponsors of the amendment may be called many things—indeed, we all have from time to time been called many things—but I think we have never been described as naive and none of us are gullible. We are all seasoned in the practical art of politics and will of course be wary of Greeks and their gifts. In other words, if the Government are able to produce a human rights threshold with teeth —as the Minister has been urged to do by the noble Lord, Lord Stevenson, speaking from the Opposition Front Bench; by the noble Lord, Lord Fox, speaking for the Liberal Democrats; by my noble friend Lady Falkner and many of the Cross-Benchers who contributed to the debate; and, most notably really, by many of her own noble friends because this goes left, right and centre, not just in your Lordships' House but in the House of Commons—we must find a way to catch the sharks but not the minnows. That is at the heart of what the Minister was saying, and I agree with her about that. We have to catch those who collaborate, aid and abet in these egregious violations of human rights that we have heard about today.

If the Minister is able at Third Reading to come back with an amendment that does those things, then I for one will be the first to stand and applaud it, and to support her. If she is unable to do that, this amendment, thanks to the procedures of your Lordships' House,

will stay in contention. It is important for some of our noble friends and colleagues to realise that if we vote now and this amendment is lost, that will be the end of the matter. There is nothing then to send back to the House of Commons; nothing that people in another place can consider further. But if the matter stays in contention, as the Minister has offered, for another week or 10 days—however long it is before the Bill comes back for Third Reading—then under our procedures this amendment will appear again on the Order Paper, alongside whatever she is able to provide for us.

I hope that the Minister can provide an amendment that cuts to the core of what my noble friend Lady Cox described as a battle of beliefs. I hope that it will do something to overcome some of the issues that the noble Baroness, Lady Morgan, raised. These are not insuperable problems; they can all be overcome. Perhaps most importantly of all, such an amendment would set a benchmark and a threshold, showing that we will not do business with people who incarcerate, torture, abduct and silence. We are not prepared to tolerate those things—why should we?

Our values are something that this House has stood for down the generations; although those values have sometimes been tarnished, generally, we have tried in this parliamentary democracy to show what it is we believe in. We have been united in that, in good times and in bad. However, I fear that we have had a crisis of belief. In recent times, we seem to have forgotten the nature of liberal democracy and the things that we stand for as a nation: the rule of law and human rights. My noble friend Lady O'Loan spoke so eloquently about such universal values, as enshrined in the 1948 Universal Declaration of Human Rights.

This amendment is a modest attempt—in this Bill and in all the Bills that will follow, on this issue and others—not just for a review, as some have called for, but for a legislative provision with teeth. We have an opportunity. Because of the good will that the Minister has shown, and because I am not naive or gullible and know that there will be a chance to come back on another occasion to both this amendment and to whatever the Government can offer, we will postpone—not cancel—the Division. On that basis, I beg leave to withdraw my amendment.

Amendment 5 withdrawn.

The Deputy Speaker (Lord Bates) (Con): We now come to the group consisting of Amendment 6. I remind noble Lords that Members other than the mover and the Minister may speak only once, and that short questions of elucidation are discouraged. Anyone wishing to press this amendment to a Division should make that clear in the debate.

Amendment 6

Moved by ***Lord Stevenson of Balmacara***

6: Clause 1, page 5, line 26, at end insert—

"( ) In exercising a Part 4A code right, an operator must, so far as reasonably practicable, select and install apparatus that allows the lessee later to use an electronic telecommunications service from an alternative operator."

Member's explanatory statement

This amendment makes clear that when exercising a Part 4A code right, an operator must have regard to the interoperability of the equipment used, in order to prevent customers being locked into a single telecommunications supplier beyond the expiry of their initial service agreement.

Lord Stevenson of Balmacara [V]: My Lords, I am hopeful that we can be relatively brief with this, although I have noticed that the noble Lord, Lord Holmes of Richmond, has his name on the agenda, and I am sure that he will want to say a little more on this than he did last time.

The amendment appeared originally in Committee, where it was discussed and received a positive response. I decided that, by and large, the issue had been dealt with. However, in subsequent conversations, both with officials and with the Minister, there was a suggestion that the amendment had perhaps more legs left in it than I thought. Therefore, I decided to bring it back.

The amendment makes a very straightforward suggestion that when one is dealing with telecoms operators, there should be no hangover between equipment that is sold by one operator and other operators that might wish to do so. This is about competition and supporting consumer rights. I beg to move.

The Deputy Speaker: Lord Livermore? No. I call Lord Holmes of Richmond.

Lord Holmes of Richmond [V]: My Lords, I thank the noble Lord, Lord Stevenson of Balmacara, for bringing this amendment back. He put his finger exactly on the competition issue on which I would like to question my noble friend the Minister. As a hangover from when telecoms were a utility, and as we have seen with other privatised utilities, there is the recurring issue of what happens when somebody seeks to exercise their right to change equipment. What they find is often in no sense what they expected. We saw it at the beginning of the smart meters rollout, in respect of which there are still issues, and in a series of other areas, whether energy or telecoms. Does my noble friend the Minister agree that this amendment goes to the heart of enabling competition in this area of telecoms, and that it is necessary to make that clear in the Bill?

The Deputy Speaker: I call the noble Lord, Lord Adonis. No? Then we come to the noble Lord, Lord Fox.

7.30 pm

Lord Fox: My Lords, this amendment addresses a real issue. We have seen in the past that control of the final few yards into a house or the ownership of a switch in a box on a street has prevented the smooth changing of vendors and complicated the lives of consumers. We should not be replicating this control as we go forward, so the amendment deserves a positive response from Her Majesty's Government. I am sure that in future there will be examples where the cost of initial installation causes operators to want contracts in excess of 18 months, but that should always be covered by commercial concerns, not locked in by

[Lord Fox]
technology. So we on these Benches are interested to hear whether the Government have sympathy with the amendment and, if they do, how that sympathy will be manifested.

Lord Clement-Jones: As ever, my noble friend Lord Fox and the noble Lords, Lord Holmes and Lord Stevenson, have put their finger on the issues. I was going to ask the Minister how she thought the question of open radio access networks fitted into this picture, but I will not.

The Deputy Speaker: Let us see if we can get the noble Lord, Lord Adonis, back. No? In that case we will hear from the Minister.

Baroness Barran: My Lords, Amendment 6 raises the important issue of competition, about which I think we are all in agreement. Of course the Government think that no operator should be able to prevent another from providing their own service to potential customers living inside a building. We believe that the Bill already ensures that no one is locked into services provided by a single provider. It allows for subsequent operators to apply for and make use of Part 4A orders in the same block of flats, and regulatory measures are already in place to ensure that operators, whenever they install their equipment, not just in this scenario, do not do so in an anti-competitive manner.

I direct noble Lords' attention to paragraph 27E(4) of the Bill and the terms that will accompany a Part 4A order. These terms set out how Part 4A orders are to be exercised—for example, the time of day that operators can carry out works and that they conform to health and safety standards. We have set out in the Bill the areas that those regulations must include. It has always been our intention that the terms of an agreement impose by a Part 4A order would set out that the operator must not install their equipment in such a way as to physically prevent others from installing their own.

However, as the noble Lord, Lord Fox, put it very elegantly, we aim to simplify the lives of consumers. In response to his remarks and those of my noble friend Lord Holmes, the noble Lord, Lord Clement-Jones, and of course the noble Lord, Lord Stevenson, if it would reassure noble Lords then the Government would be willing to table an amendment to the Bill at Third Reading to that effect. We consider it fair to amend the Bill so that it is absolutely clear that these terms should include measures to ensure that an operator must not install their equipment in such an anti-competitive way. If the noble Lord, Lord Stevenson, is content with that approach, I ask that he withdraw his amendment.

Lord Stevenson of Balmacara [V]: Yes, my Lords, I am extremely content. I thank the Minister for that, and I am very happy to beg leave to withdraw by amendment.

Amendment 6 withdrawn.

Lord Bates: My Lords, we come to the group consisting of Amendment 7. I remind noble Lords that Members other than the mover and the Minister may speak only once, and that short questions of elucidation are discouraged. Anyone wishing to press an amendment to a Division should make that clear in debate.

Amendment 7

Moved by ***Lord Stevenson of Balmacara***

7: After Clause 2, insert the following new Clause—

"Review of this Act's impact on the Electronic Communications Code

(1) Within six months of months of the day on which this Act is passed, the Secretary of State must commission a review of the impact of this Act on the Electronic Communications Code ("the code") contained in Schedule 3A to the Communications Act 2003.

(2) A review under subsection (1) must include assessments of whether the code—

(a) is sufficient to support access to 1 gigabit per second broadband in every premises in the United Kingdom by 2025, and

(b) should be amended to—

(i) introduce rights of access to telecommunications operators akin to those available to suppliers of

(a) electricity,

(b) gas, and

(c) water,

(ii) provide additional development rights for operators to support the provision of telecommunications infrastructure,

(iii) encourage telecommunications operators to undertake infrastructure works alongside other works being carried out in a locality, where this is practicable.

(3) In undertaking the review, the Secretary of State must consult—

(a) telecommunications operators,

(b) organisations that represent tenants and telecommunications consumers,

(c) persons appearing to the Secretary of State to represent owners of interests in land who are likely to be affected by amendments to the code, and

(d) any other persons the Secretary of State deems appropriate.

(4) A review under subsection (1) must be published within 12 months of the day on which it was commissioned.

(5) The review must make a recommendation on whether the Government should introduce legislation to amend the code in accordance with its findings under subsection (2)(b).

(6) A Minister of the Crown must lay the review before Parliament."

Member's explanatory statement

This amendment would require the Secretary of State to commission a review of the impact of this Act on the Electronic Communications Code. This review, which would assess the code's suitability to support universal access to gigabit-capable broadband by 2025, could make recommendations for future amendments to the code.

Lord Stevenson of Balmacara [V]: My Lords, this amendment, which I am pleased to move, is supported by the noble Lord, Lord Fox, and the noble Baroness, Lady Meacher, whom I thank. It builds on a very good debate in Committee, which was mainly framed around the existing USO of 10 megabits per second, and the problems that this causes, in terms of how people respond to it in trying to make it feel better than it is, and the reality of living in a household with a 10 megabit per second supply where other users are

taking up the bandwidth, making it feel very much slower. To sum up the discussion, the feeling around the House was that the target was the problem. It was a bit unambitious, not least because the experiences gained over the last few months during the pandemic have shown that the whole country needs a step change in broadband capacity, which would of course be signalled if the Government had accepted our amendments to the Digital Economy Act, which called for a USO of 1 gigabit.

However, we are all now roughly in the same place. All sides realise that we must aim for the very high-speed, gigabit-enabled capacity. The question which follows is: how best do we achieve this? This very narrowly constructed Bill does not make amendments of the type that we would like to run on this topic very easy to get in scope, so what we have before us is a classic approach, which I think the Minister when she responds will easily see through. But I hope that the amendment has sufficient in it to attract her interest about how we might make progress together in achieving the future that we both want.

This amendment requires the Secretary of State to commission a review of the impact of this Bill on the Electronic Communications Code within six months of Royal Assent. That review would assess the code's suitability to support universal access to gigabit-capable broadband by 2025 and to make recommendations for future amendments to other legislation, if that were required, and to this code. We want to ensure that the Government act as if the USO was 1 gigabit-enabled broadband across the whole country and work back from that target date of 2025 to draw up a comprehensive plan for the legislation that would be required to achieve that.

We understand that this is a tough call, but it goes with the grain of what we should be doing as a country. We have not specified in the amendment that in future the Government should regard access to fast and affordable broadband as a utility. We believe that, but we know that will not go well with them. We have not required the Government to introduce access rights for operators similar to those in place in respect of electricity, gas and other utilities, as we argued in Committee. They may be going that way anyway, because a consultation has just been opened on this issue. We have not listed a whole host of other issues that contribute to the future connectivity of the UK—wayleaves, mast rentals, use of existing street furniture and better planning of changes to allow better cabling in roads and pathways. We have not put that in, but it is part of the solution. We expect and trust the Government to recognise what is required and to get on with it.

Everyone, including the Minister, knows that more legislation is needed. This amendment might prompt the Government to think about that ahead of time and bring it forward at the appropriate moment. I hope that the Government accept this amendment in the spirit in which it is moved, and I look forward to hearing the noble Baroness respond. I beg to move.

Baroness Wilcox of Newport (Lab) [V]: This amendment would serve a necessary purpose: the delivery of 1 gigabit per second broadband to every home by 2025. It is an ambition stated by the current Prime Minister, but what is the hesitation? The lack of bold leadership and ambition to get this done is of concern. Amendment 7 builds on an amendment tabled by Liberal Democrat colleagues in Committee but is significantly wider in its scope.

A review of the impact of the Act would require consideration of the suitability of other parts of the Electronic Communications Code in facilitating the Government's aim of universal access to high-speed broadband. It is clear from some of the stories and examples raised during this Bill's passage that for a variety of reasons there are significant obstacles to meeting the Government's target. As such, I hope the Minister will recognise that Amendment 7 is designed to be helpful and to bring us closer to the destination that we all agree on.

The country has a mountain to climb after the serious damage sustained to the economy during and after this health pandemic. Millions of lives will be affected by the implications of unemployment and a contracting public sector. The UK, ill prepared for the onset of the virus and constantly playing catch-up during it, has to try to regain momentum in delivering a fair and balanced economy to benefit the majority of its citizens. The recovery programme that must be implemented after the pandemic will be utterly dependent on how we connect ourselves and the wider world. As it is expected that working from home will continue for some and develop and reproduce, we need good and reliable internet speeds across the country to support this. The universality of the service, so that it is available to all irrespective of location, is also an important point, raised previously by my noble friend Lord Adonis.

The mix of cybersecurity-focused big business, a critical mass of small enterprises and GCHQ-recognised academic excellence, promoted by the Welsh Government's strategy, is presently located in my home city of Newport.

There must be an evaluation of the impact, over at least a six-month period, to aid the recovery of the economy after Covid, and residents of houses in multiple occupation should not be treated less favourably in any aspect that inhibits the rollout of this vital public service. While steps to improve rollout of new infrastructure to multiple-occupancy dwellings is welcome, I ask the Minister what plans the Government have to deal with issues in rural areas. I therefore speak in favour of the amendment.

Lord Clement-Jones: My Lords, the purpose of the amendment is extremely clear and should be welcomed by the Government. It is to ensure that the code is fit for the purpose of delivering the Government's own manifesto commitment—and that personally expressed by the Prime Minister—of 1 gigabit per second-capable broadband to every home by 2025.

However, in the Minister's letter to me about comparative rights of entry for different utilities—I thank her for it—she describes it as the Government's ambition to deliver gigabit-capable broadband to every home and business "as soon as possible"; that is my emphasis. All of us, whether at Second Reading or in Committee, have described the importance of delivering

[Lord Clement-Jones]
what we must now call ultrafast broadband by any appropriate technology by 2025, particularly in the light of the demonstration through the Covid-19 lockdown of our increasing dependence for remote working, education and many other aspects of life on good broadband connectivity, as the noble Lord, Lord Stevenson, described.

It is clear that the Electronic Communications Code needs regular review to ensure that this vital objective is met and that operators have all the rights of entry they need. It is all the more important given that, as all of us know, previous pledges and commitments have not been met—and, this year, we can hardly celebrate the arrival of a universal service obligation of a miserable 10 megabits per second.

I am glad that we have started a genuine debate around whether we can describe broadband as a utility and what the appropriate rights of entry are. The amendment is by no means prescriptive on the point, but it should definitely be a matter of consideration on review, particularly given that, unlike with electricity, gas and so on, the rights of broadband operators are only ever temporary in the code at the moment. The amendment would be an extremely valuable addition to the Bill.

7.45 pm

Lord Fox: My Lords, I am glad to follow my colleague, my noble friend Lord Clement-Jones. This amendment is largely built on Amendment 21 from Committee. During the response to that amendment, the noble Lord, Lord Parkinson, described the Bill as

"one discrete instrument in the Government's overall strategy for speeding up the deployment of gigabit broadband."—[*Official Report*, 2/6/20; col. 1331.]

What are the other discrete elements of this strategy? What other legislative elements are there? My understanding is that this is the only legislative element currently available—leaving aside the security Bill, which is entirely different and not focused on the delivery of gigabit speeds—which is why I, the noble Lord, Lord Stevenson, and others seek to use this as an opportunity for the Government to reaffirm their commitment to one gigabit by 2025. As my noble friend Lord Clement-Jones asked, is 2025 still serious, when the Minister is now using the language of "as soon as possible", which of course means many things to many people?

This amendment calls for a review of the impact of this Act on the Electronic Communications Code, focusing in particular on progress towards that one-gigabit target by 2025 and looking at whether we should grant rights of access to telecom operators akin to those enjoyed by other utilities. The review would also make recommendations for future amendments and legislation.

As I said in Committee, there is an urgent need to inject some adrenaline into the Bill, as we have seen in other areas, in delivering the 2025 target. Proposed new subsection (1) of the new clause envisioned by this amendment causes Her Majesty's Government to review the impact of this Bill on the delivery of one-gigabit broadband to every home and business by 2025. As my noble friend pointed out, this is not an unreasonable target, given that it is the Prime Minister's stated aim and therefore the stated aim of Her Majesty's Government. We feel that this will be helpful to the department and the Government.

The second proposed new subsection backs this up by requiring the Government to look at what is needed to deliver sufficient support. As my noble friend Lord Clement-Jones just pointed out, there has been significant dialogue around the meaning of "utility". I too appreciate the response from the Minister and the department. The gist of that response is that there is no single definition of what a utility has or is. I am sure that they are right, because the needs of electricity are different from the needs of water. The industries and their histories are different. Therefore, one would not expect a consistent picture, given how British law is constructed.

However, there is one overriding similarity: the complete assumption that every dwelling and business should have access to electricity, water and so on. These utilities come with a sense of assurance, a halo of necessity, and the legislation around them delivers on that. For all the assurances we have had from the Minister and the Government, this and previous Bills do not give that similar assurance for telecoms infrastructure enjoyed by those other things we call utilities. That is why this amendment is important; it promotes the cause of telecoms infrastructure as a modern-day necessity. If we ever needed evidence of that, this crisis has delivered it. Every day we see in the House of Lords the huge variation and poverty of connection that even your Lordships enjoy, never mind people across the rest of this country. That is why it is important and why the spirit of treating it like a utility is central to this amendment.

Subsection (3) calls for widespread consultation and sensible measures to ensure that both tenants and landowners are listened to. The Minister talked about maintaining the balance between landowners, tenants and property owners; subsection (3) allows that balance to be continued. Subsections (4), (5) and (6) ensure that the review is laid before Parliament within a year and looks at the scope of the code.

At its core, I really do not see why this is objectionable to the Minister or the Government. Indeed, as I have said, it is helpful in that it codifies the Prime Minister's words into something tangible. That is why we on these Benches and Liberal Democrat Peers attending virtually will support the amendment if it goes to a vote.

Baroness Barran: My Lords, I thank the noble Lords for tabling this amendment, which I note is a revised version of the amendment tabled in Committee. I very much appreciate the spirit of this amendment, as set out by the noble Lord, Lord Stevenson. It is designed to be supportive of gigabit broadband deployment and to ensure that the legislative and regulatory environments support that deployment.

As we have discussed on several occasions this afternoon, this Bill has been introduced to address a specific issue. It is not, and has never been intended as, a panacea for the rollout of gigabit connectivity; it is one element of a multifaceted approach to improving the nation's connectivity. In a moment I will try to set out some more elements of that approach.

I remind noble Lords that we are also bringing forward legislation to ensure that gigabit connectivity is provided to all new-build developments; working to improve the street works regime so that it works better for broadband deployment; and investing £5 billion in areas the market alone is unlikely to reach—which the noble Baroness, Lady Wilcox of Newport, quite rightly highlighted.

This measure was designed from the outset to be a precision instrument that supports the 10 million people living in apartment blocks in the UK to access better broadband. It is on this point—the idea of better broadband—that I feel I should begin. We are confident that Part 4A orders will be used by operators predominantly to deliver gigabit-capable connections, as we discussed in Committee, but the Bill does not mention gigabit-capable networks. For that matter, it does not mention broadband, 5G or any type of connection. As noble Lords know, 1 gigabit connectivity is not tech-neutral; not all forms of broadband can deliver 1 gigabit per second of connectivity. For example, copper-based superfast connections would not be able to do that.

The Electronic Communications Code, of which the Bill will form a constituent part, does not mention broadband; nor does it mention any connection speed or anything about the technology installed. The Bill and the code are technology-neutral; I believe there was some confusion on this in Committee. To put that another way: the code deals with the how, where and when of deployment, not about what is installed. I am making this point again because technological neutrality is important, as it allows a consumer to get the connectivity they need from the operator they want at the best price.

None of this is to detract from noble Lords' appetite to ensure that the Government are on track to deliver gigabit-capable connections, which is entirely understandable and reasonable. Many noble Lords will know that there are already ways in which some or all of the amendment's effects can be achieved without the need for the amendment. I will give three examples.

First, Ofcom publishes its annual *Connected Nations* report, which it updates two further times each year. It provides a clear assessment of the progress that the country is making in providing connectivity, both fixed and mobile. I hope your Lordships would agree that the regulator, which is independent of government, is well placed to provide information on the progress of gigabit-capable broadband.

Secondly, the Government continue to answer questions and provide clarity on any aspects of its work in this area, in both this House and the other place. Noble Lords are familiar with asking questions and I endeavour, as always, to answer them.

Thirdly, in this House and in the other place there are established means of scrutiny through Select Committees. Indeed, the DCMS Select Committee in the other place has already launched an inquiry into the Government's gigabit broadband ambitions. That committee has made it clear that it will

"focus on how realistic the ambition is, what is needed to achieve it, and what the Government's target will mean for businesses and consumers."

I hope that that goes to the heart of the spirit of the amendment.

The amendment also asks us to reconsider giving telecoms operators similar rights to access land as those enjoyed by gas, water and electricity operators. This is entirely understandable: the coronavirus pandemic has thrown into sharp relief the increased need for fast, reliable and resilient networks. Indeed, the argument was well made in Committee and I have had further conversations on the issue since then.

It is important to be specific when talking about operators' access to land. The Electronic Communications Code provides a degree of operational flexibility to telecoms operators. The amendment talks of rights of access "akin" to those of gas, water and electricity. I would be interested to understand precisely where noble Lords think telecoms operators might be disadvantaged. Indeed, the Bill gives them a simple way to apply for rights to gain access to land where there is an unresponsive landlord. It is already giving them more.

That said, I will concede that the rights of telecoms operators are not identical to those of gas, water or electricity operators, but nor do they need to be; they are comparable in many important ways. The code gives operators a framework that incentivises them and landowners to reach a duly negotiated agreement. If, for whatever reason, an agreement is unable to be reached, it allows an application to be made with the court to have rights imposed. Also, Schedule 4 to the Communications Act 2003 makes provision for them to compulsorily purchase land. I hope noble Lords agree that these are quite significant powers. To be clear, there are differences, but I think we would all recognise that certain rights of entry and access are to be expected due to the nature of the gas, water and electricity networks, not least given the potential threat to life that even a minor fault could cause.

In Committee, the noble Lord, Lord Stevenson, asked why we had gone back on our assertion in the future telecoms infrastructure review about giving operators similar powers to utilities. I wonder whether some of the issues around that come from that statement in the infrastructure review.

As I tried to point out in Committee, the consultation for the Bill explored the possibility of giving telecoms operators a warrant of entry through the magistrates' court, similar to the process for operators of other utilities. However, the responses to the consultation made it clear that warrants of entry were not suited to the problem faced by telecoms operators here; they are used largely for single access, for example to remove existing equipment. That is why we consulted on this and the judiciary agreed that it should instead be either the Upper Tribunal Lands Chamber or First-tier Tribunal granting interim rights codes to operators. I hope that I have alighted on the right issue that has given rise to this element of the debate.

8 pm

Finally, on additional development rights, this is a planning matter and an issue for neither this Bill nor the Electronic Communications Code. However, I am sure that many noble Lords will know that telecoms operators are afforded significantly more flexibility in how they install their infrastructure, including—under

[Baroness Barran]
permitted development rights—exemptions from a number of requirements to request planning permission. My department continues to work closely with colleagues in the Ministry of Housing, Communities and Local Government. For example, in August 2019 we launched jointly a consultation regarding potential reform of permitted development rights to support mobile network deployment in particular. That consultation closed in November and a response will be published in due course.

The Bill and the Electronic Communications Code of which it will be part are not, nor were they ever, envisaged to be mechanisms to promote a single type of connectivity or speed. However, it is reasonable to assume, given the current market, that improved access to gigabit broadband will be a result.

I hope that I have been able to address the points made by noble Lords and have been clear why the Government cannot accept this amendment, and I ask the noble Lord to withdraw it.

The Deputy Speaker (Baroness Henig) (Lab): I have received a request from the noble Lord, Lord Fox, to ask a short question for elucidation.

Lord Fox: The issue of 2025 was raised by both of us, so could the Minister clarify that?

Baroness Barran: It is still the Government's intention to deliver gigabit-capable connections to every home and business in the UK as soon as possible. We seek to do that by 2025. The noble Lord will remember that we talked in Committee about the impact of Covid on the rollout; I think that I clarified that we know that there is a short-term impact and we are doing everything we can to try to work through it—but, obviously, none of us can predict the future.

Lord Stevenson of Balmacara [V]: My Lords, I am grateful to those noble Lords who contributed to this short debate. I am particularly grateful to the Minister, who has spent a lot of time going back through some of the discussions that we had on this issue in Committee, and indeed further back than that, to come up with a comprehensive response, which I recognise and welcome. However, the argument that I was trying to make through the amendment—indeed, it carries on from discussions in Committee—was precisely illustrated by what she had to say in her response. The attempt to do this for every property in the country by 2025 must, by its very definition, range across departments other than DCMS, so it would be extraordinary if there was no central planning document at the very least, or legislative background at the highest end, to allow that to work through in the way that we do.

Those of us who have been around the block in government or close to government for many a year recognise that cross-departmental issues—the wicked issues, as they are often called—are always the ones that bring people down. Here we are, trying to suggest to the Government that we recognise that this is what they need; they may not like it and they may find that it causes more difficulties than it solves in the initial stages, but my goodness they will need it by the end of the process—and, as we get closer to 2025, they will definitely wish that they had taken this advice at this time.

To take an example, just on the simple question of reporting and accountability to Parliament, it was said in Committee and repeated today that the combination of Ofcom reports, Oral Questions, debates and Select Committee reports would be tantamount to a regular review carried out by the Government. But it would not. Ofcom is a regulator with separate focuses and functions. Oral Questions are random and not always coherent, and Ministers are expert at making sure that we get the least information for the maximum effort on our part. Debates, Select Committees and special reports are what they are. They are random and they come forward in response to particular and different pressures. They are not in any sense a replacement for a coherent approach in the way that we have talked about in this arrangement.

Having said that, the record of what the Government are currently doing is not to be decried. They are moving on new build and thinking about street works. There is money in the back pocket—£5 billion for hard to reach properties—and there are other lessons to be learned. There will be difficulties—these things are always difficult—but at least there is progress. What we are offering is a coherence and a shape and the legislative back-up to do that. I do think that the Government could have taken our advice and accepted the amendment. But, in the interim, even though it is late, I would like to test the opinion of the House.

8.06 pm

Division on Amendment 7

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Amendment 7 agreed.

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8.24 pm

Public Service Vehicles (Open Data) (England) Regulations 2020

Motion to Approve

Tabled by ***Baroness Vere of Norbiton***

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

Relevant document: 16th Report from the Secondary Legislation Scrutiny Committee

Motion not moved.

House adjourned at 8.24 pm.

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