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PARLIAMENTARY DEBATES
(HANSARD)

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

Wednesday 1 July 2020

The House met in a Hybrid Sitting.

11 am

Prayers—read by the Lord Bishop of Coventry.

Arrangement of Business
Announcement

11.07 am

The Deputy Speaker (Lord Lexden) (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 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. Oral Questions will now commence. Please can those asking supplementary questions keep them short and confined to two points? I ask that Ministers' answers are also kept brief.

Public Transport: Social Distancing
Question

11.08 am

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government what steps they have taken, if any, to relax the COVID-19 social distancing rules in respect of the use of public transport.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con) [V]: My Lords, following an extensive review, the Government have revised their social distancing guidance. From 4 July, social distancing measures will be amended from two metres minimum distance to one metre-plus, provided the appropriate mitigations are in place, such as the use of face coverings, regular handwashing and sanitisation, the introduction of screens and the enhancement of ventilation.

Lord Bradshaw (LD) [V]: Bus companies are concerned that negative messaging is driving passengers away and causing a rapid rise in urban congestion and pollution as people take to their cars. All large bus companies have mobile apps to help passengers choose less-crowded journeys when they can. As social distancing is relaxed, will the Government send out a more positive message about the use of buses, including, of course, a reminder to wear face coverings on the bus?

Baroness Vere of Norbiton [V]: The Government are committed to setting out reminders about the use of public transport and face coverings. But capacity on public transport remains severely constrained. Even after these relaxations of social distancing measures, on many modes—indeed, on most modes—capacity will be at under 30%.

Baroness Neville-Rolfe (Con) [V]: My Lords, the social distancing rules will depend on the efficacy of other protections such as the use of face masks, which are widely used in retail, where infection is well contained. Now that the Covid crisis has been running for several months, do the Government have any further evidence as to the value of face masks both for the wearer and for those around them?

Baroness Vere of Norbiton [V]: My Lords, the Government are obviously speaking to SAGE about the use of face coverings and have concluded that they are at least partially effective in enclosed spaces. I reassure my noble friend that the use of face coverings within the UK is increasing and in certain circumstances —for example, on Transport for London transport—it is now at 90%.

Lord Kilclooney (CB): The Minister's reply refers only to England, but of course in the United Kingdom we have devolved systems of health and therefore of social distancing. If one goes by train from London to Edinburgh, or by aeroplane from London to Belfast, which social distancing regulations does one comply with—those at one's point of departure or those at one's point of arrival?

Baroness Vere of Norbiton [V]: The noble Lord is quite right that healthcare measures are devolved to the devolved Administrations. That is why we are in constant contact with them. However, they will make their own decisions when it comes to healthcare measures. Passengers will need to be aware as they travel from one nation to another of the need to comply with local healthcare measures.

Lord Faulkner of Worcester (Lab) [V]: My Lords, I remind the House of my railway interests as declared in the register. The emergency measures agreements that the Government put in place in March with the railway franchisees have worked remarkably well, and the public have heeded the message not to travel, but, very soon, the railways will need to get their passengers back. Will the Minister support the call by Andrew Haines, chief executive of Network Rail, for a cross-industry marketing campaign similar to that now under way in France to encourage people again to travel by train? Will she endorse the industry's safer travel message, which has at its heart the wearing of face coverings unless exempt?

Baroness Vere of Norbiton [V]: The noble Lord is absolutely right that at some stage in the future, as we look at the demand for public transport, we will need to make sure that we use the capacity that we have available. We are looking at our communications messages

[Baroness Vere of Norbiton]
and how they will extend into the summer—something along the lines of "having a safer summer". We are working closely with the train operating companies and bus operators on how we take forward those messages, but they must all say the same thing.

Baroness Randerson (LD): After this crisis, we must get out of our cars and on to the buses and trains in even greater numbers than before, because we must not forget the long-term climate crisis. What is the Government's long-term strategy, once the danger of the virus wanes, to encourage and enable us to use public transport?

Baroness Vere of Norbiton [V]: The noble Baroness is quite right that we will need to get out of our cars. The measures that the Government have put in place around active travel will be an important step—we have invested £250 million in those. As I have said in response to previous questions, over the summer we will be developing a medium-term and long-term strategy for all our transport modes.

Baroness Wheatcroft (Non-Afl) [V]: My Lords, yesterday I travelled on two London buses. Despite large signs insisting that masks be worn, on both journeys there were some passengers who ignored them, and it was clear that the drivers did not feel empowered to challenge them. The Minister said that 90% of passengers are now wearing masks, but that is clearly not enough to provide confidence for other travellers. How will the Government get it to 100%?

Baroness Vere of Norbiton [V]: I thank the noble Baroness for raising this. We must be mindful that certain passengers have an exemption, so 100% will probably not be achieved because of that. The Government are currently focusing on engagement rather than enforcement, but—the noble Baroness is quite right—if we see persistent non-compliance with face covering wearing, we will increase the amount of enforcement. Both the British Transport Police and TfL authorised persons can issue fixed penalty notices for £100.

Viscount Trenchard (Con): My Lords, my noble friend is absolutely right: my observation from travelling on the Tube is that about 90% of passengers are wearing masks. However, does compliance approach anything like that level on public transport in other cities and in the regions? Does my noble friend agree that if the wearing of masks were made obligatory in places such as theatres, concert halls and music festivals—perhaps even your Lordships' House—those sectors could return to something near normal sooner than otherwise?

Baroness Vere of Norbiton [V]: My noble friend raises an important point. Anecdotal evidence suggests that, outside London, the usage of face coverings is slightly below 90% but still at very good levels. Firm data will be coming in in due course. I think that the use of face coverings in other sectors will need to be considered as we take things forward and as we look to a wider reopening of some of our really important cultural organisations.

The Earl of Clancarty (CB) [V]: My Lords, from what some scientists are saying, it is possible that other areas may yet go into local lockdown. Does the Minister not agree that we should be wary about lifting the current legal restrictions regarding social distancing and the wearing of face masks on public transport when trains and buses will be travelling between areas under lockdown and areas that are not?

Baroness Vere of Norbiton [V]: We are not lifting the restrictions regarding face coverings, nor are we doing so in respect of social distancing; they are being amended. I take the noble Earl's point about local lockdown, which is a very important issue. Even in areas where there is local lockdown we still need public transport to function to get key workers to the places that they need to be to do their work in combating the pandemic.

Lord Rosser (Lab) [V]: The Government's continuing message even as the lockdown is eased that bus and rail travel poses a risk is resulting in high levels of car usage while many services currently carry far fewer passengers than could be carried while still observing the two-metre rule, let alone the one metre-plus rule. The rail industry estimates that, at best, the railways will return to 50% to 60% of their pre-Covid passenger numbers in 2021. Do the Government have a plan for getting passengers back on our buses and trains—which I think was the point of the question from my noble friend Lord Faulkner of Worcester? Some airlines now operate with potentially all seats filled, so why can it be made safe to do this on planes but not apparently on trains?

Baroness Vere of Norbiton [V]: I refer the noble Lord to the comments that I made earlier. We will be working on recovery plans for all transport modes over the summer. At the moment and at peak times in particular, many of our transport modes are operating at capacity. I take the point that we need to look at what will happen next year, the forecasts for it and how we encourage people back on to trains and buses, but that point has not been reached now.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the time allowed for this Question has now elapsed. We now come to the second Oral Question. I call the noble Lord, Lord Blencathra.

China: Supply Chains

Question

11.18 am

Asked by ***Lord Blencathra***

To ask Her Majesty's Government what assessment they have made of the report by the Henry Jackson Society *Breaking the China Supply Chain: How the 'Five Eyes' can Decouple from Strategic Dependency*,

published on 14 May; what plans they have to conduct an assessment with industry based in the United Kingdom of the supply of goods sourced from China; and what steps they are taking to encourage such goods to be sourced from the United Kingdom.

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, coronavirus has highlighted the importance of access to critical goods. Having a diverse and reliable pool of suppliers is clearly in our interest, whether from a security, sustainability or value-for-money perspective. The Henry Jackson Society report makes a useful contribution as we consider resilience in our supply chains. We are supporting businesses to diversify supply chains by opening new markets through free trade agreements, reducing barriers to exports and maintaining a competitive business environment.

Lord Blencathra (Con) [V]: I give a very warm welcome to my noble friend the Minister on his first appearance at the real Dispatch Box. Recent events have shown the extreme danger of depending on vital supplies from foreign powers, even close allies. Since the Chinese Communist regime is now behaving like a hostile state, threatening Taiwan, commandeering islands in the South China Sea, covering up its Wuhan virus failures and terrorising Hong Kong, will my noble friend now step up work with UK companies to urgently reshore those vital 229 strategic goods and services that we currently get from China?

Lord Grimstone of Boscobel: The noble Lord makes some strong points. My department is considering import dependency and will continue to analyse imports, including from China, to determine whether the UK is particularly reliant on certain of our trading relationships. Project Defend is looking at our trading relationships with a range of international partners. It will analyse critical supply chains for a range of non-food items in addition to medical supplies. We will continue working to keep trade flowing by reducing tariff and non-tariff barriers and through our programme of FTAs.

Lord Truscott (Ind Lab) [V]: My Lords, yesterday, in his neo-Keynesian "spend, spend, spend" speech in Dudley, the Prime Minister said that he was not a Sinophobe but that

"we need to … protect critical infrastructure from hostile vendors".

Can the Minister tell your Lordships' House whether this now includes China and, if so, will Her Majesty's Government let China build new nuclear power stations at Bradwell and Sizewell?

Lord Grimstone of Boscobel: My Lords, in general, as an open economy, we welcome foreign trade and investment where it supports UK growth and jobs. We do not accept investment that will compromise our national security. The noble Lord will be aware that the nuclear industry is one of our most highly regulated industries. He can rest assured that we would not accept any involvement from any party that did not meet our strict criteria.

Lord Bowness (Con) [V]: I add my congratulations to the Minister. First, the report referred to in my noble friend's Question mentions the possibility of a free trade zone with the Five Eyes. Have Her Majesty's Government specifically examined that proposal? Secondly, given the critical importance to China of the belt and road initiative, what approaches have we made to the countries of Asia and the Caucasus to join in putting moral pressure on China over Hong Kong, and about trade possibilities to assist us and those countries in dealing with China?

Lord Grimstone of Boscobel: At the moment, we are consulting on various areas where it might be possible to launch a free trade zone, but I am not aware that Five Eyes membership will be a qualification for that. UK engagement with the belt and road initiative is focused on practical steps and collaboration to help ensure that infrastructure investments are delivered in line with recognised standards in four key areas: transparency; environmental impact, including carbon emissions; social standards; and debt sustainability. Such standards lead to good projects, which benefit all parties. With their world-leading experience, British companies have an important role to play in contributing to that effort.

The Earl of Erroll (CB) [V]: Does the Minister agree that not much electronic equipment is manufactured in the UK so we will always be strategically dependent on foreign companies? Is not the important thing to ensure interoperability and spread the risk across suppliers in different countries, and to realise that we cannot rely on any country when it comes to security and spying? What we need is end-to-end encryption that works. Should we not also support UK companies to build equipment in the new, innovative 5G space?

Lord Grimstone of Boscobel: It is certainly a great priority for us to do that. It falls into the general area where it is very important to secure diversity of supplies for the United Kingdom. The pandemic has taught us many lessons about the importance of diversity of supplies. The noble Earl can rest assured that we are observing and watching this very carefully, including developing with our allies alternative sources of supplies to give us much greater diversity in these matters.

Lord West of Spithead (Lab) [V]: My Lords, it is understandable that there have been growing concerns about Chinese state involvement in the UK, which is focused in a number of key areas that could have implications for national security. Not only do the Chinese have a key part of our nuclear infrastructure, telecoms, CCTV network, steel and so on, but they fill courses at UK universities relating to AI, quantum engineering, use of big data and the internet of things. They have poured investment into higher learning in these areas in the UK, and have stolen IP on an industrial scale from our companies. When taken in

[Lord West of Spithead]
conjunction with statements by Xi Jinping about the global ambitions of China, it is not surprising that we are worried—we should be. Have the Government made an overall assessment of Chinese involvement in the UK and the level of threat that poses? Who is responsible for compiling this list and what, if any, action we have taken so far?

Lord Grimstone of Boscobel: We continue to implement a comprehensive and co-ordinated approach to China, which identifies and pursues UK interests. I have to say that we take a very clear-eyed view of the challenges and risks from China. In many areas, we have a strong and constructive relationship with China but, equally, we are very aware that items may not coincide with our national security. Our approach to China is co-ordinated across government. The FCO is at the heart of the cross-Whitehall strategy approach to China, and the importance of this is shown in that the work is led by the National Security Council and the China National Strategy Implementation Group. We will continue to implement a comprehensive and co-ordinated approach to China that identifies and pursues UK interests in these areas and, of course, engage our like-minded international partners as we do so.

Lord Campbell of Pittenweem (LD) [V]: My Lords, to follow up the question from the noble Lord, Lord West, I ask the Minister: given the symbiotic relationship between the Chinese Government and Chinese companies, what level does Chinese investment have to reach in the United Kingdom before it prejudices our national interest?

Lord Grimstone of Boscobel: At the moment, trade between China and the UK amounts to around £80 billion a year. It is a very important trading partner for us, but I repeat that we are very clear-eyed about this. We take good care as to where our national interest lies, and we will not hesitate to intervene in any areas where we feel that it is jeopardised.

Lord Robathan (Con) [V]: I too welcome my noble friend the Minister to the Dispatch Box. We know that China ignores World Trade Organization rules. He mentioned our attitude towards the belt and road initiative, but should we now see it as a means of spreading Chinese economic power and influence while expecting deference or even subservience over any Chinese misbehaviour? I think particularly of the ban on Australian beef, tariffs and threats of more sanctions against our Five Eyes ally, Australia. Should we not act accordingly on Chinese trade and the BRI?

Lord Grimstone of Boscobel: My Lords, I do not think that subservience is a safe way to conduct policy with China. I have a very strong belief that mutual respect is the way forward and, I repeat again, it is mutual respect while having our eyes wide open. We recognise that some countries have had a difficult experience with BRI projects, including regarding debt sustainability, transparency and negative local impacts. We are much engaged in dialogue with China to make sure that all investments of that sort benefit the world rather than just China.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the time allowed for this Question has now elapsed.

Covid-19: Mental Health

Question

11.29 am

Asked by ***Lord Bradley***

To ask Her Majesty's Government what action they are taking to address the impact of the COVID-19 pandemic on mental health.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, we have released tailored guidance to help people deal with their mental health on GOV.UK and the Every Mind Matters website. NHS mental health services have remained open for business, offering support using digital, telephone and face-to-face approaches as appropriate. We have provided £9.2 million of additional funding to charities to support adult and children's mental health. We are working with the NHS, Public Health England and others to gather evidence and assess potential long-term impacts of Covid-19 as we plan for support for mental health through the recovery phase.

Lord Bradley (Lab) [V]: I refer to my interests in the register and thank the Minister for that reply. However, as he will be aware, research on the impact of the pandemic already shows that demand for mental health and well-being services is increasing substantially. Will he therefore ensure that specific funding across government is available to groups who are particularly at risk at this time, including: those who have had the virus and been treated in hospital, who suffer from high rates of PTSD; people who have been bereaved in distressing circumstances; those living and working in care homes and in our hospitals; and children, who require immediate psychological support as they return to school?

Lord Bethell: The noble Lord is entirely right to be focused on the potential increase in demand for mental health services, although it is an area where we have some reassurance that the explosion of mental health demand has not hit the heights that at one point we feared. None the less, we have ploughed money into mental health charities and have recruited 3,500 volunteers who are helping with the Check-in and Chat Plus process. We remain incredibly vigilant in this area, and I entirely support the focus on specific mental health issues which the noble Lord outlined.

Baroness Whitaker (Lab) [V]: My Lords, in view of that response, what efforts have the Government made to both establish and address the mental health of Gypsy, Traveller and Roma people, which is always significantly more precarious than the average and

which is now exacerbated, particularly in the case of families on the roadside with poor hygiene facilities, those subject to racial abuse—which has increased—and rough sleepers from the Roma community with poor English?

Lord Bethell: The noble Baroness is entirely right to focus on the Roma community, which, like many communities who are outside the mainstream, is hard hit by the results of Covid. Many such families live near me in Wiltshire. I reassure her that local authorities have continued to mobilise both digital and face-to-face mental health services in an entirely exemplary way, and I pay tribute to their hard work in this area.

The Lord Bishop of London [V]: My Lords, the Government are providing NHS staff with free access to online therapy and group counselling sessions, among other things, which is much needed and very welcome. Can the Minister say whether the same quality of care, recognition and access to mental health support is being given to parts of the social care sector such as nursing homes, care homes and home care workers, who have faced similar traumatic experiences to those of NHS staff?

Lord Bethell: The right reverend Prelate is entirely right to be focused on the support offered to both NHS and social care staff. There is considerable potential trauma in this area, and those who have been on the front line are under more pressure than one could possibly imagine. We have put in place schemes specifically targeted at both NHS and social care staff, and I reassure the right reverend Prelate that there is parity between the two sectors.

Baroness Blackwood of North Oxford (Con) [V]: My Lords, the first UK study of neurological and psychological complications of Covid-19 was published last week. It found that 31% of patients developed an altered mental state arising from both neurological and psychiatric diagnoses. This is a relatively small cohort study, but the breadth and prevalence of the complications uncovered mean that larger studies are crucial to truly understand the scale of the challenge. With recovery, we have proven our capability to run outstanding trials at pace, so can the Minister please outline his plans for research into the acute and longer-term mental health effects of Covid?

Lord Bethell: The noble Baroness is entirely right to emphasise the importance of longitudinal studies. The UK household longitudinal study data, which analyses the GHQ-12 scores, has been upgraded. We will continue to invest in that, and Public Health England has been tasked with monitoring the development of mental health issues across the country.

Baroness Tyler of Enfield (LD) [V]: My Lords, research shows that the pandemic has had a disproportionate impact on some of the most disadvantaged, particularly those from BAME communities. During this period, many mental health and community services have moved online. While that is an appropriate first response, charities are now expressing concern that it is not an effective response for many, including the elderly, those with learning disabilities and those with severe mental illnesses. Can the Minister say what urgent steps the Government are taking to restore effective treatment and care for all, including face-to-face services, with all necessary PPE and testing in place?

Lord Bethell: My Lords, we are feeling our way in this area. There have been benefits from some of the moves online. People have been able to see more of their consultants, they have found that some of the content provided has been helpful, and the reach has gone up. However, I completely agree with the noble Baroness that it will not work for everyone. I pay tribute to mental health professionals who have maintained face-to-face contact during the epidemic, with all the threats associated, and we continue to look closely at how to fit appropriate technology and digital access to the right people and in the right format.

Baroness Wyld (Con) [V]: My Lords, what is the Government's assessment of the impact of Covid-19 on antenatal and perinatal mental health services, and what steps are they taking to ensure that expectant and new parents are able to access the support they might need in person, particularly given the nuanced nature of potentially accessing services for the first time?

Lord Bethell: The area of antenatal and natal services has developed a huge amount of concern and, as my noble friend may remember, we adjusted the guidelines to give parents greater access to mother and child at an early stage. This area does concern us. However, it is a relief that, generally speaking, the disease has not hit pregnant women and early born children in the way that it has hit elderly people, and for that we are grateful.

Baroness Watkins of Tavistock (CB) [V]: My Lords, I refer to my interests in the register. As acknowledged by the Minister, the impact of nursing people with Covid-19 on the mental health of nurses is estimated to be considerable. A recent brief report from the University of Manchester into suicide by nurses identified a higher prevalence in female nurses than in women from other professions. It is vital that there is a dedicated support offer for the mental health and well-being of the NHS and social care workforce. Will the Minister ask Her Majesty's Government to consider extending the current England-wide practitioner mental health service commissioned for doctors and dentists to include all nurses employed in the NHS, community and social care settings?

Lord Bethell: My Lords, the confidential helpline for the health and well-being of NHS staff was launched on 8 April. That remains in place and has delivered important mental health support for NHS staff. I will take away the noble Baroness's recommendation to extend it to a wider community.

Baroness Thornton (Lab) [V]: I return to the Question asked by my noble friend Lord Bradley. We know that around a third of schools currently do not provide school-based mental health support and that many young people struggling to cope will not meet the criteria of the NHS mental health services in their area. Will the Minister consider the request of Young Minds for the Government to provide ring-fenced funding to ensure that schools can bring in the extra support needed to help their children?

Lord Bethell: I should be very glad to look at that request and would be grateful if the noble Baroness would forward it to me. The Young Minds movement is very important. I would say that young people, particularly girls, have been a focus of mental health issues. That has come out in the figures and it is a situation that concerns us.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the time allowed for this Question has now elapsed.

Committee on Climate Change: Progress Report

Question

11.41 am

Asked by ***Baroness Hayman***

To ask Her Majesty's Government what assessment they have made of the report by the Committee on Climate Change *Reducing UK Emissions: 2020 Progress Report to Parliament*, published on 25 June.

Baroness Hayman (CB) [V]: My Lords, I beg leave to ask the Question in my name on the Order Paper and declare my interests as set out in the register.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the Government welcome the committee's comprehensive and wide-ranging report and agree with it that tackling climate change should be at the heart of our economic recovery. The actions we need to take to achieve our world-leading net-zero target can help to deliver a stronger, cleaner and more resilient United Kingdom following this pandemic. The Government will publish their full response to the CCC by 15 October, as required by the Climate Change Act.

Baroness Hayman [V]: I am grateful to the Minister for that response. As he knows, the report concludes that steps the UK has taken in the past year

"do not yet measure up to meet the size of the Net Zero challenge"

and calls for urgent, concerted and cross-government action in the run-up to COP 26 next year. It also, as he says, sets out how economic stimulus measures to recover from the present global catastrophe of Covid-19 can contribute to averting the impending, even greater global catastrophe of unmitigated climate change. Will Her Majesty's Government therefore commit to a comprehensive policy of creating sustainable jobs and infrastructure across the UK, including in low-carbon power and heating, decarbonising transport and improvements in broadband connectivity?

Lord Callanan: The noble Baroness makes some very powerful points. As I said, we will respond formally to the committee in October, but the Prime Minister set out yesterday a number of measures that we will be taking. He said that we will build back better, we will build back greener and we will build back faster. The committee has made a number of recommendations in all the areas she covers, listed by specific government department, and we will respond in due course.

Lord Oates (LD) [V]: Can the Minister tell the House whether the new homes that will be built under the initiatives announced by the Prime Minister yesterday will be zero-carbon homes? If not, can he explain why the Government are ignoring the clear recommendations of the climate change committee and undermining their own net-zero target?

Lord Callanan: We are not ignoring the recommendations of the committee. As I said, we will respond in due course, but the noble Lord makes an important point about the importance of getting carbon out of new homebuilding. We will be publishing a heat and building strategy in due course.

Baroness Altmann (Con) [V]: My Lords, I welcome the positive progress on a new climate risk disclosure framework for pension trustees under the Pension Schemes Bill. I ask my noble friend whether the Government will build on this positive progress by introducing a comprehensive, long-term road map, with a timetable, for the investment sector to align investments with our net-zero targets?

Lord Callanan: My noble friend has considerable expertise in this field and I thank her for all her contributions on the Pension Schemes Bill. She rightly pointed out that the Department for Work and Pensions is taking powers to introduce mandatory climate financial disclosure for all occupational pension schemes. Of course, we are not stopping at pension schemes, and last year's green finance strategy made it clear that we want all listed companies and large asset-owners disclosing in line with the task force on climate-related financial disclosures by 2022.

Baroness Boycott (CB) [V]: My Lords, it is terrific that we have a clear net-zero target, but if we are to show leadership in the run-up to COP 26, we must ensure that the UK is measuring its own emissions properly. Will the Government respond to the Committee on Climate Change's recommendation to include aviation and shipping in our UK climate targets when the sixth carbon budget is set? Will they develop urgent net-zero plans for those challenging sectors?

Lord Callanan: Yes, of course we will respond to the committee's recommendations. The noble Baroness is quite right to point out the importance of getting the metrics right and making sure that we are being assessed against the right targets.

Lord Grantchester (Lab) [V]: A key challenge contained in this excellent report is to decarbonise heat and reduce demand through home efficiency measures. What plans and discussions has the Minister had with his colleagues in the Treasury to ensure that households and businesses installing energy-efficient and low-carbon heating are materially better off, in addition to reducing their emissions?

Lord Callanan: The Chancellor will be setting out our financial policies in this area when he makes his Statement but, as I said in an earlier answer, we will be publishing a heat and building strategy in due course, which will address many of these issues. The noble Lord's point is well made.

Baroness Walmsley (LD) [V]: My Lords, in its *Future Support for Low Carbon Heat* consultation, BEIS acknowledges the significant role that heat pump technology will play. Why, then, is the support proposed for heat pump technology restricted to 45 kilowatts, and therefore small-scale domestic settings, cutting out even those currently deployed or planned for supermarkets, schools, universities and businesses? If we are to build back greener, is not this technology worthy of support?

Lord Callanan: I very much agree with the noble Baroness that heat pump technology requires support. In line with our commitment to achieving net-zero carbon emissions, we consider the role of heat pumps in driving down emissions extremely important. This includes large-scale heat pumps. We have the clean heat grant, designed as part of a wider package of measures to support the decarbonisation of heat. The focus of the scheme is on supporting the supply chains that will be needed to phase out the installation of high-carbon fossil fuels in heating and take it off the gas grid.

Baroness Young of Old Scone (Lab) [V]: I take forward the question asked by the noble Lord, Lord Oates, about zero-carbon housing. Can the Minister assure the House that all of the recovery schemes announced by the Prime Minister yesterday will be subject to a net-zero carbon test and a biodiversity recovery test to ensure that we do not lurch from the Covid crisis immediately to the climate change and biodiversity crisis?

Lord Callanan: The noble Baroness makes an important point and, as I said to the noble Lord, Lord Oates, we will be setting out our plans, publishing a heat and building strategy in due course. We will take these important points on board.

Lord Lilley (Con) [V]: My Lords, I refer to my interests in the register. Does my noble friend agree that this recession is caused by suppressing supply, not by insufficient demand, so we need to rebuild the supply of goods and services as rapidly as possible across the board? If we limit growth, as the CCC advises, to activities complying with green criteria, we will recover less rapidly than otherwise. If we invest in activities which absorb more resources than they produce—that is, those needing subsidy—we will not increase net supply. Will he treat with a pinch of salt demands by the CCC and others, which use the Covid crisis as an excuse to turn the hose of subsidies in their direction?

Lord Callanan: As we recover from Covid-19, we certainly want to deliver a UK economy which is cleaner, stronger, more sustainable and more resilient. Covid-19 has been a powerful reminder of the UK's vulnerability to systemic risks. Fortunately, job creation and a clean, resilient recovery can be mutually reinforcing, and meeting net zero and our other environmental goals can create employment and economic opportunities.

Lord Krebs (CB) [V]: My Lords, I refer to my interests in the register. Yesterday, the Met Office published a new study that concludes that, under some scenarios, temperatures of 40 degrees Celsius could occur regularly by the end of the century. Can the Minister tell us, now or in writing, what proportion of buildings in the UK are designed to cope with those temperatures and whether all new buildings, including homes, schools and hospitals, will be built to cope with extreme heat?

Lord Callanan: As I said in an earlier answer, we will set out our plans for a heat and building strategy in due course, but I would be happy to respond in writing to the noble Lord's detailed question about the proportion required.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, the independent Committee on Climate Change report very much focuses on the fact that territorial emissions have been counted but consumption emissions have not. In fact, it says that

"89% of the emissions associated with the UK's demand for manufactured products"

are emitted outside the UK. Will the Government shift toward seeing how we can cut those consumption emissions? Also, given that we know we will see a great deal of onshoring in the light of Covid-19—indeed, we heard discussion about this during the earlier Oral Question on China and supply chains—what steps will be taken to ensure that onshoring of manufacturing occurs in a way that produces the lowest possible amounts of carbon?

Lord Callanan: The noble Baroness makes an important point. She is of course right to point out that reducing our emissions in this country is fine but, if we just import emissions from other countries, we will have achieved nothing. That is why we have an ambitious outreach and diplomacy strategy to persuade other countries to follow our lead. As the noble Baroness will know, we have the most optimistic and far-reaching targets in the western world. She is right: we must make sure that, as the Prime Minister said yesterday, we build back greener and build back better.

The Deputy Speaker (Lord Lexden) (Con): My Lords, all supplementary questions have been asked. That concludes the Hybrid Proceedings on Oral Questions.

11.52 am

Sitting suspended.

Arrangement of Business

Announcement

Noon

The Deputy Speaker (Lord Alderdice) (LD): My Lords, proceedings will now commence. Some Members are here in the Chamber, others are participating virtually, but all Members are 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—which seems fairly unlikely—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 in debate apply.

Covid-19: Orchestras and Cultural Venues

Private Notice Question

12.01 pm

Asked by ***Lord Berkeley of Knighton***

To ask Her Majesty's Government what is their response to reports that orchestras and cultural venues are facing permanent closure as a result of lockdown due to the COVID-19 pandemic.

Lord Berkeley of Knighton (CB) [V]: My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I draw attention to my interests in the register.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, we recognise how severely the cultural sector has been hit by Covid-19. That is why we are providing unprecedented assistance, including government loans and the job retention scheme, from which hundreds of organisations have received support, including, importantly, orchestras and cultural venues. DCMS arm's-length bodies have also provided tailored support. The Arts Council, the National Lottery Heritage Fund and Historic England have together provided £250 million in emergency funding. We continue to engage with the sector and we are working with Arts Council England to ensure that we fully understand the impacts of Covid-19 and to consider the additional measures that are needed to ensure the long-term recovery and growth of the cultural sector, including orchestras and cultural venues.

Lord Berkeley of Knighton [V]: I thank the Minister for that response. Has the Secretary of State's promise of further funding been sat on from above? Musicians, actors and artists, as well as orchestras and venues, either have fallen between furlough and emergency funding, which is indeed welcome, or are coming to the end of that assistance. We have already lost one theatre and, for example, the Lighthouse in Poole and the Manchester Camerata have only weeks of funds left. What these and the larger organisations need now is a definite date and figures so that they can plan ahead as businesses and replenish both our cultural heritage and, indeed, the coffers of the Treasury.

Baroness Barran: The noble Lord is absolutely right to highlight the importance and variety of our cultural heritage. My right honourable friend the Secretary of State has been absolutely clear that the Government will continue to take action that is commensurate with the scale of the crisis at the time that action is needed.

Lord Mandelson (Lab) [V]: I declare my interest as chair of the Design Museum in its new premises in the former Commonwealth Institute building in Kensington. Perhaps I may acknowledge the emergency short-term help that has been offered by the Government to national portfolio organisations, but this amounts to £90 million spread over 800 cultural organisations, and therefore inevitably it is being spread very thinly. I would remind the Minister that, extraordinarily, after the Second World War, at a time of huge deprivation and austerity, the Arts Council was created with cross-party backing under the leadership of Maynard Keynes to deliver major co-ordinated support for the performing arts, museums and other cultural venues. Now that these entities are once again facing the extreme financial consequences of forced closure and further restrictions as a result of Covid-19, will the Government mount a similarly extraordinary and co-ordinated long-term response to sustain their existence?

Baroness Barran: The Government understand the hybrid nature of the way the arts sector is funded in this country and are keen to encourage funding from many different directions. The noble Lord asked about the scale of ambition. He will be aware that the Secretary of State has set up the Cultural Renewal Taskforce, which includes a range of leading thinkers and experts in this field. Its report will be very important to influencing the scale of our ambition.

Baroness Bonham-Carter of Yarnbury (LD) [V]: I declare my interests as a trustee of The Lowry and One Dance UK. The situation in which cultural venues find themselves is dire, especially without specific dates in the recovery plan. However, does the Minister accept that this goes further? Many organisations do not have a permanent home and rely on touring, such as dance troupes, theatre companies, festivals and so on. They should not be overlooked and need to be supported as well. Will the Minister commit to ensuring that the Government do not conflate the two? Also, if we do not get the EU-UK deal right, does she not accept that these organisations will face another catastrophe in a few months' time?

Baroness Barran: The noble Baroness has raised an important point about clarity of timing. The Secretary of State recently revealed a five-stage road map that will allow the performing arts sector to get back up and running, and more detailed guidance will be published shortly. She has also raised a question about organisations that do not have a permanent home and are touring.

First, we will obviously endeavour to ensure that they do not, in her words, fall through the cracks. We are also working with organisations to be innovative, including being able to perform out of doors.

Baroness Bull (CB): My Lords, on 8 June the Secretary of State said that he will not stand by and see our world-leading arts and cultural sector destroyed—but it seems to many of us that that is exactly what is happening. The Government's road map sets out five steps to reopening but fails to recognise the cultural ecosystem, of which live performance is just one part. It has no financial support and, crucially, no timetable. Does the Minister agree that, while definitive opening dates clearly cannot be given, a not-before timetable, just like hospitality and hairdressing were given, would at least enable the sector to plan properly and avoid as far as possible job losses and further closures?

Baroness Barran: The noble Baroness is absolutely right about the ecosystem. The department has heard that loud and clear and understands it well. On detailed guidance as regards timings, I can only say that it is being worked on and will be published soon.

Lord Grade of Yarmouth (Con) [V]: I declare my interest as a theatre producer and a member of the DCMS task force looking at reopening the different constituent sectors under the DCMS. In that regard, I take this opportunity to place on record how extraordinarily impressed I have been by the effective work of the Secretary of State and his team, who are working day and night to try to get all the different sectors open as fast as possible; it is an extraordinary amount of work. We all know that there is a mile-long queue at the Treasury for help through this dreadful time, but the creative industries and arts sector will lose for ever a large swathe of our regional venues throughout the UK, particularly outside London. Can my noble friend the Minister give us any indication of how well the conversations with the Treasury are going, given the queue that exists?

Baroness Barran: I thank my noble friend for his contribution as part of the task force. We are acutely aware that, as government support unwinds, the situation becomes much more difficult for both regional and other theatres and venues. As the noble Lord, Lord Berkeley, mentioned, we have seen some closures already. The Government will not be in a position to save every venue, but we are regularly listening to the sector, actively talking to the Treasury and considering how best we can respond to the long-term challenges that the sector faces.

The Lord Bishop of St Albans [V]: My Lords, it is not just the performance venues that are suffering but many churches and halls rented out for rehearsal space. Will the Minister update the House on the progress of research undertaken into singing and playing woodwind and brass instruments, to see how these activities might be safely undertaken while minimising the risk of spreading Covid-19?

Baroness Barran: Our understanding is that, as I am sure the right reverend Prelate is aware, there is a risk of increased transmission involved in singing and the use of wind instruments. That is why non-professional choirs and orchestras will not resume for the time being, although professional orchestras can start rehearsing from 4 July on a socially distanced basis. As the right reverend Prelate mentioned, we have commissioned scientific studies, which are being carried out by SAGE, to try to build a really robust evidence base. That advice will be used to inform future policy and guidelines.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, do the Government accept that, as the creative industries are distinctive in that they are mainly freelance and self-employed, they may need special continuing support as the recovery gathers pace? Can she explain why the practical guidelines for live music-making have been delayed? Without them, organisations cannot plan and audiences are deprived of the benefits of live performance.

Baroness Barran: We absolutely recognise the nature and important role of freelancers in these sectors. They are in the region of 72% of the workforce, compared with 16% across the rest of the economy, so the noble Lord raises an important point. Colleagues are working night and day to get the guidelines out.

Lord McNally (LD) [V]: My Lords, my own town Blackpool has a "Know Before You Go" campaign that sets out for visitors what is open, what they should not do and how they should go into some venues. But a whole part of this sector—including the most iconic visitor attractions—still has no timeline, road map or long-term financial assistance, as said by the noble Baroness, Lady Bull. This is crippling to the industry and putting it in grave danger. There is a question there.

Baroness Barran: The "Know Before You Go" scheme that the noble Lord mentioned sounds very sensible. I can only repeat what I already said: active work is going on with all the key sector stakeholders to understand how we can build back better for our cultural sector.

Lord Randall of Uxbridge (Con) [V]: There will be a large number of performing arts students graduating from universities and drama schools whose short and maybe mid-term job prospects will be looking pretty bleak. I ask my noble friend not to forget the plight of these young people, many of whom would have been joining touring companies, as was mentioned earlier.

Baroness Barran: My noble friend is absolutely right: those young graduates should not be forgotten. I think I am right in saying that in the Prime Minister's speech yesterday there was a particular focus on the importance of opportunity for our young people.

Lord Stirrup (CB) [V]: My Lords, the Minister may be aware of the excellent initiative by Wigmore Hall, which in conjunction with Radio 3 streamed and

[Lord Stirrup]
broadcast live concerts throughout June, providing work for artists and bringing pleasure to many. But it has proved much more difficult for it to continue its crucial outreach work with disadvantaged and diverse communities of many ethnicities and backgrounds, with all the social benefits this brings. In looking at the way ahead for the sector over the coming months, will the Government pay particular attention to this important dimension of our cultural landscape?

Baroness Barran: The noble and gallant Lord raises a really important point. We know that the evidence in relation to social mobility and the arts is very strong. In the new Arts Council England five-year strategy, which is shortly to be published, we expect to see more evidence of focus in exactly the areas the noble and gallant Lord refers to.

Lord Lipsey (Lab) [V]: My Lords, the whole House will welcome the positive things said by the Minister about her department's work, but if she puts herself in the shoes of working musicians—not working at the moment—or administrators, does she realise what a contrast they will see between the extreme urgency with which the Prime Minister launched with a fanfare yesterday all sorts of infrastructure spending for the future and the reality in this sector that iconic venues and great orchestras absolutely do not know where their future is going?

Baroness Barran: Sadly, I do not have the talents to put myself in the shoes of musicians, but I understand the point the noble Lord is making. I can stress only that, from my perspective, in the department this is taken extremely seriously as a matter of great urgency.

The Deputy Speaker (Lord Alderdice) (LD): The time allowed for this Question has now elapsed.

Agriculture Bill

Order of Consideration Motion

12.17 pm

Moved by ***Lord Gardiner of Kimble***

That it be an instruction to the Committee of the Whole House to which the Agriculture Bill has been committed that they consider the bill in the following order:

Clauses 1 to 28, Schedule 1, Clause 29, Schedule 2, Clauses 30 to 34, Schedule 3, Clause 35, Schedule 4, Clauses 36 to 43, Schedule 5, Clauses 44 and 45, Schedule 6, Clauses 46 to 49, Schedule 7, Clauses 50 to 54, Title.

Motion agreed.

Fisheries Bill [HL]

Third Reading

12.18 pm

Lord Ashton of Hyde (Con): My Lords, I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Fisheries Bill, has consented to place her prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

A privilege amendment was made.

12.19 pm

Motion

Moved by ***Lord Gardiner of Kimble***

That the Bill do now pass.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, I express my gratitude to noble Lords for their interest in the Bill and their contributions. In particular, I thank my noble and learned friend Lord Mackay of Clashfern and my noble friends Lord Caithness and Lord Blencathra for their stalwart support. I also thank the noble Baronesses, Lady Jones of Whitchurch and Lady Bakewell of Hardington Mandeville, and the noble Lord, Lord Grantchester, from the Opposition Front Benches for our constructive dialogue as we have navigated together through the complexities of fisheries.

I acknowledge the noble Lord, Lord Teverson, for his extensive experience of fisheries matters, and my noble friend Lord Lansley, whose tenacity and force of argument produced an amendment that the Government supported. As a non-scientist, my scientific discussions with the noble Lord, Lord Krebs, have been both illuminating and helpful.

Your Lordships' Delegated Powers and Regulatory Reform Committee has twice reported positively on this Bill, stating that it

"represents a significant increase in the scrutiny that Parliament will have over fisheries policy compared to the last 45 years."

Noble Lords have certainly ensured that, and will continue to do so.

I place on record my appreciation for officials in both Defra and the devolved Administrations, parliamentary counsel and the clerks who have assisted us all. The Bill team's officials and lawyers have been exemplary throughout the passage of the Bill, and I am most grateful for their professional approach. My noble friend Lady Bloomfield has been unwavering in her dedication and commitment throughout the passage of the Bill. I much appreciate her support.

Finally, it is clear that we all wish to seek to secure a brighter future for our fishing industry across the United Kingdom, both in the immediate and the longer term. We are united across this House in recognition of the importance of the industry as a source of

employment for many in coastal communities, and of fish as a healthy food source. We all appreciate that the future of our fishing fleet cannot be separated from the health of our marine ecosystem. This Bill takes a vital holistic approach to fishing, and I believe that this will spell a brighter future for our industry and our seas. I beg to move.

Lord Teverson (LD) [V]: My Lords, I thank the Minister for his usual courtesy in the way he has dealt with this Bill, and for all the information and help he has given us as we have moved through it. I thank all those around the House who have come together to pass a number of essential amendments, including the important amendment from the noble Lord, Lord Lansley.

Having said that, I hope that the Government will talk to us more about these amendments. As the noble Lord, Lord Gardiner, mentioned, they are very much in line with government policy to protect the marine environment and level up coastal communities. I hope that we can find a way to retain the substance and the spirit of those amendments as the Bill passes through the other place and, potentially, comes back to this House.

Baroness Jones of Whitchurch (Lab) [V]: My Lords, I thank the Minister for his very kind comments and for the courteous way in which he has engaged with us, and with our scrutiny of the Bill, throughout its passage. It has been extremely helpful to have the various technical briefings, both with civil servants and in writing; it certainly helped us to raise the level of debate.

Like the noble Lord, Lord Teverson, we very much hope that the Government will reflect on the amendments we have passed as the Bill goes to the Commons. They were made in good faith, with the interests of both the environment and our future fishing sector in mind. I very much hope that they are not simply returned to us but used to strengthen the Bill in the longer term.

In the meantime, I reiterate my thanks to the Minister and to all those on the Bill team, who have been very helpful as we have worked our way through the Bill.

Lord McConnell of Glenscorrodale (Lab): My Lords, I know that it is not necessarily normal to speak on Third Reading when there are no amendments, but given that our current procedures do not really allow for reflection on developments made during Report, this is perhaps my only opportunity to comment on those.

The passing of at least one amendment on Report highlighted the relationship between the legislation that we pass here and the legislative responsibilities of, in particular, the Scottish Government and Scottish Parliament. I hope that, in reflecting on the amendments that were carried, the Government will try to keep the spirit of those amendments—for example, I supported in principle the amendment on landing rights but did not vote for it because of the impingement on the devolution settlement, but its spirit was very positive for coastal towns and their future—and perhaps come back with their own amendments that deal with such issues in England, Wales and Northern Ireland but do not impinge on the devolution settlement. I hope that the Government will reflect on that in the other place and, when the Bill, if amended, comes back to the House of Lords.

Lord Gardiner of Kimble: My Lords, I am most grateful to the noble Baroness, Lady Jones of Whitchurch, and the noble Lord, Lord Teverson—and to the noble Lord, Lord McConnell, although there was an element of surprise to that, as we are now into the "Bill do now pass" stage.

I conclude with one key point: this has been a Bill on which Her Majesty's Government have worked very closely with the devolved Administrations. We will continue to do so, for the interests of fishing communities across the United Kingdom. With those remarks, and with my thanks to all noble Lords, I beg to move that the Bill do now pass.

12.25 pm

Bill passed and sent to the Commons.

12.26 pm

Sitting suspended.

Arrangement of Business

Announcement

12.45 pm

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, some Members are here in the Chamber, others participating virtually, but all Members are 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 between physical and remote participants. The usual rules and courtesies in debate apply. Please ensure that questions and answers are short.

We now come to questions on the Statement on Covid-19. It has been agreed in the usual channels to dispense with the reading of the Statement itself, and we will proceed immediately to questions from the Opposition Front Bench.

Covid-19 Update

Statement

The following Statement was made on Monday 29 June in the House of Commons.

"Mr Speaker, with permission, I would like to make a Statement on local action to tackle coronavirus. The impact of coronavirus has been deeply felt, yet, thanks to the extraordinary action that this country has taken, it is now in decline at a national level. The number of positive new cases is now below 1,000 a day, and the number of recorded deaths yesterday was 25. I am pleased to report that there were no deaths in Scotland, for the fourth consecutive day, and that there is currently

[Lord Faulkner of Worcester]
nobody in intensive care with coronavirus in Northern Ireland, so we have been able, carefully, to ease the national restrictions.

Alongside the easing of the national restrictions, we have been increasingly taking local action. In May, we shut Weston General Hospital to new admissions, after a cluster of cases there. Earlier this month, we closed two GP surgeries in Enfield and a meat processing factory in Kirklees, and the Welsh Government have closed factories in Anglesey and Wrexham. We have put in place a system to tie together local and national action, based on insight provided by the Joint Biosecurity Centre, working closely with Public Health England and the NHS. Analysis is based on three levels of spread. Individual cases are identified and managed by NHS Test and Trace. When many cases are found in one setting, be it a care home, factory or hospital, that is classified as a cluster, and it will be dealt with largely by the local director of public health, who has statutory powers to close individual organisations. When PHE or the new JBC identifies clusters that are linked to one another, that is defined as an outbreak, and a range of local and national actions may be needed. Decisions are taken through our local action committee command structure, which works as follows: if PHE or the JBC spots a problem that needs attention, or the local director of public health reports up a problem, through the regional health protection teams, the outbreak is assessed at the daily local action committee bronze meeting, issues of concern are raised to the local action committee silver meeting, which is chaired by the Chief Medical Officer, and problems requiring ministerial attention are then raised to the local action committee gold meeting.

Yesterday, I chaired an emergency local action committee gold meeting specifically to deal with the outbreak in Leicester. Unfortunately, while cases in most parts of the country have fallen since the peak, in Leicester they have continued to rise. The seven-day infection rate in Leicester is 135 cases per 100,000 people, which is three times higher than the rate for the next highest city. Leicester accounts for about 10% of all positive cases in the country over the past week, and admissions to hospital are between six and 10 per day, rather than about one a day at other trusts.

Over the past fortnight, we have already taken action to protect people in Leicester. We deployed four mobile testing units and offered extra capacity at the regional test site and provided thousands of home testing kits and extra public health capacity to boost the local team. This afternoon, I held a further meeting with local leaders, PHE, the JBC, the local resilience forum and my clinical advisers, which was followed by a meeting of the cross-government Covid-19 Operations Committee, chaired by the Prime Minister. We have agreed further measures to tackle the outbreak in Leicester. First, in addition to the mobile testing units that I mentioned earlier, we will send further testing capability, including opening a walk-in test centre. Anyone in Leicester with symptoms must come forward for a test. Secondly, we will give extra funding to Leicester and Leicestershire councils, to support them to enhance their communications, and ensure those communications are translated into all locally relevant languages. Thirdly, through the councils, we will ensure support is available to those who must self-isolate. Fourthly, we will work with the workplaces that have seen clusters of cases to implement more stringently the Covid-19-secure guidance.

Given the growing outbreak in Leicester, we cannot recommend that the easing of the national lockdown, set to take place on 4 July, happens in Leicester. Having taken clinical advice on the actions necessary, and discussed them with the local team in Leicester, and Leicestershire, we have made some difficult but important decisions. We have decided that from tomorrow non-essential retail will have to close and, as children have been particularly impacted by this outbreak, schools will also need to close from Thursday, although they will stay open for vulnerable children and children of critical workers, as they have done throughout. Unfortunately, the clinical advice is that the relaxation of shielding measures due on 6 July cannot now take place in Leicester.

We recommend that people in Leicester stay at home as much as they can, and we recommend against all but essential travel to, from and within Leicester. We will monitor closely adherence to social distancing rules and take further steps if that is necessary. The more people follow the rules, the faster we will get control of this virus and get Leicester back to normal. We will keep all these local measures under review and will not keep them in place any longer than is necessary. We will review whether we can release any measures in two weeks' time.

These Leicester-specific measures will apply not just to the city of Leicester but to the surrounding conurbation, including, for example, Oadby, Birstall and Glenfield. I know that this is a worrying time for people living in Leicester, and I want them to know that they have our full support. We do not take these decisions lightly but do so with the interests of the people of Leicester in our hearts. I want everyone in Leicester to know that we have taken every one of these decisions to protect them from this terrible virus. We must control this virus. We must keep people safe.

These actions are profoundly in the national interest, too, because it is in everyone's interests that we control the virus as locally as possible. Local action like this is an important tool in our armoury to deal with outbreaks while we get the country back on its feet. We said that we would do whatever it takes to defeat this virus, and we said that local action would be an increasingly important part of our plan. The virus thrives on social contact, and we know that reducing social contact controls its spread. Precise and targeted actions such as these will give the virus nowhere to hide and help us to defeat this invisible killer. I commend this Statement to the House."

12.46 pm

Baroness Thornton (Lab) [V]: My Lords, I thank the Minister for providing the Statement.

Many in Leicester are wondering why it has taken so long to act, when authorities knew that there was a surge of Covid-19 cases in early June and the Health Secretary called it "an outbreak" a fortnight ago, on 18 June. Why did it take so long for pillar 2 information

to be shared with the council and public health leaders in Leicester? Is the Minister aware that published data for Leicester recorded just 80 new positive tests between 13 and 26 June, but the Secretary of State has revealed that the complete figure for that period was 944?

In the last 30 minutes, a leading respiratory doctor and consultant at Glenfield Hospital has confirmed what my right honourable friend Sir Keir Starmer said at Prime Minister's Questions an hour ago—that the true numbers and demographic data were not shared. Why is the Prime Minister trying to pretend that the information was made available when the truth is that it was late? Given that the Minister is in charge of testing in the UK, he might owe Leicester an apology for this disrespectful and dangerous treatment. Does the Minister agree that areas that see flare-ups will need a faster response?

This is important, because new statistics show that coronavirus cases have increased in 36 parts of England; Bradford, my home city, is number two. I learned from the Public Health England website that many of the places on the list with increased infection rates have large BAME populations, so why are PHE's recommendations regarding the disproportionate effect of Covid-19 on our BAME populations not in play here? Given the diversity of a city such as Leicester, why have none of the PHE recommendations that have been implemented included the mandatory collection of ethnicity data?

Can the Minister confirm whether the Government anticipate announcing further local lockdowns in the coming days? The Prime Minister has used the rather ridiculous and flippant words, "whack-a-mole" strategy, regarding tackling local outbreaks. If that means moving quickly and firmly, then frankly it is of no use to the people leading the response on the ground, including Public Health England local leaders, if they are not given the most accurate, up-to-date data possible as soon as it is available. Does the Minister agree? Can he ensure that it happens without centralised bureaucracy getting in the way?

Leicester City Council has been waiting to be given pillar 2 data from commercial labs that process at-home and drive-through tests for many days, and the mayor, Sir Peter Soulsby, said that he was given access only last Thursday after he signed a data protection agreement. A data protection agreement? Why have local authorities not routinely been given pillar 2 information about their residents who test positive? Will the Government confirm why a data protection agreement needed to be signed and whether there is a data-sharing exemption for public authorities on public health grounds? Do the issues go beyond the availability of the data and also concern its quality and the speed with which it is disseminated? I note that data flows more quickly in Wales where the Welsh Government publish both pillar 1 testing data from hospitals and pillar 2 data from commercial labs on a daily basis. Will the Government commit to publishing this data for England moving forward?

It was not until after 9 pm on Monday that we and the people of Leicester learned that there would be an increased lockdown with non-essential shops prohibited from opening with immediate effect. In fact, the mayor got an email about the strategy at 1 am on Monday. The Health Secretary said that the decision had been taken in the last two hours, which is why people were given such little notice. That is wholly inadequate. Many businesses and communities on the Leicester boundaries are unsure about whether they and their staff are permitted to work. It was not clear until 9.30 am on Tuesday which areas were included in the lockdown, by which point some businesses had just minutes' notice that they would have to close again. It was not until Tuesday afternoon that the Government confirmed that those workers who had previously been furloughed would have access to the scheme again.

Will the Minister explain why the decision was taken so late in the day, given the mounting evidence of rising cases? Why were key details, including boundaries and furlough eligibility, not confirmed immediately, leading to further confusion and anxiety? Will he confirm whether people are permitted to travel to work in other cities from Leicester because of the lockdown and, if not, whether they will be eligible for support too?

The situation may have been clearer had the regulations been laid immediately alongside the announcement, so will the Minister confirm when the regulations relating to Leicester will be laid? Given that the Government have long been advised to prepare for local spikes and first floated the idea of local lockdowns in May, why are we still waiting for these regulations? We are also waiting for the latest coronavirus regulations to be laid, which concern changes due to come into effect on Saturday 4 July. Is it true that accident and emergency departments have been told to treat Saturday evening as if it were New Year's Eve? What on earth do we think we are doing? Again, it is very disappointing that the Government have yet to lay these regulations, which were first announced three weeks ago.

The Minister is well aware that the House and the Select Committee on Statutory Instruments have urged the Government to ensure that legislation follows more closely from any announcement that they make and that even a short gap between regulations being laid and their coming into effect would better enable those affected to prepare, having seen the actual detailed requirements rather than just headline announcements.

Baroness Brinton (LD) [V]: My Lords, first, on behalf of the Lib Dem Benches, I once again pay tribute to all of those who are helping to curb the coronavirus pandemic, whether in the front line or behind the scenes, and especially in Leicester. We know that there are many unsung heroes who continue to work long hours in stressful and ever-changing environments. Secondly, on behalf of these Benches, and in memory of the outstanding report by William Beveridge, I extend our congratulations to the NHS on its birthday, and note that of the five evil giants, many are still present in those most affected by Covid.

If the Minister is unable to answer all the questions asked, will he write to noble Lords with an answer? I hope that I can speak for other Members of your Lordships' House when I say that we understand that

[Baroness Brinton]
the nature of a pandemic means that there are many questions to raise, but to repeatedly not have answers from Ministers is disappointing.

On that note, I ask the Minister for the fifth time in just over two weeks what the problem is with ensuring that every local council and director of public health has full test and tracing data as it becomes available. Over the past three weeks, it has become clear that full data has not been provided, and directors of public health, council leaders and mayors have all had to beg for data so that they can intervene early to prevent further cases, hospital admissions and deaths. Information is being dribbled out and it appears that pillar 2 testing lies at the root of the problem.

Stella Creasy MP asked a Written Question in the Commons, which was replied to by Minister Nadine Dorries on 11 June. It states:

"The contract with Deloitte does not require the company to report positive cases to Public Health England and local authorities."

Does that remain the case, or has the contract now been varied to ensure that that information is made available immediately to key partners? The issue of why any such contract should not require positive cases to be reported is quite extraordinary but for another day; however, with low transmission, tracing pillar 2 cases is absolutely critical. Are all local authorities and directors of public health now getting full data, including pillar 2 data immediately so that they can prepare for small or larger local outbreaks? That is important because there are reports from across England of areas with increasing cases—indeed, as the noble Baroness, Lady Thornton, said, Sky News reported this morning that 35 other local authority areas may face locking down if their cases do not reduce quickly.

That raises an issue about the powers of local lockdown. It was rather strange to hear Matt Hancock saying on Monday evening that he would bring forward legislation for local lockdown, but this morning on Sky News he said that he would rather do that not by legislation but by consent. So I put what I hope is a hypothetical case to the Minister. If this Saturday a number of Leicester residents get in their cars, what powers do the police have to prevent them from going to Loughborough, Derby or Sheffield to be able to go into a pub? Clearly, at the moment, local authorities do not currently have the powers to stop them: their powers relate only to single buildings. But if the Secretary of State believed on Monday that there needed to be legislation, why not today?

This feels very much like policy by press release, and local legislation enforcers, whether they are police or local authorities, need to know what powers they have as a matter of extreme urgency. I also ask again, why will Ministers not give the powers of local lockdown to local authorities and directors of public health, obviously working with Public Health England, the NHS and Ministers? For any final decision to rest with the Secretary of State inevitably slows down processes, as we have seen in the Leicester case over the past three weeks. Above all, we must keep people safe.

Finally, will the Minister inform the House whether there is sufficient supply of PPE in Leicester and other areas where cases are increasing for hospitals, primary care, care homes and care in the community? The *Health Service Journal* reports today that there is still much panic buying of PPE, with some orders costing 10 times the amount that would have been paid before March.

This Saturday marks the lifting of lockdown for most of England except for those of us shielding and the people of Leicester. Will the Minister ensure that the wider public will remain safe with the increases in cases in at least 35 other local authority areas? Will the Government move much more quickly to ensure that public safety is guaranteed?

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, I thank the noble Baronesses, Lady Thornton and Lady Brinton, for their thoughtful questions. To answer directly, it is extremely important that we are currently here debating the outbreak in Leicester, because in a way it is a tribute to the success of the hygiene, isolation and social distancing strategy that has borne so heavily down on this disease that we are now in the position of focusing on those rock pools of the epidemic that have been left behind by the tide of this disease going out. But I completely accept the importance of this outbreak management. That is where the Government's focus is centred.

I reassure both noble Baronesses that the data that local authorities and local directors of public health require is being given to them and access is being provided. All local authorities were issued with data-sharing agreements to access personally identifiable local testing data on 22 June. After signing those data-sharing agreements, the first local authorities accessed the data on 24 June. Leicester accessed it with its log-in details on 25 June. An enormous amount of progress is being made in an area that is now very much our focus. Local authorities, public health directors and infection control teams have worked hard in the past few weeks knuckling down on those lockdowns that did not get away, on the local outbursts that were well managed and that have not hit the headlines and that are now falling lines on the epidemiological graph.

The noble Baroness, Lady Brinton, asked about the legal aspect. I reassure her that the lockdown in Leicester is being carried out under the Public Health (Control of Disease) Act 1984 at the request of the local authority as the provisions of that Act require. Therefore, regulations will not be brought to this House. The Secretary of State and the Government have sought to manage the epidemic through the consent of the people, not through making things mandatory. That has been our consistent approach because trust and collaboration are at the heart of this country's response and we do not believe that making things mandatory through regulation will be as effective. However, if regulations are necessary, we will bring them to bear in order to protect lives and save the NHS.

I pay tribute to the British people for their enormous collaboration and the huge sacrifice that many have made in order to put in social distancing and other necessary measures. I pay tribute to the shops, pubs, churches and other venues that are working so hard in

order to apply the necessary regulations for reopening on 4 July, which will be an incredibly important but worrying experiment in opening up our society.

On further lockdowns around the country, none is currently planned. Our profound hope is that none will be necessary. Our severe fear is that they will be, because epidemiological experience suggests that a virus that has a doubling rate of two or three days very quickly spirals out of control in geographical focal points. But we remain incredibly vigilant, and the focus of our effort is to use the necessary data to identify outbreaks when they happen and to move epidemiological resources into place in order to deal with those outbreaks.

On further data, we hope to make announcements shortly in order to get the most local data open to the dashboards available to local authorities and public health officials in the very near future.

The noble Baroness, Lady Thornton, asked about the involvement of the Mayor of Leicester in decision-making in Leicester. I reassure the noble Baroness that he was very much at the heart of all the analysis, the meetings with PHE, the gold meetings of the JBC and the process of agreeing the lockdown arrangements. That is entirely right and proper for such a situation.

The noble Baroness, Lady Brinton, asked about PPE in social care. I reassure both noble Baronesses that the measures in place to manage imports and the manufacture of the necessary domestic PPE have proved to have a huge yield and at the moment our RAG rating is extremely positive on PPE for all aspects of the healthcare system.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): We now come to the 30 minutes allocated for Back-Bench questions. I ask that questions and answers be brief so that I can call the maximum number of speakers.

1.04 pm

Baroness Pidding (Con) [V]: My Lords, as we have sadly seen in Leicester, it is clear that this virus still lives in our communities. We know that testing is key in helping to keep the pandemic under control. Does the Minister agree that anyone who has been in close contact with someone testing positive for coronavirus should be able to get a test, whether they have symptoms or not? At present, this is not the case. In Buckinghamshire, for example, there is only one testing facility that offers this.

Lord Bethell: I reassure my noble friend that anyone who has reason to believe that they may have been infected by the virus is eligible for the test. The resources we have put into testing are now enormous. There are nearly 300,000 tests a day. Those in Buckinghamshire who are too far away from the drive-in testing facility should apply for an at-home testing kit.

Lord Patel (CB) [V]: My Lords, I agree with much of what the noble Baronesses, Lady Thornton and Lady Brinton, had to say. In response to them, the Minister said the dashboard will provide data about the infection rate to local authorities and local healthcare. If that is so, I welcome it. Does that mean a change in policy towards greater involvement of local public health directors in managing this pandemic?

Lord Bethell: To be clear to the noble Lord, the dashboard was made available on 22 June. It has a very large amount of local information, including information from 111, hospitals and the test and trace programme. The analysis of the data will be enhanced using the latest technology in order to give the most granular information possible. Those enhancements will be rolled out very shortly.

The Lord Bishop of Coventry: My Lords, the Minister said that data required by local authorities is given to them, but I am told by the leader of Coventry City Council and our director of public health that, although data sharing has improved over the past two weeks, it still comes from different sources and does not include data on workplaces and other settings that people regularly visit or, as we have heard, on ethnicity. Can the Minister provide further assurances that local authorities will be supplied with the full data that they need to respond to local outbreaks in a streamlined form and at an early point?

Lord Bethell: The right reverend Prelate is right that bringing together data from a very large number of sources is a challenge. One could include social media data, digital tracking data, hospital data and 111 data. We are working on systems that bring all the possible data one could imagine to one place at the joint biosecurity centre. We have made huge strides on that, but there is work to be done, and we are very much focused on it.

Lord Bach (Lab) [V]: My Lords, I declare my interest as the elected police and crime commissioner for Leicestershire and Rutland. I want to make it clear that I agree with the decision the Government have taken. The data makes it clear that it is necessary at the present time. This is primarily a health matter, but the excellent Leicestershire Police will be expected to play its part. It will do so proportionately and reasonably in the British tradition of policing by consent. The police may well incur extra costs in policing this matter. Will the Minister today make a promise that any extra costs the force incurs will be met fully by the Government?

Lord Bethell: My Lords, it is beyond my brief to comment on Home Office funding for the police force, but I emphasise that funding has been put in place—£300 million—for local authorities specifically to cover outbreak management and further funds are being looked at to cover this area.

Lord Hussain (LD) [V]: My Lords, around half of Leicester's residents are black and minority ethnic. Given that the Public Health England report *COVID-19: Review of Disparities in Risks and Outcomes* shows that BAME people are more likely to suffer from the

[Lord Hussain]
disease seriously and to die from it, what can the Minister do to ensure that specific advice is given as a matter of urgency to BAME residents?

Lord Bethell: The noble Lord is right to raise the question of marketing and communications to BAME audiences. We are looking at it very closely, because there is a natural concern about the regular epidemiological phenomenon that those who do not feel in the mainstream of society are sometimes the hardest to reach. We are focused in both our communications and our marketing on working with the groups that most fairly represent BAME communities to ensure that the message gets through. I would welcome any recommendations or suggestions from him on how we can do that better.

Baroness Verma (Con) [V]: My Lords, I declare my interest, as listed in the register, as a social care provider in Leicester. I am currently in Leicester and I have listened to noble Lords very carefully. Perhaps I may quickly pick up on a number of points. We in Leicester consistently pointed out to our local authorities and to the mayor and his councillors that they should look at areas where we believed there would be peaks in outbreaks of the virus, particularly in factories. We were totally ignored. We have raised the communications issue over and over again, and we have been totally ignored. Now that the data is coming in and is being shared properly, will my noble friend confirm that there will be strong and swift enforcement in areas where we know that breaches have gone on, are going on and continue to go on, so that other parts of the community stay well protected?

Lord Bethell: My noble friend points to the crux of the matter, which is that the correct response to such a local outbreak requires careful collaboration between PHE, with its expertise, insight and data, and local leaders, who have local insight, regulatory muscle and influence. Her account of talking to the mayor and raising these issues is very important and interesting. All I can say is that we are now focused on making sure that PHE and the local authorities in Leicester work together very closely. We have learned lessons in this area. Certainly, outbreaks in some other towns and cities have been handled with a higher degree of collaboration at an early stage.

Baroness Watkins of Tavistock (CB) [V]: My Lords, I declare my interests as outlined in the register. The Statement makes no mention of day centres, many of which are lifelines for carers who have had little or no respite during the UK-wide lockdown. They support people with long-term conditions, including learning disabilities, dementia and severe, enduring mental illness. In the event of local restrictions associated with Covid-19 hotspots, how will such centres be affected? With the increasing stigma associated with working in areas with high Covid-19 rates, many agency staff are refusing to work in certain care homes. Can the Minister explain what safeguards around care and treatments, including access to higher levels of healthcare and specialist services, are being planned to ensure that care home residents will not be adversely affected by further restrictions associated with high localised infection rates?

Lord Bethell: It is my understanding that many day centres will be reopened, although they will have to undergo a very careful risk assessment and, depending on the physical layout, may not be able to open at full capacity. However, I am happy to check that point and reply to the noble Baroness in detail. The issue of agency staff is a big problem, particularly where the staff are itinerant, but I remind her that we are embarked on a massive recruitment programme for the social care sector, including a large recruitment marketing campaign. That is bearing fruit and we are filling spaces very quickly.

Lord Turnberg (Lab) [V]: My Lords, when will the Government begin to make the test available to the whole population and not just to those with symptoms, so that we can discover the 80% of asymptomatic carriers? If there is a lack of capacity, why not use private and university labs around the country, as is the case at the Francis Crick Institute in London?

Lord Bethell: My Lords, there is very wide access to tests. Anyone who wants a test can apply for one today and, in almost any location in the country, will get one this afternoon. Whole-population testing is not the Government's strategy, because testing at this level of prevalence would throw up more danger of wrong results than positive results. In terms of private and university labs, I absolutely pay tribute to the Crick, the University of Birmingham, the University of Cambridge and all other university and private labs that have contributed to the test and trace programme.

Baroness Pinnock (LD) [V]: I am a councillor in Cleckheaton, where there was a significant outbreak in a meat-processing factory, with 165 positive cases identified. The Secretary of State has, rightly, praised the local response. However, the national testing response has been described as "shambolic", and it hindered an effective local response. What has been learned from the incident? Apart from belatedly sorting data sharing, how will government actions change as a result?

Lord Bethell: The noble Baroness talks of an incident that I do not know the details of, but I do not deny that we are on a learning curve. We will publish new guidelines tomorrow on our local outbreak response; we are publishing guidelines on the opening of venues for 4 July; and we are working extremely hard to stitch together much better relations between the centre, where a lot of the data inevitably ends up in a big system, and the insight of local actors in local PHE, local infection, NHS and local authority bodies. This has been happening for many weeks and we have already made huge progress, but there is still more to do.

Lord Ribeiro (Con) [V]: My Lords, the noble Lord, Lord Hussain, referred to the risks for the BAME population. The PHE report found that those of

Bangladeshi ethnicity were at twice the risk of death compared with people of white British ethnicity. That, of course, is particularly relevant in relation to Leicester. The PHE follow-up report, *Beyond the Data: Understanding the Impact of COVID-19 on BAME Groups*, which came out last month, identified long-standing inequalities exacerbated by Covid-19. Occupation, population density, the use of public transport, housing conditions and the risk to key workers are all factors in acquiring Covid-19. What actions will the Government take to address the seven recommendations in the report?

Lord Bethell: My Lords, we take the PHE report extremely seriously but there is still work to do in understanding how the disease affects different groups, including ethnicities. Some effects are behavioural, such as obesity; some are social, such as population density, to which my noble friend alluded; and some might be genetic. It is not clear which of those three is the main driver and what the balance is between the three. We are investing a large amount in medical and clinical research to understand that dilemma. In the meantime, we are prioritising the safeguarding of BAME workers in the NHS who might be at risk and in need of specific treatment.

Baroness Falkner of Margravine (Non-Afl) [V]: My Lords, what specific plans do the Government have to host people in Leicester who test positive for Covid-19 in hotels to isolate them from multigenerational households and to keep the other members of the family safe?

Lord Bethell: The noble Baroness asks a sensible question. It is, however, an unfortunate truth that, by the time someone tests positive, it is likely that they may have infected other members of their household. So, our current guidelines are that anyone who tests positive should isolate themselves with all other members of their household for 14 days, thereby containing the virus and breaking the chain of transmission.

Baroness Hollins (CB) [V]: My Lords, are services that care for people with learning disabilities—a group with an even higher death rate than the over-65s—being provided with home testing kits? I hear of services that are having difficulty getting access to them. Secondly, what proportion of people completing a home test fail to register their test online and therefore do not receive their test result?

Lord Bethell: My Lords, home testing by those with learning difficulties should be a straightforward matter. Anyone seeking a home testing kit can apply for one online; we have a large supply and there is no capacity issue. The registration of home testing kits is improving all the time; we are working through a checklist of things to get that rate higher. At-home testing is a hugely valuable resource for specifically the reason that the noble Baroness alluded to, and to get the geographical spread we need if we are to make testing available to everyone in the country.

Lord Dubs (Lab) [V]: We have frequently been told that the key figure to look at is the R figure. Will the Minister confirm that whereas after lockdown the national R figure was 0.84, it is now 0.94—so we are on a bit of a knife edge? Secondly, can he explain why the R figure is not released locally at the same time as the national figure is released?

Lord Bethell: The noble Lord is right that the R figure is important, but in many ways, at this stage of the epidemic, the prevalence figure—the total number of people who carry the disease—is more meaningful. A higher R on a smaller prevalence is less worrying than a smaller R on a higher prevalence. As to having regional Rs, the data to date has not been strong enough for that to be a reliable figure. However, we are working towards that situation and I can envisage a moment when it would happen.

Baroness Sheehan (LD) [V]: Can the Minister say categorically that there will be enough properly equipped staff and support staff across all departments in local hospitals in Leicester to cope with the upcoming spike in admissions? What are the plans if local hospital capacity is breached? Will the Minister categorically assure the House that there will be no transfers from hospitals into care homes as a consequence of the projected spike in admissions?

Lord Bethell: I pay tribute to the NHS in the Leicester area, which has done magnificently. I understand that the facilities there are extremely resilient. In Leicester, as in many other places, a major source of concern is the spread of the disease among younger, working-age people, particularly those in their 20s and 30s, many of whom are not showing symptoms—are not touched negatively by the disease and may be socialising—but become infectious to their parents and grandparents. That is the cycle that we have seen in places such as Texas where, after the Easter break, young people led to a large outbreak of the disease. At this stage, hospitals are not facing the pressure, but we are leaning into the disease to prevent the cycle from heading that way.

Lord Polak (Con): Sadly, social media is rife with speculation about local lockdowns. People are naturally anxious and often pass on the speculation, which can make matters worse. Can my noble friend the Minister tell the House what he is doing to combat fake news and false data, so that the Government's messaging can be heard loud and clear?

Lord Bethell: My Lords, we have an energetic fake news and rebuttal team at the Department for Health—which I regard as an enormous shame. It is a waste of our time and indicates how dangerous speculation and false information of this nature can be. I have noticed in today's social media a large amount of extremely irresponsible recycling of fake news by those who, frankly, should have known better. I urge all influencers, whether from the worlds of media, politics, health or other parts of society, to think carefully before recycling

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fake news and speculation on outbreaks in a way that wastes the time of public health officials and creates anxiety among the public.

Viscount Waverley (CB) [V]: My Lords, moving beyond the unfortunate Leicester situation, is it the case that Covid is mutating at such speed that it will diminish the effectiveness of a vaccine, and does it therefore follow that emphasis would best be placed on a cure?

Lord Bethell: The noble Lord stretches my scientific expertise to the limit, but my understanding from the CMO is that a distinctive feature of this virus is its surprising lack of mutation. It has proved to be an extremely sturdy and consistent virus. While many viruses get less deadly but more infectious, this one has remained pretty much the same. Cures for coronaviruses, particularly those that hit the lungs, are extremely rare and difficult to track down. I am advised that a vaccine is the quickest and most effective route, and I am extremely pleased that, in Imperial and Oxford, Britain has two of the leading vaccine candidates.

Lord Campbell-Savours (Lab) [V]: My Lords, last week I raised the issue of the report by the German IZA Institute of Labor Economics entitled *Face Masks Considerably Reduce COVID-19 Cases in Germany: A Synthetic Control Method Approach*. I had asked that the Minister arrange a fully considered response to me in a letter on the report's findings. On that occasion, the Minister, who is always courteous, failed, probably inadvertently, to give me that assurance. Can I now have that assurance please?

Lord Bethell: My Lords, I remember the incident well and I intended no discourtesy whatever. I reassure the noble Lord that I left the Chamber and instructed my officials to draft that letter; on leaving today, I will chase it down and ensure that it goes to him speedily.

Baroness Tyler of Enfield (LD) [V]: My Lords, local lockdown plans in Leicester and elsewhere are vital to ensure that a proper place-based response takes full account of existing health inequalities. At an all-party group meeting yesterday, Sir Michael Marmot explained that Covid-19 has exposed existing inequalities in society and amplified them, with Covid-19 mortality rates closely linked to health inequalities and deprivation more widely. Does the Minister agree that, before the Summer Recess, your Lordships' House must have a full debate on tackling inequality before a second wave hits us, with a sharp focus on the disproportionate impact on specific groups, particularly the BAME community?

Lord Bethell: My Lords, it is beyond my reach to instruct the House on its debates, but I would entirely agree with the noble Baroness that one of the saddest and most challenging aspects of Covid is that it hits society where it is weakest. It has undoubtedly hit those with health issues the hardest and has exacerbated health inequalities. It is my sincere hope that this Covid epidemic will be an inflection point, when this country embraces a strong public health agenda and addresses those health inequalities with energy.

Lord McColl of Dulwich (Con) [V]: Does the Minister agree that the reason why so many people in the United Kingdom and the United States have suffered from Covid-19 is that the majority of people in both countries are obese? Covid-19 and obesity is a lethal combination. We urgently need a nationwide campaign to reduce the obesity epidemic—to persuade people to put fewer calories into their mouth before the next pandemic arrives to affect even more people.

Lord Bethell: The noble Lord overstates his case a bit—it is 28% of Britons who are obese—but his point is very well made. We have undoubtedly been challenged as a nation because too many of us are overweight, and I say this with a degree of personal humility. As I said in my previous answer, there is a significant opportunity for this country to regard Covid as a massive warning shot and a potential inflection point where we address overeating and, as a nation, embrace the opportunity to get fit and lose some weight.

Lord Wood of Anfield (Lab) [V]: My Lords, on Monday the Mayor of Leicester said:

"It was only last Thursday that we finally got some of the data we need but we're still not getting all of it."

Is he mistaken, Minister?

Lord Bethell: Yes, the mayor is mistaken. He has been presented with all the data that we had. He has sat down with public health officials and been through that data, which has been re-presented to him on several occasions. I am pleased to say that he has finally come round to the lockdown measures that we have recommended.

Lord Bradshaw (LD) [V]: My Lords, currently we are dealing with coronavirus problems, but another problem is approaching us: we are telling people not to use public transport but, at the same time, we are filling our cities with cars, pollution and congestion. Can I be assured that all the health issues are taken into account in deciding how many people can travel on buses?

Lord Bethell: The noble Lord raises a significant challenge that has emerged from Covid: our profound reliance on public transport to keep our major cities and, candidly, much of our economy going. The idea that we can quickly return to packed tubes and crowded buses feels unlikely at this stage, but the answer is a difficult one to imagine, not least our need to get nurses and doctors to the front line of their hospitals and care provision. The health agenda on this is extremely important, and the noble Lord can rely on the Department of Health and Social Care to pursue it with energy.

Lord Singh of Wimbledon (CB) [V]: My Lords, it is important for children, particularly vulnerable children and those of key workers, to get back to school as

soon as possible. Will the Government consider a shift system, whereby the day is divided into shorter hours with smaller class sizes to ensure maximum safety and maximum education?

Lord Bethell: The noble Lord is entirely right. I have four children, all of whom have returned to school this week, and they are all attending smaller classes for smaller amounts of time on different days of the week. As a parenting challenge this is considerable, but it has meant that they have returned to both the social and disciplinary aspects of school. I embrace this development and entirely agree with the noble Lord's prioritising of this important subject.

Lord Lansley (Con) [V]: My Lords, will my noble friend the Minister commit the Government to maintaining their financial support for the Covid-19 volunteer testing network? He will know the important work that it is doing.

Lord Bethell: My noble friend is right to raise this important subject. I know the volunteer testing network; I value it enormously and am extremely grateful for its support. I am currently looking into its funding, and I would be glad to write to my noble friend to provide a clearer answer on that.

Lord Foulkes of Cumnock (Lab Co-op) [V]: The Minister graphically described Leicester as a rock pool while the tide of the pandemic goes out, but tides have a strange habit of coming back in again. The Government have decreed that all the pubs in England will open on a Saturday—4 July. As my noble friend Lady Thornton said, that has been described as another New Year's Eve, and of course it is followed by a Sunday. What plans do the Government, and particularly the Department of Health, have to respond to any problems that may arise after this rather early New Year's Eve?

Lord Bethell: The noble Lord is right to be concerned. I think we are all concerned about the unlockdown because we want to return to opening the economy and society, but we are naturally anxious about the consequences. I have met the leaders of pubs, clubs and others in the hospitality industry, and I am working extremely closely with them to put in systems with which we can record those who attend those venues to support our tracing efforts—and to provide a subliminal message to all those who attend that they are at a place of risk and have to behave with some common sense. I am extremely hopeful that the experiment will be a success, but we should not be under any illusion: if the tide returns and the experiment does not work out, we will have no hesitation in suspending the experiment and going back to closing the pubs if necessary.

1.36 pm

Sitting suspended.

Arrangement of Business

Announcement

1.45 pm

The Deputy Speaker (Lord Faulkner of Worcester) (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 should 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 the amendments or 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 have given 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.

Prisoners (Disclosure of Information About Victims) Bill

Report

1.47 pm

Clause 1: Murder, manslaughter or indecent images: prisoner's non-disclosure

Amendment 1

Moved by ***Baroness Bull***

1: Clause 1, page 1, line 14, after "prisoner" insert "is or was able to but"

Member's explanatory statement

This amendment seeks to ensure that account is taken of the prisoner's state of mind in determining whether they can make a disclosure.

Baroness Bull (CB): My Lords, Amendments 1, 2, 5, 6, 8, 9, 11, 12, 14 and 15, in my name, are in substance the amendments I introduced in Committee. Now as then, I am grateful to the noble and learned Lord, Lord Hope of Craighead, and the noble Baroness, Lady Barker, for supporting them. I am also grateful to the noble Lord, Lord Bradley, who cannot be here today but has great experience in these matters and has written to express his support.

I will speak to the first two amendments, which are repeated, out of necessity, at relevant places in the Bill. The two stand together and make connected points. First, the Parole Board must consider the prisoner's state of mind and whether for some reason, such as the presence of mental disorder, they cannot form the requisite intention to withhold the information. Secondly, the board must be satisfied that the prisoner has the mental capacity, within the meaning in the Mental Capacity Act 2005, to decide whether to disclose. In moving these amendments, I put on record yet again my support for the principle of this Bill and my admiration for Marie McCourt. I acknowledge the Bill's importance to grieving families in achieving closure in the most terrible circumstances.

In Committee, the Minister expressed two objections to my amendments. I am very grateful to him for taking time to discuss them in advance of today. His first objection was that my amendments would prevent the Parole Board taking into account any previous occasions on which the offender had had the opportunity to co-operate with the authorities and reveal a victim's whereabouts, but had refused to do so. He argued that if this offender later became unable to make a disclosure for reasons of deteriorating mental health, for example, my amendment would leave the board unable to consider any prior refusal to co-operate in assessing the risk the prisoner posed to the public in the event of release on licence. The amendments tabled today meet this objection by including the potential for historical consideration.

His second concern is more fundamental and goes to the heart of what I see as the underlying problem with the Bill. Throughout its progress, he has repeated the Government's view that the board's discretion to consider all possible reasons for non-disclosure must be unfettered. He contends that my amendments give undue prominence to one factor among the many the board will take into account when making a public protection decision.

But in effect this is exactly what the Bill does. It turns consideration of non-disclosure—already a standard practice in parole panels—into a statutory duty. But it fails to create a parallel statutory duty of what must be a fundamental responsibility of the board in coming to its view: to consider whether the prisoner is able, for reasons of mental capacity or disorder, to disclose that information. The Bill therefore comes dangerously close to collapsing together the question of whether there is missing information with that of whether the prisoner should be held responsible for it.

Even if the Bill is not, in law, creating a new criminal offence of non-disclosure, the effect of deliberate non-disclosure is inexorably going to lead to the conclusion that the prisoner poses a risk and, as a result, requires to be kept in prison. Therefore, the Bill is in effect creating a statutory hurdle to release in those cases where deliberate non-disclosure is established. Given this, it should be explicit that that statutory hurdle can exist only where the prisoner can be held responsible for their own actions—that is to say that they are not suffering from a mental disorder or otherwise from impairment of mind or brain that should be seen as alleviating that responsibility.

The noble and learned Lord the Minister has been consistent in arguing that the Parole Board must be allowed to take into account a wide range of factors in making its decisions. But in relation to the Bill, which is so tightly focused on non-disclosure, there are really only three possible scenarios a board would face. The first concerns those cases where disclosure is not possible because the prisoner, for whatever reason, was not party to the disposal of remains and so genuinely does not know where the body is. Of course, there will also be cases where prisoners continue to protest their innocence. This is a problem for the board, but it is not what the Bill is about.

The second scenario concerns the non-disclosure cases where the verdict is not disputed and the facts of the case leave no room for it to be argued that the prisoner does not know where the victim's body is located. In both those scenarios it is simple. There is either an inability to disclose or there is deliberate non-disclosure, which is culpable. The prisoner who persists in this wilful refusal, amplifying again the distress already visited on the family of the victim, must take the consequences, and in its efforts to address this particular issue, the Bill has my full support.

But it is the third scenario that my amendments address—a scenario on which the Bill is silent. It is the scenario in which the prisoner, for reasons of mental disorder, cannot form the requisite intention to withhold information, or lacks the mental capacity to take the decision to do so. By failing to mention any possibility of the contrary, the Bill assumes that the prisoner has the ability to disclose, thus making any non-disclosure culpable. Prolonged detention for non-disclosure in such cases would be unfair, unjust and a potential infringement of human rights.

By elevating non-disclosure to statutory status, the Bill already departs from the Government's stated policy of leaving to the Parole Board decisions as to what weight, if any, it gives to the many factors it must consider. The Government have accepted, at the Dispatch Box here and in the other place, that the board should take state of mind and mental capacity into account. But the Bill provides the board with no guidance as to how its statutory duty is to be performed with regard to this. By extension, it fails to guide victims' families as to what they should expect of the Parole Board in cases of this kind. My amendments would address this discrepancy by elevating in parallel the related imperative to take the ability to disclose into account.

If the Minister is not willing and able to accept these amendments, as I fear he is not, and this guidance is to be dealt with outside the statute, can he at least

provide clarity as to what this guidance to the Parole Board is to be, where it is to be found and how its use will be monitored? I would be grateful if he could confirm definitively what training members of the Parole Board receive to support them specifically in making determinations under the Mental Capacity Act 2005. If the board's responsibility to take mental disorder and mental capacity into account is not to be a statutory duty, it will be vital that its members are fully conversant with the Act and its use within the criminal justice system. I beg to move.

Lord Hope of Craighead (CB) [V]: My Lords, I am grateful to the noble Baroness, Lady Bull, for her introduction to this group of amendments, to which I have added my name. I entirely support her careful analysis of the problem they seek to address.

There is no doubt that the Bill has been drafted with the best of intentions, and, as I said when we discussed them in Committee, I completely understand the policy reasons that lie behind it. I have the deepest sympathy for those it seeks to help. We have tended to focus on cases where the failure to disclose has been in murder or manslaughter cases, where the question is where the victim's remains were disposed of. But cases about the identity of children who are the subject of indecent images are just as distressing to the victims and their families. Our amendments, which are not intended in any way to undermine the Bill's intentions, extend to both of them. That is because the Bill, as drafted, gives rise to the same problem in both cases. I recall the noble and learned Lord the Minister agreeing with us, in the virtual meeting to which he very kindly invited us, that what matters for the purposes of our discussion is the substance of the issue our amendments raise, not their precise wording. The same cannot be said of the Bill; its precise wording does indeed matter.

It is the wording of the new Sections 28A(1)(c) and 29(1)(c) that create the difficulty. I entirely understand the noble and learned Lord's point, which he made in Committee and repeated to us in our meeting, that subsections (2) and (3) of those sections do not limit the matters which the Parole Board must or may take into account, and that he does not want to limit the scope that this leaves to the board. The problem lies in the meaning that is to be given to the words "has information" and "has not disclosed" in subsection (1), which sets the context for the whole exercise. There is a gap here, which the Bill leaves open. Cases of deliberate refusal where the prisoner has the information, is able to disclose it and fails to do so are covered by these words. These are the obvious cases that are so distressing. They can be seen as cases where the prisoner is deliberately prolonging the agony being suffered by the victim's families and, in the children's case, by the victims too. Their predicament is horrifying, and it is right that everything should be done to address it. The word "non-disclosure" is absolutely right for use in these cases. It carries with it the notion of intention, as the noble Baroness made very clear. For very good reasons, it was these cases that were in mind when the Bill was being drafted to give statutory force to "Helen's Law".

But what about those whom the board believes have or had the information because of the way the crime was committed but, for the reasons given by the noble Baroness, are simply not able to disclose it to the Parole Board because they lack the intention? That is the gap that the Bill leaves open and our amendments seek to fill. It may be said that, as matters stand today, cases of that kind can be dealt with by the Parole Board perfectly well, with all the understanding that they deserve. The Bill assumes that what the board does now must be transformed into a requirement—a statutory duty—and all that this entails. It is designed to change something, not leave things as they are. One can see, by looking at Amendment 17, in the name of the noble Baroness, Lady Kennedy of Cradley, what this may lead to. The context for any judicial review will be set by the terms of the statute. The board needs clarity on this matter.

2 pm

Are the cases described by the noble Baroness within the scope of these new clauses at all? Our Amendment 1 would make it clear at the outset that they are not, because they are not non-disclosure cases in the proper meaning of that word—they lack the intention. As an alternative, our Amendment 2 would make it clear that, without in any way limiting the scope of the matters that the board can take into account, the prisoner's mental capacity to disclose the information is indeed one of them. It would provide the assurance that those prisoners need, and the Parole Board needs too, that a decision made on that ground would stand up to scrutiny.

I hope very much that, when he comes to reply, the noble and learned Lord will set out as clearly as he can what guidance has been given to the Parole Board about how it should deal with these cases under the statute, and will answer the various questions the noble Baroness has put to him. I hope, too, that his mind is not entirely closed to the possibility of addressing this difficult issue by an amendment at Third Reading if it seems, on further reflection, that this would be a better way to proceed.

Lord Thomas of Gresford (LD) [V]: My Lords, first, I wish to associate myself with the expressions of support and sympathy of the noble Baroness, Lady Bull, for those who have campaigned so strongly and so well for the Bill to be brought before the House. It is a very important Bill.

Secondly, I support these amendments because the ability of a prisoner to recall what has happened is, of course, paramount and of considerable importance when the Parole Board is considering its decision. I hope your Lordships will forgive me if I keep my further observations for the second group of amendments, which I will be speaking to in a moment.

Lord Garnier (Con) [V]: My Lords, we have discussed the arguments behind these amendments in Committee and, to some extent, at Second Reading. I am not sure that much has changed since. For my part, while I entirely accept the motives and intentions of those behind the Bill itself, as well as the amendments in this first group, I remain sceptical about the utility of the Bill as an addition to the criminal law. That said, I have every sympathy—who would not?—for the living

[Lord Garnier]
victims of the abhorrent criminals covered by the Bill, and know why they, and those who support the Bill so enthusiastically, want it enacted. I am sure it will be very soon.

Both the Minister and my noble and learned friend Lord Mackay of Clashfern were not favourably impressed with my suggestion of a discrete criminal offence. From memory, only the noble Lord, Lord Adonis, was prepared to agree with me about the value of the Bill in its current form. My suggestions have now sunk below the waves and can be forgotten. However, I urge the House, despite the experience and wisdom of those supporting these amendments relating to the offender's state of mind—either through the greater emphasis demanded of the Parole Board in Amendment 1 of the noble Baroness, Lady Bull, or through a Newton hearing under Amendment 3 in the next group, proposed by the noble Lord, Lord Thomas of Gresford—not to curtail the Parole Board's independence and discretion.

As I indicated in our earlier debates, I would like the Parole Board's work to be more accessible to the public. Despite the powerful analysis of the noble Baroness, Lady Bull, the noble and learned Lord, Lord Hope, and the noble Lord, Lord Thomas of Gresford, I agree with the Minister's argument in Committee—which he seems to have repeated in his meeting with the noble Lords—that the Bill in its unamended form enables the Parole Board to fully consider the offender's state of mind and their reasons for not disclosing the requisite information.

As was pointed out in our earlier debates, when considering the public safety implications of permitting a long-sentenced offender to return to the community, the Parole Board is looking at information and coming to a decision many years after the offence and the trial. A finding made by the trial judge shortly after the verdict about the offender's failure to disclose the site of the victim's body or—as the noble and learned Lord, Lord Hope, properly reminded us—the identities of children in criminal images is valuable, and will surely be brought to the Parole Board's attention, as will be the effect of that finding on the judge's sentence. However, as the noble and learned Lord, Lord Thomas of Cwmgiedd, pointed out in Committee, we need to be careful not to confuse punishment for the original crime and the public safety implications of the prisoner's much later release.

It must seem to many noble Lords that, not for the first time, I have got to the church by way of the moon. However, in short, let us leave the Bill as it is. It will be no more effective if amended.

Lord Thomas of Cwmgiedd (CB) [V]: My Lords, I agree with the noble and learned Lord, Lord Garnier: the Bill is best left as it is. Although it is a limited purpose Bill and to be welcomed, there is plainly a need for a proper review of the Parole Board in due course. That is the occasion on which we should look at matters in the round.

In my experience, the Parole Board approaches the exercise of its discretion with the greatest possible care and, in cases where there are issues of mental capacity, takes infinite care to ensure that it has available all the necessary information, including reports from the prisoner. Occasionally, mistakes are made. However, there is always the remedy of judicial review, and it seems to me that it would be much better to leave the Bill as it is, allowing any errors on matters as obvious as mental capacity or findings of the trial judge to be taken into account. The Bill should be left alone; we should not amend it.

Earlier this week, we considered the state into which the law of sentencing has got by a piecemeal approach. It is not something we should do in criminal justice. Although I shall have something to say in detail about Amendment 3, I accept entirely the analysis of the noble Baroness, Lady Bull, and that of the noble and learned Lord, Lord Hope of Craighead. However, my acceptance of their analysis of the proper approach does not persuade me that it is necessary to amend the Bill. The issues can be safely left to the discretion of the Parole Board, and there is a remedy if it fails to do that.

Lord Balfe (Con) [V]: My Lords, I spoke in Committee and, subsequent to that, I had an exchange of correspondence with Marie McCourt. I would not like anything said today, and I do not think that any noble Lord would mean it, to take away from the need to right the hurt that she, and those dear to her, have felt.

I said on the last occasion that the Parole Board itself needed a thorough overhaul and the Minister, if I remember correctly, agreed with me. My concern here, as it is in many places, is that any law brought in to right a specific wrong can often be wrong itself—you need a much more generalist approach.

None the less, I welcome the Bill. My point is that, when you deal with mental capacity, you also have to remember human frailty. The fact of the matter is that people can just forget. There is at least an element of possibility that someone could just forget what they had done. It is also possible that they could just forget who photographs were of. I know that that may not be a popular thing to say but, going back many years to when I was in the Territorial Army, we used to have exercises where we dropped people and they then had to find their way to places. I was always amazed at how people could not recognise things. There is a genuine defence that someone has just forgotten.

Secondly, I hope that the Minister can assure us that we are not passing a law that will go to Strasbourg to be interpreted. When I look at this, I wonder whether it will pretty quickly end up in the European Court of Human Rights, where it will not be us doing the legislating but the judges in Strasbourg. I welcome the Minister's assurance that he really does think that it is proof against even a reasonable prospect of a challenge in the court.

Finally, I agree with the noble and learned Lord, Lord Hope, that wording matters. It can matter quite strongly in the case of a Bill such as this one.

Lord Carlile of Berriew (CB) [V]: My Lords, I share the sympathy that has been expressed for the families of the victims who are behind the motivation for the Bill.

I looked carefully at the background to this issue to see what effect—[*Inaudible*]—stage had on the Bill to see if there is a necessity for the amendments that are proposed today. I examined paragraphs 32 and 33 of the Explanatory Notes, which say, among other things:

"The proposed change is to put Parole Board practice on a statutory footing … the Bill will not result in any change to current Parole Board practice and it is not anticipated that there will be any impact on the prison population".

I also listened carefully to the Minister, who, in effect, repeated that analysis in relation to today's proceedings.

I share the view of the noble and learned Lords, Lord Garnier and Lord Thomas of Cwmgiedd, that we should not interfere with sound parole practice if Parole Board practice is—[*Inaudible*]—the Parole Board would be much more transparent—[*Inaudible*]—subject to closed hearings, national security and certain views of—[*Inaudible*]—confidentiality could be heard in public. What have the Government done to obtain the views, on both this Bill and the amendments that were passed earlier, of the current deputy chair of the Parole Board, His Honour Peter Rook QC—a very experienced and admired judge—and his predecessor, the former High Court judge, Sir John Saunders? I have a suspicion that, if consulted, they would say, "Well, first of all, we would prefer Parole Board procedure to be kept flexible and not to be circumscribed in any way by this Bill", which—[*Inaudible*]—any changes to Parole Board practice.

Secondly, I would expect them to say that attitudes to cases change over the years, and that the Parole Board must be a living instrument, dealing with applications—[*Inaudible*]—released from prison, often many years after the event. I think that I once prosecuted a defendant who was sentenced to a whole-life tariff, remains in prison on that tariff and has taken his case to the European Court of Human Rights at least once. He happens to be the person who—[*Inaudible*]—which was just mischief-making. That is another example of the flexibility that the Parole Board needs in order to take account of the activities and attitudes of people who have committed dreadful offences such as these.

My main point is that the Parole Board should retain its flexibility to deal with all these issues as part of the larger picture in each case. On balance, I feel that the Bill in its original form does that more successfully than the Bill would do with the amendments added.

2.15 pm

Baroness Barker (LD): My Lords, I thank the noble Baroness, Lady Bull, and the noble and learned Lord, Lord Hope of Craighead, for the clear way in which they introduced the Bill and for signalling their intention not to push this amendment to a vote.

When we discussed this matter at an earlier stage of the proceedings, I explained that I am one of a number of Peers who has taken part every time we have discussed mental capacity legislation since its pre-legislative state in 2004. I remain concerned that mental capacity legislation is not widely understood or implemented in a variety of professions—even in the medical profession, where one might think that it would be. Given the incidence of mental illness in the prison population, one would think that such legislation is widely understood by practitioners. When we carried out the review of the Mental Capacity Act, that turned out not to be so.

I do not doubt that the Parole Board should be as free as possible to exercise judgment. It is not for those of us outside who do not have access to all the facts of a particular case to second-guess it. My questions during earlier stages of the Bill were about the training of professionals in the criminal justice system, particularly the Parole Board, and the reliance on Mental Capacity Act advisers, Mental Health Act advisers and so on. I have not had answers to those questions; therefore, like the noble Baroness, Lady Bull, I remain concerned that there is a gap in the legislation.

Like others who have spoken to Mrs McCourt, I really want this legislation to work and I do not wish to see gaps through which people who have the capacity and have information but are withholding it can slip. The noble Baroness, Lady Bull, made a valid point. I understand that the noble and learned Lord, Lord Keen, will resist putting these words in the Bill, but can he tell us what regulations and guidance will arise as a result of our discussion?

Lord Ponsonby of Shulbrede (Lab) [V]: My Lords, I thank the noble Baroness, Lady Bull, very much for moving her amendment. In Committee, I supported the amendments. I also echo the support of the noble Lord, Lord Bradley, who contacted me personally to say that he very much wishes he could have been here to support the noble Baroness's amendment.

It must be said that a number of extremely eminent lawyers have, in essence, spoken against the amendment moved by the noble Baroness, Lady Bull. My response to those eminent contributions was best articulated by the noble Baroness, Lady Barker. My experience is that many different parts of the criminal justice system do not understand mental capacity legislation properly and that, even if they do, it is often not used to its full extent. That is because such a large proportion of the people we deal with in the criminal justice system as a whole have mental capacity issues.

I support in principle what the noble Baroness, Lady Bull, has said; I understand that she will not press her amendments to a vote. I hope that the Minister will say something more constructive about addressing the perceived gap in the legislation regarding further review by the Parole Board and the practicality of a possible remedy through judicial review. These are all active issues which have been explored in our debate. The Minister should acknowledge that the concerns raised are real and explain to the House why it would not be necessary to meet them in the Bill.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I thank the noble Baroness, Lady Bull, and other noble Lords for their contributions to this debate. Perhaps I may reiterate the position of the Government, which is that we consider that the amendments would unnecessarily fetter the discretion of the Parole Board. I do not accept that there is a gap in the legislation, as suggested by the noble and learned Lord, Lord Hope of Craighead.

I shall initially address Amendment 1 and related Amendments 5, 8, 11 and 14, which would ensure that the Bill's provisions applied only to prisoners who are, or have previously been, "able" to disclose relevant information but have not chosen to do so.

[Lord Keen of Elie]

The Bill affords the Parole Board wide scope subjectively to consider the circumstances of a prisoner's non-disclosure. The test is broadly drafted to give the Parole Board, which is after all an independent judicial body with experience in assessing risk and evidence, sufficient flexibility to take all relevant circumstances into account when making a release assessment.

The board must be satisfied that the offender no longer poses a risk to the public, and this high bar can be met only after it considers all elements of an offender's case. This already includes an offender's current and past "ability", whether mental or physical, to disclose such information. The Parole Board may already consider all possible reasons, in its own view, for any non-disclosure, including historic refusals.

There is some uncertainty as to the meaning of the term "able" in these circumstances, and it would be unclear what criteria the board would use to make their determination. In many cases, there are varying degrees of ability, or varying degrees of information, that the prisoner can disclose, and the interpretations of ability in each case will differ—a point made by a number of noble Lords. The Parole Board in its current practice uses a flexible approach to take into account all elements of a non-disclosure. To use "able" in a determinative and inflexible way would cause unnecessary confusion and potential inconsistencies in its application. That has the potential unfairly to prevent the board when applying the Bill's provisions from considering a non-disclosure by an offender in many circumstances; for example, the case of an offender who had rendered themselves "unable" to disclose due to illicit drug use in prison. There are clearly other examples of how that difficulty could arise.

By specifically avoiding reference to particulars in the Bill, we are deliberately not limiting the board's ability to use its expertise in how it approaches such cases. I say in response to a point made by the noble Baroness, Lady Bull, that the Parole Board is possessed of considerable expertise in these areas, including that of mental health.

That leads me on to Amendments 2, 6, 9, 12 and 15, which would explicitly direct the Parole Board to take into account one possible reason for non-disclosure; namely, whether the prisoner has or had the mental capacity to disclose information. The Bill places a broad statutory duty on the Parole Board to take into account non-disclosure on the part of a prisoner and, in doing so, it must consider all the reasons for such non-disclosure. It is therefore for the board itself, as now, to take a subjective view of what those reasons might be, and then it is for the board to decide what bearing this information may have on its subsequent assessment of suitability for release. I remind noble Lords of what is provided for in Clause 1(2)(b), which states:

> "When making the public protection decision about the life prisoner, the Parole Board must take into account … the reasons, in the Parole Board's view, for the prisoner's nondisclosure."

That wide remit clearly would embrace all the issues that have been touched on in the debate.

The noble Baroness correctly identified that a prisoner's mental state is likely to be a significant factor in assessing reasons for non-disclosure. However, we do not believe that there is any material benefit in referring to this as a possible reason for non-disclosure in the Bill, as the Parole Board will take all relevant factors into account when assessing a prisoner's suitability for release. If one factor were to be explicitly stated, it could be asked why other reasons for non-disclosure are not also placed on a statutory footing, such as a geographical change that prevents the location of a victim's remains being identified or circumstances where mental impairment does not amount to "mental capacity". As one noble Lord observed, there may be cases where people have simply forgotten or decided to blank matters out of their mind over a period of many years. Clearly, the noble Baroness does not wish to preclude any other relevant factors, but any delineation of what the reasons for non-disclosure may be in order to preserve a flexible approach takes away from the subjective approach that we invite the Parole Board to take. This approach is expressed in Clause 1(3), which states:

> "This section does not limit the matters which the Parole Board must or may take into account when making a public protection decision."

It is for the board to take these matters into account when conducting its assessment.

There are significant practical difficulties in attempting to give examples on the face of the statute, which could lead to unnecessary confusion. That is why a decision as to mental capacity is one of many that would have to be considered. However, the board is bound by public law principles to act reasonably in respect of all decisions it makes. A decision where a relevant mental capacity issue was not taken into account would clearly be amenable to challenge by judicial review. That is why we believe that the more sensible approach is to leave these matters to the considerable expertise and experience of the Parole Board and not to attempt to take one or two factors out of context and place them in the Bill.

I say in response to one or two points raised in debate that the Parole Board already has expertise available to it in dealing with matters of mental capacity. We are not moving away from the current guidelines; we are essentially expressing in statutory form that which can be found there already. The noble Lord, Lord Balfe, asked whether the matter would go to Strasbourg. I simply draw his attention to the certificate given by the Lord Chancellor and Secretary of State for Justice pursuant to Section 19(1)(a) of the Human Rights Act 1998 that, in his view, the provisions of the Bill are compatible with convention rights.

I acknowledge the concern expressed about mental capacity. I reiterate our view that that is well embraced by the broad terms of the Bill. I therefore invite the noble Baroness not to press her amendments.

2.30 pm

Baroness Bull: My Lords, I am grateful to the many noble and noble and learned Lords who have spoken in support of my amendments, and I am particularly grateful to the noble and learned Lord, Lord Hope of Craighead, and the noble Baroness, Lady Barker, for adding their names to them. All noble Lords who spoke supported the aims of this Bill, but several shared concerns that the wording creates difficulties.

As the noble and learned Lord, Lord Hope of Craighead, noted, the words "has information" and "has not disclosed" leave a gap in which the third scenario I outlined, where the prisoner is not able to disclose for reasons of mental disorder or mental capacity, is not covered. It does not provide the clarity that the board requires. I echo what I fear is the futile hope of the noble and learned Lord, Lord Hope of Craighead, that the Minister might be persuaded to reflect further following today's debate and consider a government amendment at Third Reading.

The noble Baroness, Lady Barker, spoke with great experience and authority about the widespread lack of understanding of the Mental Capacity Act and its application within the criminal justice system. For reasons of time today, I did not repeat the observations I made in Committee about the extent to which issues of mental health might be a problem. The paucity of knowledge about the scale of the mental health challenge in our prison population, along with the potential for and the reasons behind mental health decline during incarceration, are there in *Hansard*. Like the noble Baroness, Lady Barker, I consider that they remain real concerns in the light of this report of poverty of understanding of the Mental Capacity Act.

I am grateful to the Minister for his response and, as I said earlier, for taking the time to discuss between Committee and today's debate, and I am only sorry that he has felt unable to take on the concerns that we have collectively expressed. However, I appreciate his confirmation that any decision that does not take mental capacity into account could be subject to judicial review. I wonder whether he could clarify his response to my earlier question, along with that put by the noble and learned Lord, Lord Hope, as to where guidance on this could be found, and how it would be applied and monitored if it is not to be a statutory duty. Where is the guidance on application or consideration of mental capacity and mental impairment?

Finally, could the noble and learned Lord specifically address the question posed by the noble Baroness, Lady Barker, in Committee and again today, and in writing on 19 May by the noble Lord, Lord Bradley, as to what training in the Mental Capacity Act and its application is mandated for members of the Parole Board? I understand that they possess expertise in mental health matters, but that is not exactly the question that was asked.

The Deputy Speaker (Lord Russell of Liverpool) (CB): Does the Minister wish to reply? No?

Baroness Bull: In which case, with regret, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2 not moved.

The Deputy Speaker: We come now to the group beginning with Amendment 3. 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 or any other amendment in this group to a Division should make that clear in debate.

Amendment 3

Moved by ***Lord Thomas of Gresford***

3: Clause 1, page 1, line 20, at end insert—

"(c) where a Newton hearing took place before the trial judge prior to the prisoner's sentencing, any findings of the judge as to the reasons for the non-disclosure, including the mental capacity of the prisoner."

Member's explanatory statement

This amendment requires the Parole Board to take into account the findings of a Newton hearing (a short hearing held before a judge without a jury to resolve disputed facts before sentencing) regarding the prisoner's reasons for non-disclosure, if one was held after a verdict or plea of guilty.

Lord Thomas of Gresford [V]: My Lords, the issue that my amendments seek to address is to determine how the withholding of information is to be judged a factor mitigating against the release of a prisoner on parole. The Parole Board makes a public protection order and, as the noble and learned Lord the Minister reminded us a moment ago, it must not give a direction for release unless it is satisfied that it is no longer necessary for the protection of the public that the person should be confined.

This Bill requires the Parole Board, in making a public protection decision, to take into account, first, the prisoner's non-disclosure of the whereabouts of the remains of a victim in murder and manslaughter cases or the identity of victims in the case of indecent images and, secondly, the reasons, in the view of the Parole Board, for the prisoner's non-disclosure. The Parole Board must take on the difficult task of investigating the reasons for non-disclosure many years after the event, after the tariff period has expired—which, typically in murder cases, is 15 to 20 years. This lapse of time makes it unsatisfactory from the board's point of view and, I would suggest, from the public's point of view. But it is also unsatisfactory from the prisoner's point of view because, although the proceedings affect his liberty, the onus is on him to satisfy the board that he has a proper reason, no doubt on a balance of probabilities.

Secondly, he will probably not be represented. He is entitled to have representation by a solicitor, but legal aid is very limited. He is of course required to set out his case in writing in advance of a hearing on reading the dossier that is sent to him, with or without the help of a solicitor or a friend. Thirdly, if the issue is one of mental capacity, he will of course have great difficulty in representing himself and he has no appeal, save for the discretionary and difficult route of judicial review.

It is highly unsatisfactory also from the point of view of the victim or the victim's family. First, the prosecution is not represented. Unless the board itself steps into the arena at a hearing, assertions made by the prisoner will not be subject to proper challenge. Secondly, the victim or the victim's family have a very limited role—nothing save to supply either in writing or orally a victim statement of the impact of the crime

[Lord Thomas of Gresford]
on them. Thirdly, the proceedings are, for good policy reasons, held in private—but that means that the issues which are discussed do not receive the light of day.

These difficulties were highlighted by the noble and learned Lord, Lord Garnier, at Second Reading. I am sorry to see that he has now found his way to the moon. His proposed solution, of having a second jury to investigate the reasons for non-disclosure post trial, was impractical, as I think he himself has admitted. He was suggesting that a consecutive sentence should be imposed which would come into effect at some indeterminate future date, presumably after the Parole Board had made a decision to release the prisoner. A consecutive sentence after a mandatory life sentence would not by definition be appropriate. However, although he has resiled from his position, his suggestion that the reasons for non-disclosure of information should be investigated at the time of the trial is obviously very sensible. At that moment, the judge is apprised of the circumstances of the case, as are both the prosecution and the defence.

What is the appropriate mechanism? I have suggested a Newton hearing. My amendments do not make the holding of a Newton hearing mandatory, but they do encourage the holding of such a hearing if there is a dispute about the reasons for non-disclosure at the time of the trial. For example, it might be the mental capacity of the accused or, as I suggested in Committee, where the defence is, "Well, I was part of a group and I do not know what happened to the body; I was not party to its disposal." They also deal with the situation where a prisoner might seek to argue a subsequent loss of mental capacity: "I cannot remember now why I could not remember at the time of the trial." That is not a very persuasive argument for meriting release in any event. I suggest that, before sentencing, the judge should inform the defendant, if it be so, that he is sentencing on the basis that critical information is deliberately being withheld, unless the prisoner wishes to contest that assumption. If the prisoner does not, that is the end of the matter. Fifteen years later the prisoner can hardly with success raise reasons for his non-disclosure which he was not prepared to adduce before sentence. However, if he does contest the basis of his sentence that the judge has indicated, a Newton hearing is entirely appropriate.

The purpose, principles and procedure of such a hearing were thoroughly explored by the noble and learned Lord, Lord Judge, then Deputy Chief Justice, in 2003 in the case of Underwood and others. That case has been followed in a recent case in the Divisional Court last July. The noble and learned Lord, Lord Judge, said:

> "The … principle is that the sentencing judge must do justice. So far as possible the offender should be sentenced on the basis which accurately reflects the facts of the individual case."

He said of the 1983 Newton case, which gave rise to this procedure, that it was

> "a classic example of an imperative need to establish the facts. To proceed to sentence without doing so, would have been productive of injustice."

It may be said—the Minister may say it—that the issue could be resolved before a jury by charging an accused in addition to murder or manslaughter with the common law offence of preventing the lawful and decent burial of a body. There is no point in so doing. Any sentence for such a common law offence would be bound to be of a lesser magnitude and would run concurrently from the day it was imposed. It might very well prevent the judge increasing the tariff on the main charge by reason of the aggravating factor of concealing the body, for which he has just imposed a sentence of imprisonment.

I recall the "mummy in the cupboard" murder case in Rhyl in 1960, which drew international attention. The defendant, a boarding house landlady, had stored the body of a tenant of hers in a cupboard. It was 20 years before it was discovered in a mummified condition. The issue at trial at Ruthin assizes was whether the stocking around the deceased's neck had been used to strangle her. There is no evidence that the material was stretched. The ferociously intense cross-examination of Andrew Rankin QC is etched on my memory as one of the most dramatic court scenes I ever witnessed. Andrew was then a Liverpool junior—perhaps he was the Rumpole of the north—and the expert Crown pathologist he was questioning passed out completely and ended up in a crumpled heap on the floor of the witness box. The defendant was acquitted of murder but convicted, not of the common law offence of preventing a lawful burial—which had not been brought but of which she was clearly guilty—but of collecting the £2 a week that the deceased's husband had posted to her in the belief that she was alive. That was just over £2,000 over 20 years. She received 15 months' imprisonment.

As for failing to disclose the identity of children pictured in indecent images, there is no separate offence. No criminal offence is committed by such failure and the accused is not obliged to say anything unless he or she wishes to do so, so that is not an appropriate alternative route. However, in any event, such an argument of adding an additional count cannot be made where there is a plea of guilty: if there is no trial, there is no jury. Where there is serious disagreement between prosecution and defence as to the basis of a plea, a Newton hearing is essential and commonly held.

I have looked at the current sentencing guidelines. There are listed four statutory aggravating factors, such as offences against emergency workers or those committed because of homophobia. I have also looked at the list of 21 other aggravating factors in the sentencing guidelines, none of which includes the concealment of information of the nature with which the Bill deals. The list is said to be non-exhaustive, but it illustrates the importance of the Bill. The campaigns have found a chink, as the noble Baroness, Lady Bull, said, which deserves to be filled.

I therefore commend these amendments as providing a sensible, contemporary—at the time of trial—resolution of issues which would be difficult for the Parole Board to determine 15 or 20 years later. Of course, I pay tribute to the Parole Board's experience and to the discretion which it frequently exercises. Nevertheless, it is difficult for it to determine something after such a lengthy time.

I propose to test the opinion of the House on these amendments but, whatever the result of the vote, I hope that the Government will reflect upon the issues

which they raise and that they will introduce these or similar provisions in the other place, which will provide a sensible solution to the problems we are discussing and ensure a justice for all the parties in which the public will have great confidence. I beg to move.

2.45 pm

Lord Mackay of Clashfern (Con) [V]: My Lords, I find difficulty with these amendments, and I will look carefully at the detail to understand exactly what is involved. As a Scottish lawyer, I was brought up in the Scottish system, where Newton decisions are utterly unknown. Since training in the law of Scotland, I have acquired a certain amount of familiarity with the law of England and Wales, and I have come across these Newton hearings, and indeed the judgment of the noble and learned Lord, Lord Judge, in the case which has been cited, and the explanation he gives for having them.

It may be wise just to look a little bit further into the detail which is required or which requires a Newton hearing. In the law of Scotland, the indictment of a serious offence requires the detail of the offence to be set out. If the accused wishes to plead guilty, he has the option to plead guilty to the indictment as served, or to plead guilty with items in the indictment which are matters of detail deleted. The prosecutor then has the option either to accept that plea, which will be of the offence with the details as agreed by the accused, or to proceed to trial. However, there is no room then for difference of opinion at the sentencing hearing about what the detail of the offence was, so there is no need for anything resembling a Newton hearing.

In England and Wales, the situation is somewhat different in that an indictment requires a description of the offence which does not, or may not, involve the same degree of detail. Therefore, the Crown may accept a plea of guilty from the accused when there is in fact quite a difference between them as to the detail of the offence, and that difference may make all the difference in the world to the seriousness of the offence. Therefore, when the question comes up for sentence, the exact amount of detail and what the details were becomes utterly relevant, but there is no way of resolving that, because there is no jury trial. Accordingly, the judge has to have a hearing when he determines what in his or her view actually happened. The result of that is that the accused has come to accept in effect a plea which has the effect of being not what he wanted but something that the judge decided he should have wanted.

This is the reason for the Newton hearings. As the noble and learned Lord, Lord Judge, said, to make the matter just, you have to know what happened. That is because the plea has not been sufficiently detailed to determine that. That is why these hearings have to be held. I once thought that it might be possible to get to a better solution by making it a requirement of an indictment to have more detail in it, but that has not so far happened. Who knows what may happen yet?

That is the situation of the Newton hearings. I understand the noble Lord, Lord Thomas of Gresford —with his great experience of both English and Welsh law on this subject—to suggest that if there is a dispute between the accused and the Crown about whether the accused has, justifiably or otherwise, refused to disclose what has happened to the body, the matter would be subject to a Newton hearing. I think that, if that happens, a Newton hearing is inevitable. Fortunately, I think that the noble and learned Lord who will follow me explained that that circumstance is usually taken into account at the conclusion of a hearing, including of course the jury trial, if the matter has become an issue between the parties at that stage. On the whole, it seems likely that this kind of question would be resolved without difficulty. It must be pretty much a matter of clear fact at the time of the trial and, therefore, the judge would usually take account of the situation agreed between the parties as to whether the accused has disclosed where the body went. This is on the assumption that the accused accepts that he committed the murder. I believe that the consequence of all that is that the number of Newton hearings with this subject matter will be relatively small.

I have to say that I speak on this matter subject to the observations of those learned in the law of England who will follow me. This is a matter of course only for the Crown Court, and therefore does not involve the magistrates' court in which the noble Lord, Lord Ponsonby, is so experienced. In my view, accordingly, there are a very limited number of circumstances in which this arises at all but, if it does arise, it is obvious that the decision of the judge in the Newton hearing will take place before he commits sentence. Therefore, Rule 5 of the Parole Board Rules requires that if the observations of the judge at trial before sentence are available, they are to be considered. The rules already take account of the exceptional cases, if any, in which a Newton hearing has taken place in relation to this matter. I therefore cannot see that it is at all right to modify the Bill by such an exceptional circumstance, which in any case illustrates a possible need for improvement in the law of England and Wales.

Lord Thomas of Cwmgiedd [V]: It is a pleasure and privilege to follow the noble and learned Lord, Lord Mackay of Clashfern, in this debate. It is important to observe at the outset that I consider this amendment the kind of amendment that shows the danger of trying to make piecemeal amendments to a very limited-purpose Bill.

If I may be permitted, I will first say a little about the law of England and Wales in relation to the role of the judge and of the parties in determining the facts for sentencing. The least common form of determining the facts is a Newton hearing. More commonly, the facts—if there is to be a plea of guilty—are determined on the basis of plea. Both procedures are set out in cases to which reference has been made, but they are now codified in division VII B of the Criminal Practice Directions. By far the most common method of determining the facts is the determination made by the trial judge for the purposes of sentencing. Although a jury determines guilt or innocence, save in a most exceptional circumstance, it is for the judge who has heard all the evidence to determine the facts on which he or she will sentence. If the judge follows the correct approach to this, there can be no dispute before the

[Lord Thomas of Cwmgiedd]
Court of Appeal in relation to the findings made, as set out in the 2018 judgment of Mr Justice Sweeney in the Queen v King.

Thus, what this amendment seeks to do, on the face of it, is to refer to the least common means of determining facts for the purposes of sentence, leaving out a slightly more common means, but not so common in murder or the other cases covered by the Bill where a life sentence will be involved—that is, a basis of plea agreed with the prosecution—and leaving out of account entirely what would normally happen, which is that the trial judge would have made findings. In the case of murder, this is particularly important because, as I mentioned in Committee, if the body has not been found or has been dismembered so that it cannot be found, this is provided as an aggravating factor under Schedule 21 to the Criminal Justice Act 2003 and the judge must make findings about it—and, in my experience, they invariably make findings about it—and it would be essential for the Parole Board to take that into account to avoid any risk of double punishment.

I therefore regret to say that, on its face, the amendment, if it seeks to deal with the narrow issue of what the Parole Board should do, is not a good amendment, because it leaves out the most common form of the determination of facts. However, if the wider purpose, as explained by the noble Lord, Lord Thomas of Gresford, is to encourage the taking place of Newton hearings after a trial, I venture to suggest that this is a most undesirable process. The trial judge will have heard the evidence; it is plain that, if a body has not been discovered, its whereabouts have not been discovered or the identity of the victim is unknown—as happens often in indecent image cases—this is bound to have been debated at the trial, and the trial judge will, as the law stands, have made the necessary findings. It is to those that the Parole Board should have regard.

If, however, it is thought that there should be a different procedure and that we should look at this matter again, I respectfully suggest that this is not the Bill in which to do it, and that this provision does not achieve what is intended. It illustrates that, if there is a problem with the way in which facts are determined—I believe there is no such problem—this is a matter that should be part of a wider investigation and not undertaken in this limited-purpose Bill.

I therefore propose to vote against this amendment on various completely different grounds. First, it has the potential to impair the discretion of the Parole Board by expressing reference to a particular means of determining the basis of sentencing and leaves out the more important. Secondly, it is unnecessary for the way in which the Parole Board approaches cases for the reasons I gave last time. Thirdly, the Parole Board is under a duty to look at what the judge has found. Fourthly, if there is a wider purpose, this is something that should be examined separately. This amendment achieves none of these purposes and I urge the House to reject it, if the House is divided.

3 pm

Lord German (LD) [V]: My Lords, the intention behind this group of amendments in the name of my noble friend Lord Thomas of Gresford is to provide the Parole Board with an increased level of relevant information on disclosure by including the issues raised by so-called Newton hearings.

As many noble and learned Lords have said, a Newton hearing may be held when a defendant has been found guilty at trial or entered a guilty plea but the issues in dispute that could affect sentencing were not fully resolved in the trial and therefore not resolved by the jury's verdict. In the course of a Newton hearing, the prosecution will call evidence and test defence evidence in the usual manner, including calling witnesses to give evidence if required, and the defence will also present its evidence. When the issue is within the exclusive knowledge of the defendant, as is the case in the two situations defined in this Bill, the offender should be prepared to give evidence. When they fail to do so without good reason, the judge may draw such inferences as they think fit.

It is this increased level of information that would become available to the Parole Board when taking into account the issue of disclosure when considering parole. I do not see that increasing the level of information made available in any way fetters the discretion of the Parole Board. It just gives it more information on which it can judge the issue.

In addressing the principle of Newton hearings in Committee, the Minister made two points. He said, first, that invariably the judge would take into account the matter of non-disclosure when sentencing and, secondly, that Newton hearings "are not that common." Putting these two points together, it is clear that the matter is considered but not guaranteed. Very few Newton hearings probe deeply into the reasons for non-disclosure. I venture that this is particularly so after a guilty plea at trial.

In Committee, the noble and learned Lord, Lord Woolf, said that Newton hearings provide a route to

"achieving the best possible result"—[*Official Report*, 20/5/20; col. 1158]

when non-disclosure has to be considered, and I agree with his analysis. Judges will have heard the facts as laid out in the trial and will have to make a judgment when non-disclosure is an issue. These amendments seek fundamentally to encourage trial judges to use the Newton procedure when the question of disclosure is under consideration. At this stage the maximum influence of the trial judge can be brought to bear on the disclosure question.

This would provide some comfort to victims. The offender's refusal to provide the information will be public. The "I can't remember" or "I can't deal with the situation" answers will have been examined. Victims will see the questioning and cross-examining of the prisoner, hear the answers given and be able to see any signs of remorse. They will see the judge's skills in tackling the defensive screen that offenders may build around themselves. This public record will be of immense use to the Parole Board in its consideration of the disclosure issue for many years into the future. It will be able to examine and probe the answers given at the time of sentencing with a much greater armoury of knowledge than the original court case might provide, especially if the Newton hearing were to take place following a guilty plea.

The trial judge will have presided over the original trial, and for the same judge to carry out the Newton trial before sentencing is a real help for victims. They know that the judge will have heard all the arguments and is in the best place to discover reasons for non-disclosure. Most importantly, it would provide reassurance to victims that this matter had been dealt with fully and properly and that the justice system was aware of their concerns.

Newton hearings are a fairly recent legal procedure and, as we have heard, only in England and Wales, but in the matters relating to the purposes of this Bill, such a hearing could have profound effects on the outcome for victims. Justice is not just a point in time for them; it can last a long time, and a lifetime for some. For victims coming to terms with their grief, anguish and hurt, it can last for ever. That is why the justice system has to do everything in its power to fully investigate non-disclosure at the earliest possible stage in the process.

These amendments, in this tightly drawn Bill, do not determine that there shall be a Newton hearing but simply that, if one has taken place, the Parole Board shall take note of its proceedings, particularly if the hearing had determined whether there was remorse and whether the perpetrator had knowledge of the victims that he or she had chosen not to disclose.

However, although the amendments do not place a requirement on the judicial system that there be Newton hearings, their passing would send a powerful message to prosecutors of the significance of such a hearing, particularly for its impact on victims. I commend these amendments to the Minister and look forward to a positive response.

Lord Ponsonby of Shulbrede [V]: My Lords, this is an interesting group of amendments, and my party will abstain if a vote is called. I listened carefully to the argument from the noble Lord, Lord Thomas of Gresford, and the noble and learned Lords who have spoken in this debate. The noble and learned Lord, Lord Thomas of Cwmgiedd, summarised the situation clearly from my perspective: Newton hearings are, in any event, the least common form of determining facts. The determining of facts is most often done by judges when summing up the case and, if there is a basis of plea, that would be the basis on which the sentence is made. If it is not accepted, there could be room for moving to a Newton hearing.

As the noble and learned Lord, Lord Mackay, said, Newton hearings occur throughout the whole of the English and Welsh system. As noble Lords may know, I sit as a magistrate in London and we occasionally do Newton hearings. They are used as a method of resolving the seriousness of the offence in some cases, but it seems we are talking about a very narrow set of circumstances here. In particular, the judge will have sat through the whole trial in the first place, and it will be for the lawyers on both sides to go through all the aggravating and mitigating factors, including the non-disclosure of a body. Of course, if the judge is not satisfied that that has been gone into sufficiently, they themselves can ask questions of clarification, if I can put it like that, of any witnesses giving evidence. It seems unlikely that this procedure would ever be used, and as such it should not be in the Bill.

A number of noble Lords spoke about calling witnesses again. It could be an extremely traumatic event for some people to have to be called twice to establish the facts of the case. Surely, it would be far better if all the facts—including the reason for the non-disclosure of the body or of the identity of children who have had sexual images made of them—were established in the trial itself, rather than elements of the trial being repeated in a Newton hearing. I will abstain on this amendment for the reasons I have given.

Lord Keen of Elie: I thank all noble Lords for their contributions to this debate. The Government remain of the view that these amendments would place too much emphasis on findings of mental capacity at a Newton hearing, particularly the findings made for the purposes of sentence.

In sentencing an offender, it is for the court to consider the punitive element of an offender's sentence and, in doing so, to take into account the failure to disclose information in setting the tariff. By reflecting this in the sentencing remarks, victims can be assured that due consideration has been given to the non-disclosure. Tariffs must be served in their entirety and irrespective of any disclosure of information after a trial, so the tariff cannot be reduced because of subsequent disclosures. This is an entirely sensible approach, as I believe the noble Lord, Lord Thomas of Gresford, acknowledged when we discussed this matter in Committee. The trial judge is more able to determine the appropriate weighting with regard to non-disclosure when setting the tariff.

On the other hand, the Parole Board's role is in relation to the preventive element of the sentence. The consideration that the Parole Board must make is whether there should be a continuation of custody or a release on licence if the offender's risk can be safely managed in the community. The Bill places a statutory duty on the board, when making that wider assessment, to consider the non-disclosure of information by an offender and the possible reasons for it. The board will take a subjective view of what those reasons might be, and what bearing this information may have on the subsequent assessment of suitability for release. When it comes to consider these matters, it must of course take account of the judge's sentencing remarks. Those, in turn, will be informed by such issues as non-disclosure. I am obliged to the noble and learned Lord, Lord Thomas of Cwmgiedd, for his detailed analysis of how the court approaches these matters in practice and why, in the context of the Bill, it would not be appropriate to simply import the notion of the Newton hearing for the purposes of the Parole Board's determination.

The noble Lord, Lord Thomas of Gresford, has correctly identified that a prisoner's mental state may be a significant reason for non-disclosure—a point made earlier by the noble Baroness, Lady Bull, when she spoke to her own amendments. But to limit this to the specific context of a Newton hearing, and to place that in the Bill, appears to us to be too narrow an approach. The Parole Board should be free to consider all reasons, including those that may arise as a result

[Lord Keen of Elie]
of a Newton hearing—unusual though they may be—and we should therefore avoid any specific delineation in the Bill.

As new subsection (3) in Clause 1 makes clear, the breadth of matters which the board may take into account is, essentially, as wide as possible. In addition, the board is bound by public law principles to act reasonably in all decisions, so a decision where a relevant Newton hearing or an issue of mental capacity was not taken into account could be subject to judicial review. I venture that this is not the Bill in which to approach the whole issue of sentencing guidelines or findings of fact for the purposes of those guidelines. That is already accommodated, and it is in these circumstances that I invite the noble Lord to withdraw his amendment.

Lord Thomas of Gresford [V]: My Lords, it is clear that the noble and learned Lord, Lord Mackay, does not like the system of Newton hearings, but the fact that the defendant has refused to disclose is not necessarily part of the offence. The reasons for his refusal to disclose the whereabouts of a body, or the identity of a child involved in indecent images, may not emerge in the course of a trial and may not be discussed before the jury. A jury listening to a case may not investigate the mental capacity of the defendant before them. If that is not an issue in the trial, examined on both sides, then the judge would have difficulty in forming a view of his own without hearing evidence.

The noble and learned Lord, Lord Thomas of Cwmgiedd, referred to the basis of plea as being the more usual way in which these matters are sorted out. I am completely familiar with the formation of the basis of plea, and the arguments that go on as to whether an agreement can be reached between the defence and the prosecution. However, if a person pleads guilty to murder or manslaughter and there is no trial, and there is a disagreement between prosecution and defence, how is the judge to come to a conclusion as to the degree to which the refusal to identify where a body is buried is to be part of his sentencing process—that it is an aggravating factor which he is to take into account? He has not heard any witnesses. He has just heard that the counsel disagree on what the basis of a plea would be.

3.15 pm

Consequently, in those circumstances there would be bound to be a Newton hearing along the principles outlined by the noble and learned Lord, Lord Judge. I feel that I am facing considerable senior opposition from the noble and learned Lords, Lord Thomas and Lord Mackay, but I am fortified by the considerable support given to these proposals in Committee by the noble and learned Lord, Lord Woolf, as your Lordships will recall.

As for what the Minister has said, I make it clear that I am not limiting the Parole Board to the findings of a Newton hearing that has taken place some 15 years before. The Parole Board is bound to look at a whole amount of evidence, particularly reports from the prison, medical reports or the victim's statement. There are all sorts of factors and issues that the Parole Board is to take into account. I suggest not that it should be bound by the findings of a Newton hearing but that it is another factor that ought to be taken into account. For that to happen, it is necessary that there is a Newton hearing in the first place where there is an issue about whether there is an acceptable reason—I will not say a proper reason—for a failure to disclose in the circumstances that we have been discussing on the Bill. More thought ought to be given to this and, for that reason, I will press my amendment.

3.18 pm

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Fairhead, B.
Falkner of Margravine, B.
Fall, B.
Farmer, L.
Fellowes of West Stafford, L.
Fink, L.
Finlay of Llandaff, B.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gadhia, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Garnier, L.
Geddes, L.
Geidt, L.
Gilbert of Panteg, L.
Glenarthur, L.
Glendonbrook, L.
Gold, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Greenhalgh, L.
Greenway, L.
Grey-Thompson, B.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Hanham, B.
Harding of Winscombe, B.
Harries of Pentregarth, L.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Hill of Oareford, L.
Hodgson of Astley Abbotts, L.
Hogg, B.
Holmes of Richmond, L.
Home, E.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Howard of Lympne, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jay of Ewelme, L.
Jenkin of Kennington, B.
Jopling, L.
Kakkar, L.
Kalms, L.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Laming, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lothian, M.
Lucas, L.
Lupton, L.
Mackay of Clashfern, L.
Mackenzie of Framwellgate, L.
Mancroft, L.
Mann, L.
Manzoor, B.
Marland, L.
Marlesford, L.
Maude of Horsham, L.
Mawson, L.
McColl of Dulwich, L.
McCrea of Magherafelt and Cookstown, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
Meyer, B.
Mobarik, B.
Mone, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay , L.
Patel, L.
Patten, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Price, L.
Rana, L.
Randall of Uxbridge, L.
Ranger, L.
Ravensdale, L.
Rawlings, B.
Reay, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Rose of Monewden, L.
Rotherwick, L.
Russell of Liverpool, L.
Saatchi, L.
Sanderson of Welton, B.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stern, B.
Stirrup, L.
Stoddart of Swindon, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Sugg, B.
Suri, L.
Swinfen, L.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Tebbit, L.
Thomas of Cwmgiedd, L.
Trefgarne, L.
Trenchard, V.
Trevethin and Oaksey, L.
Trimble, L.
True, L.
Truscott, L.
Tugendhat, L.
Ullswater, V.
Vere of Norbiton, B.

Verma, B.
Wakeham, L.
Waldegrave of North Hill, L.
Warsi, B.
Wasserman, L.
Watkins of Tavistock, B.
Wei, L.
Whitby, L.
Willetts, L.
Williams of Trafford, B.
Wilson of Dinton, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

3.35 pm

Amendment 4 not moved.

Clause 2: Manslaughter or indecent images: prisoner's non-disclosure

Amendments 5 to 16 not moved.

Amendment 17

Moved by ***Baroness Kennedy of Cradley***

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

"Parole board database

(1) Within six months of this Act being passed, the Parole Board must create and maintain a database of family members of victims to whom the circumstances referred to in sections 28A(1) and 28B(1) of the Crime (Sentences) Act 1997 apply.

(2) At each stage of an offender's parole application the Parole Board must contact the relevant persons to provide them with information pertaining to the application, including but not limited to—

(a) the timings of hearings where the prisoner's release from prison is being considered;

(b) a relevant person's rights in relation to requesting a judicial review of the Parole Board's decision;

(c) the length of the sentence that will have been served by the prisoner at the time of the hearing;

(d) decisions of the Parole Board; and

(e) any other rights that a relevant person has relating to the provision of information.

(3) The parole board must remove a relevant person from the database if they, or their parent or guardian (if applicable), do not wish their details to be included in the database.

(4) Within one year of the database being created, the Secretary of State must undertake a review of the effectiveness of the Parole Board's actions under this section, with a report to be laid before Parliament.

(5) In this section, the relevant persons are—

(a) where the prisoner's sentence has been imposed for murder or manslaughter, the victim's parents or guardians, children and siblings; or

(b) where the prisoner's sentence has been imposed for an offence relating to indecent images as defined by section 28B of the Crime (Sentences) Act 1997—

(i) the victim, or

(ii) the suspected victim's parents or guardians if the victim or suspected victim is under the age of 18."

Baroness Kennedy of Cradley (Non-Afl) [V]: My Lords, Amendment 17 is in my name and the names of the noble Baronesses, Lady Barker and Lady Newlove, and the noble Lord, Lord German. I thank them for supporting this amendment. It is a joint effort and builds upon the one tabled in Committee by the noble Baroness, Lady Barker, and the noble Lord, Lord German, which had support across the House and the support of my noble friend Lord Ponsonby. Let me indicate at the start of the debate that if the Minister does not accept this amendment, I will test the opinion of the House.

This amendment adds a new clause, which seeks to put the victims and their families at the heart of the Bill. It is a clause about respect being given to victims and their families by ensuring that there is a process in place, set out clearly on the face of the Bill, where there can be no dispute about people's rights or the Parole Board's obligations regarding communications with victims and their families. In explaining why this amendment is necessary, we must consider the reason for this Bill in the first place. To quote from GOV.UK, the Bill

"places a legal duty on the Parole Board to consider the anguish caused by murderers who refuse to disclose the location of a victim's body when considering release".

Thanks to the tireless campaigning of mothers such as Marie McCourt, the Government have rightly recognised that not having your child back to give them "a final goodbye", in Marie's words, is harrowing and painful and that legislation is needed to get closure for families such as the McCourts and to relieve the anguish that they feel.

This Bill is about alleviating the hurt that non-disclosure of information causes to families and places a duty on the Parole Board to act. This amendment does the same. It seeks to relieve the anguish that victims and their families experience from not knowing information about parole release hearings and places a duty on the Parole Board to act. It cannot be stressed enough how important it is for families to be fully informed and involved in parole hearings about release, and, when mistakes are made in the flow of information communication, how much anguish this causes victims and their families. As I noted at Second Reading, sadly, many parents involved in the Vanessa George case found out about her release on Facebook or via the local newspaper. That is completely unacceptable. I am sure that every effort was made to contact the parents, but the system places the onus on the victims and their families to keep in touch.

This amendment asks for this small group of people to have the right to receive proper, accurate and timely communications and information from the Parole Board. It shifts the responsibility from the victims and their families to the board. At a meeting a few months ago, the current Victims' Commissioner and the chair of the Parole Board acknowledged that not all victims opted into the victim contact scheme. They noted that this caused distress to those who failed to opt in and who later discovered, through third parties, that the offender had been released. This amendment addresses that concern.

The Minister will say, as I am sure that he did in Committee, that processes already exist for victims and their families to receive information. Yet despite this, as in the case of the victims of Vanessa George and their families, some find out about the offender's release via the media and Facebook. This amendment stops that from happening. It does not stop a prisoner being released, it just sets a duty for the Parole Board

to ensure that communications with victims and their families are made, that they are fully informed at each stage of the process and fully aware of their rights. The requirement is to maintain a database, which is not onerous in number, and have it set up within six months of the Bill getting Royal Assent. It allows victims and their families to opt out of receiving information and communications. It is not now the family's responsibility to opt in. To ensure that this is working as intended, proposed subsection (4) of the new clause requires the Secretary of State to undertake a review of the effectiveness of the Parole Board action and lay a report before Parliament.

Finally, proposed new subsection (5) sets out, so that there is clarity and no dispute, who the relevant persons are and who needs to be communicated with. I hope that the noble and learned Lord recognises the anguish caused to victims by the Parole Board process and by ineffective communication, and will accept this amendment as it seeks to improve communications and the publicity surrounding parole release hearings. I beg to move.

Lord German [V]: My Lords, this amendment has two principal functions: first, to ensure that victims are contacted about each stage of the parole application; and secondly, to provide victims with information about the Parole Board's hearing of the case and about their rights in the course of the application.

The principle of opting out of these two functions is an important change from the current opt-in approach. The amendment seeks to place an obligation on the Parole Board to maintain a database of victims' contact details, but with victims able to choose not to be on the database and therefore not to receive information. Fundamentally, this provides a right to information which they can choose not to receive if they so wish. In Committee, I sensed that the Minister had some sympathy with these issues. He told us he would be happy to discuss further an opt-out scheme for victims and the provision of improved engagement for victims. I would be grateful if he could tell us whether the proposed meeting on this matter has taken place.

Like other noble Lords, I believe that more needs to be done to support victims. In this tightly defined Bill, that is not necessarily possible, but there are some matters which relate to the Parole Board's functions where we can act. There are considerations which affect the way in which the Parole Board should engage with victims. In Committee, I raised the importance of the system being modernised. Your Lordships' House has learnt, if nothing else from this Covid-19 pandemic, to make best use of digital technology. Surely victims' views can be taken by videolink, rather than having them travel in person to the prison where the perpetrator is located.

Victims will always struggle to come to terms with the grief they have suffered, and sentencing and conviction is just the start of the process. The parole process can easily add to a victim's pain. Everything that can be done must be done to minimise the trauma it can cause, so opting out is the new right that this amendment provides. The amendment also sets out the information to which victims are entitled. The amendment does not seek to limit the information provided to victims, as proposed new subsection (2)(e) makes clear. For that reason, the review of the amendment's operation in proposed new subsection (4) is important, as it will ensure that the process, the information and the victim's rights are as effective as they can be in a situation of such anguish.

The opt-out principle built into this amendment is crucial. There are far too many examples of victims finding out the result of the parole process from media reports, as the noble Baroness, Lady Kennedy, said. I am sure noble Lords will understand that the pain caused by reporters calling victims to ask for their comments on the results of the parole process, when they had no knowledge that it was taking place, is immense. By way of example, Members will recall the case of John Worboys, which was debated in your Lordships' House.

Within the narrow scope of the Bill, which leads to only a relatively small number of cases to be considered, maintaining the database should not place a large administrative burden on the Parole Board. These parole cases are of great significance to victims; victims have a right to know what is happening and have a right to their say. They deserve a consistent and fair structure for exercising these rights. Modern technology makes keeping in contact with victims much easier. Tracing victims if they have changed address, telephone number or email is now much simpler and quicker.

3.45 pm

In the letter sent to us from Marie McCourt—the mother of Helen—whose inspired campaigning has led to this Bill, she says that its passage will help many other families who are in the same situation as she is. Others have suffered the anguish Marie has been through, and some have remained silent, so I pay especial gratitude to her for the fortitude and strength she has shown in speaking out and ensuring that this piece of legislation has been brought forward.

We have a duty to ensure that the Bill is as strong and powerful as it can be. This amendment strengthens rightful engagement with victims, provides a voice for them if they want it, and gives that fundamental reassurance that the parole process is as fair as it can be and, at the same time, does not fetter subjective mechanisms for the Parole Board's operation. I commend it to the House.

Baroness Newlove (Con) [V]: My Lords, I was unable to attend Second Reading due to logistical circumstances resulting from Covid-19. I was therefore delighted to watch the speech of my noble friend Lady Finn. I was further delighted to watch Committee and the debate on the amendment from the noble Baroness, Lady Barker. Sadly, it resonated not just with what I am going through, but with many victims whom I saw in my former role as Victims' Commissioner for England and Wales.

The Bill has been of not only professional interest to me, but personal. I must declare that I know Marie McCourt very well and the organisation she has set up. I have true admiration for Marie for facing the challenges over the years in wanting to know where

[Baroness Newlove]
the body of her late daughter, Helen McCourt, is lying. That must be heartbreaking, and she is fighting against time. That is why I am grateful to the noble Baronesses, Lady Kennedy and Lady Barker, and the noble Lord, Lord German, and support this amendment tabled by them.

Victims must be given correct information right the way through the criminal justice system. After all, they are involved in the process. You cannot split the two. I see for myself the strain on Marie's body of ensuring she gets justice for Helen, hence what the Bill is about: Helen's law. I also understand that people from the noble judiciary will have concerns about the rule of law and the human rights and mental state of the offender. I am very dignified in what I have to go through personally, and Marie is exactly the same. I understand that this legislation would not apply to many prisoners, but that is not the point, because we should not further remove the needs of the families of the victims, causing them to suffer more than anybody else in our criminal justice system.

Speaking as somebody who is currently going through the parole system and finding information while in the victim contact scheme, as the noble Baroness, Lady Kennedy, mentioned, and speaking to the Victims' Commissioner, I say that victims have to be able to opt out of this scheme. Too many victims are given this information at a traumatic stage. We are also seeing a cut to victim liaison officers, who are the relationship between the offender and the victim.

I am not asking to remove the rights of an offender, I am asking that the Bill thinks about the victim on a level playing field. It has taken many years for Marie to get this where it is. As somebody who knows exactly what it feels like, I ask your Lordships to understand that this is a balance for victims. The victim contact scheme has many options—and no disrespect to what my noble and learned friend will say at the Dispatch Box, but it is very piecemeal. You are waiting around for information; you are waiting for that phone call. You just have to wait. You have no control. This amendment gives a duty to the Parole Board, as the Bill will state that it is a legal duty for the Parole Board to ensure that it always considers victims from the beginning to the end.

Many people do not understand what a victim personal statement feels like to write and read out to people, whether by videolink or on a prison estate. I can assure noble Lords that it is heart-rending and emotional and, when you come to the last word and the last full stop, you are asked to leave the room. I have attended many as Victims' Commissioner and I have seen the discourteous attitude of offenders who are not bothered and their legal representatives who want them not to speak. But taking the emotion out of this, this proposal sets the right footing to go along with the national *Victims Strategy* that the Government released 18 months ago. We have to balance them for the sake of our criminal justice system; to give victims the confidence to do what it says on the tin.

There are not many such prisoners, but families who are going through this are running out of time once they know the prisoner will be released. While victims are given exclusion zones—another issue that I am personally dealing with at the moment—that does not reduce the anxiety that you suffer on a daily basis. For all you know, the offender coming out of prison knows exactly where the body lies and exactly what community you live in. The body could be right there, and he could disturb you again. That is too little and too late to give confidence for our victims. That is why I support the amendment to get a database for victims so that they feel that they are at the centre of the Parole Board's system.

Please include this proposal in the Bill for the reasons that victims have challenged for many years—for their heartache to be recognised and to give them some closure, because, at the end of the day, the criminal justice system should be a level playing field for everybody.

Lord Blunkett (Lab) [V]: My Lords, I follow the noble Baroness, Lady Newlove, with some humility. She speaks from the heart and from bitter experience. I got to know and respect her greatly from the time we spent on committees together. I also pay tribute to Marie McCourt—whose campaign has been so dedicated and now, I hope, effective—and to my noble friends who put together this amendment.

I spoke in Committee about the issue of those who would never disclose where bodies were buried and drew attention to the tragic impact of the behaviour of the Moors murderers on the family of Keith Bennett all those many years ago. But I want this afternoon to refer to a case that is not about a body that was not disclosed by the perpetrator but the simple issue of a failure to disclose when someone is released or there is a change in their circumstances. That was brought to my attention by Frances Lawrence, the widow of Philip Lawrence, who was a head teacher murdered many years ago. Frances was supported by the then Home Secretary—now the noble Lord, Lord Howard—and my predecessor as Home Secretary, Jack Straw. When I became Home Secretary, it was my privilege to introduce the first substantive measure in relation to victims through the Domestic Violence, Crime and Victims Act 2004.

We have come a long way since those days, and mention has already been made of the greater ease that technology now provides for the Parole Board to be able to keep in touch but also to have a double or triple lock on the way in which proceedings sometimes go wrong. Therefore, there can be little excuse for the failure within the system to notify the victims when there is a change in the perpetrator's circumstances. It is crucial that that should take place, given—as has been spelled out much more eloquently than I can this afternoon—the pain and distress that comes from finding that information out in a phone call from the media, reading it in the local newspaper or hearing it on the radio. If we can do anything to alleviate that, we should do it, and I can see no reason for not accepting the amendment.

There are times when we can see technicalities or difficulties in process or the way in which bureaucracy might be increased. Perhaps we can see administrative or bureaucratic reasons why something would not work. I see none of those in this amendment, and I hope that we will approve it.

Lord Mackay of Clashfern [V]: My Lords, I strongly support the Bill and I am conscious of the sort of hurt that the basic matter on which this Bill is founded can cause to people for many years. It is also very important that victims are at the centre of the criminal justice system, and the Parole Board is only part of that, albeit an important part.

I think that it is much easier and more definite if victims are properly included in the victim contact scheme. In other words, victims should be notified about anything that affects them. This is certainly one thing that they should be notified about, but I feel that having a system only for this particular matter—for the Parole Board—is taking the victim from the centre of the victim contact system out to a special place. In my view, unless we have a victim contact system that deals with all the possible interests of victims in what is going on, particularly in relation to those who have done them harm, there is a serious risk that the system is not sufficiently efficient.

It is also important that we keep in contact with victims. That involves finding out if there is a change in their circumstances—in their addresses or in any other matter that affects giving them notice. It is therefore important that a comprehensive system is set in place. I entirely agree with almost all that has been said about contact with victims, but I am not sure that it is wise to set up a system which deals with only one aspect of the criminal justice system rather than a system that deals with the whole lot, which the victim contact scheme was supposed to be. If it has deficiencies, as my noble and learned friend said, the thing to do is to put those right.

Lord Naseby (Con) [V]: My Lords, the House will know that I am not a lawyer. As it happens, I spent about 20 years of my life in the communications industry. One lesson that I learned was almost to a word what my noble and learned friend Lord Mackay just said. In the time available, I have not had a chance to look at the contact scheme—what it should do, what it does do and what it might do. While I say a huge thank you to the noble Baroness, Lady Newlove, for the way in which she put the situation, I want to be informed by my noble and learned friend on the Front Bench what exactly the victim contact scheme is supposed to do at the moment. I find it inconceivable that it does not do the majority of the items that are listed under Amendment 17, but maybe it does not. Maybe there are holes in it.

It may well be that, in certain cases, the Parole Board is not doing its job properly, but the fact that we include something in the Bill will not actually alter that situation one way or the other, except for those responsible to be cautioned or whatever.

4 pm

The real issue is still the moving problem of the whereabouts of the body, or the disclosure in the case of Ms George. I have some sympathy for the new clause, but before I make any decision I would like to know what the victim contact scheme is supposed to do. I do not know what audit has been done of the system, particularly in relation to the cases that we considered earlier. We certainly need a comprehensive system. Of that I am quite certain, but whether this new clause helps us get there, I do not know. I will have to listen to the Minister before I can make any decision.

Baroness Barker: My Lords, I thank the noble Baronesses, Lady Kennedy of Cradley and Lady Newlove, not just for their contributions today but for the discussions that my noble friend Lord German and I have had with them about this amendment since the previous stage of the Bill and for their valuable assistance in refining the proposals today, which are somewhat different from those that I put before the House in Committee. In particular, I thank them for enabling us to come up with an opt-out, rather than an opt-in system, in which we have set down a clear definition of victims and relevant persons.

I want to deal with the question raised by the noble and learned Lord, Lord Mackay, which was alluded to by the noble Lord, Lord Naseby, concerning why we have the proposal in the Bill and do not leave it to the more general workings of the victim contact scheme. In one sense, they are right. We should have a victim contact scheme which works for all victims in every case, but we do not. We should have a special measure in the Bill because these are victims of a particularly horrible situation. It is not just that they have been victims of a crime; they continue to be victims of the failure of a convicted prisoner to make a disclosure about a particular matter. That is of a sufficiently different order from other crimes for the Government to have brought forward this Bill, which applies solely in those circumstances.

As other noble Lords have said—the noble Baroness, Lady Newlove, said it perhaps more clearly than anybody else—parole hearings in these cases carry a weight even greater than those of other crimes, so it is even more important that the administrative processes, which our criminal justice system quite frequently gets wrong, should not revictimise these people. We are not asking for very much, we are just asking that there be a database, that they be on it and that they have an automatic right to information at all times.

I do not want to repeat the points made by the noble Baroness, Lady Newlove, about the position in which victims' families find themselves, as I think she said it all. However, having talked to Marie McCourt, I think that we are talking about 100 cases at most. For these cases, which the Government have decided are sufficiently special for us to have a separate law, we should have this system as outlined, and if it works well, there is no reason why it should not be applied more widely either under other legislation or in the often-mentioned general review of the Parole Board.

I hope that the Minister will appreciate that we listened to what he said at earlier stages of the Bill and that we have brought forward an amended proposal which is modest but of immense importance to a very small number of people.

Lord Ponsonby of Shulbrede [V]: My Lords, I support the amendment and I support my noble friend Lady Kennedy of Cradley. She set out very clearly the reasons for the amendment, and the majority of speakers

[Lord Ponsonby of Shulbrede]
have supported her. I found the speech of the noble Baroness, Lady Newlove, particularly moving. She spoke from the heart, as always, and, sadly, she spoke from bitter experience. It was particularly interesting that she talked about the practicalities of getting information from the Parole Board, even when you are very well known to the board as a victim.

My noble friend's amendment would put in place an opt-out rather than an opt-in system, and the various elements of that are specified in the amendment. The argument against the amendment made by the noble and learned Lord, Lord Mackay, and the noble Lord, Lord Naseby, was: that is all very well, but why are these victims different from the other victims within the whole of the criminal justice system? The noble Baroness, Lady Barker, made the point very clearly: the reason they are different is that they continue to be victims because of the non-disclosure of the information.

There are roughly only 100 such victims in the country. I hope that any review of the work of the Parole Board will look at making a much wider opt-out system available in the future, but, now, we have the chance to legislate to address the concerns of this very particular group. The Parole Board has a heavy weight of responsibility but this is an opportunity for the House to make a tangible difference to these victims' lives, and it should seek to do so. I support my noble friend.

Lord Keen of Elie: My Lords, I thank all noble Lords for their contributions to this debate. I quite understand the concern that has been expressed about the victims of crime and the victims of these particular crimes.

Perhaps, first, I may make a number of rather technical points in relation to the scope of the amendment. Subsection (1) of the proposed new clause does not apply to those receiving a determinate sentence for the offences contained in the Bill. However, I am confident that the amendment was meant to apply to all sentence types, and I will proceed with my remarks on that basis. Additionally, "relevant persons", as defined in proposed new subsection (5), would include offenders beyond the scope of the Bill—namely, all those convicted of murder or manslaughter—rather than being restricted to the circumstances set out in the Bill. Again, I will proceed with my remarks on the basis that this was intended to be confined to offenders to whom the Bill applies.

I turn to the substance of the amendment. First, it would require the Parole Board—I emphasise: the Parole Board—to create and maintain a database of victims' family members in cases captured by the Bill. The board would have to remove a family member from the database if they did not wish to be included. Secondly, it would create an obligation on the Parole Board to provide information to certain groups of victims and, indeed, suspected victims and their families.

This amendment effectively replicates some elements of the victim contact scheme for a limited group of people, and places the duty on the Parole Board to administer it rather than the National Probation Service. With respect, the Parole Board is not equipped for such a function. There is already a well-established process delivered through the victim contact scheme to provide victims with information about the date and outcome of parole hearings, and they can request a summary of the Parole Board decision. This process also facilitates victims requesting the imposition of specific licence conditions for the offender's release, such as exclusion zones, and assists them in submitting a victim personal statement which will be considered by the Parole Board panel. The Government see no justification for replicating the excellent service provided by the victim contact scheme for a particular group of victims' families in a limited way.

Proposed new subsection (2) of the amendment proposes an unfettered right to

"information pertaining to the application",

which may include confidential information relating to the offender, such as police intelligence, which may breach the offender's confidentiality rights and put their safety at risk. The Parole Board must balance the rights of victims with the rights of the offender.

If there is any suggestion that the parole decision is legally or procedurally flawed, victims may ask the Lord Chancellor to consider making a reconsideration application on their behalf, and the Lord Chancellor can ask the Parole Board to look at the decision again. Victims will receive a detailed letter setting out the reasons why the request for reconsideration was successful or unsuccessful. The victim liaison officer will provide information regarding judicial review if requested.

There are significant practical difficulties in operating such a scheme on the opt-out basis suggested by this amendment. The Parole Board would need to ensure that the correct contact details for each victim are recorded; if a victim does not respond to the offer of contact, it would not be appropriate simply to send updates to a last known address, for example. This amendment would duplicate much of the work delivered under the victim contact scheme but could not replace it entirely. That means that victims would have to receive contacts from and share information with both the Parole Board and the victim contact scheme, which would in turn add to their distress at a potentially very difficult time.

We are currently trialling a new process whereby all eligible victims are referred directly to the National Probation Service, to ensure that they are all offered access to the victim contact scheme directly by it, thus ensuring that we reduce the risk of victims opting out before they are clear about the benefits of the scheme. The new process also incorporates a standard referral form that provides the service with the address, telephone number and email address of victims to allow for multiple methods of contact.

We recognise that receiving information about parole hearings is of great importance to many victims, and we endeavour to support them through the existing victim contact scheme. We consider that this support is far better delivered by the National Probation Service than by being placed on the shoulders of the independent Parole Board, which, as I indicated, is not equipped to carry out such a service.

The amendment also contains a requirement to review the database's use within one year of its creation. However, as some noble Lords observed, cases such as

those detailed in this Bill are extremely rare and it is unlikely that a review after one year could result in any significant, reliable findings.

I emphasise that we are concerned with the position of victims. They are provided with information under the victim contact scheme, which is administered by the National Probation Service. The victim liaison officer will provide information to those who wish to receive it. Where the Parole Board considers or reconsiders a case, victims will receive a detailed letter setting out the reasons why, for example, a request for reconsideration was successful or unsuccessful. We are ensuring that the victim's personal statement comes before the Parole Board when it has a hearing. We plan to enshrine support for victims in a victims' law, as we have indicated, but before we do this we will revise the victims' code to give them more clarity on their rights around access to support and greater flexibility over when and how a victim personal statement can be made.

The noble Lord, Lord German, referred to engagement on this matter. I can indicate that my honourable friend Alex Chalk, the Minister with responsibility in this area, has been endeavouring to arrange a meeting with the noble Baronesses, Lady Kennedy and Lady Barker, to discuss this matter. I do not know whether they are aware of that, but I am advised that this is in train, if I may put it in those terms. In these circumstances and, in particular, having regard to the distinctive role of the Parole Board on the one hand and the National Probation Service on the other, with respect to the victim code, I invite the noble Baroness to withdraw this amendment.

4.15 pm

Baroness Kennedy of Cradley [V]: My Lords, I thank all noble Lords who have spoken in this debate. I am very grateful for the support of the noble Lords, Lord German, Lord Blunkett and Lord Ponsonby, and the noble Baronesses, Lady Barker and Lady Newlove, and for the pertinent questions and comments made by the noble and learned Lord, Lord Mackay, and the noble Lord, Lord Naseby. I thank the noble Lord, Lord German, and the noble Baroness, Lady Barker, for clearly setting out how the move from an opt-in to an opt-out approach is an important change that needs to take place.

The speech by my colleague, the noble Baroness, Lady Newlove, was passionate and well thought-out; I hope it brought home to noble Lords why this amendment is necessary. As a former Victims' Commissioner, from her personal experience, and from her friendship with Marie McCourt, she passionately set out the anguish created for families and victims by the parole process and the lack of effective communication; that communication has to change. The victim contact scheme is, in her words, piecemeal, and the wait for information very distressing.

My noble friend Lord Blunkett recognised how this amendment would relieve anguish and pain; I thank him for his support. The noble Lord, Lord Naseby, and the noble and learned Lord, Lord Mackay, referred to the victim contact scheme. I thank them for their questions but, as other noble Lords, and the noble Baroness, Lady Newlove, from her personal experience, pointed out, that scheme is well under par. As my noble friend Lord Blunkett said, it is this Bill that is before us at this time. There is no reason why these amendments should not be accepted; the proposed new clause would also put in place a review after 12 months.

I am disappointed that the Minister is not prepared to accept the amendment. The explanation for not supporting victims and putting a duty on the Parole Board is very disappointing. As the noble Baroness, Lady Barker, noted, and as I tried to outline in my opening speech, the Government have recognised that these families need a separate law to relieve their anguish. Let us please now allow them a separate clause to make sure they are communicated with properly. I wish to test the opinion of the House.

4.18 pm

Division conducted remotely on Amendment 17

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Amendment 17 agreed.

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4.36 pm

Sitting suspended.

Arrangement of Business

Announcement

5.30 pm

The Deputy Speaker (Lord Alderdice) (LD): My Lords, proceedings will now commence. Some Members are here in the Chamber, others participating virtually, but all Members are 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 in debate apply.

Direct Payments Ceilings Regulations 2020

Motion to Approve

5.31 pm

Moved by ***Lord Gardiner of Kimble***

That the draft Regulations laid before the House on 9 June be approved.

Relevant document: 18th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, I declare my farming interests as set out in the register. I hope it would be helpful to your Lordships if I speak to both the Direct Payments Ceilings Regulations 2020 and the Direct Payments to Farmers (Amendment) Regulations 2020, given the close connection between the two instruments.

These instruments amend retained EU law governing the 2020 direct payments schemes for farmers. That EU law became domestic law on exit day under the Direct Payments to Farmers (Legislative Continuity) Act 2020. The Direct Payments Ceilings Regulations 2020 are needed to amend the financial ceilings for 2020 direct payments. The Direct Payments to Farmers (Amendment) Regulations 2020 are needed to confirm the exchange rates to be used for the payments. These instruments also make other minor operability amendments to the retained EU law. These will ensure that the law can function effectively in the United Kingdom for the rest of the 2020 scheme year. These instruments maintain the status quo of the 2019 scheme. The Chancellor of the Exchequer announced on 30 December that funding for direct payments for 2020 would match the total funding for direct payments available in 2019. These instruments are consistent with that announcement.

The Direct Payments to Farmers (Amendment) Regulations 2020 are subject to the "made affirmative" resolution procedure. That procedure was specified in the 2020 Act because, under that Act, the EU law became domestic law on exit day and, therefore, operability amendments were also needed by exit day. This avoided a significant legislative gap in the direct payments schemes for claim year 2020.

The two instruments before your Lordships today cover all four parts of the United Kingdom. We have worked closely with the devolved Administrations, and they have given their consent to the instruments.

The Direct Payments Ceilings Regulations 2020 amend the UK national ceiling and net ceiling for claim year 2020. These financial ceilings are in the retained EU regulation 1307/2013 and are used to

[Lord Gardiner of Kimble]
calculate payments to farmers. The amendments to the ceilings made by this instrument take account of previous policy decisions made by the Government and devolved Administrations. This includes the transfer of funds from direct payments to rural development. Each part of the UK has decided to transfer the same percentage of its share of the ceilings as it did in previous years. This maintains continuity for farmers. The amendments also take into account the findings of the Bew review concerning the allocation of farm support funding in the UK. I have previously commended the noble Lord, Lord Bew, for his review, and I do so again today.

In line with the recommendations of the Bew review, the Government agreed that Scottish farmers would receive an additional €60.43 million and Welsh farmers an additional €6.11 million over the two-year period 2020 to 2022. The Welsh Government have decided to use the additional funds allocated to them for 2020-21 for their 2020 direct payments schemes. The UK national ceiling and net ceiling for the claim year 2020 have been increased by €3.055 million to account for this. The Scottish Government have decided not to use any of the money allocated to them following the Bew review for their 2020 direct payments schemes, but this money remains ring-fenced for farmers in Scotland.

The net ceiling has also been amended to take account of the decisions made by the Government and devolved Administrations on the level of reductions to be applied to large payments. Each part of the UK has maintained the same approach as for previous years. I want to emphasise and make clear that the existing reductions are not part of the phasing out of direct payments in England, which will not begin until 2021.

The amendments made by this instrument mean that the UK national ceiling for claim year 2020 is €3.055 million higher than it was for claim year 2019. The UK net ceiling for claim year 2020 is €3 million higher than it was for 2019. These increases result from the additional funds for Wales arising from the Bew review.

The Direct Payments to Farmers (Amendment) Regulations 2020 amend six pieces of legislation, as described in sections 6.3 and 6.4 of the Explanatory Memorandum. The amendments confirm the euro-to-sterling exchange rate for payments under the 2020 scheme. The rate is the same as was used for the 2019 scheme, where 1 euro is worth just over 89 pence. This reflects the decisions made by the Government and the devolved Administrations about the exchange rate they wish to use. It provides farmers with certainty.

The other operability amendments made by this instrument are minor. The need for these instruments was identified after EU exit. These amendments include removal of some redundant cross-references, such as to articles which are not part of retained EU law. Other amendments include removal of references to the Commission's budgetary management system of financial discipline, as this does not form part of retained EU law. Some amendments address other outstanding minor operability issues, such as removing references to the "Commission".

These two instruments are important, as they provide certainty and continuity for UK farmers. I beg to move.

5.38 pm

Lord Liddle (Lab): My Lords, my interest in this topic arises from my role as a county councillor in Cumbria, where, of course, there are many issues to do with farming. In a sense, some people might think that these are trivial regulation. It actually commits the Government to spend £2.8 billion, which I do not regard as a trivial amount of money. I welcome the certainty that they give the farming community. All I would say—and this is no personal criticism of the Minister—is that in Cumbria we are also very dependent on structural funds, and we have no certainty about what will replace them at the end of this year.

I am a very strong pro-European and I greatly regret Brexit, but I was always a critic of the common agricultural policy, and I think that this is an opportunity for better arrangements for agriculture.

I welcome the curbs on payments to large farmers—I always thought they were excessive—but would like to have seen a further shift from Pillar 1 to Pillar 2 in the allocation of money. That would have been a step towards the fulfilment of the environmental land management goal which, in principle, most of us support. However, we are stuck in what appears to be a very lengthy transition period, from direct payments to these new arrangements.

Opponents of the European Union's agricultural policy were always very critical of direct payments for their bureaucracy, but we appear to be sticking to them for a long time. At the same time, Europe is going ahead with reforms of its own, such as trying to ensure that 25% of food is grown organically. I would just like to ask: why the slow pace of change? Could we not do better?

I think these issues are very relevant to hill farmers who, as I have discovered, are often in very desperate poverty. We do not tend to think of very poor people living in the countryside but some of our hill farmers are in a very bad situation, and a shift to a system of payment with stronger environmental objectives would be of great assistance to them.

I support the measure, but there are many unanswered questions.

5.42 pm

Baroness Northover (LD) [V]: My Lords, the Minister may not be surprised that I regret these SIs. But he need not worry—I do not intend to vote against them. What I regret is that it is necessary to take this action as a consequence of leaving the EU. That has come at such a cost, in terms of time and money. We are already in the second half of 2020, and still have no idea what our relationship with the EU will be—even though it is our biggest market and the source of much agricultural labour—nor do we know the nature of any trade deals with other countries.

I am glad that the Government have finally set up the commission on farming, but I note that it is advisory only. As the Minister knows, farmers must plan long term. The arrangements here relate only to 2020, and

direct payments will indeed be phased out. I am particularly concerned about small farmers, especially tenant and hill farmers. There is no real certainty going forward, although we will seek to flesh that out in the Agriculture Bill from next week.

I would like to put a few questions to the Minister. What is the impact of adopting the exchange rate from the end of 2019 as compared to now? What is the impact of not using the EU's budgetary discipline? Is the Rural Payments Agency ready for its tasks? He will recall serious past problems. I look forward to his replies.

5.44 pm

The Earl of Shrewsbury (Con) [V]: My Lords, I declare my interest as a former farmer and a current member of the National Farmers' Union.

In welcoming these two statutory instruments I will be very brief indeed. These are very straightforward SIs, which have no bearing on future agricultural reform, reform which—in the Agriculture Bill currently before us—is, in my opinion, long overdue. These instruments simply facilitate and enable payments to be made to farmers in this year, 2020.

Farmers are not having an easy time financially. Some people will be of the opinion that taxpayer-funded support of farmers is wrong, but that is what we do in this country, and that is what they do in the EU. As we cast off the shackles of the CAP, we will continue to support our agricultural industry in our own, reformed way. The populace want good, safe food at a reasonable price. Our farmers produce that. They are among the best agriculturalists in the world but, to produce that food at a price reasonable to the consumer, state support is a necessity.

I support my noble friend's two statutory instruments.

5.45 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, I thank my noble friend the Minister for the clarity with which he set out the regulations, which are technical and relate to agricultural spending. They look back to a division of funds that occurred in 2013 in relation to EU spending and they look forward in terms of the consequence of the excellent Bew review and the Government's response to it.

I support the regulations and agree with the split of money put forward by the Bew review and the additional spending recommended by it and taken forward. The regulations also carry on the tradition of the division between Pillar 1 and Pillar 2 payments—the split—as my noble friend mentioned. Of course, devolved Administrations will have their own separate schemes.

I wonder whether I might push my noble friend a little on how collaboration with the four nations of the UK is evolving in terms of both policies and structures. Can he also provide a little more information on how that structure will deal with wrinkles on matters such as competitive practices? Will the process that we have for this year carry on each year throughout the transitional period, mutatis mutandis, and be something that we can therefore look forward to on a regular, annual basis?

That the caps set for the different nations of the UK—England, Scotland, Wales and Northern Ireland—are variable is a feature of devolution and is to be welcomed, but was any thought given to having a lower cap for England and moving money to Pillar 2, to agricultural and rural schemes, rather than direct payments being made to farmers? I note that the direct payments system is to be continued for some time, but what thought was given to moving some of that money across into what was Pillar 2?

As I have said, I strongly support the regulations. I appreciate that there is some relationship between what we are doing today and the thinking behind ELMS. As my noble friend Lord Shrewsbury said, that is for another day, but it would be good to hear some of the thinking behind the standstill position as regards England on the split between Pillar 1 and Pillar 2.

5.48 pm

Lord Mann (Non-Afl): My Lords,

"The beef and butter mountains, they never seem to stop
When the little streams of bureaucracy come a-tricklin' from the top
Why we joined it, I don't know at all."

I could continue; it was a song that we sang in the 1970s campaigning against the common agricultural policy—I could do the hand gestures from those days from memory.

I warn the Government that the view in the "red wall" of the common agricultural policy and that use of taxpayers' money remains consistent; people do not like it. If we are to continue in the same format, it will be unpopular and the excuse that "it's from Brussels" will not hold for government.

I myself am shocked by the way in which tenant farmers in my immediate locality are being driven off the land as landowners see more profitable opportunities available through the market, yet the basis of the common agricultural policy was that it would guarantee our agriculture into future generations. When the market suits, the market operates, and the tenant farmer is powerless.

Agricultural policy in this country now needs fundamental reform. I shall not force a Division on these regulations—the Government need time to adopt, adapt and bring forward proposals—but the current system is not sustainable, politically or economically, even into the medium term. A wise Government would get agricultural reform firmly on the agenda and make tenant farmers a key part of the recipe for future sustainability and success.

5.50 pm

Lord Chidgey (LD) [V]: My Lords, I support the regulations in spite of their originating through Brexit, which of course I regret.

In the distant past my family invested in an agricultural engineering business in Somerset. It is long gone but there remains in north Somerset the Chidgey farm, though I have no direct connection to it. However, I live in and have represented a farming community locally, with a rich history in farming evolution and development. The eastern border of the South Downs National Park runs past our drive on the road into

[Lord Chidgey]
New Alresford in Hampshire. I am a member of the Alresford and District Agricultural Society, established over 100 years ago. Its annual show, held half a mile away at Tichborne Park, is renowned throughout the region as a major event in the farming community.

New Alresford is one of several Georgian market towns that developed across Hampshire, prospering as a centre for sheep farming with markets supplied by drovers from across the South Downs. The Southampton-to-London coach road ran through the town, recalled by a turnpike cottage as you enter today, and no fewer than three coaching inns are located in the centre. Mixed farming seemed the order of the day, with cereal crops flourishing on the downlands. When the railway came, trout from Hampshire's chalk streams, complemented by local watercress, could make it to London on the watercress line in a matter of hours.

Clearly, farming in Hampshire can be very much top-end and not at all in the difficult upland terrain requiring the support acknowledged in the review undertaken by the noble Lord, Lord Bew. His recommendations are a feature of the regulations for direct payments to farmers set out in this statutory instrument. Nevertheless, high-quality farming conditions attract high land values, high labour costs and high support costs. Without the benefit of an inherited farm, start-up costs can be prohibitive. There are many large farms in the farming community in Hampshire and, as mentioned by my noble friend Lady Northover, tenant farmers often struggle to meet the costs that they have to incur for that rental. With changes in public taste, there is greater interest in local products and produce and more opportunities for niche farming. The Bew review formula for funding allocations is based on such productivity, and on need.

The Government claim to recognise farming efficiency and the need to improve the environment, and that their policy will help farmers to continue to provide a supply of healthy home-grown produce to high environmental and animal welfare standards, yet Parliament is expressing unease at the prospect of agricultural standards being loosened under the new trade agreements. Only today it was reported that Waitrose has said that any regression from existing standards would be unacceptable.

We find that, through lax planning controls, the essence of our idyllic town of Alresford is under threat. A few years ago the watercress beds were bought by a major player in the fresh salad market. The farm became a major preparation and distribution centre for salad products brought in by road from mainland Europe. The clear waters of our River Alre are extracted to wash the nutrients and chemical deposits off the salads back into the river. As a result, the ecology of the river is slowly dying and the insects, birds and small mammals are disappearing, while the agencies responsible for maintaining and protecting the environment simply prevaricate.

The Deputy Speaker (Lord Alderdice) (LD): The noble Baroness, Lady Bennett of Manor Castle, will not be speaking, so I call the noble Baroness, Lady McIntosh of Pickering.

5.54 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I thank my noble friend for bringing forward these regulations today, sandwiched so neatly between the Fisheries Bill and the Agriculture Bill next week. Like other noble Lords, I express my concern about how these regulations under the current system apply to smaller farmers and, in particular, those on hill farms, where I grew up and which I represented for 18 years in the other place, and tenant farmers.

I welcome the certainty that my noble friend has presented today, with the rate being fixed at an exchange rate of 89p to the euro. My question is one which I am sure has been asked in other years. I understand that the euro currently stands at 90p, or even slightly higher. Who picks up the shortfall in the costs of the exchange rate? Does that mean that fewer funds are available to the farmer, as it has to come out of the £2.8 billion allocated to the direct payments? I would be interested to know. Obviously, someone has to pay if there is a currency discrepancy there in this particularly volatile current period.

My noble friend referred to the ceilings regulation and the fact that, as I understand it, the ceiling is being kept the same. As we go into the transition period, where these will be phased out, will my noble friend say whether the Government intend to keep the pro rata within the ceiling, so that as the total comes down, the pro rata will remain the same and there will be a similar cap in future years? Can my noble friend address specifically a potential continuity gap between the regulations before us today and the new regulations, which will not come into effect until the end of the payments transition period? I understand that a consultation on ELMs has reopened, and I accept that that is an issue for another day. However, it is difficult to respond to a consultation if the farmers or those who wish to respond do not know the outcome of the trials and we have no idea what the nature of the pilots will be. Any light that my noble friend can cast on that would be very welcome.

The continuity gap that concerns me, which I hope my noble friend might briefly address, is: as we phase out these payments over the period to the end of the 2020s and the new payments come into effect, how does my noble friend intend that the Government will address that? Obviously, this is an argument for another day, but I hope that he will look favourably on the amendment to delay the transition phase from 2021 to 2022 in the context of the Agriculture Bill when we reach that next week.

Looking ahead to that Bill, I know that a number of noble Lords today have argued for transfers of payments from Pillar 1 to Pillar 2. My concern is that we are taking money away from the active farmer and often giving it to those not involved in farming at all. That will be an even bigger issue when we come to address financial assistance or public goods. I hope that my noble friend will address that when he comes to consider the comments that we have made in this little debate, but I thank him and I support these regulations.

5.59 pm

Lord Addington (LD): My Lords, somebody from these Benches has to admit that not everything about the European Union was great, although we regret leaving it, and the CAP probably comes under the heading of the least-loved bit. Therefore, when anything that changes that comes along, one must bite one's lip and say, "Well, possibly not too much harm done". However, the bit that attracted me to speak on this was the second of the two regulations, on the direct payments penalty simplification. Having had a look at the regulations and, I must admit, finding that I got more from the guidance than the text, I noticed the simplification order, which is there because certain small overpayments had a small penalty attached to them. That seems a reasonable way forward.

It is not so much what is being done here as the thought behind it. Are we going to a system that reflects the idea that small indiscretions and bookkeeping errors are less severely punished? If ever something was going to intensify your problems, it is having that extra bit of unexpected financial pressure on you from getting hit for a mistake. A few people will game the system—okay, fair enough; there should be some benefit—but surely there should be an ongoing thought in the department about small mistakes. Things are changing; systems are changing. When we go to the ELM system there will still have to be accounting processes going on. Will the Government take the approach that these small errors should be treated in a more lenient fashion?

This will colour much of the debate that is coming. It may not be directly applicable to these regulations, but as we go forward we are gathering information to hold the Government to account. If I could get a little guidance on that, I would be very grateful to the Minister. Let us not pretend that we are not part of a continuum of discussion; these regulations are simply part of it.

6.01 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, I thank the Minister for the considered way in which he has presented these regulations. After all, they enable those payments to be continued for this year to the end of the transition period. Coming from Northern Ireland, where we benefited considerably through the common agricultural policy, I regret leaving the EU—but I face the fact, and have accepted the fact, that we are leaving.

The provenance and sustainability of the food we eat are important to us all. That is why it is so important that all legislation surrounding the agricultural sector is robust and fit for purpose. We need to legislate to continue these payments for this year. The farming industry is also rightly looking forward to next year and beyond, by which time we will have left the EU. Our farmers face uncertainty and have a degree of concern about that, and we have a duty to address their concerns.

The future payments regime must respect the needs of farmers and sustainable production. It has to address climate change and allow our farming sector to do its job and produce the food we all eat. The noble Baroness, Lady McIntosh of Pickering, referred to the need to support active farmers. I suppose the way to do that is by supporting sustainable production in any future payments regime.

There is also a need for food security and to ensure accessibility to supply as we still grapple with the problems caused by Covid-19. We have to think about what the Agriculture Bill—which we will discuss in Committee next week—will provide for us from next year onwards and how that payment regime will play out. As I said before, it is important that the payments are based on sustainable production and ensure a steady and accessible supply of food. Reporting on food security should be done annually, not every five years as suggested in the Bill. I ask the Minister to address, in advance of Committee, his view and the Government's of changing from every five years to annually.

There should also be scope for Ministers to carry over any money left unspent at the end of a budget year. Does the Minister agree? What steps will the Government take to ensure that any financial assistance scheme encourages sustainable food production? What plans does the Minister have in that regard?

I believe that farmers throughout the United Kingdom need to be treated fairly. Disparities in farming incomes must not be accentuated by the availability, or otherwise, of direct support payments or equivalent forms of financial assistance across the UK. Like other noble Lords, I want to hear about the degree of collaboration with the devolved institutions and how that will play out in terms of future agricultural policy, our future agricultural regime and, above all, payments to farmers—including whether it will support food production or some other means within farming.

Also, what is the possibility of using genetics in sheep and beef production and linking that to climate change?

The Deputy Speaker (Lord Duncan of Springbank) (Con): I understand that the audio of the noble Duke, the Duke of Montrose, may be a little shaky, but we will try our best.

6.05 pm

The Duke of Montrose (Con) [V]: First, I declare an interest, having been a hill farmer for part of my life; my son is continuing that. I am glad to see these items of legislation progressing because, having looked at them, one hates to think what a mess it would be if we did not have the detail contained in them.

Noble Lords have mentioned the review conducted by the noble Lord, Lord Bew. We in Scotland can be very grateful for it because the discrepancies that were left were a handy cudgel for certain Scots to attack Westminster with; that has now been answered.

Up to now, I have missed the genius of the Printed Paper Office. Whenever any piece of legislation came up, you could just drop in there and ask for it—and, lo and behold, they could produce it. I have found these measures to be elusive documents. Eventually, the Government Whips' Office tracked down the second

[The Duke of Montrose]
piece of legislation—at least, I think it is the second—that is being moved today on www.legislation.gov.uk, which is nothing to do with parliamentary Bills or comprehending them.

I thank my noble friend the Minister for his explanation of the first piece of legislation because we needed to get our heads round it. The second SI seems an extensive and totally fundamental effort to fit what were regulations under the EU CAP into the independent UK context; without that, the wording was completely at sea. It also appears to modify three fundamental bits of EU legislation, all in the one instrument. I am glad to hear that my noble friend the Minister has crafted this together with the devolved institutions.

6.08 pm

Lord Bhatia (Non-Afl) [V]: My Lords, the Parliamentary Under-Secretary of State for the Environment, Food and Rural Affairs, Victoria Prentis, said on 29 June:

"The statutory instruments largely maintain the status quo from the 2019 scheme, and thus provide continuity for farmers. They do not change the rules that farmers have to meet. Both instruments are UK-wide and have been made with the consent of the devolved Administrations."—[*Official Report*, Commons, Second Delegated Legislation Committee, 29/6/20; col. 3.]

The two statutory instruments have been passed in both Houses. Indeed, the opposition parties have not opposed them at all. This is largely to protect farmers in the UK because we will exit the EU by the end of 2020. Therefore, farmers will have to continue to receive payments in 2020 and perhaps into 2021.

Farmers provide food security for the nation. The high standards in food production maintained by our farming community will require support, although the issue of Covid-19 is occupying minds in the Government. Once we exit the EU, I believe that new policies will have to be prepared both for the export of our farm products and the import of EU farm products. The quality of our farm produce is very high and that must be maintained. Discussions are already taking place with the USA about the importation of chlorinated chicken. Whatever meat we import from the US will have to meet our quality standards. We have to be able to buy at competitive prices but without compromising on quality; quality must trump price.

An increasing number of people in the UK are becoming vegetarians, particularly due to the fact that Covid-19 originated in the meat markets of China. At harvest time, UK farmers depend on immigrant labour from Europe, and therefore our immigration laws will have to ensure that they can continue to do so. Some of the largest farms in the UK are owned by foreigners. The farming industry employs tens of thousands of workers whose rights must be protected, particularly as regards their wages and other welfare issues during the harvest period. Farm workers need to continue to be paid or they should be given alternative jobs.

Finally, the farming industry is highly mechanised and supports thousands of people working in the ancillary industries that provide tractors and other equipment. Defra has an important role to play in the coming years as we exit the EU.

6.11 pm

Lord Holmes of Richmond (Non-Afl) [V]: My Lords, I support these regulations. I congratulate my noble friend the Minister not only on the manner in which he has introduced them—in his usual calm, considered and clear way—but also on how he undertook the consultations with the devolved nations to bring the regulations to the House in their current form.

I offer my sincere congratulations to all our farmers, who have been very much key workers on the front line during this Covid crisis. They work in difficult conditions, often to extraordinarily tight margins, and truly they bring home the food so that we can all eat. We have some of the finest produce in the world, including Worcestershire pears, Herefordshire apples, Gloucester pork, Aberdeen Angus beef and Norfolk turkeys—I could go on. I love it all, but I have to do so much training because otherwise I would be the size of a barn. Not only do we have some of the best-produced crops and livestock, our farmers work to some of the highest standards in the world. The care they show for their crops and livestock is matched only by the care they take of the land on which they are produced. All this is done against a backdrop of some of the most difficult conditions, both financial and beyond. I mention the BSE crisis, foot and mouth disease and, as we have heard, the plight of hill farmers, who already work in difficult conditions but were particularly affected by the fallout from Chernobyl.

I ask my noble friend whether there will be a more equitable consideration of farmers' concerns across the piece, given that we have this opportunity as we come out of Europe. Some of the EU's policies in this area, as the noble Lord, Lord Addington, put it so eloquently, probably did not mark its finest hour. I echo the words of the Minister when he introduced the regulations: they bring certainty and continuity. At the time we are currently in, that surely has to be a thoroughly good thing.

6.14 pm

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, I also thank the Minister for introducing these two statutory instruments and for his time and that of his officials in providing a briefing in preparation for them. We have listened to an interesting debate that has ranged over a number of topics, some relating to the Agriculture Bill, which we will begin to dissect next week. The noble Lord, Lord Bourne of Aberystwyth, and the noble Baroness, Lady Ritchie of Downpatrick, both asked about the relationship between the four component nations of the UK in agreeing a division of the direct payments, and I will be interested in the Minister's response.

Both these statutory instruments are straightforward, as the noble Earl, Lord Shrewsbury, said. The Direct Payments Ceiling Regulations 2020 allow the devolved Administrations to set their own percentages to be made available to support rural development measures. In this case, Scotland has set it at 9.5%, Wales at 15% and the Government at 12% for England. As a result of the Bew review and this instrument, that provides for an additional €60.43 million for Scottish farmers, and an additional €6.11 million for Welsh farmers

over a two-year period, 2020-22, as the Minister has already set out. These payments are made under the Direct Payments to Farmers (Legislative Continuity) Act 2020 and can be made only with the consent of the devolved Administrations.

The Government and the devolved Administrations each decided to maintain the same level of reductions as in previous claim years, and the Explanatory Memorandum gives full details of the figures and calculations involved. Are these payments per applicant or per farm? There is a big difference between all the farms that the National Trust owns and an independent farmer who may be a tenant. I am sure the Minister can clarify that. My noble friend Lady Northover and the noble Lord, Lord Mann, raised the issue of tenant farmers.

The direct payments to farmers SI, as well as covering some tidying-up measures, sets the all-important exchange rate from the euro into the pound for 2020. I welcome the fact that it will be set at the same rate as that set by the European Central Bank during the months prior to 1 October 2019. Several noble Lords asked about that exchange rate during previous debates on direct payments in the Chamber earlier in the year. The Rural Payments Agency previously issued guidance to farmers in England on 12 March this year which explained how the Government plan to set the exchange rate, and I am sure that all farmers will be reassured now that that has been finalised. Will the Minister confirm whether setting the exchange rate at the October 2019 rate is more beneficial to farmers than setting it at today's rate? The noble Baroness, Lady McIntosh of Pickering, also raised the exchange rate issue.

As we all know, direct payments were the main income source for farmers under the previous CAP regime. The Government have given a commitment to provide £2.852 billion for these payments in 2020, which is the same as for 2019. Noble Lords asked again today whether that will be carried forward into future years beyond 2020. Farmers are concerned that their income could become unstable as the land management schemes are rolled out. The noble Lord, Lord Liddle, welcomed the change and acknowledged the uncertainty for farmers, especially hill farmers, as did the noble Baroness, Lady McIntosh of Pickering.

The noble Lord, Lord Holmes, gave us an excellent list of produce and livestock, which helps us to appreciate the work that farmers do on our behalf. I look forward to the Minister's response to questions raised in this debate, and I support these two statutory instruments.

6.18 pm

Lord Grantchester (Lab): I thank the Minister for his introduction to the regulations before the House today. I also thank him, the noble Baroness, Lady Bloomfield, and the department's officials for having a short meeting with me and the noble Baroness, Lady Bakewell, to discuss these regulations. I remind the House of my being in receipt of payments, as recorded in the register.

I confirm that the regulations are necessary and hope that they are the last regulations and amendments needed under the Direct Payments to Farmers (Legislative Continuity) Act 2020. The regulations have UK-wide relevance. While one SI states that it was made with the consent of the devolved Administrations, the other merely states that it will be made UK-wide with consent. I am sure that there have been discussions with the devolved Administrations, but I stress to the Minister that this dialogue must be meaningful and two-way. I say that in light of the poor sharing of data and dialogue, not only between the Administrations but within the regions and between the city mayors of England, concerning health information on Covid-19 cases. Both SIs are peppered with references to the devolved Administrations and the individual policy choices made by them, and I echo the remarks of the noble Lord, Lord Bourne, in that respect.

The Direct Payments Ceilings Regulations 2020 make many amendments and adjustments that previously, while the UK was a member of the EU, would have been made by the European Commission. One of the adjustments takes account of the reallocations of payments between Pillar 1 direct payments and Pillar 2 rural development. I thank the Minister for confirming that these adjustments and many others are following the custom and practice of prior years and in this case are making redistributions of 12% in England, 9.5% in Scotland and 15% in Wales, with no transfers occurring in Northern Ireland. I recognise the importance of this to many regions, as noted by my noble friend Lord Liddle in his remarks.

I also take this opportunity to commend the noble Lord, Lord Bew, for his review of the distribution of EU funds between the Administrations of the UK, which has now awarded a further €60 million to Scotland and €6 million to Wales for the period 2020 to 2022. I understand that Scotland and Wales have yet to decide how these funds will be distributed. Will the Minister let us know in due course the decisions taken, if that is deemed appropriate?

I have several questions around paragraph 7.7 of the Explanatory Memorandum, where the level of deductions applied across the Administrations to payments under the basic payment scheme is addressed. That they reflect levels similar to prior years is recognised and appreciated, and that they differ in gradations, sizes and top-slicing ceilings between Administrations is further recognised. Can the Minister confirm that these differences do not amount to meaningful competitive distortions between the Administrations of the UK as a whole? How will this operate on a holding or holdings farmed across borders or in more than one Administration? Like the noble Baroness, Lady McIntosh, I would like to know how the transitional arrangements due to start next year will play out against these various clawbacks in terms of continuity of payments between the two systems.

The 100% reduction above a certain amount appears brutal and begs the question of how many applicants these top-payment amounts would be paid to. Bearing in mind the exchange rate and, for example, a top amount of €300,000, my back-of-an-envelope calculation does not suggest that a large percentage of funds would be going to a lot of big estates. The reduction of only €3.9 million in a total of €3 billion would seem to suggest that.

[Lord Grantchester]

This is the status quo. It is important to reflect that to receive payment you have to qualify as an active farmer, and it seems to suggest that payments are going to farmers to encourage good agricultural practice, and landlord and tenant legislation at present reflects this. Next week, the Agriculture Bill goes into Committee. There seem to be government proposals that suggest a change in the criteria for payment away from the status quo—the active farmer. Will the Minister confirm that payments now and in future are aimed at rewarding farmers producing food for the nation for the public goods they provide by farming in a sustainable manner? Can the Minister provide the split of the total UK reduction of €3.9 million between the Administrations?

Finally, I return to the Direct Payments to Farmers (Amendment) Regulations 2020, merely to ask the Minister to confirm that this instrument's many corrections to operability issues, to enable retained EU law to operate without ambiguity, mean that there is no likelihood of any more amending instruments to come, and that there are no changes in policy reflected in the amendments.

I hasten to add that one change is brought to our attention in the Explanatory Memorandum regarding the exchange rate used for the 2020 claim year. My understanding is that it will remain the same as in 2019—in other words, no change—but that to take a prior year's rate is a change. In this situation, I am advised that the Government are being helpful in making this decision.

With that, I confirm our approval of the instruments before the House today.

Lord Gardiner of Kimble: My Lords, in many respects, the debate went beyond the instruments, but it was an interesting and important prelude. Let me say immediately that if, in the time I am allocated, there are any points that I have not addressed, I will write more fully.

Let us deal with devolution, about which a number of points were raised by the noble Lord, Lord Grantchester, the noble Baroness, Lady Ritchie, and my noble friend Lord Bourne of Aberystwyth. The first thing to say is that we have worked very closely with the devolved Administrations. As noble Lords will know, there are schedules relating to Wales and Northern Ireland, at their request, which we will deal with in due course.

We plan to have an agricultural support framework agreed and in place by the end of the year. This is currently planned to cover marketing standards, crisis measures, public intervention, private storage aid, data collection and cross-border farms. The aim is to have effective co-ordination and dialogue between the Administrations on how changes to legislation in one part of the UK could affect others. As I said, these statutory instruments cover all four parts of the United Kingdom, and I emphasise again that they are made with their consent.

My noble friend Lady McIntosh and the noble Baronesses, Lady Bakewell of Hardington Mandeville and Lady Northover, raised exchange rates. As we all know, exchange rates fluctuate on a daily basis. The rate we have set, which is not significantly different from today's rate, maintains continuity with the 2019 scheme. The feeling across the piece was that it would be better to set the rate now rather than wait for a September rate, as has been done before, so that there could be certainty for the farmer as to what the rate would be. I am afraid I have no crystal ball to tell me what the exchange rate might be in September. All I can say is that we decided to keep continuity with the arrangement for the 2019 scheme, which I think is a better way forward.

I turn to the point of the noble Lord, Lord Mann, and other noble Lords. The Government are determined that farming in the UK should not see a reduction in government support at this time. That is why this Government have pledged to guarantee the current annual budget in every year of this Parliament. We recognise that farmers and land managers need certainty over future funding arrangements, and we have committed to a seven-year transition, starting in 2021.

It is already interesting to see the different strands that are coming out around that. I always think that, if the Government are in the middle, perhaps we might have it right: the noble Lord, Lord Liddle, mentioned the pace of change and said that the agricultural transition should be quicker, and my noble friend Lady McIntosh suggested that we should have a longer transition. The reason we have set this transition is that we do not want any cliff edge; we want farmers to continue to do the very important work that they do, at this time of change.

For me, there is no issue around whether you are a large farmer or a small farmer, and the noble Lord, Lord Mann, was right in what he said. All farmers play a very important role in the management of the environment and the production of food. We have all sorts and sizes of landholdings and tenure, and they are all part of the very important arrangements that we have to support the landscape, agriculture and food production.

On another point, which I think the noble Baroness, Lady Ritchie of Downpatrick, raised, if we look at the Agriculture Bill, we can see the Secretary of State's powers to give financial assistance. Clause 1(4) says:

> "In framing any financial assistance scheme, the Secretary of State must have regard to the need to encourage the production of food by producers in England and its production by them in an environmentally sustainable way."

We want sustainable agriculture. With particular regard to Cumbria, I say to the noble Lord, Lord Liddle, that the new arrangements will be very appealing to hill farmers—farmers who have been looking after the landscape throughout generations. The ELM schemes will be an important part of the recognition that we, as a nation, should give to land managers for the really crucial role—with over 70% of our landmass farmed—that they will play in the mitigation of climate change, adaptation and so forth.

This concept of public money for public goods is important—again, the noble Lord, Lord Mann, referred to this—because it portrays to the British taxpayer what the British farmer will actually do to improve the environment. At the same time, we need farmers

to have stability and certainty, along with a smooth transition to a replacement system. So, as I said, we will not be switching off direct payments overnight.

In connection with the ELM schemes, I should say to my noble friend Lady McIntosh that we did have to pause the response to the discussion document and supporting engagement. But as of 24 June, we have reopened this discussion and look forward to receiving feedback from stakeholders. We are doing those tests and trials across the land, with farms of different topography and size, precisely so that we have a range of schemes that will be successful for farmers; and so that farmers will feel that it is their own system, too. I also say to my noble friend that as part of that prelude, applications for the new countryside stewardship scheme are open. We continue to encourage farmers and landowners to apply, as we believe that this is the best way to start preparing for ELM. The ELM national pilot is due to commence in late 2021 and run until 2024, when the full ELM scheme is due to launch.

I also say to the noble Lord, Lord Liddle, that upland farmers play a vital role. As the Minister responsible for national parks and areas of outstanding natural beauty, and from my frequent visits to those glorious parts of the country, nothing could be clearer to me than that benign and pastoral farming is a key element of that. They will therefore be very well placed.

I think it was the noble Baroness, Lady Northover, and the noble Lord, Lord Grantchester, who raised the issue of cross-border farms. Where a farmer has land in more than one part of the United Kingdom, all their land must be included on a single basic payment scheme application. Guidance is provided to such farmers to explain how the scheme rules apply to them. The existing payment reductions for large farmers are worked out based on the proportion of the entitlement that the farmers have used in each part of the United Kingdom.

I turn to the matter of some divergence appearing in interpillar issues. For certainty, this Government, the Scottish Government and the Welsh Government—as I have said before, the Northern Ireland Government have decided not to make a transfer—have decided to take the same approach as was taken for the years 2014 to 2019. They will maintain the status quo precisely to ensure certainty and continuity. The claim for 2020 is around £386.4 million, to be transferred for rural development measures and important schemes in England, such as the Countryside Stewardship scheme and so forth.

The noble Lord, Lord Chidgey, mentioned maintaining the ecology of our rivers. That is hugely important. Clean water will clearly be covered by the financial assistance that is available for new schemes. There were some references to the Commission's budgetary management system regarding financial discipline, and these have been admitted because they do not form part of retained EU law.

The noble Lord, Lord Addington, raised a clearly important point about errors and omissions. I have heard of many farmers who have had difficult conversations and discussions about this. We are determined that our successor to the CAP will not be so bureaucratic and that it will trust the farmer, although it will obviously have enforcement measures as well to ensure value for money. I say to my noble friend Lord Holmes of Richmond and the noble Lord, Lord Addington, that this will clearly be a very important feature when looking at how best to simplify matters.

Many other points were raised, but I understand that I have gone beyond my time and I apologise to noble Lords. We will be discussing food security. It is a very important part of our work and will be the subject of discussion next week. There is much more that I could say but, in view of the time, I will write to noble Lords on all the outstanding points.

Motion agreed.

Direct Payments to Farmers (Amendment) Regulations 2020

Motion to Approve

6.36 pm

Moved by ***Lord Gardiner of Kimble***

That the Regulations laid before the House on 9 June be approved.

Motion agreed.

Immigration and Social Security Co-ordination (EU Withdrawal) Bill

First Reading

The Bill was brought from the Commons, read a first time and ordered to be printed.

House adjourned at 6.36 pm.

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